CRA & Fair Lending Today

CHALLENGES

CHANGES

UNCERTAINTY

Indiana Bankers Association
2018 Mega Conference. May 1-3, 2018
Indiana Convention Center, Indianapolis, Indiana
CRA & FAIR LENDING TODAY: MANAGING IN AN ENVIRONMENT OF CHALLENGE, CHANGE AND UNCERTAINTY:

- In an environment of “Promise and Uncertainty” has the regulatory risk profile for CRA and Fair Lending changed?
- What challenges has the environment presented?
- How do you ensure your Bank continues to succeed?
1st Up – CRA
The new administration is aimed at reducing regulatory burden. Are we facing a major change?

CRA “on the chopping block”? What’s the extent?
Some Context:
Where are we today?
... Overall CRA performance has not yet returned to pre-crisis level but nonetheless - good and stable profile.

Source: [www.FFIEC.gov](http://www.FFIEC.gov) SB, ISB & LB ratings from PEs made publicly available by year through 2-12-18.
“NEEDS TO IMPROVE” DECLINING BUT CHALLENGES PERSIST, e.g.,

Source: [www.FFIEC.gov](http://www.FFIEC.gov) SB,ISB & LB ratings from PEs made publicly available by year through 2-12-18.

Most Recent Years
Primary Reasons

**Small Banks:**
- Loan volume
- I/O (limited)
- Fair Lending

**ISB:**
- Community Development
- L/D ratio
- Geo. or Borrower (some driven by L/D ratios or I/O)
- Fair Lending

**Large Banks:**
- Lending test inclusive of I/O, geographic, borrower, community development and innovation
How have Indiana-Based Banks fared?

Like others in the nation, these institutions exhibited performance challenges as the 2007 mortgage crisis unfolded, however …
**INDIANA-BASED BANKS**

- 2009 began to regain performance strength with some years void of “Needs-to-Improve” (NI) CRA ratings!
- Despite an “up & down” Outstanding rating trend, all three bank categories had Outstanding Achievers!!

**CRA RATING TREND**
**INDIANA-BASED INSTITUTIONS***

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<tr>
<th>Year</th>
<th>O/S</th>
<th>Sat</th>
<th>NI</th>
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<tr>
<td>2007</td>
<td>90.3</td>
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<td>2008</td>
<td>84.6</td>
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<td>2009</td>
<td>97.7</td>
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<td>2010</td>
<td>86.2</td>
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<td>2011</td>
<td>100.0</td>
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<td>2012</td>
<td>94.4</td>
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<td>2017</td>
<td>100.0</td>
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NI Ratings;
Attributing factors by Bank category:

- **Large Banks:**
  - CD lending & Geographic Distribution
  - Fair Lending Violations

- **ISBs:**
  - Community Development

- **Small Banks**
  - I/O driving other performance categories
  - L/D
  - Geo & Borrower

Source: [www.FFIEC.gov](http://www.FFIEC.gov) SB, ISB & LB ratings from PEs made publicly available by year through 4-13-18.
Should CRA be “On the Chopping Block”? 
CRA “ON THE CHOPPING BLOCK”? …HOW DID WE GET HERE?

CRA included in an initial regulatory assessment by the U.S. Treasury for the new Administration:

• **Report:** June 2017 U. S. Treasury Report to President: *A Financial System That Creates Economic Opportunities* Banks and Credit Unions

• **One of Key Conclusions:** Prudential regulators are involved in assessing CRA compliance, however, none are responsible for evaluating how well the CRA accomplishes its mission.

• **High Priority Goal:** Align regulatory oversight of CRA activities with a heightened focus on the “impact” of community investments.
A Recap of the Initial Considerations

If you could only have one … which would be your #1 Choice
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<tr>
<th>CRA Reform Initial Treasury Considerations</th>
<th>Your #1 choice?</th>
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<tr>
<td>Changing how regulators measure banks’ CRA investments to improve their benefit to communities;</td>
<td>✓</td>
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<td>Streamlining CRA supervision and enforcement given its current oversight by multiple regulators;</td>
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<td>Modernizing CRA geographic assessment areas due to the changing nature of technology and other factors;</td>
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<tr>
<td>Improving regulatory review and ratings assessment process, including the frequency of examinations,</td>
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<tr>
<td>Ability of institutions to remediate ratings, and transparency in CRA assessment rating methodology and process</td>
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Current Status on CRA Reform:

The Word is: Imminent!

So We Wait!!
WHILE WE WAIT...

...HOW IS THE ADMINISTRATION’S AGENDA INFLUENCING THE “TACTICS” FOR CRA

RE: SMALL BUSINESS
INFLUENCE #1: ADMINISTRATION’S AGENDA TO ACCELERATE SMALL BUSINESS GROWTH

Key Strategies: Reduce regulatory burden and pass tax reform

CRA Implications: Promotes a “mindset” that bank financing will be more readily available

Associated CRA Challenges:
1. Small business credit already persists as a perennial unmet need
2. Overall bank lending volume often viewed as insufficient during CRA examinations
3. The 2016 Federal Reserve small business survey (2016 FRB survey) results indicate:

➢ 61% of respondents noted credit availability or securing funds for expansion as the top financial challenge

➢ 76% of these respondents used their personal funds to cope with financial challenges

ACCELERATE SMALL BUSINESS GROWTH
“CRA CHALLENGES” (continued)

4. Fierce competition, intensified by nonbank market lenders and the increasing emergence of Fin-Tech/online lenders.

   **Heads-up:** In 2016, online lenders funded $10 billion of $300 billion in outstanding small business loans in U.S. The online industry is predicted to grow further at an annual rate of 47% annual rate through 2020.*

5. A “State of Un-readiness” for certain small businesses seeking conventional financing, e.g.,

   - Top three denial reasons for 2016 FRB survey respondents with revenue of $1 million or less: (1) Low credit score; (2) Insufficient credit history and (3) weak business performance
   - Underscores the need for credit assistance tools to enable approval of needed financing, e.g., technical assistance /business coaching, grants, guarantees

ACCELERATE SMALL BUSINESS GROWTH
NEW CRA CHALLENGE

6. The availability of small business assistance/support service reduced by proposed federal budget cuts eliminating or curtailing programs administered by agencies such as the SBA, e.g.,

- Program for Investment in Micro-Entrepreneurs (PRIME) funds
- Minority business incubator program
- Networks of small innovative companies (“regional innovation clusters”)
- Aggregate dollar amount of small business loan guarantees
- Disaster assistance loans
HOW CAN YOUR BANK CONTINUE TO MEASURE UP IN THE FACE OF NEW CHALLENGES?
STAY ON THE OFFENSIVE!

1. Emphasize (and Document) the impact of your Bank’s direct lending, e.g.,
   ➢ Small banks and ISBs: Extent to which the bank’s loans to small businesses enabled the:
     a. Creation or retention of LMI jobs (which otherwise would not have happened).
     b. Revitalize or stabilizer an LMI area
STAY ON THE OFFENSIVE!

1. Emphasize (and Document) the impact of your Bank’s direct lending, e.g., (continued)

➢ Large banks:

  a. Bank ranking in the market (CRA loans) or peers relative to:

    1) Overall Volume
    2) Overall ranking to businesses with revenue of $1 million or less

Note: Raw data can be downloaded for analysis to determine lender percentages of lending in LMI areas

https://www.ffiec.gov/craadweb/aggregate.aspx
STAY ON THE OFFENSIVE!

1. Emphasize (and Document) the impact... e.g., (continued)

➢ Large banks:

3) Bank’s percent of small dollar loans originated compared to the aggregate.

https://www.ffiec.gov/craadweb/aggregate.aspx
STAY ON THE OFFENSIVE!

1. Emphasize (and Document) the impact... e.g., (continued)
   
   ➢ Large banks:
     
     b. Innovation or flexibility (I&F) of product/service

   Heads-Up: 2016 revised CRA Q&A §__,.22(b)(5)–1 adds small dollar loan programs as an I&F example when they are made with reasonable terms and offered in conjunction with a financial literacy or a savings component.
**STAY ON THE OFFENSIVE!**

2. Stay cognizant of:

   a. Changes in your Bank’s capacity or market, e.g.,
      
      1) Has the Bank had branching changes (e.g., openings and closings)? What’s impact on (1) bank capacity to serve it’s community? community's access to services?
      
      2) Has there been a change in market competition, e.g., Are nonbanks or other online/Fin Tech lenders impeding your capacity to compete? What’s the reason?

   “Tell Your Story”
STAY ON THE OFFENSIVE

2. Stay cognizant of:

b. Credit needs, e.g., (continued)

1) Does your Bank often have to say “No” to a small business because they don’t have a viable business plan or they don’t exhibit strong business management skills or have a strong credit history?

Outside of direct lending now - How can you help get them “credit ready”?
2. Stay cognizant of:

c. Credit intermediaries, e.g., (continued)

1) Can they help support your Bank’s CRA performance, e.g.,
   - Provide assistance needed for a small business to strengthen their borrowing capacity?

2) Do the intermediaries need your help to offset the impact of the curtailment of government funding?

Heads-Up: Reportedly SBDCs are expected to absorb some of the service demands of other small business assistance entities that will be cut.

Example organization: Florida SBDC network
http://floridasbdc.org/
3. Leverage your Bank’s capacity by using resources that meet with your Bank’s business preference and help bolsters your performance, e.g.,

a. Make deposits or contributions in:

1) CDFIs, [https://www.cdfifund.gov/Pages/FAQ.aspx](https://www.cdfifund.gov/Pages/FAQ.aspx)
or

2) Community development credit unions (CDCUs). [http://www.cdcu.coop/](http://www.cdcu.coop/) Note: Some CDCU are very active in commercial lending.

**Reminder:** 2016 revision to CRA Q&As (§__.12(g)(3)-1) expressly indicates that loans to or investments in CDFIs that finance small businesses or small firms constitute activities that are presumed to support the economic development criteria of the community development definition.
STAY ON THE OFFENSIVE

3. Leverage your Bank’s capacity and the resources of others e.g., (continued)
   
   b. Support intermediaries that lend directly or through established loan funds to small businesses, e.g.,

   Build Fund, LLC  [https://buildfund.org](https://buildfund.org);
3. Leverage your Bank’s capacity and the resources of others e.g., (continued)

c. Refer applicants needing credit enhancement assistance to organizations that specialize in such services, e.g., SBDCs.

**Heads-Up:** Feedback suggests that there is insufficient awareness of SDBC services and that the organizations welcome referrals from banks!! Referring provides an alternate response opportunity in cases where the bank would otherwise just say “No” to applicant.
HOW ELSE IS THE ADMINISTRATION’S AGENDA INFLUENCING THE “TACTICS” FOR CRA

RE: LMI SECTOR & COMMUNITY DEVELOPMENT
TACTICAL INFLUENCE #2 \:
ADMINISTRATION’S PRIORITY
TO ACCELERATE ECONOMIC GROWTH

• **Key Strategy:** Measures introduced to spur growth are being accompanied by a curtailment of government programs.

• **CRA Implications:** Significant number of program cuts include resources banks routinely leverage to directly respond to credit needs of LMI persons as well as increase the sector’s access to credit (i.e., community development activities)

• **Associated CRA Challenge:** Often the insufficiency of community development activities has been a common driver of CRA performance weaknesses and Needs-to-Improve CRA ratings.
ACCELERATE ECONOMIC GROWTH
NEW CRA CHALLENGES

1. New Administration Policy:
   a. Suspension of Federal Housing Administration (FHA) Policy reducing Annual Mortgage Insurance Premium (MIP) Rates will make mortgage financing more expensive and hinder LMI persons’ ability to own a home.

Note:

- 2015: FHA-insured share of first-lien home purchase loans increased to 25 percent, reversing a downward trend in the FHA market share since 2009. One attributing factor: Reduced annual mortgage insurance premiums introduced in January 2015 for loans with terms greater than 15 years.
- The same year - mortgage loans to LMI persons also increased.
2. New Administration Proposed Budget: Cuts that eliminate or curtail funding for grant/assistance programs that are typically relied on to enable bank CRA activities. Example programs affected include:

a. Broad-Based – Community development-multi purpose:
   1) Community Development Block Grants (CDBG)
   2) Community Services Block Grants (CSBG)
   3) Community Development Financial Institution Grants
2. New Administration proposed budget cuts (continued)
   
b. Housing Specific Programs:
   
   1) HOME Investment Partnerships, and Choice Neighborhoods
   
   2) HUD Section 4 Capacity Building for Community Development and Affordable Housing program which supports organizations such as the Local Initiatives Support Corp., (LISC)
2. New Administration proposed budget cuts (continued)

   b. Housing Specific Programs (continued):

      3) Neighborhood Reinvestment Corp./ Neighborworks America/NHS

      **Heads-Up:** Neighborhood Housing Service (NHS) organizations often have a revolving loan fund that provides mortgages to LMI borrowers often in cases that don’t meet conventional restrictions, e.g., due to QM or LTV restrictions
2. New Administration proposed budget cuts (continued)
   
   b. Housing Specific Programs

4) U.S. Interagency Council on Homelessness ($4 million): An independent agency coordinating the federal government's efforts to reduce homelessness.

5) Weatherization Assistance Program

6) Low-Income Home Energy Assistance Program
ACCELERATE ECONOMIC GROWTH
NEW CRA CHALLENGES
(continued)

2. New Administration proposed budget cuts (continued):

c. Employment, Training and Support Service Programs

1) Workforce Innovation and Opportunity Act (WIOA).

2) Legal Services Corp.
ACCELERATE ECONOMIC GROWTH
NEW CRA CHALLENGES

3. Administration’s Tax Reform:
Uncertainty about the implications of the reform effort on:

a. Tax credits (e.g., will it affect the demand for LIHTC & NMTC)

b. Donations: Extent the Reform will reduce the incentive to make donations that help support organizations such as community development nonprofits whose budgets are already strained responding to post-recession needs.
MEASURING UP IN THE FACE OF NEW CHALLENGES (continued)?

**OFFENSIVE TACTICS!**

1. Emphasize (and Document) the impact of your Bank’s direct lending, e.g.,
   
a. How does your mortgage lending fare within the aggregate market or your local peers relative to:
   1. Overall
   2. In LMI geographies
   3. To LMI borrowers
STAY ON THE OFFENSIVE!

1. Emphasize (and Document) the impact of your Bank’s direct lending, e.g.,

Your experience
2. Stay cognizant of:
   a. Credit needs, e.g.,
      1) Is the need for high LTV (e.g., 100%) mortgage loan requests evident in your market, particularly in low and moderate-income communities?
   b. Credit intermediaries, e.g.,
      1) Entities that can provide non-QM or high LTV mortgage financing to low and moderate-income individuals such as Neighborhood Housing Service or CDFIs (Refer to CDFI detailed listing)
STAY ON THE OFFENSIVE!

2. Stay cognizant of credit needs and intermediaries, e.g.,

Your experience
c. Leverage your Bank’s capacity by using resources that meet with the institution's business preference and help bolsters your performance, e.g., resources to leverage Bank’s capacity to facilitate:

1) Housing for LMI, e.g.,:
   - Indianapolis Neighborhood Housing Partnership, Inc. [www.inhp.org](http://www.inhp.org)

2) Community development, e.g.,:
   - Brightpoint Development Fund [www.buildfund.org](http://www.buildfund.org)
   - The Community Investment Fund of Indiana, [www.capitalizingIndiana.org](http://www.capitalizingIndiana.org)
3. Leverage your Bank’s capacity by using resources that meet with your Bank’s business preference and help bolsters your performance, e.g.,

Your experience
MEASURING UP

A RECAP:
MEASURING UP: DRIVING QUESTIONS

1. How does the Bank’s current performance compare to its previous CRA examination results?

   - Does current performance compare favorably, e.g., if the Bank has grown has its CRA activity similarly increased? If not, what is the explanation?
MEASURING UP: DRIVING QUESTIONS

2. How does the Bank compare to market aggregate and its local peers?

3. Does performance align with established benchmarks (yours and your regulators)
   ➢ Quantitative (e.g., Demographics and Balance Sheet Components)
   ➢ Qualitative (e.g., Responsiveness to Apparent Needs and Impact)
MEASURING UP: DRIVING QUESTIONS

4. Is there a need for a mid-course correction?
   
   ➢ What are your options?
     • Purchase loans, investments, donations, service, other?
   
   ➢ If you need a mid-course correction, is it timely and responsive, e.g.,
     • If strategy is to purchase loans - is it “plugging a hole” right before the exam? aka - ”NOT A Good Thing”
     Or
     • Is there a bank policy for supplementing direct originations as needed with purchases of loan types and in locations where there is apparent need? aka “A Good Thing”
MEASURING UP:  DRIVING QUESTIONS

Heads Up: There is some “debate” re: agencies giving consideration to purchased loans in conjunction with CRA assessment and the degree to which such it is considered.

➢ Remember: Regulatory guidance specifically provides for loan purchases as a means for banks to respond to community credit needs, i.e., the Interagency CRA Q&A (e.g., Q&A .26(b)—4) https://www.ffiec.gov/cra/qnadoc.htm and interagency CRA examination procedures http://www.ffiec.gov/cra/examinations.htm#EX_PROCEDURES

➢ As an offensive control: Ensure purchases align with community needs and are part of an overall CRA performance management strategy.
MEASURING UP:  
DRIVING QUESTIONS

5. How do you avoid the “Pre-Exam” fire drill?
   
- Maintain Relationships, i.e.,
  - Regulators, e.g., What’s on the radar?
  - Community organizations, e.g., What are you seeing in the community regarding needs?
  - Peers, e.g., What’s your experience been?

- Establish a goal-driven CRA management program. Monitor and assess performance periodically, e.g., annually
MEASURING UP: DRIVING QUESTIONS

5. (continued)

- Prepare a self assessment for examiners that highlights where you are - compared to - where you were, including:
  - Any action taken to address recommendations or feedback received in conjunction with the prior examination or from the community.
  - Impact of internal or external developments that affect your Bank's CRA performance as well as action taken as warranted.
  - Other contextual information or mitigants related to your Bank’s performance level that should be considered.
And Now—

Fair Lending
The Promise of Regulatory Relief! vs. Public Dialogue on “Inequality” Taking Center Stage!
So…What are the supervisory priorities?

Wow…What a Dichotomy!!!
Some Indicators Suggest Fair Lending Remains a Supervisory Focus …BUT perhaps just with Less Intensity, e.g.,

- **CFPB:** February 2018 Acting Director’s proposal to restructure removes supervision and enforcement responsibilities from the Office of Fair Lending and Equal Opportunity. The move would focus the office on advocacy, coordination and education.

- **HMDA:** March 2018 U.S. Senate Bill s2155 proposes to raise the loan originations-based exemption threshold for reporting Dodd-Frank HMDA data to less than 500 closed-end mortgages and less than 500 open-end lines of credit.

- **Small Business Loan Data Collection:** December 2017 the request for information to support the rule making for this Dodd-Frank Act provision subject to the CFPB Acting Director’s freeze on the Bureau’s data collection while it “shores-up” internal data security ..
Through 1st quarter 2018, under current DOJ leadership, no major fair lending settlements with banks

2017 fair lending referral results not yet published

2016 evidenced an “up-tick” in referrals to the DOJ as well as a suggestion of increasing consumer complaints resulting in fair lending violations in the community bank world
Referred Violations Up!

&

FRB Consumer Complaint-based Violations Continuing to Increase

Violation Trend: Pre-2017 U.S. Administration Change

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<tr>
<td>Violations Referred to DOJ</td>
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<td>49</td>
<td>38</td>
<td>34</td>
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<td>20</td>
<td>18</td>
<td>13</td>
<td>20</td>
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FRB Fair Lending Complaint-Based Violations**

- 2016: 9.1 percent
- 2015: 4.2 percent
- 2014: 0
- 2013: 0
- 2012: 0
- 2011: 10.3 percent
- 2010: 6.5 percent
- 2009: 9.7 percent

** Based on data reported in the Federal Reserve Board annual report to Congress regarding its supervised entities. Source: https://www.federalreserve.gov/publications/annual-report.htm

- Violations that constitutes a pattern or practice
Source: https://www.justice.gov/crt/page/file/996791/download
What are the “Spoken” Supervisory Priorities?

“Intel” from the Regulators
A “Collective” of Agencies’ Articulated Views

- Fair Lending (Generally)
- Redlining; e.g., overlooking population shifts within existing markets, and neglecting diversity in advertising messages
- Consumer Loans (Non real estate secured)
- Pricing Risk
- Compliance Management (including underwriting and third party management, exceptions and override reviews)
A “Collective” of Agencies’ Articulated Views

- Expanded HMDA
- Selected fields may help enhance risk screening process, e.g., credit scores, debt to income, loan to value.
- Provide greater clarity in assessing institutions’ lending patterns.
- Spousal signatures without evidence of joint intent
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<th>A “Collective” of Agencies’ Articulated Views</th>
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<tr>
<td>➢ Fair Lending Risk Monitoring Program*** (including lending data analysis; Pricing and underwriting, 3rd party; non-HMDA loans, exceptions and overrides)</td>
</tr>
<tr>
<td>➢ Loan Servicing, (Mortgage &amp; Student)</td>
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And then there is the …

Potential for “The UnSpoken”!!!
Generally public dialogue suggests a “state of the nation” where inequality in the treatment of individual based on race, ethnicity, and gender may not be uncommon

More centric to the financial service industry

Since the financial crisis banking regulators have largely focused on identifying potential exposures related to inequality in the treatment of individuals based on race and ethnicity
Since 2007 race/ethnicity based fair lending violation have:
- Generally ranged between a low of 25% of all referrals annually to a high of 76% noted in 2015.

Comparatively, outside of a high of 40% in 2001,
- Between 2001 and 2006 race/ethnicity based referrals ranged from a low of 2% to a high of 15%.
The extent of gender-based fair lending violations since 2001 has generally been limited in the context of overall incidence of referrals annually.

The incidence of violations, in whole or in part, based on gender has generally been at least one case each year.
Gender–Based Issues cited have largely centered around:

- Pricing, and to a lesser extent, underwriting
- Auto loans, unsecured consumer loans and mortgages (when ranked in order of frequency referred by the Agencies)

Note: A majority of the referrals are returned back to bank regulators without additional DOJ action,

- Exception: Cases such as female applicant and maternity leave issue
Could We be facing a “Sea-Change”?

- Could heightened public awareness and dialogue regarding gender-based “inequality” influence the planning of your next examination?

- Can you safely say your organization has no potential exposure to gender-based credit discrimination?
  - Could we be missing something?
  - Are we asking the right questions? E.g.,
    - Are written (and unwritten) policies void of potential illegal disparities based on gender…especially when you have discretion!
At the next examination, what might the prohibited basis for your focal point(s) be?
In a “Regulatory Relief” Environment - Key Questions to Answer as you Prep for a Gender-Based Review!

- Do you know the risk that emanates from your bank’s products, e.g.,:
  - What does your denial/approval percentages look like on a gender basis?
  - Are there unusual pricing patterns when you focus on gender in a particular product, including direct or indirect lending?
  - What about exceptions? Are there apparent disparities in credit decisions or pricing based on gender?
Key Questions to Answer (continued)

- Are complaints void of any suggestion of potential exposure?
- Is your Bank’s control environment apparent to examiners, e.g., policy and training that demonstrates the Bank:
  - Promotes consistent application of standards
  - Appropriately guides discretion-based decisions
- Do you monitor for potential gender-based exposure that may emanate internally or from third parties?
How can you influence the selection/outcome?
What’s a Reasonable Game Plan?

1. Initial Risk Assessment - Start with quick questions? Such as:
   - Is borrower profile reasonable? Do you have a preponderance of male borrowers versus female? Is there a concentration of Male and Joint borrower accounts …and a notably lesser volume of female borrowers. Does this make sense given your market demographics?
   
   - Is there an apparent disparate pattern between denied applicants based on gender. What about exceptions to policy? Is there a pattern by gender -in terms of who were approved under an exception (aka – Who got “the Nod”)

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2. Board & Senior Management Oversight
   - Ensure they stay aware and understand what’s driving your assessment

3. Policies & Procedures, e.g.,
   - Review your policies (and guidance to third parties) to ensure expectations are clear re: all prohibited bases.
What’s a Reasonable Game Plan?

4. Risk Monitoring and MIS (Reporting)
   - Analysis that allows you to monitor, at a minimum, the “Big Ticket”s”, e.g.,
     - Pricing
     - Non-HMDA products,, e.g., unsecure consumer loan
What’s a Reasonable Game Plan?

4. Risk Monitoring and MIS (Reporting)
   - Analysis e.g., (continued),
   - HMDA products, e.g.,
     a. Consider the top 3 new HMDA data points that would help YOU more readily answer questions you have had in prior (more manual) analyses;
     b. As you collect the new HMDA data, pay attention to initial “observations” that suggest a potential red flag in the LAR data.
4. Risk Monitoring and MIS (Reporting)
   - Analysis e.g., (continued) t
     - Actions of Third Parties
     - Underwriting Data Analysis
     - Exceptions and Overrides

Note: (*Pick one at a time* driven by your *risk assessment results*!!!)

Keep Board and senior management apprised of your findings!
What’s a Reasonable Game Plan?

5. Internal Controls
   ➢ Develop periodic fair lending self-assessment processes

6. Maintain a current risk profile of bank products, services, and business lines supported by periodic updates, e.g., annual risk assessments
CRA & FAIR LENDING TODAY CHALLENGE, CHANGE & UNCERTAINTY

QUESTIONS
APPENDIX
## 2016 Banking Agency Referrals to DOJ

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<tr>
<th>Agency</th>
<th># of Referrals</th>
<th>Issue</th>
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<td>FDIC</td>
<td>4</td>
<td>Prohibited Basis: Age, race, national origin, and receipt of public assistance income.</td>
</tr>
</tbody>
</table>
| FRB    | 7              | ➢ Prohibited Basis: Race, national origin, and marital status.  
            ➢ Nature of Discrimination: Redlining, pricing (unsecured consumer loans) & marital status (spousal signatures) |
| OCC    | 1              | Prohibited Basis: Marital status. |

Source: [https://www.justice.gov/crt/page/file/996791/download](https://www.justice.gov/crt/page/file/996791/download)
## 2016 Banking Agency Referrals to DOJ

<table>
<thead>
<tr>
<th>Agency</th>
<th># of Referrals</th>
<th>Issue</th>
</tr>
</thead>
</table>
| CFPB   | 8              | ➢ Prohibited Basis: Age, marital status, receipt of public assistance income, and sex.  
            ➢ Product: Mortgage lending  
            ➢ Prohibited Basis: National origin, race, and receipt of public assistance income  
            ➢ Product: Indirect auto finance  
            ➢ Prohibited Basis: National origin and race.  
            ➢ Product Service: Credit card account management. |

Source: [https://www.justice.gov/crt/page/file/996791/download](https://www.justice.gov/crt/page/file/996791/download)
### Summaries of Recent Fair Lending Settlements

<table>
<thead>
<tr>
<th>2017 Recent Fair Lending Cases</th>
<th>Redlining</th>
<th>Pricing</th>
<th>Underwriting</th>
<th>Public Assistance/Disability Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>August 23, 2017, American Express Centurion Bank and American Express Bank (CFPB).</strong> Discriminating against consumers in Puerto Rico, the U.S. Virgin Islands, and other U.S. territories by providing them with credit and charge card terms that were inferior to those available in the 50 U.S. states., e.g., charging higher interest rates, imposing stricter credit cutoffs, and providing less debt forgiveness.</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>January 20, 2017, JPMorgan Chase Bank (S.D.N.Y.) (DOJ)</strong> African American and Hispanic borrowers charged higher rates and fees for wholesale mortgage loans than similarly situated white borrowers.</td>
<td></td>
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</tr>
</tbody>
</table>

# Summaries of Recent Fair Lending Settlements

## 2017 Recent Fair Lending Cases

<table>
<thead>
<tr>
<th>Date</th>
<th>Bank(s)</th>
<th>City/Region</th>
<th>Redlining</th>
<th>Pricing</th>
<th>Underwriting</th>
<th>Public Assistance/Disability Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>January 3, 2017,</td>
<td>Union Savings Bank and Guardian Savings Bank (S.D. Ohio)</td>
<td>Cincinnati, Dayton, Columbus, Ohio, Indianapolis, Indiana MSAs</td>
<td></td>
<td>X</td>
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</tr>
</tbody>
</table>

January 13, 2017, **KleinBank** (D. Minn.) – (DOJ) “redlining” of majority-minority neighborhoods in the Minneapolis-St. Paul MA. residential mortgage lending business where a majority of residents are racial and ethnic minorities.

January 3, 2017, **Union Savings Bank and Guardian Savings Bank** (S.D. Ohio) Two related banks engaged in redlining majority-black neighborhoods in the Cincinnati, Dayton, and Columbus, Ohio, as well as the Indianapolis, Indiana MSAs.

RESOURCE & REFERENCE TOOLS
- **FFIEC 2016 Revised Community Reinvestment Act (CRA) Questions and Answers**
  

- **U. S. Department of the Treasury: A Financial System That Creates Economic Opportunities Banks and Credit Unions, June 2017; Report to President Donald J. Trump, Executive Order 13772 on Core Principles for Regulating the United States Financial System;**
  

- **Federal Reserve Banks: 2016 Small Business Credit Survey: Report on Employer Firms, Published April 2017**
  


Fair Lending: Resource & Reference Tools
(Fair Lending Cases & Trends)

- **U.S. Department of Justice:** Housing and Civil Enforcement Section of the Civil Rights Division of the Department of Justice:

  - Case Listing: [https://www.justice.gov/crt/housing-and-civil-enforcement-section-cases-1](https://www.justice.gov/crt/housing-and-civil-enforcement-section-cases-1)

Other Helpful References

- **U.S. Senate**: Congressional Research Service - Economic Growth, Regulatory Relief, and Consumer Protection Act (S. 2155) and Selected Policy Issues
  https://fas.org/sgp/crs/misc/R45073.pdf

- **Federal Reserve**:  
  - Board of Governors of the Federal Reserve System Annual Report to Congress
  - 2017 Interagency Fair Lending Hot Topics, Outlook Live Webinar, Tuesday, November 17, 2017
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