2025 Fair Lending Interagency Webinar

Outlook Live Webinar – December 16, 2025

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  - Registration confirmation email will immediately follow and includes connection information
  - Add to calendar option within the registration confirmation
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    - Registration confirmation email
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  - If you have audio issues, you can connect via phone:
    - (833) 568-8864 (Toll Free); Webinar ID: 161 747 9268
- **How we'll take questions**
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Webinar Overview

- Federal Reserve Fair Lending Program & Compliance Management Highlights
- NCUA Fair Lending
- CFPB Fair Lending Priorities & Updates

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Federal Reserve
Fair Lending Program & Compliance Management Highlights

Dorian Hawkins, Counsel
Fair Lending Enforcement Section
Division of Consumer & Community Affairs
Federal Reserve Board

Scott Sonbuchner, Senior Examiner
Supervision Division
Federal Reserve Bank of Minneapolis

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Federal Reserve Fair Lending Authority

- The Federal Reserve is the primary federal regulator for over 700 state member banks (SMBs).
- We supervise:
  - All SMBs for compliance with the Fair Housing Act; and
  - SMBs with assets of $10B or less for compliance with the Fair Housing Act, Equal Credit Opportunity Act (ECOA), and Regulation B.

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The Fair Lending Statutes

- ECOA, 15 U.S.C. 1691 *et seq.*
  - Implementing Regulation B (12 C.F.R. Part 1002)
- The Fair Housing Act (FHA), 42 U.S.C. 3601 *et seq.*

Prohibited Bases	ECOA	FHA
Race	✓	✓
Color	✓	✓
Religion	✓	✓
National Origin	✓	✓
Sex	✓	✓
Marital Status	✓	
Age	✓	
Income Derived from Public Assistance	✓	
Exercise of Rights under the Consumer Credit Protection Act	✓	
Handicap		✓
Familial Status		✓

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Redlining

- Definition of Redlining:
  - Providing unequal access to credit, or unequal terms of credit, because of the race, color, national origin, or other prohibited characteristic(s) of the residents of the area in which the credit seeker resides or will reside or in which the residential property to be mortgaged is located.
- Redlining is a multi-factored analysis based on an analysis of several risk factors set forth in the Interagency Fair Lending Examination Procedures (CA Letter 09-6), as well as federal and state enforcement actions.
- Determining a pattern or practice of lending discrimination, including redlining, is based on the totality of the circumstances and the facts of a particular matter.

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Pricing and Underwriting

- Many SMBs offer mortgage and consumer loans that serve a critical need for consumers.
- Determining a pattern or practice of lending discrimination may include findings of statistically significant differences in outcomes in underwriting and pricing, among the totality of the facts considered.
- To illustrate, facts that may increase fair lending pricing risk include:
  - The bank grants loan originators broad discretion to set the interest rate and fees;
  - The bank does not use rate sheets or other pricing guidelines;
  - The bank does not require the loan originators to clearly and consistently document pricing decisions, including exceptions; and
  - The bank does not monitor for potential pricing disparities on a prohibited basis.

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Federal Reserve Referrals

- Pursuant to § 1691e(g) of ECOA, if the Board has reason to believe a creditor has engaged in a pattern or practice of discrimination, the Board must refer the matter to the Department of Justice (DOJ).
- The Federal Reserve has referred matters to the DOJ regarding:
  - Redlining,
  - Pricing,
  - Underwriting,
  - Spousal Signatures, and
  - Credit Reporting
- The Federal Reserve focuses on addressing issues early, and referrals are relatively infrequent.

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Federal Reserve Fair Lending Reviews

- The Federal Reserve conducts risk-focused consumer compliance exams and reviews for fair lending risk at every exam.
- Federal Reserve examiners evaluate the risk in a bank's products, assessment areas, and compliance management program to determine whether further analysis is warranted.

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Consumer Compliance Supervision

- If Federal Reserve examiners identify weaknesses in compliance risk management, examiners may communicate supervisory findings designed to enhance the bank's compliance management systems to better manage risks and to prevent future violations.

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Finding #1 – Failing to Conduct Fair Lending Risk Assessments

- **Supervisory Expectation**. An institution's overall fair lending risk management program should be commensurate with the size, complexity, and fair lending risk profile of its lending.
- **Root Cause**. Some institutions with heightened fair lending risks relied on their compliance risk assessments to measure fair lending risk. However, when an institution has elevated fair lending risk, an overall compliance risk assessment can be inadequate to measure fair lending risk because it is more general and less focused and nuanced than a fair lending risk assessment and may fail to identify risks that would have been identified in a fair lending risk assessment.
- **Sound Practices**. Institutions with heightened fair lending risk should implement a fair lending risk assessment that accounts for the institution's specific risk profile. The assessment can be more tailored by accounting for inherent risks, controls to mitigate those risks, and the resulting residual risk.

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How Can an Institution Determine if it Has Heightened Fair Lending Risk?

- Start by evaluating inherent fair lending risk:
  - Supervisory history (*e.g.*, past violations or matters);
  - Loan portfolio (especially the volume for each loan product);
  - Operational structure (*e.g.*, degree of decentralization); and
  - Market risk (*e.g.*, areas with significant minority populations).
- Additionally, consider the risk factors in the Interagency Fair Lending Examination Procedures. These include fair lending risks from: marketing, overt statements or policies, steering, pricing, underwriting, redlining, and the compliance management system.

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Fair Lending Controls

- A thorough fair lending risk assessment will include an assessment of the bank's fair lending controls, including:
  - Policies;
  - Training;
  - Objective standards for pricing and underwriting;
  - Second reviews; and
  - Procedures that escalate findings to the board, and more.

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Finding #2 – Failing to Conduct Fair Lending Training

- **Supervisory Expectation**. Effective and recurring training is an essential part of a fair lending compliance management program. Fair lending risks can change over time. An effective change management process includes properly training staff regarding the relevant change.
- **Root Cause**. Over time, compliance departments may overlook the benefits of recurring fair lending training, especially for board members and management.
- **Sound Practices**. Banks can provide recurring fair lending training to all lending staff, management, and the board, tailored to each role. These sessions can highlight risks and set expectations. Effective training covers prohibited activities, enhances risk awareness, and includes real-world examples and recent regulatory focus areas.

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Case Study: Inadequate Risk Assessment and Training

- **Fact Pattern**: A bank operated in urban and rural communities across three states and expanded its mortgage lending significantly in the previous two years through acquisitions and new products that allowed for greater loan officer discretion. The compliance team relied solely on their general compliance risk assessment, which briefly mentioned fair lending in a single line item. Additionally, the bank hadn't conducted fair lending training in over 18 months.
- **Result**: When regulators conducted a fair lending review, they found pricing disparities in mortgage loans that hadn't been identified by the bank's compliance monitoring. What went wrong?

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Issues: Inadequate Risk Assessment and Training

- **Risk Assessment Deficiencies**: The bank relied on a general compliance risk assessment despite a heightened fair lending risk profile. The assessment didn't account for product volume, discretionary pricing authority, or market demographics. This led to a lack of awareness of the bank's risk and insufficient controls to address those risks.
- **Training Inadequacies**: The bank also lacked recurring fair lending training for lending staff, management, and the board that would have covered emerging fair lending risks. Sound fair lending practices include training content that reflects new products and changing risk landscape.
- **Consequence**: The ineffective risk assessment combined with the absence of recurring fair lending training, left staff unable to recognize and mitigate emerging fair lending risks.

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Finding #3 – Risk Monitoring and Management Information System (Exception Monitoring)

- **Supervisory Expectation**. Loan officer discretion can increase the potential for fair lending violations. When discretion is allowed, it should be monitored to ensure it is not exercised on a prohibited basis, particularly in pricing and underwriting.
- **Root Cause**. Institutions may lack controls to prevent fair lending violations in discretionary decisions. Clear and objective criteria help limit discretion. Uneven application of exceptions may lead to violations if favorable terms are disproportionately provided on a prohibited basis. Controls are essential to ensure compliance with fair lending laws.
- **Sound Practices**. Institutions can mitigate risks from loan officer exceptions by limiting or eliminating discretion, and implementing oversight if discretion is allowed. Sound practices involve clear exception policies, documentation requirements, tracking, and monitoring for disparities. Institutions can also train loan officers on how to exercise discretion.

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Case Study: Inadequate Exception Monitoring

- **Fact Pattern**: A bank with multiple branches offered mortgages and allowed pricing exceptions to meet competitive offers. The core banking system allowed certain rate adjustments without requiring documentation about the competitive offer. As a result, compliance reviews could not analyze all pricing exceptions.
- **Result**: Compliance could not verify that pricing exceptions followed policy, which created significant fair lending risk.

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Issues: Inadequate Exception Monitoring

- What was the cause of the fair lending risk?
  - The bank's policies and procedures failed to establish requirements for documenting all pricing exceptions, impacting its ability to verify that competitive offers prompted the rate adjustments.
  - Lack of exception data meant the bank's compliance reviews could not analyze the frequency of exceptions or otherwise assess their potential fair lending risk.

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Federal Reserve Resources

- *Consumer Compliance Outlook* – Federal Reserve publication dedicated to consumer compliance
- Outlook Live – Federal Reserve webinars on consumer compliance topics
- *Community Banking Connections* – Federal Reserve publication and website dedicated to providing guidance, resources and tools for community banks
- CA 09-6: Interagency Fair Lending Examination Procedures
- CA 13-19: Community Bank Risk-Focused Consumer Compliance Supervision Program

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NCUA Fair Lending

Dina O'Brien, Director
Division of Fair Lending Supervision
National Credit Union Administration

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NCUA Fair Lending Authority

Fields of Membership

- Single Common Bond
- Multiple Common Bond
- Community Charter

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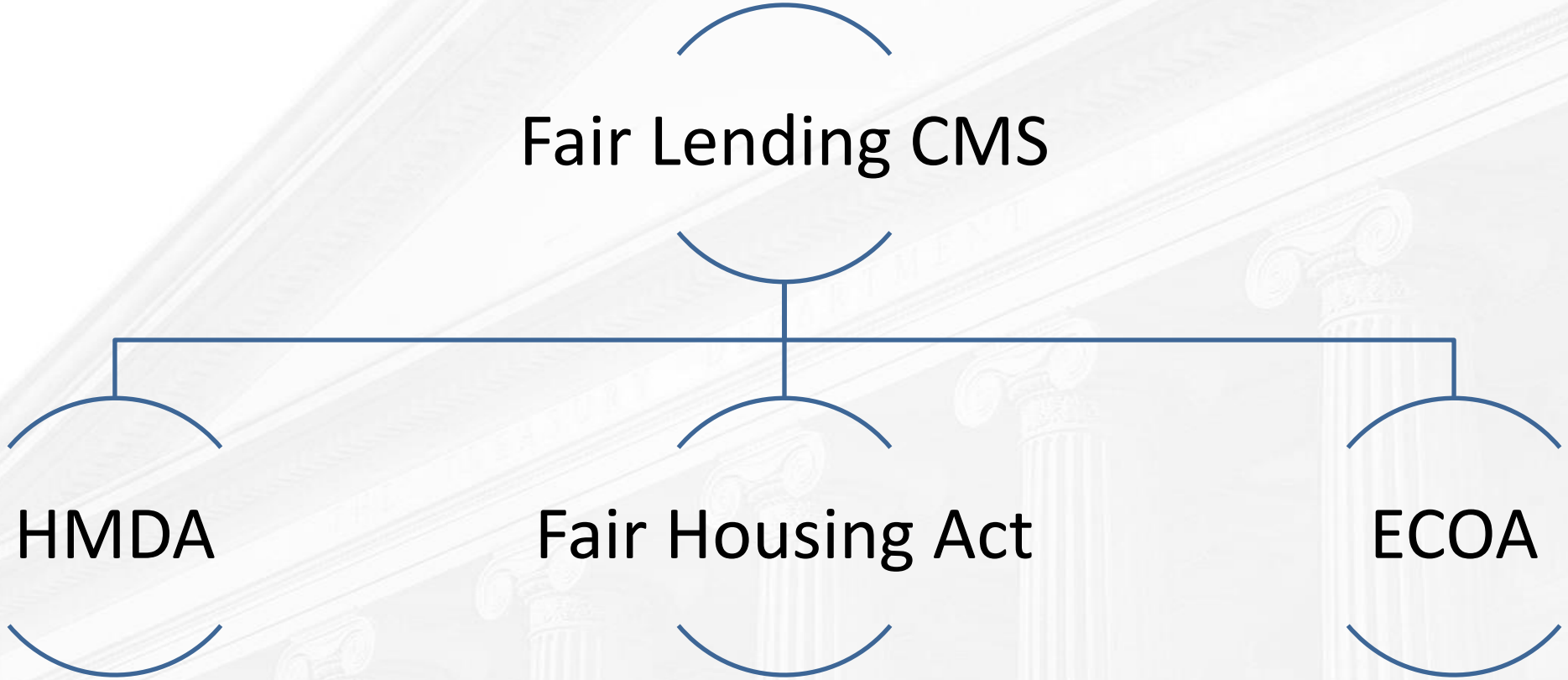
NCUA Fair Lending Examinations



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Fair Lending Compliance Management Systems

- Develop/update a fair lending risk assessment
- Enhance existing policies and procedures
- Complete board and volunteer training
- Increase monitoring to include second reviews
- Ensure audits are comprehensive

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Regulation C/HDMA

- Pre-qualifications reported on LAR
- Action Taken coding errors
- GMI reporting errors

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Fair Housing Act

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Regulation B/ECOA

- Adverse Action Notice does not include specific reasons
- AUS identified criterion for receiving an Instant Approval which discriminates on a prohibited basis
- Pricing married and unmarried borrowers differently
- Excluding public assistance income in DTI calculations

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LTCU 22-CU-04

Letter to Credit Unions 22-CU-04: Equal Credit Opportunity Act Nondiscrimination Requirements

The NCUA is committed to ensuring that all consumers have access to safe, fair, and affordable credit granted in compliance with applicable consumer protections and other requirements. The NCUA has prepared this letter to summarize general nondiscrimination requirements and signal fair lending risk areas related to marital status, age, income consideration, redlining, and indirect lending.

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LTCU 25-CU-04

Letter to Credit Unions 25-CU-04: Removal of Disparate Impact

- The NCUA has instructed its examiners that they will no longer request, review, conclude on, or follow-up on:
  - matters related to a credit union's disparate impact risk,
  - internal disparate impact risk analysis, or
  - disparate impact risk assessment processes or procedures.

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Disparate Treatment

- **Overt Evidence**
  - When a lender openly treats an applicant differently based on a prohibited basis
- **Comparative Evidence**
  - Applicants in a protected class are treated differently than others in similar circumstance
  - Requires transaction testing

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Referrals to DOJ – "Pattern or Practice?"

- "Pattern or Practice" is a legal concept
- Not defined in ECOA or Regulation
- According to 1996 guidance, based on legal history:
  - means more than an isolated instance
  - is not capable of a mathematical formulation
  - is a regular, rather than an unusual, practice
  - may be established in the absence of proof of willful conduct
  - does not have to show that a defendant always discriminates
  - does not require a minimum number of incidents be proven
  - does not require a showing that [race, sex, age, etc.] was the sole motive for the defendant's actions

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Referrals to DOJ – ECOA and NCUA

- Pursuant to ECOA, if NCUA has reason to believe there is a pattern or practice of discrimination, the agency must refer the matter to the DOJ.
- Examples of matters referred to:
  - Age Discrimination
  - Marital Status Discrimination
  - Receipt of Public Assistance Discrimination
  - Racial Redlining

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Consumer Financial Protection Bureau Fair Lending Priorities & Updates

Victoria Dorfman, Senior Legal Advisor
Office of the Director
Consumer Financial Protection Bureau

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CFPB & Fair Lending Statutory Mandates

- *CFPB Statutory Purpose*
  - Ensure that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive
- *Fair Lending Statutory Function*
  - Ensure fair, equitable, and nondiscriminatory access to credit for both individuals and communities
- *The CFPB is fully committed to carrying out its statutorily required work*

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Fair Lending Shifts in Priorities

- *Disparate Impact*
  - No longer using disparate impact in supervision or enforcement of fair lending laws
- *Special Purpose Credit Programs*
  - No longer meeting with creditors looking to discuss special purpose credit programs

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Debanking

- *Main CFPB Priority*
- *Dedicated resources across the CFPB to implement the President's Executive Order on Debanking*
- *Debanking Task Force*

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Fair Lending Enforcement & Supervision Priorities

- *Focus on intentional racial discrimination and actual identified victims*
  - Maximum penalties will be sought
- *ECOA and HMDA Compliance*
  - ECOA examination work will focus on:
    - Direct evidence of intentional discrimination on a prohibited basis
    - Systemic failures to provide applicants with legally required notices of adverse actions, and
    - Lenders' systems for identifying risks of non-compliance with ECOA and its implementing Regulation B
  - HMDA examination work will focus on validating the accuracy of key data points collected and submitted by lenders
- *Only within statutory authority, prioritizing pressing threats to consumers*
- *Focus on actual fraud against consumers, where there are identifiable victims with material and measurable consumer damages, and redressing tangible harm by getting money back directly to consumers*
- *Priority to protect and provide redress to service members and their families, as well as veterans*

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Fair Lending Rulemaking

- *Priority Rulemakings:*
  - Final rule to extend compliance deadlines for the Section 1071 Small Business Lending Rule by approximately one year
  - Proposed rule revising Regulation B, subpart B, implementing changes to ECOA made by Section 1071
  - Proposed rule revising Regulation B, subpart A, implementing ECOA
- *Information about CFPB rulemakings*

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Fair Lending Guidance

- *Reducing Unnecessary Guidance*
  - In May 2025, the CFPB rescinded more than 60 guidance materials
- *The CFPB's current policy is to avoid issuing guidance except where necessary and where compliance burdens would be reduced rather than increased*
- *Information about other CFPB action*

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Contact Information

Regulation inquiries	To submit a question about CFPB published rules and regulations, visit https://reginquiries.consumerfinance.gov/
Regulatory implementation	To request information or provide feedback about our implementation and guidance materials Email: CFPB_RegulatoryImplementation@cfpb.gov
Supervision policy and examinations	To provide feedback about our supervision and examination materials Email: supervision@cfpb.gov
HMDA Help	To request information about or help with HMDA reporting Email: HMDAHelp@cfpb.gov

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Questions?

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Survey

Provide us your feedback and suggestions for future topics

- Please take a moment to complete the post-event survey, which may be accessed via the Survey Link or the QR code.
- Compete the survey within 5 days to request a CRCM CE Certificate of Completion.
- The survey includes a section to suggest topics for future *Consumer Compliance Outlook* articles and Outlook Live webinars.

Survey QR Code:

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