



**BILLING CODE: 4810-AM-P**

**BUREAU OF CONSUMER FINANCIAL PROTECTION**

**Fair Lending Report of the Bureau of Consumer Financial Protection, December 2018**

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Fair Lending Report of the Bureau of Consumer Financial Protection.

**SUMMARY:** The Bureau of Consumer Financial Protection (Bureau) is issuing its sixth Fair Lending Report of the Bureau of Consumer Financial Protection (Fair Lending Report) to Congress. The Bureau is committed to ensuring fair access to credit and eliminating discriminatory lending practices. This report describes the Bureau's fair lending activities in prioritization, supervision, enforcement, rulemaking, interagency coordination, and outreach for calendar year 2017.

**DATES:** The Bureau released the December 2018 Fair Lending Report on its web site on December 4, 2018.

**FOR FURTHER INFORMATION CONTACT:** Anita Visser, Senior Policy Advisor to the Director of Fair Lending, Office of Fair Lending and Equal Opportunity, at 1-855-411-2372. If you require this document in an alternative electronic format, please contact [CFPB\\_Accessibility@cfpb.gov](mailto:CFPB_Accessibility@cfpb.gov).

**SUPPLEMENTARY INFORMATION:**

**1. Fair Lending Report of the Bureau of Consumer Financial Protection, December 2018.**

*Message from Mick Mulvaney*

*Acting Director*

This Fair Lending Report of the Bureau of Consumer Financial Protection describes the

Bureau's fair lending activities for 2017, consistent with its statutory mandate to ensure that consumers are protected from discrimination (12 U.S.C. 5511(b)(2)). These efforts included:

- Providing oversight and enforcement of Federal laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for both individuals and communities that are enforced by the Bureau, including the Equal Credit Opportunity Act (ECOA)<sup>1</sup> and the Home Mortgage Disclosure Act (HMDA)<sup>2</sup>;
- Coordinating fair lending efforts of the Bureau with other Federal agencies and State regulators, as appropriate, to promote consistent, efficient, and effective enforcement of Federal fair lending laws; and
- Working with private industry, fair lending, civil rights, consumer and community advocates on the promotion of fair lending compliance and education.

This report fulfills the Bureau's statutory responsibility to, among other things, report annually to Congress on public enforcement actions taken by other agencies with administrative enforcement responsibilities under ECOA, and assessments of the extent to which compliance with ECOA has been achieved (15 U.S.C. 1691f). It also fulfills the statutory requirement that the Bureau, in consultation with HUD, report annually on the utility of HMDA's requirement that covered lenders itemize certain mortgage loan data (12 U.S.C. 2807).

Sincerely,

***Mick Mulvaney***

*Message from Patrice Alexander Ficklin*

*Director, Office of Fair Lending and Equal Opportunity*

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<sup>1</sup> 15 U.S.C. 1691 *et seq.*

<sup>2</sup> 12 U.S.C. 2801 *et seq.*

In 2017, the Office of Fair Lending and Equal Opportunity completed its sixth full year of stewardship over the Bureau's efforts to fulfill its fair lending mandate. 2017 was distinguished as a year in which the Office continued to focus on promoting fair, equitable and nondiscriminatory access to credit in mortgage lending, deepened its supervisory work in servicing and small business lending, and embarked on new efforts to encourage innovation in expanding credit access.

Mortgage lending remained a priority for the Bureau's fair lending supervisory and enforcement activity, focusing on redlining, underwriting, pricing, steering, servicing and HMDA data integrity. The Bureau announced a significant HMDA enforcement action in 2017, reinforcing the importance of the legal requirement that covered mortgage lenders must report accurate data about mortgage transactions. HMDA data is a critical component of the effective enforcement of fair lending laws.

Beyond mortgages, we know that other lending markets play a vital role in allowing consumers to fully participate as stakeholders in our economy, strengthening our communities, and expanding opportunities to build wealth for businesses and consumers alike. In 2017, the Bureau announced an enforcement action addressing discrimination in the terms and conditions of credit cards, and conducted significant fair lending supervisory activity in student loan servicing and small business lending.

The Office continued to partner with colleagues across the Bureau in outreach to support innovation that promotes "fair, equitable, and nondiscriminatory access to credit for both individuals and communities," culminating in the Bureau's issuance of its first no-action letter (NAL) to Upstart Network, Inc., a company that uses alternative data in making credit and pricing decisions. I led the Bureau's engagement with Upstart, in furtherance of our interest in

exploring methods of achieving fair lending compliance in conjunction with the use of alternative data and the potential benefits of such data in expanding credit access.

As 2017 drew to a close, the Office welcomed Acting Director Mick Mulvaney, and began work to implement his commitment to enforce the fair lending laws under the Bureau's jurisdiction.

I am proud of the Office's work not only in 2017, but also throughout its history in fulfilling its Dodd-Frank mandate to protect America's consumers from lending discrimination and promote credit access. To that end, I am excited to share our progress with this, our sixth, Fair Lending Report.<sup>3</sup>

Sincerely,

***Patrice Alexander Ficklin***

*Executive Summary*

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank or Dodd-Frank Act)<sup>4</sup> established the Office of Fair Lending and Equal Opportunity (the Office of Fair Lending) within the Bureau, and vested it with such powers and duties as the Bureau's Director may delegate to it, including:

- (A) providing oversight and enforcement of Federal laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for both individuals and communities that are enforced by the Bureau, including the Equal Credit Opportunity Act and the Home Mortgage Disclosure Act;
- (B) Coordinating fair lending efforts of the Bureau with other Federal agencies and State

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<sup>3</sup> See Dodd-Frank Act section 1013(c)(2)(D) (codified at 12 U.S.C. 5493(c)(2)(D)).

<sup>4</sup> Public Law 111-203, 124 Stat. 1376 (2010).

regulators, as appropriate, to promote consistent, efficient, and effective enforcement of Federal fair lending laws;

(C) Working with private industry, fair lending, civil rights, consumer and community advocates on the promotion of fair lending compliance and education; and

(D) Providing annual reports to Congress on the efforts of the Bureau to fulfill its fair lending mandate.<sup>5</sup>

The law also requires the Bureau to file an annual report to Congress describing the administration of its functions under the Equal Credit Opportunity Act (ECOA), summarizing public enforcement actions taken by other agencies with administrative enforcement responsibilities under ECOA, and providing an assessment of the extent to which compliance with ECOA has been achieved.<sup>6</sup> In addition, the law requires the Bureau, in consultation with U.S. Department of Housing and Urban Development (HUD), to report annually on the utility of the Home Mortgage Disclosure Act's (HMDA) requirement that covered lenders itemize certain mortgage loan data.<sup>7</sup> This report to Congress from the Office of Fair Lending is intended to fulfill those requirements and report on the Bureau's efforts to fulfill its fair lending mandate during calendar year 2017.<sup>8</sup>

#### *1. Interagency reporting on ECOA and HMDA*

The law requires the Bureau to file a report to Congress annually describing the administration of its functions under ECOA, summarizing public enforcement actions taken by

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<sup>5</sup> Dodd-Frank Act section 1013(c)(2)(A), (B) and (C) (codified at 12 U.S.C. 5493(c)(2)(A), (B), and (C)).

<sup>6</sup> 15 U.S.C. 1691f.

<sup>7</sup> 12 U.S.C. 2807.

<sup>8</sup> See Dodd-Frank Act section 1013(c)(2)(D), Public Law 111-203, 124 Stat. 1376 (2010) (codified at 12 U.S.C. 5493(c)(2)(D)).

other agencies with administrative enforcement responsibilities under ECOA, and providing an assessment of the extent to which compliance with ECOA has been achieved.<sup>9</sup> In addition, the Bureau’s annual HMDA reporting requirement calls for the Bureau, in consultation with HUD, to report annually on the utility of HMDA’s requirement that covered lenders itemize certain mortgage loan data.<sup>10</sup>

### *1.1 ECOA enforcement*

The enforcement efforts and compliance assessments made by all the agencies assigned enforcement authority under section 704 of ECOA are discussed in this section.

#### *1.1.1 Public enforcement actions*

In addition to the Bureau, the agencies charged with administrative enforcement of ECOA under section 704 include: the Federal Deposit Insurance Corporation (FDIC), the Federal Reserve Board (FRB), the National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency (OCC), (collectively, the Federal Financial Institutions Examination Council (FFIEC) agencies)<sup>11</sup>; Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture (USDA),<sup>12</sup> the Department of Transportation (DOT), the Farm Credit

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<sup>9</sup> 15 U.S.C. 1691f.

<sup>10</sup> 12 U.S.C. 2807.

<sup>11</sup> The FFIEC is a “formal interagency body empowered to prescribe uniform principles, standards, and report forms for the Federal examination of financial institutions” by the member agencies listed above and the State Liaison Committee “and to make recommendations to promote uniformity in the supervision of financial institutions.” Federal Financial Institutions Examination Council, <http://www.ffiec.gov> (last visited April 5, 2018). The FFIEC member agencies are the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), and the Bureau of Consumer Financial Protection (Bureau). The State Liaison Committee was added to FFIEC in 2006 as a voting member.

<sup>12</sup> The Grain Inspection, Packers and Stockyards Administration (GIPSA) was eliminated as a stand-alone agency within USDA in 2017. The functions previously performed by GIPSA have been incorporated into the Agricultural

Administration (FCA), the Federal Trade Commission (FTC), the Securities and Exchange Commission (SEC), and the Small Business Administration (SBA).<sup>13</sup>

In 2017, the Bureau brought one public enforcement action for violations of ECOA, and the other agencies reported that they brought no public enforcement actions related to ECOA in 2017.

*1.1.2 Violations cited during ECOA examinations*

Among institutions examined for compliance with ECOA and Regulation B, the FFIEC agencies reported that the most frequently-cited violations were:

TABLE 1: REGULATION B VIOLATIONS CITED BY FFIEC AGENCIES: 2017

<b>FFIEC Agencies Reporting</b>	<b>Regulation B Violations: 2017</b>
The Bureau, FDIC, FRB, NCUA, OCC	12 CFR 1002.4(a): Discrimination on a prohibited basis in a credit transaction.
	12 CFR 1002.5(b): Improperly inquiring about the race, color, religion, national origin, or sex of an applicant or any other person in connection with a credit transaction.
	12 CFR 1002.7(d)(1), (d)(6): Improperly requiring the signature of an applicant’s spouse or other person if the applicant qualifies under the creditor’s standards of creditworthiness for the amount and terms of the credit requested; improperly imposing requirements upon an additional party that the creditor is prohibited from imposing upon an applicant.
	12 CFR 1002.9(a)(1), (a)(1)(i), (a)(2), (b), (b)(2), (c)(1)(i): Failure to provide notice to the applicant 30 days after receiving a completed application concerning the creditor’s approval of, counteroffer or adverse action on the application; failure to provide appropriate notice to the

Marketing Service (AMS), and ECOA reporting now comes from the Packers and Stockyards Division, Fair Trade Practices Program, AMS.

<sup>13</sup> 15 U.S.C. 1691c.

applicant 30 days after taking adverse action on an incomplete application; failure to provide sufficient information in an adverse action notification, including the specific reasons for the action taken.

12 CFR 1002.12(b)(1): Failure to preserve records of actions taken on an application or of incompleteness.

12 CFR 1002.13(a)(1)(i), (b): Failure to request information on an application regarding an applicant’s ethnicity, race, sex, marital status, and age, or note, to the extent possible, the ethnicity, race, and sex of an applicant on the basis of visual observation or surname if not provided by the applicant.

12 CFR 1002.14(a), (a)(2): Failure to routinely provide an applicant with a copy of all appraisals and other written valuations developed in connection with an application for credit that is to be secured by a first lien on a dwelling, and/or failure to provide an applicant with a copy of an appraisal report upon an applicant’s written request.

**TABLE 2: REGULATION B VIOLATIONS CITED BY OTHER ECOA AGENCIES:**

2017

**Other ECOA Agencies**

**Regulation B Violations: 2017**

FCA

12 CFR 1002.9(a)(1)(i): Failure to provide notice to the applicant 30 days after receiving a completed application concerning the creditor’s approval of, counteroffer or adverse action on the application.

12 CFR 1002.13: Failure to request and collect information for monitoring purposes.

The AMS, the SEC, and the SBA reported that they received no complaints based on ECOA or Regulation B in 2017. In 2017, the DOT reported that it received a “small number of

consumer inquiries or complaints concerning credit matters possibly covered by ECOA,” which it “processed informally.” The FTC is an enforcement agency and does not conduct compliance examinations.

### *1.2 Referrals to the Department of Justice*

In 2017, the FFIEC agencies including the Bureau, referred a total of 11 ECOA matters involving discrimination in violation of ECOA to the Department of Justice (DOJ or Justice Department). The FDIC referred four matters to the DOJ involving discrimination in credit transactions on the prohibited bases of age, marital status, sex, and national origin. The FRB referred three matters to the DOJ involving discrimination in credit transactions on the prohibited basis of marital status. The NCUA referred two matters to the DOJ involving discrimination in credit transactions on the prohibited bases of marital status, receipt of public assistance income, and sex. The Bureau referred two matters to the DOJ involving discrimination in mortgage servicing on the prohibited basis of the receipt of public assistance income, and discrimination in credit card account management, installment lending, and mortgage servicing on the prohibited bases of national origin and race.

### *1.3 Reporting on the Home Mortgage Disclosure Act*

The Bureau’s annual HMDA reporting requirement calls for the Bureau, in consultation with HUD, to report annually on the utility of HMDA’s requirement that covered lenders itemize loan data in order to disclose the number and dollar amount of certain mortgage loans and applications, grouped according to various characteristics.<sup>14</sup> The Bureau, in consultation with HUD, finds that itemization and tabulation of these data further the purposes of HMDA. For more information on HMDA and its implementing regulation, Regulation C with regard to

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<sup>14</sup> See 12 U.S.C. 2807.

guidance and rulemaking, please see the Rulemaking section of this report (Section 5).<sup>15</sup>

## *2. The Bureau's Fair Lending prioritization*

### *2.1 Risk-based prioritization*

Because Congress charged the Bureau with responsibility for overseeing many lenders and products, the Office uses a risk-based approach to prioritize supervisory examinations and enforcement activity, to help ensure focus on areas that present substantial risk of credit discrimination for consumers.

As part of the prioritization process, the Bureau identifies emerging developments and trends by monitoring key consumer financial markets. If this market intelligence identifies fair lending risks in a particular market that require further attention, that information is incorporated into the prioritization process to determine the type and extent of attention required to address those risks. For instance, our monitoring highlighted potential steering risks in student loan servicing, which resulted in the prioritization of this market in our supervisory work in 2017.

The fair lending prioritization process incorporates a number of additional factors as well, including: consumer complaints; tips and leads from advocacy groups, whistleblowers, and government agencies; supervisory and enforcement history; and results from analysis of HMDA and other data.

Once Fair Lending has evaluated these inputs to prioritize institutions, products, and markets based on an assessment of fair lending risk posed to consumers, it considers how best to address those risks as part of its annual strategic planning process. Potential actions include scheduling an institution for a supervisory review, opening an enforcement investigation where

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<sup>15</sup> For more information on recent developments in HMDA and Regulation C, see: <https://www.consumerfinance.gov/about-us/newsroom/bureau-consumer-financial-protection-issues-statement-implementation-economic-growth-regulatory-relief-and-consumer-protection-act-amendments-home-mortgage-disclosure-act/>.

appropriate, conducting further research, policy development, or outreach. Once this strategic planning process is complete, we regularly coordinate with other regulators so we can inform each other's work, complement each other's efforts where appropriate, and reduce burden on subject institutions.

Risk-based prioritization is an ongoing process, and the Bureau continues to receive and evaluate relevant information even after priorities are identified. Such information may include new tips and leads about specific institutions, consumer complaints, additional risks identified in current supervisory and enforcement activities, and compliance issues self-identified by institutions. In determining how best to address this additional information, Fair Lending considers several factors, including (1) the nature and extent of the fair lending risk, (2) the degree of consumer harm, and (3) whether the risk was self-identified and/or self-reported to the Bureau. It also takes account of well-developed fair lending compliance management systems<sup>16</sup> and other responsible conduct as set forth in CFPB Bulletin 2013-06, *Responsible Business Conduct: Self-Policing, Self-Reporting, Remediation, and Cooperation*.<sup>17</sup>

## 2.2 Fair lending priorities

As a result of its annual risk-based prioritization analyses, in 2017 the Bureau focused on:<sup>18</sup>

- Redlining: whether lenders intentionally discouraged prospective applicants in minority

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<sup>16</sup> The Bureau previously has identified common features of a well-developed fair lending compliance management system: Consumer Financial Protection Bureau, *Fair Lending Report of the Consumer Financial Protection Bureau at 13-14* (Apr. 2014), [http://files.consumerfinance.gov/f/201404\\_cfpb\\_report\\_fair-lending.pdf](http://files.consumerfinance.gov/f/201404_cfpb_report_fair-lending.pdf).

<sup>17</sup> Consumer Financial Protection Bureau, *Responsible Business Conduct: Self-Policing, Self-Reporting, Remediation, and Cooperation*, CFPB Bulletin 2013-06 (June 25, 2013), [http://files.consumerfinance.gov/f/201306\\_cfpb\\_bulletin\\_responsible-conduct.pdf](http://files.consumerfinance.gov/f/201306_cfpb_bulletin_responsible-conduct.pdf).

<sup>18</sup> Patrice Ficklin, *Fair Lending priorities in the new year*, Consumer Financial Protection Bureau (Dec. 16, 2016), <http://www.consumerfinance.gov/about-us/blog/fair-lending-priorities-new-year/>.

neighborhoods from applying for credit.

- **Mortgage and Student Loan Servicing:** whether some borrowers who were behind on their mortgage or student loan payments may have been negatively impacted in their ability to work out a new solution with the servicer because of their race, ethnicity, sex, or age.
- **Small Business Lending:** whether institutions are complying with the Congressional mandate to not discriminate on a prohibited basis in small business lending. Focus in this area includes improving Bureau understanding of: small business lending credit processes; existing data collection processes; and the nature, extent, and management of fair lending risk in small business lending. Congress required the Bureau to promulgate a regulation governing small business loan data collection in order to “facilitate enforcement of fair lending laws and enable communities, governmental entities, and creditors to identify business and community development needs and opportunities of women-owned, minority-owned, and small businesses.”<sup>19</sup> Small business lending supervisory activity has helped expand and enhance the Bureau’s knowledge in this area, including the credit process; existing data collection processes; and the nature, extent, and management of fair lending risk.
- The Bureau remains committed to ensuring that consumers are protected from discrimination in all credit markets under its legal authority.

### *3. Fair lending supervision*

The Bureau’s Fair Lending Supervision program assesses compliance with ECOA and HMDA at banks and nonbanks over which the Bureau has supervisory authority. Supervision

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<sup>19</sup> See Dodd-Frank Act, Public Law 111-203, sec. 1071, 704B(a).

activities in 2017 ranged from assessments of institutions' fair lending compliance management systems to in-depth reviews of products or activities that may pose heightened fair lending risks to consumers. As part of its Fair Lending Supervision program, the Bureau conducted three types of fair lending reviews: ECOA baseline reviews, ECOA targeted reviews, and HMDA data integrity reviews.

As a general matter, if such a review finds that an institution's fair lending compliance is inadequate, the Bureau communicates its supervisory expectations to the institution to help the institution establish fair lending compliance programs commensurate with the size and complexity of the institution and its lines of business.<sup>20</sup> Institutions may provide remediation and restitution to consumers in response to violations of fair lending laws identified in the review, and the Bureau may pursue other appropriate relief. The Bureau also refers matters to the Justice Department when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination in violation of ECOA.<sup>21</sup> The Bureau also may refer other potential ECOA violations to the Justice Department.<sup>22</sup>

### *3.1 Fair lending supervisory observations*

The Bureau published results of certain 2017 supervisory exams in *Supervisory Highlights*. Those findings are also summarized below.

#### *3.1.1 Update to proxy methodology*

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<sup>20</sup> For recent updates to the types of supervisory communications, see [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/bcftp\\_bulletin-2018-01\\_changes-to-supervisory-communications.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/bcftp_bulletin-2018-01_changes-to-supervisory-communications.pdf).

<sup>21</sup> 15 U.S.C. 1691e(g).

<sup>22</sup> *Id.*

The Spring 2017 edition of *Supervisory Highlights*,<sup>23</sup> published in April 2017, discussed updates to the Bayesian Improved Surname Geocoding (BISG) proxy methodology for race and ethnicity,<sup>24</sup> which relies in part on publically available information from the Census. In December 2016, the U.S. Census Bureau released a list of the most frequently-occurring surnames based on the most recent census, which includes values for total counts and race and ethnicity shares associated with each surname. In total, the list provides information on the 162,253 surnames that appear at least 100 times in the most recent census, covering approximately 90% of the population.<sup>25</sup> In April 2017, examination teams began relying on an updated proxy methodology that reflected the newly available surname data from the Census Bureau.<sup>26</sup>

### 3.1.2 Mortgage servicing

The Summer 2017 edition of *Supervisory Highlights*<sup>27</sup> reported on the Bureau's fair lending work in mortgage servicing. As part of its fair lending work, the Bureau seeks to ensure that creditors do not discriminate on any prohibited bases. Mortgage servicing, and specifically default servicing, may introduce fair lending risks because of the complexity of certain processes, the range of default servicing options, and the discretion that can sometimes exist in

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<sup>23</sup> Consumer Financial Protection Bureau, *Supervisory Highlights Spring 2017* at 14-15 (April 26, 2017), [https://www.consumerfinance.gov/documents/4608/201704\\_cfpb\\_Supervisory-Highlights\\_Issue-15.pdf](https://www.consumerfinance.gov/documents/4608/201704_cfpb_Supervisory-Highlights_Issue-15.pdf).

<sup>24</sup> For more information on the Bureau's use of BISG in 2017 and previously, see Consumer Financial Protection Bureau, *Supervisory Highlights Summer 2014* at 10-13 (September 17, 2014), [http://files.consumerfinance.gov/f/201409\\_cfpb\\_supervisory-highlights\\_auto-lending\\_summer-2014.pdf](http://files.consumerfinance.gov/f/201409_cfpb_supervisory-highlights_auto-lending_summer-2014.pdf).

<sup>25</sup> The surname data are available on the Census Bureau's website, see *Frequently Occurring Surnames from the 2010 Census* (last revised December 27, 2016), [https://www.census.gov/topics/population/genealogy/data/2010\\_surnames.html](https://www.census.gov/topics/population/genealogy/data/2010_surnames.html).

<sup>26</sup> The new surname list; statistical software code, written in Stata; and other publicly available data used to build the BISG proxy are available at: <https://github.com/cfpb/proxy-methodology>.

<sup>27</sup> Consumer Financial Protection Bureau, *Supervisory Highlights Summer 2017* at 32-33 (September 12, 2017), [https://www.consumerfinance.gov/documents/5386/201709\\_cfpb\\_Supervisory-Highlights\\_Issue-16.pdf](https://www.consumerfinance.gov/documents/5386/201709_cfpb_Supervisory-Highlights_Issue-16.pdf).

evaluating and selecting among available default servicing options.

In mortgage servicing, the Bureau's supervisory work has included use of the Mortgage Servicing Exam Procedures and the ECOA Baseline Modules, both of which are part of the Bureau's publically-available Supervision and Examination Manual. Bureau examination teams use these procedures to conduct ECOA Baseline Reviews, which evaluate institutions' compliance management systems (CMS), or ECOA Targeted Reviews, which are more in-depth reviews of activities that may pose heightened fair lending risks to consumers. These exam procedures contain questions about, among other things, the fair lending training of servicing staff, fair lending monitoring of servicing, and servicing of consumers with limited English proficiency.

In one or more ECOA targeted reviews of mortgage servicers, Bureau examiners found weaknesses in fair lending CMS. In general, examiners found deficiencies in oversight by board and senior management, monitoring and corrective action processes, compliance audits, and oversight of third-party service providers.

In one or more examinations, data quality issues, which were related to a lack of complete and accurate loan servicing records, made certain fair lending analyses difficult or impossible to perform. Examiners attributed these data quality issues to significant weaknesses in CMS-related policies, procedures, and service provider oversight.

Separately, fair lending analysis at one or more mortgage servicers was affected by a lack of readily-accessible information concerning a borrower's ethnicity, race, and sex information that had been collected pursuant to Regulation C and transferred to the servicer. One or more mortgage servicers acknowledged the importance of retaining in readily-accessible format—for the express purpose of performing future fair lending analyses—ethnicity, race, and sex data that

it had received in the borrower's origination file.

#### *4. Fair Lending enforcement*

The Bureau conducts investigations of potential violations of HMDA and ECOA, and if it believes a violation has occurred, can file a complaint either through its administrative enforcement process or in Federal court. Like the other Federal bank regulators, the Bureau refers matters to the DOJ when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination.<sup>28</sup> However, when the Bureau makes a referral to the DOJ, the Bureau can still take its own independent action to address a violation. In 2016, the Bureau announced two fair lending enforcement actions in mortgage origination and indirect auto lending. The Bureau also has a number of ongoing fair lending investigations and has authority to settle or sue in a number of matters. In addition, the Bureau issued warning letters to mortgage lenders and mortgage brokers that may be in violation of HMDA requirements to report on housing-related lending activity.

##### *4.1 Fair Lending public enforcement actions*

###### *4.1.1 Mortgage*

###### *Nationstar Mortgage LLC*

On March 15, 2017, the Bureau resolved an enforcement action against Nationstar Mortgage LLC (Nationstar) for violating HMDA by submitting mortgage loan data for 2012 through 2014 containing substantial errors. HMDA requires many mortgage lenders to collect and report data about their mortgage lending to appropriate Federal agencies and make it available to the public. The consent order requires Nationstar to pay a \$1.75 million penalty to the Bureau's Civil Penalty Fund. The Nationstar action is the largest HMDA civil penalty imposed to date by the Bureau, which stems from Nationstar's market size, the substantial

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<sup>28</sup> 15 U.S.C. 1691e(g).

magnitude of its errors, and its history of previous violations.

In addition to paying the civil penalty, Nationstar must take the necessary steps to improve its compliance management and prevent future violations.<sup>29</sup> Nationstar also must review, correct, and make available its corrected HMDA data from 2012–14. Since the Bureau’s examination, Nationstar has been taking steps to improve its HMDA compliance management system and increase the accuracy of its HMDA reporting.

Nationstar, a nationwide nonbank mortgage lender headquartered in Coppell, Texas (now doing business as Mr. Cooper), is a wholly-owned subsidiary of Nationstar Mortgage Holdings Inc. With nearly 3 million customers, Nationstar Mortgage Holdings is a major participant in the mortgage servicing and origination markets. According to 2014 data, Nationstar was the ninth-largest HMDA reporter by total mortgage originations, the sixth largest by applications received, and the thirteenth largest by money lent. From 2010 to 2014, Nationstar’s number of HMDA mortgage loans increased by nearly 900 percent.

In its supervision process, the Bureau found that Nationstar’s HMDA compliance systems were deficient, and not reasonably adapted to avoid the identified errors. Specifically, Nationstar failed to maintain detailed HMDA data collection and validation procedures, and failed to implement adequate compliance procedures, even after it knew was required to improve its HMDA compliance. It also produced HMDA data discrepancies by failing to consistently define data among its various lines of business. Nationstar has a history of HMDA non-compliance. In 2011, the Commonwealth of Massachusetts Division of Banks reached a settlement with Nationstar to address HMDA compliance deficiencies. The samples reviewed by the Bureau showed substantial error rates in three consecutive reporting years, even after the

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<sup>29</sup> Consent Order, *In the Matter of Nationstar Mortgage LLC*, File No. 2017-CFPB-0011 (Mar. 15, 2017), [http://files.consumerfinance.gov/f/documents/201703\\_cfpb\\_Nationstar-Mortgage-consent-order.pdf](http://files.consumerfinance.gov/f/documents/201703_cfpb_Nationstar-Mortgage-consent-order.pdf).

Massachusetts settlement was reached. In the samples reviewed, the Bureau found error rates of 13 percent in 2012, 33 percent in 2013, and 21 percent in 2014.

#### 4.1.2 *Credit Cards*

##### *American Express Centurion Bank and American Express Bank, FSB*

On August 23, 2017, the Bureau took action against American Express Centurion Bank and American Express Bank, FSB (collectively referred to as American Express), for violating ECOA by 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 in many respects to those available in the 50 U.S. states. American Express also discriminated against certain consumers with Spanish-language preferences by not providing them certain charge card collection offers that were provided to similarly-situated consumers without Spanish-language preferences. Over the course of at least ten years, more than 200,000 of these consumers were harmed by American Express's discriminatory practices. American Express has paid approximately \$95 million in consumer redress during the course of the Bureau's review and American Express's review, and the Bureau Order requires it to pay at least another \$1 million to fully compensate harmed consumers.<sup>30</sup>

Beginning in 2013, American Express self-reported to the Bureau differences between terms associated with its Puerto Rico and U.S. Virgin Islands cards (collectively, Puerto Rico cards) and its cards offered in the 50 U.S. states (U.S. cards), as well as differences with respect to certain consumers with a Spanish-language preference. Through the course of a supervisory review, the Bureau concluded that, from at least 2005 to 2015, American Express's Puerto Rico

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<sup>30</sup> Consent Order, *In the Matter of American Express Centurion Bank and American Express Bank, FSB*, File No. 2017-CFPB-0016 (Aug. 23, 2017), [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708\\_cfpb\\_american-express\\_content-order.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708_cfpb_american-express_content-order.pdf).

cards had different, and often worse, pricing, rebates, promotional offers, underwriting, customer and account management services, and collections practices than its U.S. cards. These differences spanned the product lifecycle and included: charging higher fees and interest rates and offering less advantageous pricing on promotional offers; imposing more stringent credit score cutoffs and lower credit limits; applying certain inferior servicing policies; and requiring more money to settle debt. The Bureau's review found that these differences constituted discrimination on the prohibited bases of race and national origin in violation of ECOA.

Under the terms of the Bureau Order, American Express must develop and implement a comprehensive compliance plan to ensure that it provides credit and charge cards in a non-discriminatory manner to consumers in Puerto Rico, the U.S. territories, and customers in collection who prefer Spanish-language communications. The compliance plan must include any necessary additional improvements to its compliance management system; compliance audit program; credit and charge card business structure, policies, and procedures; employee training procedures; and complaints procedures.

During the Bureau's review, American Express provided monetary and non-monetary relief to harmed consumers, resulting in approximately \$95 million of remediation. The Bureau did not assess penalties based on a number of factors, including that American Express self-reported the violations to the Bureau, self-initiated remediation for the harm done to affected consumers, and fully cooperated with the Bureau's review and investigation.

#### *4.2 Implementing enforcement orders*

When an enforcement action is resolved through a public enforcement order, the Bureau (together with the Justice Department, when relevant) takes steps to ensure that the respondent or defendant complies with the requirements of the order. As appropriate to the specific

requirements of individual public enforcement orders, the Bureau may take steps to ensure that borrowers who are eligible for compensation receive remuneration and that the defendant has complied with the injunctive provisions of the order, including implementing a comprehensive fair lending compliance management system. Throughout 2017, the Bureau worked to implement and oversee compliance with the pending public enforcement orders that were entered by Federal courts or issued by the Bureau's Director in prior years.

#### *4.2.1 Settlement Administration*

##### *Settlement Administration*

##### *Toyota Motor Credit Corporation*

On December 29, 2017, participation materials were mailed to potentially eligible African-American and Asian and Pacific Islander borrowers whom Toyota Motor Credit overcharged for their auto loans notifying them how to participate in the settlement, resulting from a 2016 enforcement action brought by the Bureau and Justice Department against Toyota for alleged discrimination in auto lending.<sup>31</sup>

##### *Provident Funding Associates*

On November 2, 2017, the Bureau announced the mailing of remuneration checks to consumers, totaling \$9 million, plus accrued interest, to eligible borrowers resulting from a 2015 enforcement action brought by the Bureau and Justice Department against Provident for alleged discrimination in mortgage lending.<sup>32</sup>

##### *American Honda Finance Corporation*

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<sup>31</sup> Consent Order, *In re Toyota Motor Credit Corp.*, CFPB No. 2016-CFPB-0002 (Feb. 2, 2016), [http://files.consumerfinance.gov/f/201602\\_cfpb\\_consent-order-toyota-motor-credit-corporation.pdf](http://files.consumerfinance.gov/f/201602_cfpb_consent-order-toyota-motor-credit-corporation.pdf).

<sup>32</sup> Patrice Alexander Ficklin, *African-American and Hispanic borrowers harmed by Provident will receive \$9 million in compensation*, Consumer Financial Protection Bureau (Nov. 2, 2017), <https://www.consumerfinance.gov/about-us/blog/african-american-and-hispanic-borrowers-harmed-provident-will-receive-9-million-compensation/>.

On October 2, 2017, participating African-American, Hispanic, and Asian and/or Pacific Islander borrowers, whom Honda Finance overcharged for their auto loans, were mailed checks totaling \$24 million, plus accrued interest, resulting from a 2015 enforcement action brought by the Bureau and Justice Department against Honda for alleged discrimination in auto lending.<sup>33</sup>

#### *Ally Financial Inc. and Ally Bank*

In 2017, Ally Financial Inc. and Ally Bank completed their payments totaling \$48.8 million to consumers whom Ally determined were both eligible and overcharged on auto loans booked during 2016 pursuant to the December 2013 enforcement actions and consent orders with the Justice Department and the Bureau.

#### *4.3 ECOA referrals to the Department of Justice*

The Bureau must refer to the Justice Department a matter when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination in violation of ECOA.<sup>34</sup> The Bureau also may refer other potential ECOA violations to the DOJ.<sup>35</sup> In 2017, the Bureau referred two matters with ECOA violations to the Justice Department. In both of the matters, the DOJ deferred to the Bureau's handling of the matters and declined to open its own investigation. The Bureau's referrals to the DOJ in 2017 involved discrimination in mortgage servicing on the basis of the receipt of public assistance income, and discrimination in credit card account management, installment lending, and mortgage servicing on the bases of national origin and race.

#### *4.4 Pending fair lending investigations*

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<sup>33</sup> Consent Order, *In re American Honda Finance Corp.*, CFPB No. 2015-CFPB-0014 (July 14, 2015), [http://files.consumerfinance.gov/f/201507\\_cfpb\\_consent-order\\_honda.pdf](http://files.consumerfinance.gov/f/201507_cfpb_consent-order_honda.pdf).

<sup>34</sup> 15 U.S.C. 1691e(g).

<sup>35</sup> *Id.*

In 2017, the Bureau had a number of ongoing fair lending investigations of a number of institutions involving a variety of consumer financial products. Consistent with the Bureau’s risk-based priorities, one key area on which the Bureau focused its fair lending enforcement efforts was addressing potential discrimination in mortgage lending, including the unlawful practice of redlining. Redlining occurs when a lender provides unequal access to credit, or unequal terms of credit, because of the racial or ethnic composition of a neighborhood. At the end of 2017, the Bureau had a number of pending investigations in this and other areas.

## 5. *Guidance and Rulemaking*

### 5.1 *HMDA and Regulation C*

Consistent with the Bureau’s obligation to work with private industry to “promot[e] fair lending . . . compliance,” in 2017 the Bureau published several regulatory and guidance documents related to HMDA and Regulation C, as reported below.<sup>36</sup>

On August 22, 2017, the Bureau, together with the other member agencies of the FFIEC, announced new FFIEC HMDA Examiner Transaction Testing Guidelines (Guidelines) for all financial institutions that report HMDA data.<sup>37</sup> The Guidelines will apply to the examination of HMDA data collected beginning in 2018, and reported beginning in 2019.

The Bureau issued a proposed rule in April 2017<sup>38</sup> seeking comment on amendments to certain provisions of the 2015 HMDA Final Rule to make technical corrections and to clarify

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<sup>36</sup> See Dodd-Frank Act section 1013(c)(2)(C), Public Law 111-203, 124 Stat. 1376 (2010) (codified at 12 U.S.C. 5493(c)(2)(C)).

<sup>37</sup> FFIEC HMDA Examiner Transaction Testing Guidelines, [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708\\_cfpb\\_ffiec-hmda-examiner-transaction-testing-guidelines.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708_cfpb_ffiec-hmda-examiner-transaction-testing-guidelines.pdf).

<sup>38</sup> Technical Corrections and Clarifying Amendments to the Home Mortgage Disclosure (Regulation C) October 2015 Final Rule, <https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/technical-corrections-and-clarifying-amendments-home-mortgage-disclosure-october-2015-final-rule/>.

certain requirements under Regulation C, and issued a second proposal in July 2017<sup>39</sup> to increase temporarily the institutional and transactional coverage thresholds for open-end lines of credit. On August 24, 2017, after reviewing the comments received, the Bureau issued a final rule amending Regulation C.<sup>40</sup>

On September 20, 2017, the Bureau issued proposed policy guidance regarding the data the Bureau may make available to the public beginning in 2019 from the HMDA data collected by financial institutions in or after 2018. The proposal described the modifications that the Bureau intends to apply to the loan-level HMDA data to protect applicant and borrower privacy, and it sought comment on those proposals.<sup>41</sup>

In December 2017, the FFIEC agencies issued public statements on HMDA implementation announcing that the Bureau does not intend to require data resubmission unless data errors are material or assess penalties with respect to errors in data collected in 2018 and reported in 2019 under HMDA. The Bureau's statement also announced that the Bureau intends to engage in a rulemaking to reconsider various aspects of the 2015 HMDA Rule such as the institutional and transactional coverage tests and the rule's discretionary data points.<sup>42</sup>

### 5.1.1 HMDA announcement

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<sup>39</sup> Home Mortgage Disclosure (Regulation C), Temporary Increase in Institutional and Transactional Coverage Thresholds for Open-End Lines of Credit, <https://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/home-mortgage-disclosure-regulation-c-temporary-increase-institutional-and-transactional-coverage-thresholds-open-end-lines-credit/>.

<sup>40</sup> Consumer Financial Protection Bureau, *Home Mortgage Disclosure (Regulation C) Final Rule*, <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/regulation-c-home-mortgage-disclosure-act/>.

<sup>41</sup> Disclosure of Loan-Level HMDA Data, [http://files.consumerfinance.gov/f/documents/201709\\_cfpb\\_hmda-disclosure-policy-guidance.pdf](http://files.consumerfinance.gov/f/documents/201709_cfpb_hmda-disclosure-policy-guidance.pdf).

<sup>42</sup> Consumer Financial Protection Bureau, *CFPB Issues Public Statement On Home Mortgage Disclosure Act Compliance*, (December 21, 2017), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-public-statement-home-mortgage-disclosure-act-compliance/>.

On December 21, 2017, the Bureau issued the following public statement regarding HMDA implementation:

Recognizing the impending January 1, 2018 effective date of the Bureau’s amendments to Regulation C and the significant systems and operational challenges needed to adjust to the revised regulation, for HMDA data collected in 2018 and reported in 2019 the Bureau does not intend to require data resubmission unless data errors are material. Furthermore, the Bureau does not intend to assess penalties with respect to errors in data collected in 2018 and reported in 2019. Collection and submission of the 2018 HMDA data will provide financial institutions an opportunity to identify any gaps in their implementation of amended Regulation C and make improvements in their HMDA compliance management systems for future years. Any examinations of 2018 HMDA data will be diagnostic to help institutions identify compliance weaknesses and will credit good faith compliance efforts. The Bureau intends to engage in a rulemaking to reconsider various aspects of the 2015 HMDA Rule such as the institutional and transactional coverage tests and the rule’s discretionary data points.

For data collected in 2017, financial institutions will submit their reports in 2018 in accordance with the current Regulation C using the Bureau’s HMDA Platform.<sup>43</sup>

## *5.2 ECOA and Regulation B*

On March 24, 2017, the Bureau issued a proposed rule seeking comment on amendments to Regulation B providing creditors additional flexibility in complying with Regulation B in order to facilitate compliance with Regulation C, adding certain model forms and removing

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<sup>43</sup> *CFPB Issues Public Statement On Home Mortgage Disclosure Act Compliance* (December 21, 2017), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-public-statement-home-mortgage-disclosure-act-compliance/>.

others from Regulation B, and making various other amendments to Regulation B and its commentary to facilitate the collection and retention of information about the ethnicity, sex, and race of certain mortgage applicants.<sup>44</sup> After considering the comments received, the Bureau issued a final rule on September 20, 2017, amending Regulation B.<sup>45</sup>

On November 20, 2017, the Bureau issued an official approval pursuant to section 706(e) of ECOA of the final redesigned Uniform Residential Loan Application that included a question asking applicant language preference.<sup>46</sup> Bureau staff determined that the final redesigned URLA is in compliance with Regulation B § 1002.5(b) through (d), which provide rules regarding requests for information.<sup>47</sup>

### *5.3 Small business data collection*

Section 1071 of the Dodd-Frank Act amends ECOA to require financial institutions to collect, report, and make public certain information concerning credit applications made by women-owned, minority-owned, and small businesses. The amendments to ECOA made by the Dodd-Frank Act require that specific data be collected, maintained, and reported, including but not limited to the type of loan applied for, the amount of credit applied for, the type of action taken with regard to each application, the census tract of the principal place of business of the

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<sup>44</sup> Proposed Amendments to Equal Credit Opportunity Act (Regulation B) Ethnicity and Race Information Collection, [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201703\\_cfpb\\_NPRM-to-amend-Regulation-B.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201703_cfpb_NPRM-to-amend-Regulation-B.pdf).

<sup>45</sup> Amendments to Equal Credit Opportunity Act (Regulation B) Ethnicity and Race Information Collection, <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/amendments-equal-credit-opportunity-act-regulation-b-ethnicity-and-race-information-collection/>.

<sup>46</sup> Consumer Financial Protection Bureau, *Final Redesigned Uniform Residential Loan Application Status under Regulation B*, (Nov. 20, 2017), [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb\\_urla-language-preference-question\\_bureau-official-approval\\_112017.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_urla-language-preference-question_bureau-official-approval_112017.pdf).

<sup>47</sup> Regulation B § 1002.5(b) provides rules concerning requests for information about race, color, religion, national origin, or sex. Section 1002.5(c) provides rules concerning requests for information about a spouse or former spouse. Section 1002.5(d) provides rules concerning requests for information regarding marital status; income from alimony, child support, or separate maintenance; and childbearing or childrearing.

loan applicant, and the race, sex, and ethnicity of the principal owners of the business. The Dodd-Frank Act also provides authority for the Bureau to require any additional data that the Bureau determines would aid in fulfilling the purposes of section 1071. The Bureau issued a Request for Information in 2017 seeking public comment on, among other things, the types of credit products offered and the types of data currently collected by small business lenders and the potential complexity, cost of, and privacy issues related to, small business lending data collection. The information received will help the Bureau determine how to implement efficiently the Dodd-Frank Act's mandate regarding small business lending data reporting, while minimizing burdens on lenders.

#### *5.4 Amicus Program*

The Bureau's Amicus Program files amicus, or friend-of-the-court, briefs in court cases concerning the Federal consumer financial protection laws that the Bureau is charged with implementing, including ECOA. These amicus briefs provide the courts with Bureau views on significant consumer financial protection issues and help ensure that consumer financial protection statutes and regulations are correctly and consistently interpreted by the courts.

On September 13, 2017, the Bureau filed an amicus brief in *Regions Bank v. Legal Outsource PA*, in the United States Court of Appeals for the Eleventh Circuit.<sup>48</sup> This case involves claims under ECOA against a bank that allegedly required a business owner's spouse to guarantee a loan to the business because of the fact that the business owner was married. The Bureau filed an amicus brief arguing that the district court erred in rejecting claims by the business and various guarantors of the loan. First, the brief argued that a business entity can state a claim for ECOA discrimination based on its owner's marital status. Second, the brief

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<sup>48</sup> A copy of the Bureau's amicus brief is available on its amicus webpage, <https://www.consumerfinance.gov/policy-compliance/amicus/briefs/regions-bank-v-legal-outsource-pa/>.

argued that regulations issued pursuant to ECOA reasonably interpret the term “applicant” to encompass guarantors such that non-borrowers who are required to guarantee their spouse’s loans can state claims for marital-status discrimination.

### *5.5 No-action letter*

In 2017, the Bureau maintained a “No Action Letter” policy<sup>49</sup> that allowed companies to apply for a statement from Bureau staff regarding an innovative product or service that offers the potential for significant consumer benefit where there is substantial uncertainty about whether or how specific provisions of law would be applied. A no-action letter issued pursuant to that policy would advise a recipient that staff has no present intention to recommend initiation of an enforcement or supervisory action with respect to the specific matter.

On September 14, 2017, Bureau staff issued its first no-action letter to Upstart Network, Inc., a company that uses alternative data in making credit and pricing decisions.<sup>50</sup> The Bureau’s no-action letter stated that Bureau staff had no present intention to recommend initiation of an enforcement or supervisory action against Upstart with regard to application of ECOA and Regulation B. The letter applies to Upstart’s automated model for underwriting applicants for unsecured non-revolving credit, as that model is described in the company’s application materials. The letter is specific to the facts and circumstances of Upstart and does not serve as an endorsement of the use of any particular variables or modeling techniques in credit underwriting.

Upstart Network, Inc. is based in San Carlos, California, and provides an online lending

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<sup>49</sup> See proposed policy at: <https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/proposed-policy-on-no-action-letters/>.

<sup>50</sup> *CFPB Announces First No-Action Letter to Upstart Network*, Consumer Financial Protection Bureau (Sept. 14, 2017), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-announces-first-no-action-letter-upstart-network/>.

platform for consumers to apply for personal loans, including credit card refinancing, student loans, and debt consolidation. Upstart evaluates consumer loan applications using traditional factors such as credit score and income, as well as incorporating non-traditional sources of data such as education and employment history.

Under the terms of the no-action letter, Upstart will share certain information with the Bureau regarding the loan applications it receives, how it decides which loans to approve, and how it will mitigate risk to consumers, as well as information on how its model expands access to credit for traditionally-underserved populations. The Bureau expects that this information will further its understanding of the use of alternative data in credit decision-making.

The Upstart no-action letter was part of the Bureau's continued exploration in 2017 of innovation through the use of alternative data to help expand responsible and fair credit access for consumers who are credit invisible or lack sufficient credit history to provide them traditional access to credit markets.

## *6. Interagency coordination*

### *6.1 Interagency coordination and engagement*

The Office of Fair Lending regularly coordinates the Bureau's fair lending regulatory, supervisory, and enforcement activities with those of other Federal agencies and State regulators to promote consistent, efficient, and effective enforcement of Federal fair lending laws.<sup>51</sup> Through our interagency engagement, we work to address current and emerging fair lending risks.

On August 22, 2017, the FFIEC agencies announced new HMDA Examiner Transaction

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<sup>51</sup> Dodd-Frank Act section 1013(c)(2)(B) (codified at 12 U.S.C. 5493(c)(2)(B)).

Testing Guidelines (Guidelines).<sup>52</sup> The new Guidelines were accompanied by the release of a blog post by the Bureau.<sup>53</sup> The Guidelines represent a joint effort led by the Bureau, together with the FDIC, the FRB, the NCUA, and the OCC to provide—for the first time—uniform guidelines across all Federal HMDA supervisory agencies. This collaboration began with the Bureau issuing a Request for Information<sup>54</sup> and holding outreach meetings in which the other supervisory agencies participated. The agencies then worked together to develop the Guidelines.

The Bureau, along with the FTC, DOJ, HUD, FDIC, FRB, NCUA, OCC, and the Federal Housing Finance Agency, comprise the *Interagency Task Force on Fair Lending*. The Task Force meets regularly to discuss fair lending enforcement efforts, share current methods of conducting supervisory and enforcement fair lending activities, and coordinate fair lending policies.

The Bureau belongs to a standing working group of Federal agencies—with the DOJ, HUD, and FTC—that meets regularly to discuss issues relating to fair lending enforcement. These agencies constitute the *Interagency Working Group on Fair Lending Enforcement*. The agencies use these meetings to discuss fair lending developments and trends, methodologies for evaluating fair lending risks and violations, and coordination of fair lending enforcement efforts. In addition to these interagency working groups, we meet periodically and on an ad hoc basis

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<sup>52</sup> FFIEC HMDA Examiner Transaction Testing Guidelines, [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708\\_cfpb\\_ffiec-hmda-examiner-transaction-testing-guidelines.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708_cfpb_ffiec-hmda-examiner-transaction-testing-guidelines.pdf).

<sup>53</sup> Tim Lambert & Eric Wang, *Here's what you need to know about the new FFIEC HMDA Examiner Transaction Testing Guidelines*, Consumer Financial Protection Bureau (Aug. 22, 2017), <https://www.consumerfinance.gov/about-us/blog/heres-what-you-need-know-about-new-ffiec-hmda-examiner-transaction-testing-guidelines/>.

<sup>54</sup> Request for Info. Regarding Home Mortgage Disclosure Act Resubmission Guidelines, 81 FR 1,405 (Jan. 12, 2016), <https://www.gpo.gov/fdsys/pkg/FR-2016-01-12/pdf/2016-00442.pdf>.

with the Justice Department and prudential regulators to coordinate our fair lending work.

In 2017, the Bureau chaired the *FFIEC HMDA/Community Reinvestment Act Data Collection Subcommittee*, a subcommittee of the FFIEC Task Force on Consumer Compliance (Task Force), that oversees FFIEC projects and programs involving HMDA data collection and dissemination, the preparation of the annual FFIEC budget for processing services, and the development and implementation of other related HMDA processing projects as directed by the Task Force.

#### 7. *Outreach: Promoting fair lending compliance and education*

Pursuant to Dodd-Frank,<sup>55</sup> the Office of Fair Lending regularly engages in outreach with industry, bar associations, consumer advocates, civil rights organizations, academia, and other government agencies, to help educate and inform our stakeholders about fair lending as well as learn about emerging trends or products that pose fair lending risk. The Bureau is committed to communicating directly with all stakeholders on its policies, compliance expectations, and fair lending priorities, and to receiving valuable input on fair lending issues. Outreach is accomplished through issuance of Reports to Congress, Interagency Statements, *Supervisory Highlights*, Compliance Bulletins, letters, blog posts, speeches and presentations at conferences and trainings, and participation in meetings to discuss fair lending and access to credit.

##### 7.1 *Blog posts*

The Bureau regularly uses its blog as a tool to communicate effectively to consumers and other stakeholders on timely issues, emerging areas of concern, Bureau initiatives, and more. In 2017 we published five blog posts related to fair lending topics including: providing consumers

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<sup>55</sup> Dodd-Frank Act section 1013(c)(2)(C) (codified at 12 U.S.C. 5493(c)(2)(C)).

updated information about a fair lending enforcement action,<sup>56</sup> announcing the Bureau's first no-action letter,<sup>57</sup> announcing new guidelines on HMDA examiner transaction testing,<sup>58</sup> issuing an official approval of the final redesigned Uniform Residential Loan Application,<sup>59</sup> and noting the release of the fair lending annual report on 2016 activities.<sup>60</sup>

The blog posts may be accessed at [www.consumerfinance.gov/blog](http://www.consumerfinance.gov/blog).

## 7.2 Supervisory Highlights

*Supervisory Highlights* reports anchor the Bureau's efforts to communicate about the Bureau's supervisory activity. More information about the topics discussed this year in *Supervisory Highlights* can be found in Section 3.1 of this Report. As with all Bureau resources, all editions of *Supervisory Highlights* are available on [www.consumerfinance.gov/reports](http://www.consumerfinance.gov/reports).

## 7.3 Speaking Engagements & Roundtables

Staff from the Bureau's Office of Fair Lending and Equal Opportunity participated in a number of outreach speaking events and roundtables throughout 2017 to further the Bureau's

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<sup>56</sup> Patrice Alexander Ficklin, *African-American and Hispanic borrowers harmed by Provident will receive \$9 million in compensation*, Consumer Financial Protection Bureau (Nov. 2, 2017), <https://www.consumerfinance.gov/about-us/blog/african-american-and-hispanic-borrowers-harmed-provident-will-receive-9-million-compensation/>.

<sup>57</sup> Patrice Alexander Ficklin and Dan Quan, *Supporting consumer-friendly innovation: Announcing our first no-action letter*, Consumer Financial Protection Bureau (Sept. 14, 2017), <https://www.consumerfinance.gov/about-us/blog/supporting-consumer-friendly-innovation-announcing-our-first-no-action-letter/>.

<sup>58</sup> Tim Lambert & Eric Wang, *Here's what you need to know about the new FFIEC HMDA Examiner Transaction Testing Guidelines*, Consumer Financial Protection Bureau (Aug. 22, 2017), <https://www.consumerfinance.gov/about-us/blog/heres-what-you-need-know-about-new-ffiec-hmda-examiner-transaction-testing-guidelines/>.

<sup>59</sup> J. Frank Vespa-Papaleo, *Identification of language preference on the Uniform Residential Loan Application*, Consumer Financial Protection Bureau (Nov. 20, 2017), <https://www.consumerfinance.gov/about-us/blog/identification-language-preference-uniform-residential-loan-application/>.

<sup>60</sup> Patrice Alexander Ficklin, *Safeguarding against credit discrimination: 2016 Fair Lending Report* (April 14, 2017), <https://www.consumerfinance.gov/about-us/blog/safeguarding-against-credit-discrimination-2016-fair-lending-report/>.

mission of educating and informing stakeholders about fair lending and receiving input from stakeholders. In these events, staff shared information on fair lending priorities, emerging issues, and heard feedback from stakeholders on Bureau fair-lending work. Some examples of the topics covered include fair lending priorities, fair lending modeling and governance, redlining, HMDA, small business lending, alternative data, and installment lending contracts.

*Appendix A: Defined Terms*

<b>TERM</b>	<b>DEFINITION</b>
AMS	Agricultural Marketing Service of the U.S. Department of Agriculture
Bureau	The Bureau of Consumer Financial Protection
CMS	Compliance Management System
CRA	Community Reinvestment Act
Dodd-Frank Act	The Dodd-Frank Wall Street Reform and Consumer Protection Act
DOJ	The U.S. Department of Justice
DOT	The U.S. Department of Transportation

ECOA	The Equal Credit Opportunity Act
FCA	Farm Credit Administration
FDIC	The U.S. Federal Deposit Insurance Corporation
Federal Reserve Board	The U.S. Board of Governors of the Federal Reserve System
FFIEC	The U.S. Federal Financial Institutions Examination Council - the FFIEC member agencies are the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), and the Bureau of Consumer Financial Protection (BCFP). The State Liaison Committee was added to FFIEC in 2006 as a voting member.
FRB	The U.S. Board of Governors of the Federal Reserve System
FTC	The U.S. Federal Trade Commission
GIPSA	Grain Inspection, Packers and Stockyards Administration (GIPSA) of the U.S. Department of Agriculture
HMDA	The Home Mortgage Disclosure Act
HUD	The U.S. Department of Housing and Urban Development



**Dated:** February 1, 2019.

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**Kathleen L. Kraninger,**

*Director, Bureau of Consumer Financial Protection.*

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