

Lenders Compliance Group

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Fair Lending Compliance - Some Red Flags

The Consumer Financial Protection Bureau (CFPB) will make Fair Lending a focus of its examinations.

[I have written extensively on these examinations.](#)*

Our firm is committed to providing comprehensive audit and due diligence reviews in preparation for the CFPB's Nonbank and Bank Supervision and Examination.

[And my firm has offered, freely, a Compendium of all parts and each section of the Examination Manual.](#)

Our Compendium provides:

- [Directory: All Sections](#)
- [Contents: Links to Compendium Text](#)
- [Contents: Links to CFPB Website Text](#)

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In preparing our Audit and Due Diligence procedures for our clients, we have combined all three parts into a single Directory with links to each section's Compendium texts and CFPB's website texts. There are over 700 pages in this Compendium.

A central feature of the CFPB exam is the review of a company's Fair Lending compliance.

In preparing your firm for a CFPB examination, it is important to explore how Fair Lending is practiced by your firm.

The term "Fair Lending" has been around for many years and is used as a catch-all phrase for several regulatory compliance requirements.

Let's consider four areas affecting Fair Lending compliance - areas to which financial institutions sometimes do not give sufficient consideration.

I will provide a brief list, grouped by category, and suggest some potential risks that should be considered.

The list is not meant to be comprehensive - [I have chosen just four categories](#) - but this exercise should guide you toward expanding the scope of your Fair Lending initiatives.

Please keep in mind that state banking department examiners and federal prudential regulators will also look for these potential infractions when conducting examinations.

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Redlining

Some Potential Risks

- Community Reinvestment Act (CRA) assessment areas do not comply with Regulation BB and/or exclude minority areas.
- Branches and expansion plans disfavor minority neighborhoods.
- Marketing strategies exclude minority geographies.
- Complaints about redlining by consumers or community advocates.

Pricing

Some Potential Risks

- Overages, fees, yield spread premiums, and pricing exceptions.



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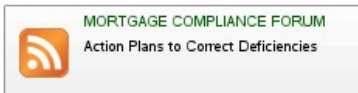
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- Lack of specific guidelines for pricing (including exceptions).
- Use of risk-based pricing that is not based on objective criteria or applied consistently.
- Broad pricing discretion, such as through overages, underages, or yield spread premiums.
- Lack of clear documentation of reasons for pricing decisions (including exceptions).
- Lack of monitoring for pricing disparities.
- Financial incentives for loan originators to charge higher prices.
- Pricing policies or practices that treat applicants differently on a prohibited basis or have a disparate impact.
- Loan programs that contain only borrowers from a prohibited basis group. Complaints about pricing by consumers or community advocates.

Underwriting

Some Potential Risks

- Stricter underwriting policies, such as tighter credit standards in certain specific geographic markets.
- Lack of specific underwriting policies for Fair Lending risk, including both disparate treatment and disparate impact discrimination.
- Lack of monitoring and/or policies to manage disparate impact risks caused by varying origination channels or geographic areas.

Maternity Leave

Regulation B, the implementing regulation of the Equal Credit Opportunity Act (ECOA), prohibits using assumptions related to the likelihood that any group of persons will rear children or will, for that reason, receive diminished or interrupted income in the future.

Some Potential Risks

- Assuming that a woman will not return to work after childbirth.
- Not implementing underwriting policies that treat applicants on maternity or parental leave and applicants on other types of leave similarly.
- Failing to consider the requirements for verifying the income of an applicant on maternity or parental leave.
- Failing to review and respond to complaints by consumers who were on maternity or parental leave at the time of the loan application.
- Not incorporating remedies into a policy statement regarding maternity or parental leave.

Library



Consumer Financial Protection Bureau

* Jonathan Foxx is the President & Managing Director of Lenders Compliance Group




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