



DEPARTMENT OF
**SAVINGS AND
MORTGAGE LENDING**

Consumer Compliance

Examination Update

Fair Lending Observations

Small Business Lending Data Collection

BILL POE

SUPERVISORY COMPLIANCE EXAMINER

Compliance Examination Update

Performance for Texas SSBs as of 9/22/2022

- Compliance Examinations- 100% of Texas SSBs rated satisfactory or better
- CRA Performance Evaluations- 100% of Texas SSBs rated Satisfactory or Outstanding
- No current enforcement issues related to compliance exams
- Offsite examinations generally have been taking longer
- Onsite examinations beginning this month with FDIC

Compliance Examination Update

Frequently Reviewed Products, Services, and Regulations

- Truth in Lending - Reg Z - TRID 80%
- Flood Disaster Protection Act 60%
- CARES Act- Servicing/Modifications 30%
- Overdrafts / NSF's 30%
 - Re-presentments *Hot Topic*
 - FDIC March 2022 Consumer Compliance Supervisory Highlights
 - FDIC FIL-40-2022 Supervisory Guidance on Multiple Re-Presentation NSF Fees

Fair Lending Observations

Fair Banking / Responsible Banking- Extends Beyond Credit Products

- CFPB March 2022 Update to UDAAP Examination Manual

Fair Lending Review Generally Results in Limited Written Documentation Provided During Examinations

FDIC Fair Lending Scope and Conclusions Memorandum Available in Compliance Examination Manual

Fair Lending Suggestions or Recommendations Observed in Examinations

Policies, Procedures, Risk Assessment

- Management should ensure policies and procedures provide objective criteria regarding rate exceptions related to competition and lending limits. The bank should monitor whether the factors could have a disparate impact on similarly-situated borrowers.
- The bank does not have a stand-alone Fair Lending Policy, with fair lending topics included in the bank's Compliance and Loan policies.
- Examiners suggest management enhance the Fair Lending risk assessment to consider risk by loan product and include all aspects of FL to better identify the bank's residual risk.
- Consider enhancing the Loan Policy to include quantitative underwriting criteria.
- Consider conducting secondary reviews of denials (prior to sending the adverse action) to ensure the bank applied consistent underwriting standard.

Fair Lending Suggestions or Recommendations Observed in Examinations

Redlining

- Management should proactively determine or confirm the reasonably expected market area (REMA) for each of these markets on an annual basis. Based on these reviews, Management should consider implementing strategies to address any lending gaps identified within each REMA that reflect limited lending in minority areas as compared to peer data.
- Examiners recommend the Board and senior management improve its oversight of the fair lending function by monitoring the geographic dispersion of loan applications and originations within its reasonably expected market area (REMA) to identify any gaps in lending between majority minority tracts (MMTs) and non-MMTs as compared to demographic data. If gaps are identified in the bank's performance, management should consider additional steps to increase applications and/or originations, and thoroughly document the steps it takes to reduce the gap(s).

Fair Lending Suggestions or Recommendations Observed in Examinations

Redlining

- Enhance documentation of ongoing monitoring efforts regarding fair lending redlining risk, as well as marketing and outreach efforts to improve lending activity in minority areas throughout the REMA.
- Examiners recommend management consider periodically reviewing its lending performance in majority minority census tracts and develop plans to address any lending gaps it identifies.
- In addition to monitoring the lending pattern percentages and trends, consider also comparing to peer data to assess overall performance.

Fair Lending Suggestions or Recommendations Observed in Examinations

Monitoring

- Management should enhance its monitoring of lending patterns for home mortgage lending to review lending across all geographic markets where the bank has generated significant application or lending volumes.
- The results of these analyses, including monitoring the effectiveness of marketing or outreach strategies, should be provided to the Board on a recurring basis.
- Consider analyzing the frequency of exceptions by race, ethnicity, and gender, for consumer loans and consumer mortgage loans.
- When tracking exception activity, include the type of and justification(s) for exceptions.
- Maintain a log of denied credit applications to facilitate denial analysis should sufficient denial activity materialize.
- In addition to denial rate and comparative analysis for consumer non real estate, consider also doing this for HMDA loan applications.

Fair Lending Suggestions or Recommendations Observed in Examinations

Secondary Market Products

- Management should establish a process to document products for which each applicant is eligible and confirming the loan product choice made by each borrower. This will aid management in confirming that guidance provided regarding products or features was based on applicants' needs or other legitimate factors.
- For secondary market lending, pricing guidance provided to lenders should clearly differentiate between in-house and secondary market products.
- Management should consider risk factors for objective criteria that are not applied consistently between both in-house and secondary market lending products. The bank's loan trial should be monitored for similar product offerings between lending channels to ensure pricing consistency.

Fair Lending Suggestions or Recommendations Observed in Examinations

Audit & Training

- Management should consider having FL external audits follow FFIEC Interagency Procedures.
- Management could strengthen oversight by having the auditor detail the scope in the reports to ensure its adequacy. Consider including an underwriting and pricing comparative file review based on FFIEC Interagency Procedures in the external audit.
- Ensure a bank-wide understanding of fair lending issues and consistent application of lending processes. An effective means of doing this is to establish regular fair lending training to applicable bank personnel, Board Members and formally document such training.

Small Business Lending Data Collection

Section 1071

Timeline

- Section 1071 of the Dodd-Frank Act of 2010 amended ECOA regarding the collection and reporting of certain data for women-owned, minority-owned, and small businesses. Required the CFPB to adopt regulations.
- On September 1, 2021, CFPB released a 918 page notice of proposed rulemaking to amend Regulation B to implement the changes to ECOA.
- Comment period ended January 6, 2022.
- CFPB Semiannual regulatory agenda current as of April 1, 2022 estimates the issuance of a final rule by end of March 2023.
- Compliance with the final rule likely to be required approximately 18 months after publication.
- This could put the compliance date during 2024.

Small Business Lending Data Collection

Section 1071

Definitions & Data

- A “covered financial institution” originates at least 25 covered credit transactions for small businesses in each of the two preceding calendar years.
- A “small business” would be defined as having \$5 million or less in gross annual revenue for the preceding year.
- A “covered credit transaction” would include loans, lines of credit, credit cards, and merchant cash advances.
- Collection and reporting would be required for 23 data points.

* All subject to change in the final rule *

Small Business Lending Data Collection

Section 1071

Change Management

- Training?
- How is data going to be collected?
- What kind of automation should be implemented?
- Monitoring?
- Policies and procedures?
- Cost of compliance?

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