

FAIR LENDING TRAINING

Your Bank Logo



FAIR LENDING

FAIR LENDING OVERVIEW

- The Board of Directors is responsible for approving, adopting, and implementing a Fair Lending Program that sufficiently covers the size, complexity and compliance risks of the bank.
- All Bank associates are responsible for complying with the Fair Lending Program and applicable laws, regulations, and guidance.
- Ensure fair and equal treatment is provided to all individuals seeking financial services.
- The legal aspects of fair lending are contained in several federal and state laws – most prominently:
 - The Equal Credit Opportunity Act (ECOA)/Reg. B and
 - The Fair Housing Act (FHA)

LAWS AND REGULATIONS

- **Equal Credit Opportunity Act**

- Makes it unlawful for any creditor to discriminate against any applicant in any stage of the credit transaction. It applies to extensions of credit to consumers, small businesses, corporations, partnerships, and trust.
- Prohibits discrimination based on race, color, religion, national origin, sex (including sexual orientation and gender identity), marital status, age, receipt of income from public assistance programs, or whether a person exercises rights granted under the Consumer Credit Protection Act.
- A creditor shall not discourage any customer or client or make an oral or written statement, in advertising or otherwise, to applicants or prospective applicants that would discourage on a prohibited basis a reasonable person from making or pursuing an application

LAWS AND REGULATIONS

- **Fair Housing Act**

- Prohibits discrimination in all aspects of “residential real-estate transactions.
- Prohibits discrimination based on applicant’s race, color, religion, national origin, handicap, family status, or sex (including sexual orientation and gender identity).
- The Department of Housing and Urban Development’s (HUD) regulations implement the FHA.

ADDITIONAL FAIR LENDING REGULATIONS

- **Home Mortgage Disclosure Act (HMDA)**

- Provides housing related loan data to the public so it can be determined if covered institutions are serving the credit needs of their markets. In addition, the data assists public officials in policy related issues and helps to identify discriminatory lending patterns.
- Each year, a Loan Application Register (LAR) must be submitted for all consumer dwelling related loans and business purpose loans that are dwelling secured and being used for home purchase loans, home improvement loans, or refinances by March 1st.
- The public can access the Bank's HMDA LAR via the Consumer Financial Protection Bureau's (CFPB) website.

- **Community Reinvestment Act (CRA)**

- Requires financial institutions to demonstrate that their services and facilities serve the convenience and credit needs of communities in which they operate.

FHA prohibits discrimination based on...

Race

Color

Religion

Sex, including
• Sexual Orientation
• Gender Identity

National Origin

Familial Status

Handicap

ECOA prohibits discrimination based on...

Race

Color

Religion

Sex, including
• Sexual Orientation
• Gender Identity

National Origin

Marital Status

Age

Exercising rights
under CCPA

Income derived from
public assistance

HMDA is intended to...

Provide data to the public

Assist public officials

Identify
discriminatory
lending patterns

CRA requires...

Meet the credit
needs of the
communities

FAIR LENDING – CREDIT ADMINISTRATION

Fair lending requirements apply to the entire credit administration process, including:

- New product development
- Advertising and marketing
- Taking applications
- Processing applications
- Pricing
- Credit risk and underwriting
- Account servicing activities
- Collections and loss mitigation

CATEGORIES OF DISCRIMINATION

- Fair lending is defined as the consistent, objective, and unbiased treatment of all your customers when dealing with loans or potential loans. Violations of fair lending laws and regulations occur when institutions make credit, pricing, servicing, or lending-related decisions based on any prohibited basis.
- Fair lending laws and regulations recognize three basic types of illegal discrimination that, if detected, could open individuals and institutions up to serious fines and penalties.

CATEGORIES OF DISCRIMINATION

- **Overt Discrimination** – Blatant or obvious act of discrimination based on a prohibited basis. Examples include:
 - A lender offers a credit card with a limit of \$2,500 for applicants 21-30 years of age. The same lender offers a credit limit of \$5,000 to applicants over 30. This is overt discrimination based on age.
 - A lender tells an applicant, “We don’t like to make home mortgage loans to caucasians (white people), but the law says we can’t discriminate.” Even stating a discriminatory preference violates the Fair Housing Act and is overt discrimination based on national origin.

CATEGORIES OF DISCRIMINATION

- **Disparate Treatment** – Often more subtle than overt discrimination, this involves treating similarly qualified applicants or borrowers differently on the basis of any prohibited factor. (A lender's decision or action does not have to be motivated by prejudice or conscious intention to discriminate in order to be considered disparate treatment.) Examples include:
 - A lender tells a female applicant that the institution requires an application fee with her mortgage application, and that it would take a day to qualify her. Another lender at the same institution takes a loan application from a male, qualifies him within an hour, and charges no fee.
 - A non-minority applicant fails to list all his obligations on his application, but the loan officer calls him to obtain the missing information. A minority applicant fails to list all his obligations on the application – the application is rejected.

CATEGORIES OF DISCRIMINATION

- **Disparate Impact** – Evidence that a lender applied a neutral policy or practice uniformly to all credit applicants, but the policy or practice has a disproportionately adverse impact on members of a prohibited basis group without proper business justification. Examples include:
 - A lender has a policy not to make home purchase loans for less than \$70,000. Even when applied equally to each applicant, this policy disproportionately excludes certain minority borrowers because of their income levels and the lower values of homes in the areas where they live.
 - When making underwriting decisions, a lender considers gross rather than net income. This policy disparately impacts both the elderly and disabled because they are more likely to receive non-taxable income.

CATEGORIES OF DISCRIMINATION

- **Redlining** –

- The practice of refusing to grant credit in a particular geographic area.
- In reverse redlining, a lender specifically intends to make bad loans, or loans with predatory characteristics, in certain geographic areas. The result of both of these phenomena are the same: members of protected classes are hurt by these practices by either being unable to receive credit (redlining), or being intentionally targeted for predatory loans (reverse redlining).

CATEGORIES OF DISCRIMINATION

- **Steering** – Guiding a customer toward a specific product or feature that may have less favorable terms or conditions than an alternative product. Steering is illegal under the fair lending laws and centers on whether the bank did so on a prohibited bases, rather than based on the applicant's needs or other legitimate factors.

Remember: LTB has processes in place to ensure that applicants can select the loan products that best suit their needs and qualifications.

PREVENTING DISCRIMINATION

All financial organizations should have written fair lending policies and procedures and have oversight, analysis, and monitoring in place. In addition, ensure that management is committed to the process.

- Board approved Fair Lending Policy in place.
- Compliance Department completes periodic fair lending reviews to monitor for discrimination risk.

PREVENTING DISCRIMINATION

- Familiarize yourself with Reg. B's monitoring requirements. Remember that an applicant can always refuse to provide the information called for in Reg. B and HMDA – do not penalize him or her for exercising their right.
- Be careful about inquiring about childbearing or child-rearing. Under fair lending standards, it's best to ask, "Do you foresee any reduction or interruption in your income during the term of this loan?" vs. "Do you plan to have children in the near future?"
- Anything made available to one applicant or group of applicants must be made available to all, including:
 - Allowances for bad credit
 - Substitute payment references, such as rent receipts and utility bills
 - Banks services
 - Helpful advice
 - Concessions
 - Appraisal reconsiderations

RISK IMPACTS

- If a fair lending violation is discovered, it not only impacts the consumer, but also the Bank and you!
The following may need to occur:

- Retrospective relief
- Restitution
- Civil monetary penalties
- Possible referrals to HUD or the Department of Justice

RISK IMPACTS

- Enforcement actions by regulators and complaints filed by the Department of Justice (DOJ), Department of Housing and Urban Development (HUD), and Consumer Financial Protection Bureau (CFPB).
- Possible downgrade in compliance and CRA ratings, which may adversely affect any plans an institution has to branch, merge, acquire another institution, or expand in any manner.
- Legal risk of private and class legal actions against the institution for alleged discrimination.
- Reputational risk

QUESTIONS / CONCERNS?

If you have questions or concerns regarding Fair Lending please contact your, Compliance Officer.