# 2021 Fair Lending Interagency Webinar

**Outlook Live Webinar – December 7, 2021**

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# Overview

- DOJ's Combatting Redlining Initiative and Recent Enforcement
- Government-Sponsored Enterprise Fair Lending Data
- FDIC's Redlining and Marketing
- Analyzing HMDA Data: Tips for Small- to Mid-Sized Credit Unions
- Fintech & Fair Lending Risk
- Recent CFPB Guidance
- J.P. Morgan Chase Bank, N.A., et al. Conciliation Agreement
  A Case Study of a Successful Conciliation in a Discriminatory Appraisals Case
- Redlining Self-Assessments


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## DOJ's Combatting Redlining Initiative and Recent Enforcement

*Samantha Ondrade, Trial Attorney*
*Civil Rights Division*
*U.S. Department of Justice*




## Combatting Redlining Initiative

- On October 22, 2021, the Department of Justice announced an unprecedented, coordinated enforcement effort to combat redlining
- The Initiative is groundbreaking in critical ways:
  - U.S. Attorneys' Offices will act as force multipliers and partnership will enable investigations on a broader geographic scale
  - Department will expand its analyses of potential redlining to both depository and non-depository institutions
  - Enforcement will draw upon strong partnerships with regulatory agencies
  - Initiative will be informed by outreach to consumer advocates, industry stakeholders, state Attorneys General, and other agencies




## Defining Redlining

- Redlining: an illegal practice in which lenders avoid providing services to individuals living in communities of color because of the race or national origin of the people who live in those communities
- Violates both the Fair Housing Act and the Equal Credit Opportunity Act
- Areas of focus to determine if a lender has redlined an area can include:
  - CRA assessment area
  - Statistical analyses
  - Branch locations and placement of mortgage loan originators
  - Marketing and advertising

## Recent Redlining Enforcement Resolutions

- *United States & CFPB v. Trustmark National Bank* (W.D. Tenn.)
  - Complaint filed on October 22, 2021
  - Consent Order entered on October 27, 2021
- *United States v. Cadence Bank, N.A.* (N.D. Ga.)
  - Complaint filed on August 30, 2021
  - Consent Order entered on August 31, 2021



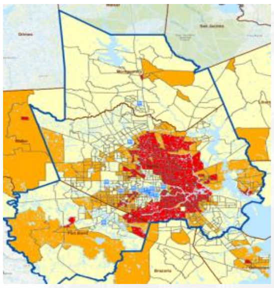

## Cadence – Statistical Analyses

- Analysis compares the bank's lending in communities of color to the lending of "peer banks" that are similar in terms of loan volume
  - Cadence Bank severely underperformed its peers in majority-Black and Hispanic areas in generating mortgage loan applications and originating loans
  - Cadence Bank's applications from majority-Black and Hispanic tracts were predominantly from white applicants




## Cadence – Branch and Loan Officer Locations

- During the Relevant Time Period of 2013 to 2017:
  - 56% of census tracts in Cadence Bank's CRA Houston assessment area were majority-Black and Hispanic
  - One of Cadence Bank's 13 branches was located in a majority-Black and Hispanic neighborhood; 12 of Cadence Bank's 13 branches were located in majority-white neighborhoods
  - Cadence Bank assigned most branches in majority-white areas one or more loan officers. No loan officer was assigned to the sole branch in a majority-Black and Hispanic neighborhood



**Cadence Bank Branches 2013 to 2017**
**Cadence Bank CRA Assessment Area**




## Trustmark – Advertising and Marketing

- Trustmark's marketing strategy focused on commercial business, with most of its print advertising appearing in business-focused publications
  - This includes Chamber of Commerce publications distributed primarily in majority-white areas
- Trustmark relied on mortgage loan officers – all of whom were assigned offices in branches in majority-white neighborhoods – to distribute marketing materials related to the Bank's mortgage lending
  - Trustmark did not monitor where or to whom its loan officers distributed these marketing materials




## Trustmark - Terms of Resolution

- *United States & CFPB v. Trustmark National Bank* (W.D. Tenn.)
  - $3.85 million in a loan subsidy fund targeted at majority-Black and Hispanic neighborhoods
  - $400,000 toward community partnerships to increase access to residential mortgage credit
  - $1 million toward advertising, community outreach, and credit repair and consumer financial education
  - One loan production office in a majority-Black and Hispanic area

## Cadence - Terms of Resolution

- *United States v. Cadence Bank, N.A.* (N.D. Ga.)
  - $4.17 million in a loan subsidy fund targeted at majority-Black and Hispanic neighborhoods
  - $750,000 toward community partnerships to increase access to residential mortgage credit
  - $625,000 toward advertising, community outreach, and credit repair and consumer financial education
  - One branch in a majority-Black and Hispanic area




## Where to find us

www.usdoj.gov/fairhousing

For speeches, complaints, settlements, press releases, and ECOA reports to Congress visit:

http://www.justice.gov/crt/housing-and-civil-enforcement-section




## Government-Sponsored Enterprise Fair Lending Data

*Annalyce Shufelt, Senior Attorney Advisor*
*Office of Fair Lending Oversight*
*Federal Housing Finance Agency*

## Who Are We?

- The Federal Housing Finance Agency (FHFA) is the regulator for Fannie Mae, Freddie Mac, and the Federal Home Loan Banks.
  - FHFA is also currently conservator for Fannie Mae and Freddie Mac.
- FHFA's Office of Fair Lending Oversight (OFLO) was established in 2018.
- FHFA does not regulate primary mortgage market lenders.
- All information referenced in this presentation that is not otherwise cited is available at the FHFA Fair Lending Data Webpage.

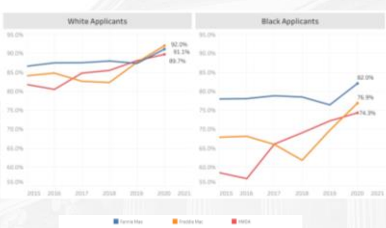


## The Data

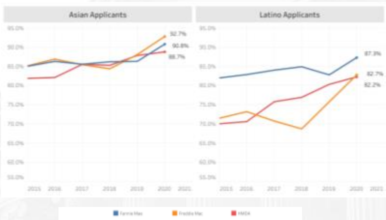
- Applications data are transmitted to FHFA by each Enterprise for each automated underwriting system (AUS), Fannie Mae's Desktop Underwriter (DU) and Freddie Mac's Loan Product Advisor (LPA).
- Enterprise AUSs analyze information submitted as part of the loan application to reach an overall credit risk assessment to determine eligibility for delivery to an Enterprise.
- The lender ultimately renders an approve/decline decision.



## Mortgage Application Approval Rates



## Mortgage Application Approval Rates



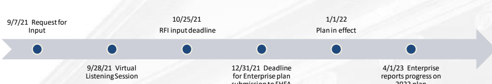




AVAILABLE HERE



## 2022 Equitable Housing Finance Plans




The Equitable Housing Finance Plan framework is a tool for the Enterprises to undertake sustainable and meaningful actions to advance equity, while ensuring safety and soundness.

https://www.fhfa.gov/Media/PublicAffairs/PublicAffairsDocuments/Equitable-Housing-Finance-Plans-RFI.pdf

## 2022 Equitable Housing Finance Plans

**REQUIRED FOR FIRST PLAN**

- Reduce the racial or ethnic homeownership gap
- Reduce underinvestment or undervaluation in formerly redlined areas

**OPTIONAL OBJECTIVES**

- AUS disparities
- Acquisition share
- Servicing equity issues
- Tenant equity issues
- Housing quality and supply
- Opportunity areas
- Underinvestment or undervaluation
- Housing accessibility
- Housing for families with children
- Tenant protections
- Promoting fair lending compliance
- Research and data

https://www.fhfa.gov/Media/PublicAffairs/PublicAffairsDocuments/Equitable-Housing-Finance-Plans-RFI.pdf



## FDIC's Redlining and Marketing

*Sheritta A. Arie, Senior Examination Specialist*
*Division of Depositor and Consumer Protection – Fair Lending and CRA Examination Section*
*Federal Deposit Insurance Corporation*



## Objectives

- Review the definition of redlining
- Discuss the Reasonably Expected Market Area vs CRA Assessment Area
- Review marketing risk factors
- Discuss some common marketing myths
- Discuss marketing considerations of merger and acquisition activity

## Redlining Definition

The FFIEC Interagency Fair Lending Examination Procedures define redlining:

*"A form of illegal disparate treatment in which a lender provides 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 may violate both the FHAct and the ECOA."*




## REMA and CRA Assessment Area

**Reasonably Expected Market Area**

- The area where the bank actually marketed and provided credit and where it could reasonably be expected to have marketed and provided credit. The REMA may be the same as the bank's Community Reinvestment Act, or CRA, assessment area. Or, the REMA may be larger/different than the CRA assessment area.

**Section 345.41(c) – General Assessment Area Requirements**

- Consist generally of:
  - One or more MSAs or MDs
  - One or more contiguous political subdivisions (counties, cities, towns, townships, or Indian reservations)
- Include the geographies in which the bank has:
  - Its main office,
  - Its branches,
  - Its deposit-taking remote-service facilities, and
  - The surrounding geographies in which the bank has originated or purchased a substantial portion of its loans




## Marketing Risk Factors

- Advertising patterns or practices that a reasonable person would believe indicate prohibited basis customers are less desirable.
- Advertising only in media serving non-minority areas of the market.
- Marketing through brokers or other agents that the institution knows (or has reason to know) would serve only one racial or ethnic group in the market.
- Marketing programs that exclude majority minorities areas or groups.
- Targeted advertising campaigns that explicitly exclude groups of prospective borrowers on a prohibited basis or exclude geographies.

## Marketing Myths

- General name recognition ads pose little to no marketing risk.
- Newspaper advertising is considered low risk.
- Relationships with brokers reduces all marketing risks.
- Conducting electronic/internet marketing is safe and poses little to no risk.
- Relying on a third-party for marketing eliminates marketing risks.




## Merger and Acquisition Activity

- Review the assessment area to ensure that it complies with CRA assessment area requirements and is appropriate as a result of the transaction.
- Review the products and services offered throughout the market area – is there a difference?
- Consider current marketing strategies of each institution and the impact the transaction will have on those strategies.




## Resources

- FDIC Compliance Examination Manual
- Interagency Fair Lending Examination Procedures
- FDIC Banker Resource Center – Fair Lending
- FDIC Identifying and Mitigating Potential Redlining Risks
- FDIC Technical Assistance Video Program
- CRA Interagency Q&As

## Analyzing HMDA Data
## Tips for Small- to Mid-Sized Credit Unions

*Matthew Nixon, Program Officer*
*Office of Consumer Financial Protection*
*National Credit Union Administration*




## Analyzing HMDA Data

- We can use HMDA data to evaluate various fair lending risks – for example, approval/denial disparities, pricing, redlining, processing time
- HMDA data analysis has evolved since new HMDA data fields were first collected in 2018 and reported in 2019
- Risk analysis capabilities have improved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## Analyzing HMDA Data *(continued)*

- In today's presentation, I will only cover analyses of approval/denial disparities
- I will discuss the evolution of HMDA analyses and cover a few analyses that may assist credit unions with their fair lending risk analysis procedures


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## Using Old Data Fields Only (before 2019)

- A credit union could compare its denial rates to national averages
- Weakness – Does not consider comparison to control group (non-Hispanic white)
- Weakness – Does not consider underwriting characteristics

| Denials / NCUA Lenders (2020 Data) | | |
|---|---|---|
| Race | # | % |
| White | 175,129 | 13.09% |
| AA / Black | 30,559 | 31.88% |
| Hispanic | 43,286 | 24.20% |
| Asian | 11,368 | 14.38% |
| Native American | 1,440 | 26.80% |
| Hawaiian | 745 | 25.88% |
| Multi Race | 3,290 | 19.62% |
| Unknown / NA | 40,924 | 16.24% |
| **Totals** | **306,741** | **15.58%** |




## Using Old Data Fields Only (before 2019)
*(continued)*

- A credit union could compare its denial disparity ratio to national averages
- While this does evaluate minority group denial rates relative to the non-Hispanic white control group, it still does not consider underwriting characteristics

| Denial Disparity / NCUA Lenders (2020 Data) | | |
|---|---|---|
| Race | Total Apps | D Disparity |
| White | 1,349,162 | 1.00 |
| AA / Black | 96,465 | 2.44 |
| Hispanic | 179,529 | 1.85 |
| Asian | 79,713 | 1.10 |
| Native American | 5,687 | 2.05 |
| Hawaiian | 2,917 | 1.98 |
| Multi Race | 16,981 | 1.50 |
| Unknown / NA | 262,822 | 1.24 |
| **Totals** | **1,993,276** | |




## Using New Data Fields (since 2019)

- A credit union can incorporate key underwriting components into its analysis
- Here I've compared the uncontrolled ratios reported on the previous slide (column 2) to conventional first mortgage applications with CLTVs <= 80%, DTIs <= 50%, Credit Scores >= 720 (column 3)

| Denial Disparity / NCUA Lenders (2020 Data) | | |
|---|---|---|
| Race | D Disparity (no control) | D Disparity (controlled) |
| White | 1.00 | 1.00 |
| AA / Black | 2.44 | 2.19 |
| Hispanic | 1.85 | 1.95 |
| Asian | 1.10 | 1.72 |
| Native American | 2.05 | 1.74 |
| Hawaiian | 1.98 | 2.07 |
| Multi Race | 1.50 | 1.13 |
| Unknown / NA | 1.24 | 1.44 |

## Using New Data Fields (since 2019)

*(continued)*

- A credit union can incorporate denial reasons into its analysis
- Column 2 includes denials with CLTVs from 80.01%-84.99% and a denial reason of "Collateral". Column 3 considers DTIs from 50.01%-59.99% and a denial reason of "Debt-to-income ratio"
- A credit union can evaluate marginal credit scores using the same approach

**Denial Disparity / NCUA Lenders (2020 Data)**

| Race | D Disparity (marginal CLTV) | D Disparity (marginal DTI) |
|---|---|---|
| White | 1.00 | 1.00 |
| AA / Black | 1.72 | 1.19 |
| Hispanic | 1.33 | 1.25 |
| Asian | 1.10 | 1.18 |
| Native American | -- | 1.15 |
| Hawaiian | -- | 1.37 |



## Fintech & Fair Lending Risk

*Westra Miller, Senior Counsel*
*Division of Consumer and Community Affairs*
*Federal Reserve Board*



## Overview

- Use of alternative data
- Use of AI/ML in credit decisioning
- Use of AI/ML in advertising
- Selected resources

## Alternative Data




## Alternative Data/Big Data

- Big Data generally refers to large, complex data sets that are collected over time, sometimes from different sources
  - This includes both "structured" data such as traditional numerical data as well as "unstructured" data such as text, images, and audio
- Alternative data refers to non-traditional data used for credit underwriting or pricing, such as data that is not included in a credit report
  - Alternative data may be a subset of Big Data




## Interagency Statement on Alternative Data

- Issued on December 3, 2019, by the Federal Reserve Board, the CFPB, the FDIC, the OCC and the National Credit Union Administration
- Acknowledges that alternative data can be used in a variety of areas
  - Fraud detection
  - Underwriting
  - Pricing
  - Marketing
  - Servicing
  - Account management
- Focuses on the use of alternative data in underwriting

## Risk Management Strategies in the Use of Alt Data

- As described in Interagency Statement, risks may be mitigated by using alternative data in a “second look” program
- Statement underscores the importance of a well-designed compliance management program
  - Includes thorough analysis of relevant consumer protection laws and regulations as they apply to alternative data
  - Data that present more risk may warrant a more robust compliance program
  - Appropriate testing, monitoring, and controls




## Use of AI/ML in Credit Decisioning


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## Artificial Intelligence and Machine Learning

- Artificial Intelligence (AI) generally refers to machines that act/think like humans or are capable of acting as intelligent agents
- Machine Learning (ML) is a method of designing a sequence of actions to solve a problem that optimizes automatically through experience and with limited or no human intervention


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## Potential Benefits of AI/ML

- Potential to increase accuracy and inclusiveness of underwriting models by testing many data sources and models:
  - Potential to underwrite and offer more credit to consumers with little to no traditional credit history (e.g., thin file consumers and the credit invisible)
  - Potential to leverage more granular data about consumers' financial habits and small businesses' operations to increase accuracy of credit risk predictions
- More efficient and accurate credit decisions for consumers and small businesses at lower cost for financial institutions




## Potential Risks of AI/ML

- Lack of Transparency – the "Black Box" Issue:
  - With AI, and particularly machine learning, it's harder to identify the key drivers in decision making, making credit scoring criteria more opaque
- The Equal Credit Opportunity Act (ECOA) requires that consumers be provided reasons their credit request was denied
  - If the model cannot identify these factors, it can be impossible to comply with these requirements
- Other fair lending risks:
  - Consumer compliance testing, especially for fair lending, may be more challenging
  - Biases reflected in data could be amplified and difficult to detect and correct
  - When human overrides are fed back into the AI system, unidentified biases can get built into the models




## Risk Management Strategies for AI/ML

- Use CFPB July 7, 2020 "Innovation Spotlight" blog post as a resource
- Include consumer compliance staff early in process to ensure compliance with consumer protection requirements, especially fair lending laws
- Ensure data used to develop models are accurate, reliable, and representative of all consumers
- Consider using alternative scoring methods, including those developed by AI, for consumers who would not be extended credit or are unscoreable as a "second chance" method

## Use of AI/ML in Advertising




## Facebook Settlement and Litigation

- In March 2019, Facebook settled with American Civil Liberties Union (ACLU), National Fair Housing Alliance (NFHA), and other non-profits to resolve allegations that its ad platform enabled discriminatory advertising of housing, employment, and credit opportunities
- The settlement obligated Facebook to take affirmative steps to prevent discrimination, establishing a separate ad portal for housing, credit, and employment ads that attempts to limit the amount of targeting that an advertiser can undertake
- However, a December 2019 study of the special ad portal showed that the algorithms that Facebook uses to deliver advertisements still skewed toward specific demographic groups, despite the changes that Facebook made as a result of the settlement
- Although Facebook removed the ability of advertisers to target users by race, gender, and age, the platform may still narrow the audience to whom an ad is shown based on a complex analysis of those most likely to click on or interact with that ad
- This analysis draws on characteristics about users that may serve as proxies for race, gender, and age




## Risks of Targeted Online Marketing

- Illustrates the risks that can arise to our institutions in online marketing and advertising
  - Choosing or excluding target audience based on protected characteristics
  - Selecting target audience filters that may correlate with protected characteristics (geography, hobbies & interests, educational institution)
  - Even where a broad audience is intentionally selected, the advertising platform may automatically narrow the audience

## Risk Management Strategies for Targeted Online Advertising

To help manage this risk, lenders can:

- Monitor marketing and outreach activities to ensure that those activities are reaching the entire assessment or credit market area, including any predominantly minority neighborhoods
- Review use of all criteria or filters in internet-based marketing and outreach activities to determine fair lending risk
- Manage third party risks by:
  - Understanding whether the advertising platform utilizes algorithms or filters that could exclude majority-minority communities or minority applicants. If present, lender should review such practices for fair lending risk
  - Requesting reports from vendors and partners indicating the reach of the lender's marketing and outreach activities




## Selected Resources

- *Interagency Statement on the Use of Alternative Data in Credit Underwriting*, Press Release (Dec. 3, 2019)
- Evans, C. & Miller, W., "From Catalogs to Clicks: The Fair Lending Implications of Targeted, Internet Marketing," *Consumer Compliance Outlook* (third issue 2019)
- Evans, C., "Keeping Fintech Fair: Thinking About Fair Lending and UDAP Risks," *Consumer Compliance Outlook* (second issue 2017)




## Recent CFPB Guidance

**Briefing for the Federal Reserve Fair Lending Webinar**
**December 2021**

*C. Christopher Davis, Attorney-Advisor*
*Office of Fair Lending & Equal Opportunity*
*Consumer Financial Protection Bureau*

## Agenda

- Special Purpose Credit Programs
- Consumers with Limited English Proficiency
- Sex-based Discrimination




## Special Purpose Credit Programs

- On December 21, 2020, the Bureau issued an interpretive rule on Special Purpose Credit Programs.
- https://files.consumerfinance.gov/f/documents/cfpb_advisory-opinion_special-purpose-credit-program_2020-12.pdf




## Consumers with Limited English Proficiency

- On January 13, the Bureau issued the *Statement Regarding the Provision of Financial Products and Services to Consumers with Limited English Proficiency*.
- https://files.consumerfinance.gov/f/documents/cfpb_lep-statement_2021-01.pdf

## Sex-based Discrimination

- The Bureau recently issued an interpretive rule clarifying that the prohibition against sex discrimination in credit under ECOA and Regulation B, which implements ECOA, encompasses sexual orientation discrimination and gender identity discrimination.
- https://files.consumerfinance.gov/f/documents/cfpb_ecoa-interpretive-rule_2021-03.pdf




## J.P. Morgan Chase Bank, N.A., et al. Conciliation Agreement A Case Study of a Successful Conciliation in a Discriminatory Appraisals Case

*Lon D. Meltesen, FHEO Regional Director, Region V*
*U.S. Department of Housing and Urban Development*




## Summary of Allegations in the Complaint

- Complainant: African American Homeowner living in a predominately African American neighborhood in Chicago.
- Around May 2020, Complainant sought to refinance her home with J.P. Morgan Chase Bank (Chase).
- Chase denied her refinancing because of the low home valuation in the appraisal conducted in connection with the refinancing.
- Complainant requested Chase reconsider the valuation or order a second appraisal; she felt the appraisal contained errors; Chase refused to reconsider.

## Summary of Allegations in the Complaint
*(continued)*

- Complainant applied for refinancing with a different lender; race was not disclosed.
- Appraiser for the other lender appraised Complainant's home for a significantly higher valuation than the appraisal for Chase.
- The other lender approved Complainant's refinancing.
- Complainant alleged that Chase rejected her refinancing based on an appraisal which undervalued her property because her home was located in a predominately African American neighborhood, in violation of Section 805 of Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Act of 1988.




## Timeline

- ***October 14, 2020*** – Complaint is filed with HUD
- ***October 19, 2020*** - HUD served the Notice of Complaint on the Parties
- ***October 20, 2020*** – Case assigned to an Investigator
- ***February 19, 2021*** – Conciliation Agreement is executed with J.P. Morgan Chase Bank (128 days after the filing of the Complaint)




## J.P. Morgan Chase Bank

Term of the Conciliation Agreement

Three years from the effective date of the Agreement

Relief for the Complainant

**Monetary Relief** - $50,000.00

## Relief in the Public Interest: Training

All of Respondent Chase's Home Lending Advisors and Client Care Specialists nationwide will receive additional mandatory training on the Reconsideration of Value ("ROV") process and Fair Lending Issues related to appraisals within the calendar year 2021. The training includes specifics regarding how to handle complaints of discrimination in the appraisal process and the process for customers to submit a ROV request, including the requirement to provide three (3) alternative comparable sales. Respondent Chase will provide the materials to HUD at least thirty (30) days prior to providing the training via email to **yana.karnaukhov@hud.gov** and **R5FHEOConciliation@hud.gov.** Respondent Chase expressly reserves the right to make changes to this training as it deems advisable. For a period of one (1) year after the effective date of this Agreement, Respondent Chase will notify HUD of material changes to this training related to the ROV process via email to **yana.karnaukhov@hud.gov** and **R5FHEOConciliation@hud.gov.**




## Relief in the Public Interest: Alert to HLAs

In 2021, Respondent Chase will provide a reminder of best practices regarding the ROV process and how to escalate customer complaints relating to Fair Lending issues to all Home Lending Advisors and Client Care Specialists nationwide. Respondent Chase will prove a copy of this reminder to HUD via email to **yana.karnaukhov@hud.gov** and **R5FHEOConciliation@hud.gov.**


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## Relief in the Public Interest: Review of Process

Within thirty (30) days of the effective date of this Agreement, Respondent Chase will re-review the process it follows when customers request a ROV to ensure that customers are appropriately informed of their ability to raise any concerns with the reliability or credibility of their appraisal to Respondent Chase, as well as any concerns of discrimination or bias. Respondent Chase will notify HUD of changes resulting from this review via email to **yana.karnaukhov@hud.gov** and **R5FHEOConciliation@hud.gov**


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## Relief in the Public Interest: Change to Appraisal Transmittal Letter

Within ninety (90) days of the effective date of this Agreement, Respondent Chase will release for coding and implementation revised language for the cover letter accompanying all appraisal reports it sends to its customers to include the following language:

*Chase is committed to maintaining appraiser independence and preventing attempts to influence appraisers in the preparation of appraisal reports, as well as avoiding any discrimination or bias in the appraisal process. If you believe that any person has attempted to influence the appraiser in the preparation of the appraisal of your property, or have any concerns with the reliability or credibility of the appraisal, please contact Chase mortgage support by calling 1-855-242-7346 Option "0", Option "0" as soon as possible to report any concerns of discrimination or bias or to discuss your options to contest the reliability of the appraisal.*

Respondent Chase will provide HUD with a copy of this revised letter via email to **yana.karnaukhov@hud.gov** and **R5FHEOConciliation@hud.gov.** Respondent Chase reserves the right to amend the revised letter as it deems advisable. For a period of one (1) year, Respondent Chase will notify HUD of material changes via email to the language via email to **yana.karnaukhov@hud.gov** and **R5FHEOConciliation@hud.gov.**



## Relief in the Public Interest: Changes to Adverse Action Notice

Within ninety (90) days of the effective date of this Agreement, Respondent Chase will release for coding and implementation revised language for the adverse action notice sent to customers if their loan application is denied to include the following language:

*Please contact Chase mortgage support by calling 1-855-242-7346 Option "0", Option "0" to report any concerns of improper influence, discrimination or bias during the process of this loan application.*

Respondent Chase will provide HUD with a copy of the revised notice via email to **yana.karnaukhov@hud.gov** and **R5FHEOConciliation@hud.gov.** Respondent Chase reserves the right to amend this language as it deems advisable. For a period of one (1) year after the effective date of this Agreement, Respondent Chase will notify HUD of material changes to this language via email to **yana.karnaukhov@hud.gov** and **R5FHEOConciliation@hud.gov.**



## Redlining Self-Assessments

*Beth Small, Counsel*
*Bank Advisory*
*Office of the Comptroller of the Currency*

## Regulatory Focus on Redlining

*"One of my highest priorities as Acting Comptroller of the Currency is to ensure the banks we regulate provide fair and equitable access to credit- to everyone. Fair access to credit builds wealth, and when those doors are shut, or simply made harder to open or pass through, minority and underrepresented groups can be left behind for generations."*

- Acting Comptroller Michael Hsu, October 22, 2021




## Fair Lending Compliance Management Systems (CMS)

- A bank's CMS should be appropriate for its risk profile, which takes into account many elements including its business strategy, volume of lending, its lending policies and procedures, its product offerings, and its lending footprint. Factors examiners look at when assessing a bank's CMS include:
  - Lending policies and procedures
  - Training materials and guidance
  - Resources (personnel and IT) devoted to CMS
  - Exception monitoring and oversight
  - Fair lending self-assessments
  - Provisions for taking appropriate and timely corrective action if an issue is discovered




## Components of Effective Redlining Self-Assessments

- Conducting an assessment in all geographies within the bank's footprint
- Collecting and maintaining accurate and complete HMDA data
- Comparing the proportion of bank application and origination volume in communities of color to the proportion of peer group application and origination volume in these areas
- Reporting appropriately to senior management and board, including escalation of potential issues

## Components of Effective Peer Group Selection

- Common starting point for peer groups
  - All HMDA reporters
  - Lenders that received between 50 and 200 percent of the bank's loan applications in the area of interest
- More specialized peer groups may often be appropriate
- Avoid
  - Cherry picking peers
  - Using only one peer group or comparing performance to a small number of banks
  - Changing peer group selections arbitrarily from year to year




## Redlining Self-Assessment Red Flags

- No redlining specific self-assessment
- Assessments not conducted at routine intervals
- Not adjusting or conducting assessments after major changes, such as M&A activity, significant business strategy shifts, introduction of new product lines, etc.
- Assessments not conducted in all geographies within the bank's footprint
- Self-assessment that does not look at a bank's lending to communities of color as a proportion of total lending




## Redlining Self-Assessment Red Flags
*(continued)*

- Inadequate or inappropriate peer group selection
- Failure to explore reasons for underperformance as compared to peers
- Lack of response/action items to address potential issues
- Lack of or insufficient coverage by internal audit
- Lack of reporting to appropriate management committees and Board or Board committees


Questions?
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