



DERIVATION TABLE AND REDLINE DRAFT
DEPARTMENT ADMINISTRATION RULE REVIEW (APRIL 2025)

TITLE 7 BANKING AND SECURITIES
PART 4 DEPARTMENT OF SAVINGS AND MORTGAGE LENDING
CHAPTER 51 DEPARTMENT ADMINISTRATION
SUBCHAPTER A CONSUMER COMPLAINTS

NEW SECTION	OLD SECTION	REDLINE
51.1	NEW	<p><u>Purpose.</u></p> <p><u>This subchapter governs SML's administration of Finance Code §13.011, requiring SML to maintain a system to act on consumer complaints. This subchapter establishes processes and procedures used by SML to process inquiries and complaints submitted by consumers.</u></p>
51.2	51.1	<p>Definitions.</p> <p><u>In this chapter, The following terms, when used in this subchapter, have the following definitions apply meanings, unless the context clearly indicates otherwise:</u></p> <ul style="list-style-type: none"> (1) "Commissioner" means the <u>savings and mortgage lending commissioner</u> Savings and Mortgage Lending Commissioner appointed under Finance Code Chapter 13. (2) "Complainant" means a person who <u>submits files</u> a complaint <u>to SML</u> with the Department. (3) "Complaint" means a signed, written communication received by the <u>Consumer Responsiveness Unit</u> Department's division for consumer assistance that expresses dissatisfaction with a transaction or alleges

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		<p>wrongful conduct. The Department will collect the following items and information regarding a complaint, if available:</p> <ul style="list-style-type: none"> (A) the complainant's name and contact information; (B) the name of the entity or individual against whom the complaint is submitted; (C) the date and place of the alleged misconduct, violation, or transaction; (D) a description of the facts or conduct alleged to violate applicable statutes or rules; and (E) any written documentation supporting the complaint. <p><u>(4) "Consumer Responsiveness Unit" or "CRU" means the section or unit within SML that receives inquiries and complaints from consumers and investigates complaints.</u></p> <p>(4) "Department" means the Department of Savings and Mortgage Lending.</p> <p>(5) "Inquiry" means a written communication received by <u>the Consumer Responsiveness Unit</u> the Department's division for consumer assistance that <u>expresses dissatisfaction with a transaction or alleges wrongful conduct but is not a complaint.</u></p> <p><u>(6) "Respondent" means the entity or individual who is the subject of a complaint.</u></p> <p><u>(7) "SML" means the Department of Savings and Mortgage Lending.</u></p>
51.3	NEW	<p><u>Computation of Time.</u></p> <p><u>In this subchapter, the calculation of any time period measured in days is made using calendar days, unless clearly stated otherwise. In computing a period of calendar days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday, unless clearly stated otherwise.</u></p>
51.4	51.2 and 51.3	<p><u>Complaint Processing Inquiries and Complaints.</u></p> <p><u>(a) Processing Inquiries. When an inquiry is received, the CRU will determine whether SML has jurisdiction and regulates the entity and the issue that is the subject of the inquiry. If SML does not, the CRU will inform the person making the inquiry of the appropriate regulatory authority, if known. If SML regulates the entity and the issue that is</u></p>

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		<p><u>the subject of the inquiry, the CRU will inform the person making the inquiry of the procedure for submitting a complaint.</u></p> <p><u>(b) Submitting a Complaint. Complaints may be submitted by mail (Attn: Consumer Responsiveness Unit, 2601 N. Lamar Blvd., Suite 201, Austin, Texas 78705) or by email (complaintsubmission@sml.texas.gov). SML will collect the following items and information, if available.</u></p> <p><u>(1) the complainant's name and contact information;</u></p> <p><u>(2) the respondent's name, Nationwide Multistate Licensing System ID, if applicable, and contact information;</u></p> <p><u>(3) the date and place of the alleged misconduct, violation, or transaction;</u></p> <p><u>(4) a description of the facts or conduct alleged to violate applicable statutes or rules; and</u></p> <p><u>(5) any written documentation supporting the complaint.</u></p> <p><u>(c) Processing Complaints.</u></p> <p><u>(1) Jurisdiction review. When a complaint is received, the CRU will determine whether SML has jurisdiction and regulates the entity and the issue that is the subject of the complaint. If SML does not, the CRU will inform the person making the complaint of the appropriate regulatory authority, if known, and the complaint will be closed. The CRU may conduct a preliminary investigation that is limited in scope to determine if SML has jurisdiction and regulates the entity and the issue that is the subject of the complaint.</u></p> <p><u>(2) Reasonable cause review. If SML has jurisdiction and regulates the entity and the issue that is the subject of the complaint, the CRU will determine if reasonable cause exists to conduct an investigation. Reasonable cause exists if the complaint presents facts and evidence indicating that a violation of law more likely than not occurred that is within SML's authority to take action to address. The CRU may conduct a preliminary investigation that is limited in scope to determine if reasonable cause exists. If reasonable cause does not exist, the complaint will be closed. SML may close a complaint for lack of reasonable cause if it involves facts and evidence that are substantially similar to those investigated in a previous complaint submitted by the complainant.</u></p> <p><u>(3) Respondent's response. If reasonable cause exists, SML will send a copy or a summary of the complaint and appropriate supporting documentation to the respondent to request a response unless SML determines that doing so would jeopardize investigation of the complaint or an enforcement action. A respondent must respond within 14 days after the date the request is sent unless an extension is given. The respondent must respond by the new deadline if an extension is given. If the respondent fails to respond, the factual matters alleged in the complaint</u></p>

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		<p><u>may be construed against the respondent and may constitute grounds for an enforcement action against the respondent. SML will provide a copy of the response to the complainant unless the respondent requests that the response be kept confidential from the complainant, or SML determines that providing the response would jeopardize investigation of the complaint or an enforcement action. The respondent may provide a copy of the response to the complainant at the time it sends its response to SML, and if so, the respondent must indicate as such in the response (i.e., by listing the complainant as a carbon copy recipient).</u></p> <p><u>(4) Investigation. On receipt of the respondent’s response, the CRU will conduct an investigation. Investigations will be conducted as SML considers appropriate based on the relevant facts and circumstances known or reasonably inferred. An investigation may include:</u></p> <p><u>(A) review of documentary evidence;</u></p> <p><u>(B) interviews with complainants, respondents, and third parties, and the taking of sworn written statements;</u></p> <p><u>(C) obtaining information from other state or federal agencies, regulatory authorities, or self-regulatory organizations;</u></p> <p><u>(D) requiring complainants or respondents to provide explanatory, clarifying, or supplemental information; and</u></p> <p><u>(E) other lawful investigative methods SML considers appropriate.</u></p> <p><u>(5) Closing the complaint after an investigation. When investigation and analysis of the complaint are complete, the complaint will be closed. SML will send written notice (closing notice) to the complainant and the respondent within 10 business days after the date the complaint is closed, except as provided by subparagraph (E) of this paragraph. The closing notice will include a general description of how the complaint was closed (disposition) but will not include the investigator’s specific findings or other information obtained during the investigation that is made confidential by law. Common dispositions include:</u></p> <p><u>(A) Litigation. The complaint involves facts and issues that are being litigated or arbitrated by the parties or have been determined by a judicial or arbitration decision.</u></p> <p><u>(B) Resolution. The complaint is resolved by agreement of the parties or is resolved to the satisfaction of SML through corrective action taken by the respondent;</u></p> <p><u>(C) No violation. SML has determined that no violation occurred.</u></p>

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		<p><u>(D) Insufficient evidence. SML has determined that there is insufficient evidence to establish that a violation occurred.</u></p> <p><u>(E) Enforcement referral. SML has determined that there is sufficient evidence to establish that a violation occurred and the complaint is referred for an enforcement action. A respondent referred for an enforcement action will be notified through the enforcement action and does not receive a closing notice.</u></p> <p><u>(6) Request for Reconsideration. A complainant who disagrees with the disposition of a complaint (including a complaint closed for lack of jurisdiction under paragraph (1) of this subsection or for lack of reasonable cause under paragraph (2) of this subsection) may request reconsideration within 60 calendar days after the date the closing notice was sent. On receipt of a timely request, a senior investigator from the CRU (other than the investigator who made the initial determination) or a staff attorney will review the file and determine the disposition. The individual assigned to review the file may investigate the complaint further to determine the disposition. SML will send written notice to the complainant within 10 business days after the date the disposition is determined. The disposition determined as a result of a request for reconsideration under this subparagraph is considered final and may not be challenged further by the complainant.</u></p> <p>(c) The Department will determine if a complaint or inquiry relates to an activity that the Department regulates, and:</p> <p>(1) if the Department does not regulate the activity that is the subject of the complaint or inquiry, the Department will close the complaint or inquiry and refer the person making the complaint or inquiry to the appropriate regulatory authority, if known; or</p> <p>(2) if the Department regulates the activity that is the subject of a complaint, the Department will send a copy or a summary of the complaint and appropriate supporting documentation to the entity or individual that is the subject of the complaint to request a response, unless notice of the complaint would jeopardize analysis or investigation of the complaint or the Commissioner or his or her designee otherwise determines an undercover or covert investigation is warranted.</p> <p>(d) A regulated entity or individual that receives a complaint forwarded by the Department must respond within 14 calendar days from the date the request was sent by the Department, unless an extension of time is granted. If an extension of time is granted, the regulated entity or individual must respond by the deadline recited in or otherwise created by the extension of time.</p> <p><u>(d) Limitations Period. A complaint must be submitted within four years after the date the alleged act or omission giving rise to the complaint occurred or should reasonably have been discovered by the complainant. A complaint</u></p>

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		<p>submitted outside this period for which SML has jurisdiction will be closed for lack of reasonable cause under subsection (c)(2) of this section.</p> <p>(e) (a) <u>Public Information.</u> Complaints and inquiries <u>submitted to SML</u> filed with the Department are generally considered public information, unless a specific statutory exception applies.</p> <p>(f) (b) <u>Protecting the Complainant's Identity.</u> At The Department, at the request of the complainant, <u>SML will take reasonable measures</u> make a good faith effort to protect the complainant's identity to the extent possible. However, complainants are cautioned that, as provided by subsections (c)(3) and (e) of this section, complaints are generally considered public information, and the respondent is generally given notice of and the opportunity to respond to the complaint. The information provided to the respondent may show or indicate the complainant's identity. If the complaint results in SML taking enforcement action that requires an administrative hearing or judicial proceeding, SML may be required to prove the violation using evidence that shows or indicates the complainant's identity.</p> <p>(g) (e) <u>Prioritizing Complaints.</u> SML The Department will prioritize complaints <u>to determine</u> for purposes of determining the order in which complaints are investigated, taking into account the seriousness of the allegations made in a complaint and the length of time a complaint has been pending.</p> <p>(h) (f) <u>Complaint Monitoring.</u> SML The Department will monitor how long each complaint is open and will make <u>all</u> reasonable efforts to resolve <u>a complaint</u> complaints within <u>120</u> 90-calendar days <u>after the date the complaint is received</u> of receipt of actionable information. SML The Department will notify the complainant of <u>the</u> his or her <u>complaint</u> status <u>of his or her complaint</u> at least quarterly until <u>the complaint is closed, final disposition,</u> unless <u>doing so such notice</u> would jeopardize <u>investigation of the complaint or an enforcement action</u> an ongoing complaint analysis or investigation.</p>
51.5	51.4	<p><u>Complaint Information Review and Reporting.</u></p> <p>(a) <u>SML The Department</u> will maintain records of all complaints received in accordance with its <u>records</u> retention policy. Such records will include the information required by Finance Code §13.011.</p> <p>(b) At least quarterly, a senior member of the Department's division for consumer assistance or other qualified employee designated by the Commissioner will review a sample of complaints closed administratively due to lack of jurisdiction, lack of a violation, or for evidentiary reasons.</p> <p>(b) (e) <u>SML</u> At least quarterly, the Department will <u>submit to the Finance Commission of Texas a report of the sources, subjects, types, and dispositions of complaint activity</u> to the Finance Commission of Texas at each of its regular meetings <u>during the preceding period.</u></p>

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		<p>(c) (d) SML The Department will make <u>information</u> available on its website <u>information</u> describing <u>the processes and procedures in §51.4 of this title (relating to Processing Inquiries and Complaints)</u> for complaint receipt, investigation, and disposition.</p>
51.100	51.100	<p>Appeals, Hearings, and Informal Settlement Conferences</p> <p>(a) Alternative Resolution of Appeal. If legal or enforcement staff determines an enforcement action <u>is appealed, SML that has been appealed</u> may <u>resolve the matter</u> be resolved without a hearing, legal, or enforcement staff may pursue settlement through negotiation, mediation, agreed order, consent order, informal settlement conference, alternative dispute resolution, or other appropriate means.</p> <p>(b) Informal Settlement Conferences. The Department may conduct an informal settlement conference in order to resolve an enforcement action that has been appealed. An individual or entity subject to an enforcement action may request an informal settlement conference. An informal settlement conference does not create any new rights or obligations. Informal settlement conferences:</p> <ul style="list-style-type: none"> (1) are conducted at the discretion of legal <u>and</u> or enforcement staff; (2) may not be <u>requested for purposes of delay</u> used as a delay tactic; and (3) may be <u>primarily</u> conducted remotely, including <u>by solely over the</u> phone or videoconference, or by email. <p>(c) Mediation. SML As applicable under Finance Code §13.017, the Department may, at the discretion of the Commissioner or his or her designee, arrange for the services of a qualified mediator or subject matter expert to assist in resolving complaints or other matters.</p> <p>(d) Hearings. Hearings <u>are governed by the rules in</u> may be conducted in accordance with Chapter 9 of this title (relating to Rules of Procedure for Contested Case Hearings, Appeals, and Rulemakings), with Texas Government Code Chapter 2001, and may be conducted by the State Office of Administrative Hearings (SOAH). Cases referred to the State Office of Administrative Hearings (SOAH) are also governed by SOAH's rules in 1 TAC Chapter 155 (concerning Rules of Procedure). All hearings are held in Austin, Texas. Any appeal for judicial review under <u>Government Code §2001.171 must be brought in a district court in Travis County, Texas.</u></p>
51.200	51.200	<p>Advisory Committees and Informal Conferences.</p> <p>The following advisory committees created under Finance Code §13.018 are continued (a) Advisory Committees. The mortgage industry advisory committee referenced in Finance Code §§156.104 and 157.0024, as well as any</p>

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		<p>advisory committees which may be created under Finance Code §13.018, shall continue in existence, and unless continued further, are shall be automatically abolished on September 1, 2030 2031.</p> <p>(1) the mortgage grant advisory committee under §52.5 of this title (relating to Mortgage Grant Advisory Committee); and</p> <p>(2) any other advisory committee created by the Commissioner under Finance Code §13.018 that exists at the time this rule is adopted.</p> <p>(b) Informal Conferences. The Commissioner, in addition to obtaining advise and guidance from an advisory committee, may use informal conferences and consultations with other interested persons to obtain advise and guidance, and assist the Commissioner in carrying out his or her duties.</p>