



Managing Fair Lending Risk

I. Overview and Summary of Fair Lending Laws

Scope of Presentation

- **Summary of the Fair Lending Laws**
- **Concepts of Disparate Treatment and Disparate Impact**
- **Fair Lending Risk Indicators and Strategies to Mitigate Risks**
- **Compliance Management System for Fair Lending**
- **Review and Resources**

Fair Lending Laws

■ ECOA

- Prohibits discrimination in any aspect of a consumer credit transaction (Including Small Businesses, Corporations, Partnerships, and Trusts)

■ Fair Housing

- Prohibits discrimination in residential real-estate related transactions which include:
 - Making loans to buy, build, repair or improve a dwelling;
 - Purchasing real estate loans;
 - Selling, brokering, or appraising residential real estate; and
 - Selling or renting a dwelling.

Fair Lending Laws Applicability

ECOA and Fair Housing cover all phases of the lending process:

- Pre-application;
- Application;
- Loan closings; and
- Post loan closing – including servicing and loss mitigation activities.

ECOA and Fair Housing apply to banks and any third parties engaged by the banks.

Prohibited Bases

ECOA

- Marital Status
- Age
- Receipt of income from public assistance programs
- Exercise of rights under the CCPA

ECOA & Fair Housing

- Race or Color
- Religion
- National Origin
- Sex

Fair Housing

- Handicap
- Familial Status

Prohibited Practices

A lender may not because of a prohibited basis:

Fail to provide or provide different information or services regarding any aspect of the lending process;

Discourage or selectively encourage individuals who inquire or apply for credit; or

Refuse to extend credit or use different standards in determining whether to extend credit.

Prohibited Practices

A lender may not because of a prohibited basis:

Vary the terms of credit offered;

Use different standards to evaluate collateral;

Treat a borrower differently in servicing a loan or invoking default remedies; or

Use different standards for pooling or packaging loans in the secondary market.

Prohibited Practices

A lender may not discriminate on a prohibited basis by considering the characteristics of:

An applicant, prospective applicant, or borrower;

A person associated with an applicant, prospective applicant, or borrower;

The present or prospective residents of the property to be financed; or

The neighborhood where the property to be financed is located.

Consequences of Noncompliance

Noncompliance with the fair lending laws can result in consumer harm and affect a bank in a variety of ways:

- Compliance and CRA ratings can be lowered;
- Regulatory applications can be denied;
- Reputational and legal risks can develop; and
- Informal or formal enforcement actions can be issued.