

San Francisco Region Bankers' Forum: Consumer Complaint and Fair Lending Topics

November 10, 2015

Agenda

- Opening Comments
 - Deputy Regional Director Frank Hartigan
- Fair Lending
 - Fair Lending Examination Specialist Dana Crutchfield
- Consumer Complaints
 - Senior Consumer Affairs Specialist Frances Tam
- Questions and Answers

FAIR LENDING

Presented By:

Dana Crutchfield

Fair Lending Examination Specialist



FAIR LENDING

- Fair Lending Regulations
- Fair Lending Compliance Management System (CMS)
- Risk-Based Fair Lending Reviews
 - Fair Lending Scope and Conclusions Memorandum
- Fair Lending Hot Topics
 - Pricing Risk, “Red Flags”, and Best Practices
 - Foreclosures, Loan Modifications, and Loss Mitigation

FAIR LENDING REGULATIONS

ECOA

- Race or Color
- Religion
- National Origin
- Sex
- Marital Status
- Age
- Receipt of public assistance income
- Exercise of rights under the Consumer Credit Protection Act

Fair Housing Act

- Race or Color
- National Origin
- Religion
- Sex
- Familial Status
- Handicap



FAIR LENDING COMPLIANCE MANAGEMENT SYSTEM (CMS)

Components of a Strong Compliance Management System

- Three key components of a strong and effective CMS that supports fair lending:
 - Board and Senior Management Oversight
 - Strong Program
 - Policies and Procedures
 - Monitoring
 - Training
 - Consumer Complaint Tracking and Monitoring
 - Regular Audits

Board and Senior Management Oversight

- Conduct a fair lending risk assessment
 - Know where you have fair lending risk
- Know your products
 - Especially when new products are being considered
- Know your data
 - Review loan data/trade area

Strong Program

- Written policies and procedures
 - Should address the credit process, be approved by senior management and the Board, and widely distributed
 - Identify qualifying information requested
 - Ensure pre-application and application process the same for everyone
 - Should be periodically reviewed
 - Should be specific and objective
 - Should document credit decisions

Strong Program

- Monitoring
 - Secondary review process/exceptions
- Training
 - For all personnel with customer contact/address all stages of the loan process
- Consumer complaints
 - Should be a process in place to handle all complaints

Regular Audits

- Complements a bank's internal monitoring system
- Scope and frequency is based on several factors
- Transaction testing
- CM (Compliance Management) Checklist



RISK-BASED FAIR LENDING REVIEWS

Risk-Based Fair Lending Review

- Fair lending reviews conducted in accordance with the FFIEC Interagency Fair Lending Examination Procedures
- Assessment of an institution's fair lending risk
 - Inherent Fair Lending Risk
 - Mitigating Factors

Risk-Based Fair Lending Review

- More in-depth analysis may be necessary
- Statistically significant rate disparities
 - File reviews
 - Pricing data evaluation
- Examiners will keep the bank apprised of the status of the fair lending review
- Risk-based approach to identified risks

Fair Lending Scope and Conclusions Memorandum

- Fair lending reviews are documented using the Fair Lending Scope and Conclusions memorandum (FLSC)
 - The FLSC is published in the FDIC Compliance Examination Manual

Fair Lending Scope and Conclusions Memorandum

- Basic framework to assist examiners in assessing and documenting the fair lending risk of an institution
 - Series of Questions
 - Examiner Summary Sections
- Questions provided not intended to cover every potential risk

Fair Lending Scope and Conclusions Memorandum

Section 1 – Develop an Institutional Overview

- Structure and Management
- Supervisory History
- Loan Portfolio
- Credit and Market Operations
 - Underwriting
 - Pricing
 - Steering
 - Marketing
 - Redlining

Fair Lending Scope and Conclusions Memorandum

Section 2 – Identification of Discrimination

Risk Factors

- Product(s) or products group(s) selected for further analysis
 - Risk Factors
 - Appendix A - FFIEC Interagency FL Examination Procedures – Discrimination Risk Factors
 - Support for Risk Factors
 - Mitigating Factors

Fair Lending Scope and Conclusions Memorandum

Section 3 – Description of Focal Points

- Areas warranting further review

Section 4 – Scope Addendum

- Change in scope or areas warranting further review

Section 5 – Fair Lending Analysis and Conclusions

- Overall conclusions/recommendations of the FL review
- Summary of steps taken to perform focal point review
- Mitigating factors
- Considerations for next examination



FAIR LENDING HOT TOPICS

Pricing Reviews

- Loan Pricing
 - Risk assess
 - Monitor
 - Periodically test
- Pricing Reviews
 - Pricing “Red Flags”

“Red Flags” that Equate to Increased Pricing Risk

- Raw disparities between target/control groups
- Unmonitored/insufficient monitoring of pricing discretion
- Lack of clear, written pricing policies
- Lack of documentation for exceptions
- Financial incentives for loan officers or third parties
- Complaints

Pricing Reviews—Best Practices

- Effective CMS
 - Fair Lending Risk Assessment
 - Discretion in pricing—higher risk
 - Strictly enforced rate sheet—lower risk
 - Monitoring
 - Identify potential disparities on a prohibited basis

Foreclosures, Loan Modifications, and Loss Mitigation

- Managing the potential for fair lending issues
- Strong CMS covering all aspects of a credit transaction

Fair Lending - Resources

- FFIEC Interagency Fair Lending Examination Procedures & Appendix
 - <http://www.ffiec.gov/pdf/fairlend.pdf>
 - <http://www.ffiec.gov/pdf/fairappx.pdf>
- Policy Statement on Discrimination in Lending
 - <http://www.fdic.gov/regulations/laws/rules/5000-3860.html>
- FDIC Compliance Examination Manual—Fair Lending Laws and Regulations
 - <https://www.fdic.gov/regulations/compliance/manual/4/tab-IV.pdf>
- Fair Lending Scope and Conclusions Memorandum
 - <https://www.fdic.gov/regulations/compliance/manual/pdf/IV-3.1.pdf>

CONSUMER COMPLAINTS

Presented By:

Frances Tam

Senior Consumer Affairs Specialist

CONSUMER COMPLAINTS

- FDIC Consumer Response Center
- Role of Complaints in the Examination Process
- Compliance Management System Best Practices

Complaints and Inquiries Defined

Complaint: an allegation by, or on behalf of, an individual, group of individuals or another entity that a particular act or practice of a financial institution is unfair, deceptive, incorrect or violates a federal regulation or statute under which the financial institution must operate.

Inquiry: a request to the FDIC or financial institution, from consumers, financial institutions or others for information and assistance.

Consumer Response Center

Federal Deposit Insurance Corporation

Consumer Response Center

1100 Walnut Street, Box #11

Kansas City, Missouri 64106

1-877-275-3342 (1-877-ASK-FDIC)

www.fdic.gov/consumers/assistance/filecomplaint.html



Consumer Response Center

Approach when analyzing and investigating complaints:

- Ensure the bank has complied with consumer protection laws and regulations, their own procedures, and not engaged in discriminatory or unfair or deceptive practices
- Ensure the bank fully addresses the consumer's concerns
- Educate consumers by providing brochures and detailed guidance

Complaints in the Examination Process

- Significant complaint concerns shared with supervisory staff
 - Division of Depositor and Consumer Protection
 - Division of Risk Management Supervision
- All financial institution complaints reviewed during pre-examination planning
 - Reviewed for compliance risks, trends, recurring issues, etc.
- Even one complaint could expose a problem
- Assessing management's handling of complaints and the overall CMS



CONSUMER COMPLAINTS COMPLIANCE MANAGEMENT SYSTEM - BEST PRACTICES

Compliance Management System Best Practices

- FDIC's expectations for an effective CMS
- CMS is part of the overall risk strategy
- Complaint identification and resolution are key factors to all CMS elements

Compliance Management System Best Practices

Senior Management Oversight:

- Resources, responsibility and reporting

Policy and Procedure Considerations:

- “Inquiry” vs. “complaint”
- Centralized process
- Escalation procedures
- Documentation/tracking
- Identify risks with products or services
- Establish trend analysis procedures

Compliance Management System Best Practices

Training Considerations:

- Policies/Procedures
- Documentation
- Reporting functions

• Monitoring Considerations:

- Recordkeeping
- Timing
- Trend and red flag analysis

Compliance Management System Best Practices

Audit Considerations:

- Internal or external
- Bank practices
- Staff adherence to guidelines

Compliance Management System Best Practices

Other sources:

- Third-party relationships
- Online complaint boards

Questions and Answers

Press *1

or email

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