



Sample Servicing and Collections Policy for Fintech Program Managers

The following is not legal advice and should only be used as starting precedents and operational best practices. Each product and company is unique, and you should consult with an experienced lawyer licensed in the relevant jurisdiction(s) to tailor the sample as needed.

Lithic does not assume responsibility for the contents of, or the consequence of using, any version of these documents or any other document found on our website. Lithic's legal team knows many fintech lawyers and we're happy to point Lithic customers to recommendations.

1. To help you fill out this sample policy, we've added some footnotes with considerations and yellow-highlighted brackets and prompts for you to fill in information. We've additionally orange-highlighted particular sections that depend on particular companies' practices.
2. All highlighted brackets should be accurately completed and all footnotes should be deleted before the sample is finalized. Consider searching for "[" and "]" to make sure you don't miss any.
3. The terms should be reviewed generally to ensure they accurately reflect your operations and practices (without removing any legally required sections).
4. Finally, delete this instructions page.

Other card program-related legal forms can be found in our [documentation](#).

If you need more suggestions on how to build your compliance program, check out Lithic's Fintech Layer Cake podcast, available on major podcast and video streaming platforms.

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Servicing and Collections Policy¹

Summary / Overview	3
Scope	3
Roles and Responsibilities	3
Board of Directors	3
[[Compliance Officer]]	4
Servicing Team	4
Legal	4
Periodic Review	5
Servicing	5
Overview	5
Fair Debt Collection Practices Act (FDCPA)	5
State Debt Collection Laws	5
Fair Credit Reporting Act (FCRA)	6
Servicemembers' Civil Relief Act (SCRA)	6
Fair Lending	7
Unfair, Deceptive, and Abusive Practices	7
Servicing Requirements and Objectives	7
Governance	7
Approval, Review and Version History	8

¹ This policy is focused on commercial debt and does not cover the CFPB's recent Regulation F. Bank partners will often require commercial fintech companies to comply with the Fair Debt Collection Practices Act, so that body of law is covered below even though it is consumer-focused.

When the policy is final or near-final, update the table of contents in case any sections were added or removed, and to ensure correct page numbers.

1. Summary / Overview

[[Company's legal name]] ("[[Company]]" and the Company) will from time to time engage in servicing and collections activity with respect to: (i) debts that are due and owing to [[Company and its bank partners ("Bank Partners") and funding partners]]²; and (ii) debts that are due and owing to third parties. The Company's [[Board of Directors]]³ has adopted this Servicing and Collections Policy ("Policy") as part of its Compliance Management System. The [[Compliance Officer]]⁴ serves as the individual responsible for all activities related to lending, and oversees the development and implementation of this Policy.

The Company intends to comply with applicable federal and state laws concerning loan servicing and the collection of commercial debt. The purpose of this Servicing and Collections Policy and Procedures ("Policy") is to describe the Company's commitment to compliance with applicable state and federal collections and servicing laws. The Company takes its responsibility to comply with applicable servicing and collections laws seriously, and endeavors to mitigate losses with minimum delay and conflict and to treat each borrower with respect.

2. Scope

This Policy applies to all activities and practices related to the servicing and collection of loans.

This Policy applies to (i) Company employees; (ii) Company's executives and senior managers (collectively, "Senior Management")⁵; and (iii) any vendors providing services to the Company.

3. Roles and Responsibilities

3.1 Board of Directors⁶

The Board of Directors oversees and is ultimately responsible for ensuring that the Company adheres to all applicable servicing and collections laws, regulations, and policies. The Board (or a designated Committee of the Board) is responsible for reviewing and approving this Policy at least annually and any changes or modifications to the Policy as they occur. The Board also

² Debt is generally owed to the holder of the note or receivable underlying the credit obligation. Given you, your bank and your funding partners may hold those assets, any of them may be the party that is owed the debt. You should tailor as appropriate.

³ You may consider having the policy adopted (i.e., owned and approved) by your management team if your company is small and/or your board is not generally involved in oversight of your programs. If you go that route, you'll want to confirm this is OK with your bank partner.

⁴ The person responsible for this policy can really be anyone who will ensure your practices are fair and accurate and compliant with this policy. If you're small, this can be your CEO or business-focused co-founder.

⁵ You'll want to tailor this to fit the terms you use within your org.

⁶ You might edit this so oversight falls to your Senior Management team. If so, see the next footnote.

maintains oversight of compliance with Policy and any significant servicing or collection risks that Senior Management identifies.⁷

3.2 [[Compliance Officer]]⁸

The [[Compliance Officer]] is responsible for monitoring servicing activities of staff to ensure compliance with applicable legal requirements, overseeing and maintaining evidence of servicing training (including training for laws related to service member protections, marketing, and fair lending), ongoing monitoring and testing to ensure adequate controls are in place to mitigate applicable servicing risks, and conducting regular assessments of Company's servicing program.

Additionally, the [[Compliance Officer]] is responsible for evaluating and updating the Policy to reflect any changes to (i) relevant products or services of Company, (ii) Employees, or (iii) applicable laws and regulations. The [[Compliance Officer]] reviews the Policy on a periodic basis and when any such changes are made. Review includes consideration of feedback on the effectiveness of the Policy and any input from relevant Bank Partners.

3.3 Servicing Team

The servicing team is responsible for knowing and understanding the organization's risks, controls, and mitigation efforts related to servicing matters; reviewing regular reporting on escalated issues related to servicing and collections; ensuring implementation and support of this Policy by providing sufficient staff and resources to manage the risks; reporting to the [[Board]]⁹ on issues as needed, and assisting the [[Board]] with overseeing compliance with this Policy and any significant servicing and collections risks that management identifies.

3.4 Legal¹⁰

The legal team is responsible for reviewing and approving new scripts and playbooks for servicing and collections efforts; providing guidance to the Company about applicable servicing laws and regulations; and assisting with the resolution of servicing and collection matters, including arbitration with delinquent borrowers.¹¹

⁷ Senior Management oversees and is ultimately responsible for ensuring that the Company adheres to all applicable laws and company policies. Senior Management is responsible for ratifying any changes to this Policy on a periodic basis. Senior Management also maintains oversight of compliance with Policy and any significant risks that the Compliance Officer identifies.

⁸ Reminder to tailor this section if someone other than your compliance officer will be responsible for this Policy.

⁹ Update to Senior Management as needed.

¹⁰ If you do not yet have an in-house legal team, you might consider this alternative language: The Company's outside counsel and/or other advisors will advise on and review new scripts and playbooks for servicing and collections efforts; provide guidance to the Company about applicable laws and regulations; and assist with the resolution of servicing and collection matters, including arbitration and delinquent borrowers.

¹¹ Tailor or delete as needed.

3.5 Periodic Review¹²

The Company shall identify and appoint appropriately skilled and knowledgeable persons¹³ to be responsible for conducting periodic review of the policy's effectiveness.

4. Servicing

4.1 Overview

To ensure compliance in areas of risk involved in loan servicing and collections, this Policy incorporates internal controls, ongoing monitoring, organizational accountability, timely corrective action, and training related to applicable servicing and collections laws.

4.2 Fair Debt Collection Practices Act (FDCPA)

The Fair Debt Collection Practices Act ("FDCPA") restricts and regulates the conduct of debt collectors, which generally includes debt collection agencies, creditors using false names or collecting for other unaffiliated creditors, collection attorneys, purchasers of delinquent debts, repossession companies, and suppliers or designers of deceptive forms. It does not include creditors collecting their own debt in their own names. Additionally, the FDCPA only applies to the collection of consumer debt that was incurred primarily for personal, family, or household purposes. Generally, the FDCPA does not apply to commercial and business purpose debts. While the Company does not anticipate that the FDCPA will apply to its planned commercial loan and servicing activities, the Company strives to ensure that its policies and procedures adhere to the spirit of the FDCPA. The Company endeavors that neither it nor its employees or vendors will engage in collections acts or practices that are abusive, false, misleading, unfair, or constitute harassment as defined under applicable state and federal laws.

4.3 State Debt Collection Laws¹⁴

Some states have enacted debt collection laws, some of which may apply to entities collecting on their own debts in addition to debt collected on behalf of third parties. It is Company's policy to comply with applicable state collections laws when it contacts delinquent or defaulted borrowers (or others to the extent required by applicable law) with respect to debts owed to Company or to third-parties.

The FDCPA and similar state laws restrict the time, place, method, and other factors involved in a collector's communications with a borrower. The Company maintains a system of record for

¹² Depending on the requirements of your partners, such as warehouse credit providers or banks, you may need to conduct a periodic independent audit of your customer-facing materials. If you do look to conduct an independent review of your customer-facing materials, you'll likely want to consult a law firm that specializes in consumer financial services. Lithic is happy to recommend one upon request.

¹³ An in-house attorney or compliance professional will usually have the skills to conduct this review.

¹⁴ Outside counsel will often have charts of the state collections laws which you can use to supplement this policy.

applicable state law requirements¹⁵, and is responsible for ensuring that such requirements are followed when employees communicate with a delinquent or defaulted borrower. Those requirements are also incorporated into the Company's procedures, playbooks and scripts.¹⁶ Employees are trained and instructed to follow these materials to ensure compliance with applicable state servicing and collections law.

4.4 Fair Credit Reporting Act (FCRA)¹⁷

As applicable, the Policy operates in accordance with the Fair Credit Reporting Act ("FCRA"), as amended by the Fair and Accurate Credit Transactions Act ("FACT Act"), when reporting collection of accounts.

Any reporting of disputed accounts is carefully investigated prior to reporting to the credit bureaus (also known as consumer reporting agencies). The FCRA imposes specific requirements to users of consumer reports and furnishers of consumer reports. The FACT Act imposes specific requirements about sharing information with affiliates. Notice to consumers must be provided before reporting negative information to a consumer reporting agency, or within 30 days after reporting such information. As of the effective date of this Policy, the Company does not intend to use or furnish consumer reports in connection with its servicing and collections activities, and as such, the FCRA and FACT Act should not apply to the Company's servicing and collections activities.¹⁸

4.5 Servicemembers' Civil Relief Act (SCRA)¹⁹

As applicable, the Policy operates in accordance with the Servicemembers' Civil Relief Act (the "SCRA"), which provides certain protections to military personnel during periods of active military service (as defined in the SCRA). The following classes of borrowers are protected under the SCRA:

- Members of the Army, Navy, Air Force, Marine Corps, or Coast Guard who are on active duty status or who are absent from duty as a result of being wounded or being granted leave; and
- Members of the National Guard who have received a specific type of activation orders.

¹⁵ See above.

¹⁶ Tailor to fit your operations. At a minimum, we recommend you have scripts.

¹⁷ The FCRA applies to companies that provide, pull or furnish consumer report information. Many commercial databases, including GIACT and EWS are covered by the FCRA, meaning persons seeking to obtain or provide information to those companies should comply with applicable requirements. This is true even if you are offering a business product. We generally recommend you consult with specialized counsel who can help you identify when you need to comply with the FCRA.

¹⁸ Tailor as appropriate.

¹⁹ The SCRA has also been interpreted to apply to business credit. If you are offering consumer credit, you should also consult with counsel about the Military Lending Act.

Members of the armed services are afforded the utmost respect and care when contacted as part of loan servicing and collections. At all times, Company executives and staff act to ensure members of the military and their families receive all the benefits afforded under the law.

4.6 Fair Lending

The Company endeavors to comply with all applicable state and federal laws ensuring fair lending and equal access to credit, including the Equal Credit Opportunity Act (“ECOA”), its implementing Regulation B, and related federal and state laws. Any decisions or considerations made in the course of Company’s collections or servicing activity shall be made without discrimination on the basis of race, color, religion, sex, national origin, marital or familial status, age (provided the applicant has legal capacity to enter into a binding contract), handicap, receipt of public assistance, or any other basis protected by applicable law.

4.7 Unfair, Deceptive, and Abusive Practices

As with all other activities conducted by the Company, Senior Management is responsible for ensuring that any servicing and collection activity is conducted fairly. Management has implemented procedures to ensure that none of Company’s servicing and collections activities are construed as unfair, deceptive, or abusive.

5. Servicing Requirements and Objectives

In addition to ensuring compliance with the applicable laws outlined above, the Company and its personnel strive to:

- Provide accurate and timely disclosures to a borrower as required by applicable law;
- Investigate, respond to, and make appropriate corrections in response to complaints asserted by a borrower;
- Provide a borrower with accurate and timely information and documents in response to the borrower’s requests for information about the borrower’s loan or account;
- Provide owners or assignees of loans or accounts with accurate and current information and documents about all loans or accounts they own;
- Provide appropriate personnel with access to accurate and current documents and information reflecting servicing and collection actions performed by third party vendors on behalf of the Company; and
- Facilitate periodic reviews of vendors engaged in servicing and collection activity on behalf of the Company, including by providing appropriate personnel with documents and information necessary to audit compliance by third party vendors with the Company’s contractual obligations and applicable law.

6. Governance

The Company has adopted and follows written procedures to implement this Policy that meet the standards set forth in this Policy. Procedures and changes to those procedures are reviewed and approved in advance of implementation by the [[Compliance Officer]] or their designee. In addition, any significant procedural changes are communicated to relevant staff by the [[Compliance Officer]] or Senior Management through an email or training.

No part of this Policy or its supporting procedures should be interpreted as contravening or superseding any other legal and regulatory requirements imposed upon the Company. Any conflicts between this Policy and other legal obligations should be submitted immediately to the [[Compliance Officer]] for further evaluation.

For any questions on this Policy or the Program, or to address any situations not covered herein, defer to the [[Compliance Officer]] prior to taking any action that may be non-compliant.

7. Approval, Review and Version History²⁰

Version	Changes By	Revision Notations	Date Reviewed
1		Policy drafted; effective date	

²⁰ It's an expected practice for companies to log version history of their policies. We've included a table here for your convenience.