



Comptroller of the Currency
Administrator of National Banks

US Department of the Treasury

OCC Fair Lending Conference 2008

Statistical Analysis and Modeling for Risk Assessment

September 9, 2008

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ENSURING A SAFE AND SOUND
NATIONAL BANKING SYSTEM
FOR ALL AMERICANS

Current Issues in Fair Lending

Emerging Issues and Trends in Fair Lending Enforcement

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Fair Lending Enforcement by the Federal Reserve

- The Federal Reserve rigorously enforces the fair lending laws.
- We review all institutions that we supervise regularly for fair lending compliance.
- We also perform fair lending reviews outside the normal supervisory cycle when we believe they are warranted by fair lending risk.



How the Federal Reserve Addresses Fair Lending Violations

- If we have reason to believe that there is a pattern or practice of discrimination under ECOA, we refer the matter to DOJ.
- We direct the institution to correct the violations and improve its fair lending compliance, as appropriate.



Additional Potential Consequences from Fair Lending Findings

- Community Reinvestment Act Rating
- Consumer Compliance Rating
- Potential impact on applications



2007 DOJ Referrals

- Four matters involving marital status discrimination.
- Two matters involving mortgage pricing discrimination based on race and ethnicity.
- One matter involving racial discrimination in auto loan pricing.
- One matter involving restrictions on row house lending that discriminated by race, and restrictions on lending on Native American lands.



Broad Trends in Fair Lending Enforcement

- Increased Use of Electronic Data
 - HMDA data enhanced with other relevant fields.
 - Increases efficacy and efficiency of reviews, even for small lenders.

- More reviews of lending policies for disparate impact.

- Continued focus on pricing.

- Broader definition of steering.



Emerging Issues in Current Market

- Declining Market Restrictions May Raise Concerns About Redlining
 - What is the business justification?
 - What is the nexus between the business justification and the policy?
 - Is the policy facially neutral and consistently applied, or is it based on subjective or ad hoc decisions?
 - Think about disparate treatment and disparate impact.



Emerging Issues in Current Market

- **Tightening Underwriting Standards May Raise Concerns About Access to Credit**
 - How should we evaluate the fair lending risk?
 - Think about disparate treatment and disparate impact.



Emerging Issues in Current Market

- Servicing Issues
- Continued Interplay Between Fair Lending and Responsible Lending



What Else is on the Horizon?

- Proposed changes to reporting HMDA pricing data to better capture the subprime market.
- Revisions to the Interagency Fair Lending Examination Procedures Are Under Consideration
- Congressional Interest in Collecting Race/Ethnicity for Other Types of Lending



Fair Lending Compliance in Turbulent Times

- Ensure that fair lending and compliance staff are at the table when policies are reviewed and formulated.
- Identify and analyze the fair lending implications (disparate treatment and disparate impact) of policies before implementation.
- Ensure that policies are reviewed at regular intervals.