



FREQUENTLY ASKED QUESTIONS

Frequently Asked Examination Questions Applicable to all Licensees

Q What types of examinations are conducted? Will I be notified? What is expected?

A At a minimum, every licensee must be examined every 18 months. Every licensee shall be subject at any time to such periodic, special, regular, or other examination by the Banking Department with or without notice to the licensee. This means that you may or may not be notified ahead of time of an examination. The Department routinely conducts both announced and unannounced exams of licensees. Whether or not you have been given advanced notice, licensees are required to make freely available to the examiners, the accounts, records, documents, files, information, assets, and matters in their possession or control relating to the subject of the examination and must facilitate the examination.

Q I just received a Notice of Examination, what is the time frame to provide the information? Can I get an extension?

A When documentation and files are requested to be sent to the Department, the licensee has a total of 21 calendar days to comply with this request. This time frame is broken down further into two periods. When a loan list is requested, you have 7 calendar days to provide the list. When the list is received and a loan selection has been made, you have 14 calendar days to provide the files. This ensures that the files and documentation are received by the Department within the 21 calendar days. Late material after the 21 calendar days are subject to a fine of \$50 a day until the outstanding items are produced. If you fail to provide the information within 60 days, it is sufficient cause for license revocation, suspension, or denial. Since the statute dictates this timeline, an extension *can not* be granted.

Q I just received a Notice of Examination, and my company has not conducted any business in New Hampshire during the examination time period. Do I still need to have an exam?

A Yes, the Department is conducting an examination on the licensee as a whole, which includes more than just loan file or client file review. You will still need to complete the Document Request List and any other information requested by Department Examiners.

Q I just received a Notice of Examination, but my company has just surrendered and/or expired. Do I still need to have an exam?

A Yes, the Department is conducting an examination on the licensee's business activity during the past 18 months. If the licensee was licensed to conduct business at any time during that time frame, an examination of that period still needs to be completed.

Q I am told that I can submit documents through the Department's secure site at <https://nhftp.nh.gov/>. What does this mean and what do I do?

A The Department has a secure FTP site to electronically submit materials for the examination such as loan lists, loan files, financials, work papers, or other documents requested. Within that initial letter, you will be provided a user name and a password. Type the link to the site into your browser. You will be asked to input the user name and password. It is case sensitive, so enter the user name and password exactly as it is shown in the letter. Once you are logged in, you will be able to upload documents for the examination. There is a 150MB upload limit at a time. If you think that you will be over this limit, contact the Department to help ensure that all the material is uploaded. You are not required to use this method to submit materials, but if you do not, materials should be submitted securely.

Q What type of information should be on the loan list?

A There are currently four standard loan lists in an Excel format that can be found on our website. The lists should be filled out as complete as possible depending on the licensee's business activities. For more detail on what a specific field means, hover over the column and a description will come up in certain fields.

The standard loan list for *mortgage bankers and mortgage brokers* can be found here:
<http://www.nh.gov/banking/consumer-credit/documents/ccd-exam-loan-list.xls>

The standard loan list for *mortgage servicers and mortgage bankers that service loans* can be found here:
<http://www.nh.gov/banking/consumer-credit/documents/ccd-exam-ms-loan-list.xls>

The standard loan list for *sales finance companies (motor vehicles)* can be found here:
<http://www.nh.gov/banking/consumer-credit/documents/ccd-sales-finance-loan-list.xls>

The standard client list for *debt adjusters* can be found here:
<http://www.nh.gov/banking/consumer-credit/documents/ccd-debt-adj-client-list-form.xls>

The standard loan list for *small loan lenders* can be found here:
<http://www.nh.gov/banking/consumer-credit/documents/ccd-exam-sm-loan-list.xls>

Q What documents are required to be kept in a loan file for examination purposes?

A You are required to maintain *all* documents related to the loan. The loan file should tell the complete story of the lending process, starting with the first contact with the potential borrower through the closing and/or servicing of the loan.

This also includes information that may be kept solely electronically in a processing or servicing system. If needed, screen prints of that system may be provided if that is the only way that the material is maintained. If the examination is conducted on site, Department Examiners may review the system itself in lieu of or in addition to providing the information.

If you are licensed as a mortgage banker, you must include all origination and processing of the loan (including disclosures, internal documents, notes, faxes, emails, etc), underwriting documents (including, but not limited to, all disclosures, verification documents, conditions, internal notes, emails, etc.), all documents related to closing (including the closing package, instructions, internal notes, disbursement checks received, originator compensation, etc), all communication with the borrower (including conversation logs, emails, letters, etc.), all transaction histories for serviced loans, and all modification and/or foreclosure documents, if applicable (including all notices to the consumer, evidence of public notices, auction documentation, etc).

If you are a mortgage servicer, you must include everything the company has in relation to the origination and closing of the loan, all communication with the borrower (including conversation logs, emails, letters, audio recordings of collection calls, etc.), all transaction histories, and all modification and/or foreclosure documents, if applicable (including all notices to the consumer, evidence of public notices, auction documentation, etc).

If you are only licensed as a mortgage broker, you still need to maintain complete loan files that contain copies of all paperwork generated during the lending process (including a copy of the final Truth in Lending Disclosure, Note, Mortgage, and HUD Settlement Statement). Documentation should include, but is not limited to, everything related to the origination and processing of the loan (including disclosures, internal documents, notes, faxes, emails, etc), all documents related to closing (including the closing package, notes, disbursement checks received, originator compensation, etc), and all communication with the borrower (including conversation logs, emails, letters, etc.).

If you are a sales finance company, you must provide complete files that should include but is not limited to, credit application, credit report, purchase and sales agreement, signed retail installment contract, warranty information, insurance information, title paperwork, evidence of down payment, odometer disclosure statement, prior lien payoff statement, evidence of payoff to prior lien holder, financing approval documents, stipulation documents, privacy notice, communication with borrowers, and communication with financing companies

For loans that are serviced, also include all communication with the borrower (including conversation logs, emails, letters, etc) as well as servicing documents (including all disclosures, notes, invoices, receipts for payments made in cash, and transaction histories).

In addition to the above, all repossession files must also include forms required by the Department of Safety including but not limited to: NH Affidavit of Repossession, Notice of Default, Notice of Disposition, Calculation of Surplus or Deficiency, Vehicle Damage form, Auction Consignment form, third party invoices, and any court documents.

If you are licensed as a small loan lender (payday, title, small loans), you must provide complete loan files that should include but is not limited to, loan application, loan agreement, applicable disclosures, privacy notice, communication logs, payment histories, and payment statements and receipts. In addition, if you are a title loan lender, you should provide title paperwork, evidence of release of lien, and repossession documents (if applicable).

Q What documents are required to be kept in a client file for examination purposes? (for debt adjusters)

A You are required to maintain *all* documents related to the file. The client file should tell the complete story of the debt adjustment process, starting with the first contact with the potential client through the completion or cancelation of the program. Information should included, but not limited to, complete contracts with all attachments, statements sent to clients, all communication with clients, all communication with creditors, and payment histories.

Q I am asked to provide “Work papers to supplement and document information supplied on the annual report filed with this office as part of the examination. What documents does the Department consider to be “work papers”?”

A You are required to file with the Department an “Annual Report” each year before April 1, “concerning the operations for the preceding year...” The Department verifies the numbers reported on the annual report. This is done partly by reviewing the documents (work papers) that you used to arrive at the figures reported. Typically, this may be a spreadsheet in which you have listed each loan similar to the loan list provided for examination or a report generated by the software that you use. You are required to maintain the documentation you used to generate the information listed on the annual report. The work papers are those documents.

Q The examination was completed and I received a Report of Examination. Can I share the findings?

A No. The licensee shall under no circumstances publish, or make public in any manner, the Report of Examination or any portion thereof. The examination remains the property of the New Hampshire Banking Department. Other regulatory agencies requesting any information pertaining to the Report of Examination must be directed to contact the Department in order to obtain that information. The findings of an examination *can not* be published by the licensee on the NMLS system.

Q I just received the bill for my examination. How was that determined?

- A** Licensees are charged a per diem rate per day, per examiner. The formula for that rate is determined by statute. The bill lists the number of days in aggregate that each examiner spent on the examination. For example, two (2) examiners for five (5) days would be ten (10) billable examiner days. This is then multiplied by the per diem. Additional expenses may also be included for out-of-state travel.

The examination consists of a number of factors, including work done before the licensee is aware that an examination is taking place in order to prepare for the examination that includes reviewing information both currently on file and found independently of the licensee (known as the Start Date), any time while on site or in the Department's office reviewing the information provided by the licensee, travel time for certain locations, and time for the competition and submission of the Report of Examination.

Q I am a mortgage banker or mortgage broker and hear that I now have to follow the Bank Secrecy Act (BSA). What do I need to do for an Anti-Money Laundering (AML) Policy? What do I have to file?

- A** BSA was amended to include requirements for mortgage bankers and brokers to have an AML policy and to file Suspicious Activity Reports (SARs). The requirements can be found in Chapter X, codified as **31 CFR 1029**.

31 CFR 1029.210 shows the requirements of the AML Policy. The policies must include an individual responsible for coordinating the program, training requirements, and independent reviews. Mortgage bankers and brokers must have had this policy in place by **August 13, 2012**.

31 CFR 1029.320 states the requirements for filing SARs.