

A Regulator's Request – Fair Lending

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Lately, one of the most common requests our banks get from regulators is to look at their Fair Lending programs. We have found that a good number of them do not have a fair lending program, more of a fair lending section within their policy. As banks are learning, sometimes that section is just not enough.

Program Components

1. Policy – Your policy should include statements to comply with anti-discriminatory practices, management and board oversight, training, monitoring, and auditing. Do not ignore your loan policy though; make sure you review that as well to ensure it is free of any potential discriminatory practices.
2. Risk Assessment – Your risk assessment should incorporate your general lending policies, any controls in place for servicing, your lender compensation program, adverse action process, and previous violations within Regulation B, Fair Housing, and CRA. It should also include any mitigation you have in place to decrease your fair lending risk. In addition, do not forget to analyze your lending market area to understand whom you are lending to in the first place.
3. Training – Your training should include both the board of directors as well as your employees. It should focus on the Bank's fair lending program as well as giving them a solid understanding of what it means to discriminate.
4. Monitoring and Auditing – These are two separate functions. Your monitoring program will look at your practices/procedures/processes on an ongoing basis in real time. Your audit will look at a snap shot in history. Someone who is independent of your loan function should complete both items.

When completing your self-assessment you should consider:

- How much discretion is afforded to your lenders in pricing decisions? Are they allowed to make exceptions to your loan policy?
- Are your lenders exceptions to your loan policy documented and sent to the board for review?
- Is there a second review process in place for denials? Is another lender reviewing the file to see if they agree with the original lender's denial reasons all before the adverse action notice is sent to the potential borrower?
- Does your collection process follow your fair lending guidelines?
- Do you understand your lending market area?

Establishing your Fair Lending program will take some time, however it does not need to be difficult; use this information as a guide to ensure you are on the right path in having a successful Fair Lending program. Once the program is in place, do not forget about it! Having an independent person review the program periodically will only help your bank in the future.