

# Compliance Auditing for Off-MLS & Restricted Listings

A ready-to-adapt policy template for brokers of record establishing a documented, defensible process for any residential listing marketed outside the public MLS — including office exclusives, restricted "coming soon" status, and private listing networks.

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**Drafted by LTC Capital, LLC** • Pairs with the Listing Strategy Decision Record (LSDR)  
Version 1.0 • **[Adoption date]** • Adaptable under attribution — see license note on final page

This template gives a broker of record a turnkey policy for the one practice that now carries the fastest-growing regulatory exposure in residential real estate: marketing a home to a limited audience instead of the open market. Adapt the bracketed fields to your firm, your state, and your transaction-management system, and adopt it into your compliance manual.

## How to use this document

Replace every **[bracketed field]** with your firm's specifics. Confirm the statutory citation for each state you operate in (this template is structured around the emerging multi-state standard, with New York's pending Act used as the worked example). Have your own counsel review before adoption — this is a starting framework, not legal advice.

## Section 4.12 — Compliance Auditing for Restricted & Off-Market Listings

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### 1. Purpose & Scope

A growing number of states now require that residential listings be marketed to the open market by default, permitting restricted or off-MLS marketing only where the seller has given documented, informed consent (or, in some states, only under a narrow safety exception). This applies to any property marketed outside the public Multiple Listing Service — including "office exclusives," restricted "coming soon" statuses, and private broker networks.

This policy establishes the mandatory administrative audit workflow that [Brokerage Name] uses to confirm informed seller consent is documented *before* any property is marketed on a restricted basis. Its purpose is to protect the brokerage and its agents from statutory penalties, fair-housing exposure, and fiduciary-breach claims.

### Confirm your state's standard

State frameworks differ in kind, not just degree. **Opt-out states** (e.g., the model reflected in New York's pending Act and Connecticut's SB 340) permit restricted marketing if the seller signs a standardized acknowledgment of the tradeoffs. **Prohibition states** (e.g., Washington's SB 6091, effective June 11, 2026) bar restricted marketing outright except to protect the owner's or occupant's health or safety. Set the threshold in this section to match the strictest state you operate in. Per-occurrence penalties also vary — confirm the current figure for your jurisdiction rather than assuming.

## 2. The "No Document, No Marketing" Firewall

**Mandatory hold.** No agent may enter a restricted listing into the brokerage's internal database, circulate it through any internal channel (email lists, group chats, agent-only networks), or distribute marketing materials until the compliance team has formally approved the listing file.

**Administrative gatekeeping.** The [Transaction Coordinator / Compliance Manager] maintains a hard status lock in [transaction-management system — e.g., SkySlope, Dotloop, Brokermint]. The file remains in "**Pending Compliance**" until every criterion in Section 3 is satisfied.

## 3. Listing Audit Checklist

When an agent submits a restricted listing for review, the designated auditor must verify all four elements below. **If any element is missing or deficient, the file is rejected and the listing may not be marketed on a restricted basis.**



### VERIFY

#### 1. Documented seller deliberation, not a bare signature.

The file must show that the seller was presented with the tradeoffs of restricted marketing and actively chose it — including, where the seller's stated priorities are in tension (for example, ranking "maximum sale price" highest while also requesting privacy), a record that the conflict was surfaced to the seller and acknowledged. A signature on a blank consent form is not sufficient evidence of informed consent.



VERIFY

## 2. Explicit, legitimate justification.

A specific, valid reason for restricting public marketing must be recorded (for example: personal safety, estate or family sensitivity, tenant occupancy, or another lawful basis). Generic entries such as "seller preference" or "agent recommendation" — and any agent-initiated rationale dressed up as the seller's — are non-compliant.



VERIFY

## 3. A defined fallback trigger.

The record must state a concrete event or timeframe at which restricted marketing ends and the property defaults to the public MLS (for example: "defaults to public MLS after 14 days or 5 private showings"). Indefinite private listings are prohibited.



VERIFY

## 4. Tri-party signatures and timestamps.

Verified, dated signatures from every titled seller, the listing agent, and the broker of record (or an authorized compliance manager).

### Why this checklist maps to one artifact

Each item above describes a property the audit must confirm exists somewhere in the file. A Listing Strategy Decision Record (LSDR) is built to produce all four in a single signed artifact — the deliberation, the justification, the fallback trigger, and the tri-party signatures — which is why the checklist reads as a natural audit of an LSDR. Firms using paper consent forms can still satisfy the checklist; it simply takes more files and more reconstruction at audit time.

## 4. Enforcement & Remediation

**Failed audits.** If a file fails review, the compliance manager notifies the agent: *"Listing not approved for restricted distribution. Correct the deliberation record, or list the property publicly via the MLS within the legally required window."*

**Unauthorized marketing.** Any agent who markets a property on a restricted basis without an approved, signed record on file is subject to immediate internal action — including suspension of brokerage lead privileges, mandatory compliance retraining, and responsibility for any state-imposed penalties arising from the violation.

## 5. Recordkeeping

Approved restricted-listing files and their supporting consent records are retained for [retention period — confirm your state's requirement; several statutes specify three years]. The

compliance manager maintains a log of all restricted listings, their approval status, and their fallback-trigger dates for periodic supervisory review.

## Why a documented process — not just a signed form

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The reason this SOP centers on a *process* rather than a single form is that the exposure is rarely the listing itself; it is the inability to show, after the fact, how the decision was reached.

Three liability vectors make the deliberation record load-bearing:

- **E&O defensibility.** A contemporaneous, written decision log is as much about preserving your errors-and-omissions coverage as about avoiding the initial violation. Missing documentation tends to push a claim toward the intentional-conduct territory where coverage exclusions live.
- **Broker-of-record supervision.** A pattern of undocumented restricted listings can move a regulator's framing from "an isolated error" to "a systemic supervisory failure" — a materially worse posture for the firm.
- **Fair-housing and civil exposure.** Restricted marketing that systematically narrows the buyer pool invites disparate-impact scrutiny. Several of the new state laws pair their consent requirement with a fair-housing acknowledgment for exactly this reason.

### The tool this SOP is built around

The Listing Strategy Decision Record (LSDR) is a guided, interactive record that walks the seller through the tradeoff analysis, surfaces priority conflicts, requires a specific lawful justification and a fallback trigger, and produces one signed artifact with tri-party signatures and a build timestamp. It is designed to make the audit in Section 3 a thirty-second confirmation rather than a file reconstruction.

See the demo and the state-by-state compliance reference at [lsdr.ltccapitalholdings.com](https://lsdr.ltccapitalholdings.com) • State requirements: [/compliance/state-by-state/](https://lsdr.ltccapitalholdings.com/compliance/state-by-state/)

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**Not legal advice.** This template is a starting framework for discussion with your own counsel and your state regulator. Confirm all statutory citations, penalty figures, retention periods, and effective dates against current law in each state where you operate before adoption.