agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Gulf Council Office (see **ADDRESSES**), at least 5 working days prior to the meeting.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 9, 2016.

Jeffrey N. Lonergan,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–11207 Filed 5–11–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE618

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Mackerel-Squid-Butterfish (MSB) Monitoring Committee will meet via webinar to develop recommendations for future MSB specifications.

DATES: The meeting will be held Tuesday, May 31, 2016, at 1:30 p.m. and end by 4 p.m.

ADDRESSES: The meeting will be held via webinar with a telephone-only connection option: *http://mafmc.adobeconnect.com/msb2016moncom/*.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's Web site, *www.mafmc.org* will also have details on webinar access and any background materials.

SUPPLEMENTARY INFORMATION: The Council's MSB Monitoring Committee will meet to develop recommendations for future MSB specifications. There will be time for public questions and comments. The Council utilizes the Monitoring Committee recommendations at each June Council meeting when setting the subsequent years' MSB specifications.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: May 9, 2016.

Jeffrey N. Lonergan,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–11198 Filed 5–11–16; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Fair Lending Report of the Consumer Financial Protection Bureau, April 2016

AGENCY: Bureau of Consumer Financial Protection.

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

SUMMARY: The Bureau of Consumer Financial Protection (CFPB or Bureau) is issuing its fourth Fair Lending Report of the Consumer Financial Protection Bureau (Fair Lending Report) to Congress. We are committed to ensuring fair access to credit and eliminating discriminatory lending practices. This report describes our fair lending activities in prioritization, supervision, enforcement, rulemaking, research, interagency coordination, and outreach for calendar year 2015.

DATES: The Bureau released the April 2016 Fair Lending Report on its Web site on April 29, 2016.

FOR FURTHER INFORMATION CONTACT: Anita Visser, Policy Advisor to the Director of Fair Lending, Office of Fair Lending and Equal Opportunity, Consumer Financial Protection Bureau, 1–855–411–2372.

SUPPLEMENTARY INFORMATION:

[1]. Fair Lending Report of the Consumer Financial Protection Bureau, April 2016

Message From Richard Cordray, Director of the CFPB

When Congress established the Consumer Financial Protection Bureau, the goal was to shine a light on unfair and discriminatory practices in the financial system. The legislation specifically tasked the Office of Fair Lending and Equal Opportunity with this critical obligation, but our commitment to finding and eliminating these practices extends throughout the Bureau. Indeed, ensuring fair and nondiscriminatory access to credit goes to the core of the Bureau's mission: Protecting consumers and promoting openness in America's financial markets.

The past year has been especially productive for the Office of Fair Lending. In the mortgage market, they teamed up with the Department of Justice to resolve the largest redlining case in history against Hudson City Savings Bank (since acquired by M&T Bank), which will pay nearly $33 million in direct loan subsidies, funding for community programs and outreach, and a civil penalty. In that case, which arose out of a fair lending supervisory review at Hudson City, the Bureau found that Hudson City provided unequal access to credit by structuring its business to avoid and thus discourage access to mortgages for residents in majority-Black-and-Hispanic neighborhoods [1] in New York, New Jersey, Connecticut, and Pennsylvania. The Office of Fair Lending also resolved a significant discrimination case involving Provident Funding Associates based on our finding that over 14,000 African-American and Hispanic borrowers paid more in mortgage brokers' fees than did similarly-situated non-Hispanic White borrowers. The Office also helped revise the Home Mortgage Disclosure Act's Regulation C such that mortgage lenders will begin collecting a more comprehensive set of mortgage loan data starting in 2018, which will allow regulators, lenders, researchers, and the public to better pinpoint and address potential discrimination in the mortgage market, among other important goals.

The Office of Fair Lending also has continued to examine and investigate indirect auto lenders for compliance with the Equal Credit Opportunity Act. Last year brought two noteworthy results, with prominent consent orders issued for American Honda Finance Corporation and Fifth Third Bank. In both matters, the Bureau alleged that the lender's policy of discretionary dealer markup resulted in minority borrowers

[1] ''Majority-Black-and-Hispanic neighborhoods'' or ''majority-Black-and-Hispanic communities'' means census tracts in which more than 50 percent of the residents are identified in the 2010 U.S. Census as either ''Black or African American'' or ''Hispanic or Latino.''

paying more for loans without regard to their creditworthiness. The lenders agreed to reduce substantially the amount of discretion they permit dealers to mark up such loans and to pay a combined total of $42 million in restitution to harmed consumers. Our supervisory and enforcement work remains ongoing, as shown by our recent similar action against Toyota Motor Credit, and I urge indirect auto lenders to carefully consider the terms of these orders as they evaluate compliance in their own lending programs.

One tangible outcome of the Office of Fair Lending's dedication is the money they help return to harmed consumers. When an enforcement action is resolved, typically much more work must be done before consumers see the benefits. Last year, the Office worked with Synchrony Bank (formerly GE Capital Retail Bank) to complete payments of over $200 million to consumers who were excluded from debt relief offers because of their national origin. They also worked with PNC Bank (successor to National City Bank) to complete payments of over $35 million to tens of thousands of African-American and Hispanic borrowers who were charged higher prices on their mortgage loans. Finally, they worked with Ally Financial Inc. and Ally Bank to complete payments of over $80 million to over 300,000 borrowers who experienced discrimination in the pricing of Ally's auto loans. In addition to money returned to consumers through public enforcement actions, we achieve additional redress for consumers through the supervisory process. These results demonstrate the Office of Fair Lending's commitment to bettering the lives of consumers by ensuring fair, nondiscriminatory access to credit.

The list of fair lending successes is even longer, as this report attests. We share our work in many ways, including guidance through *Supervisory Highlights,* industry and consumer outreach, and productive discussions with policymakers, including members of Congress. We welcome such dialogue because an integral part of the Bureau's commitment to diversity and inclusion is engaging many different voices in a broad discussion of these critical issues. The pursuit of civil rights has always required perseverance, and I am proud of the work my Fair Lending colleagues do to move forward in this important area.

We are proud of the Bureau's work in 2015 and the successes of our Fair Lending team. And we are thankful for the continued interest that so many people have in our fair lending work.

Sincerely,

Richard Cordray

Message from Patrice Alexander Ficklin

Director, Office of Fair Lending and Equal Opportunity

This past year, 2015, has been one of tremendous growth and accomplishment for the CFPB's Office of Fair Lending and Equal Opportunity. From enforcement and supervision to outreach and rulemaking, our office is dedicated to using the tools Congress provided to achieve our mission: Fair, equitable, and nondiscriminatory credit for consumers.[2] After the whirlwind of getting on our feet and ''standing up'' the Bureau, we have continued to solidify our presence in now-familiar markets and explored new and emerging issues in other markets. This is an exciting new phase in the Bureau's tenure that promises to make lasting improvements in the lives of America's consumers.

As part of the Office of Fair Lending's statutory responsibility for oversight and enforcement of the Equal Credit Opportunity Act[3] (ECOA) and the Home Mortgage Disclosure Act[4] (HMDA), we carefully prioritize among market areas to best utilize our resources. The mortgage and auto markets represent two of the most significant consumer experiences with credit and weigh heavily in our prioritization process. Homes and cars are typically two of the largest and most important purchases for consumers, and the Bureau is committed to ensuring these transactions are fair and equitable for all consumers. Our efforts in 2015 have required approximately $108 million in restitution to consumers harmed by discrimination and additional monetary payments, including loan subsidies, increased consumer financial education, and civil money penalties. Our efforts have also resulted in heightened industry awareness and increased consumer financial education. This year, all four of our public enforcement actions related to these two markets, resulting in monetary remediation for harmed consumers and forward-looking mechanisms to prevent future discrimination. Mortgage and auto featured prominently in our non-public supervisory work as well. Moreover, in January 2016, as a result of a settlement with Ally Financial Inc. and Ally Bank, the DOJ and the Bureau, a settlement administrator mailed $80 million plus accrued interest in checks to consumers harmed by discriminatory auto loan pricing policies.

While our settlement administration and mortgage and auto work continue to be priorities for our office, we have made significant strides in expanding our efforts to help consumers in other priority markets. These priority markets include the credit card market, where we continue to engage in both supervisory and enforcement work related to fair lending risks in that market.

Notably, we also added small business lending to our priorities to address fair lending risks in that market. Small businesses are a backbone of our nation's economy and access to credit is critical to their operation and growth. Unlike large businesses, many small businesses are sole proprietorships where the owner's personal credit—and potentially that of family and friends—may be on the line.[5] With so much at stake, and in light of the heightened fair lending risk acknowledged by the enactment of Section 1071 of the Dodd-Frank Act, we will continue to focus on small business lending in our Fair Lending work going forward. In addition, the Bureau's rulemaking required by the Dodd-Frank Act's small business data collection provision[6] is now in the pre-rule stage.[7] We look forward to developing additional subject-matter expertise in this market as we engage in dialogue with stakeholders, including industry, consumer advocates, and other market experts, conduct further examinations, and gather additional data and information in connection with the rulemaking.

The Bureau also published its final rule implementing Dodd-Frank's amendments to HMDA's Regulation C. HMDA data are integral to the everyday work of our office and others within the Bureau. One of HMDA's primary purposes is identifying potential discrimination, and many other stakeholders will benefit from improved data, including other agencies, the public, consumer groups, researchers, and industry itself. The final rule reflects our practical experience

[2] Dodd-Frank Act, section 1013(c)(2)(A), Public Law 111–203, 124 Stat. 1376 (2010) (codified at 12 U.S.C. 5493(c)(2)(A)).

[3] 15 U.S.C. 1691 *et seq.*

[4] 12 U.S.C. 2801 *et seq.*

[5] *See* Office of Advocacy, Small Business Administration, Frequently Asked Questions (March 2014), *available at https://www.sba.gov/sites/default/files/advocacy/FAQ_March_2014_0.pdf* (according to the Small Business Administration, approximately 72.1% of all businesses are sole proprietorships).

[6] Dodd-Frank Act, section 1071(a) (codified at 15 U.S.C. 1691c–2(a)).

[7] 80 FR 78055, 78058 (Dec. 15, 2015).

working with the data, as well as hundreds of comments from industry, consumer advocates, civil rights groups, and other stakeholders. These changes will undoubtedly enhance our work as we are able to analyze and act on this more robust information.

The Dodd-Frank Act mandated the creation of the CFPB's Office of Fair Lending and Equal Opportunity and charged it with ensuring fair, equitable, and nondiscriminatory access to credit to consumers; coordinating our fair lending efforts with Federal and State agencies and regulators; working with private industry, fair lending, civil rights, consumer and community advocates to promote fair lending compliance and education; and annually reporting to Congress on our efforts.

I am proud to say that the Office continues to fulfill our Dodd-Frank mandate and looks forward to continuing to work together with all stakeholders in protecting America's consumers. To that end, I am excited to share our progress with this, our fourth, Fair Lending Report.[8]

Sincerely,

Patrice Alexander Ficklin

Executive Summary

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank or Dodd-Frank Act) [9] established the Bureau as the Nation's first federal agency with a mission focused solely on consumer financial protection and making consumer financial markets work for all Americans. Dodd-Frank established the Office of Fair Lending and Equal Opportunity within the CFPB, and charged it with ''providing oversight and enforcement of Federal laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for both individuals and communities.'' [10]

The Bureau and the Office of Fair Lending and Equal Opportunity (the Office of Fair Lending) have taken important strides over the last year in our efforts to protect consumers from credit discrimination and broaden access to credit, as we identify new and emerging fair lending risks and monitor institutions for compliance. In 2015, our fair lending supervisory and public enforcement actions directed institutions to provide approximately $108 million in remediation and other monetary payments.[11]

- Supervision and enforcement priorities and activity. The Bureau's risk-based prioritization process allows the Office of Fair Lending to focus our supervisory and enforcement efforts on markets or products that represent the greatest risk for consumers.
  - Mortgage lending. Mortgage lending continues to be a key priority for the Office of Fair Lending for both supervision and enforcement, with a focus on HMDA data integrity and potential fair lending risks in the areas of redlining, underwriting, and pricing. In 2015, the Bureau resolved two public enforcement actions involving mortgage lending. Through 2015, our mortgage origination work has covered institutions responsible for close to half of the transactions reported pursuant to HMDA (and more than 60% of the transactions reported by institutions subject to the CFPB's supervision and enforcement authority).[12] Moreover, our supervisory work on mortgage servicing has included use of the ECOA Baseline Review Modules, which help us to identify potential fair lending risk in mortgage servicing and inform our prioritization of mortgage servicers.
  - Indirect auto lending. In 2015, the Bureau continued its work in overseeing and enforcing compliance with ECOA in indirect auto lending through both supervisory and enforcement activity, including monitoring compliance with our previous supervisory and enforcement actions. Our auto finance targeted ECOA reviews [13] generally have included an examination of three areas: Credit approvals and denials, interest rates quoted by the lender to the dealer (the ''buy rates''), and any discretionary markup or adjustments to the buy rate. In 2015, the Bureau resolved two public enforcement actions involving discriminatory pricing and compensation structures in indirect auto lending. Our indirect auto work has covered more than 60% of the auto loan market share by volume.[14]
  - Credit cards. The Bureau also continued fair lending supervisory and enforcement work in the credit card market. We have focused in particular on the quality of fair lending compliance management systems and on fair lending risks in underwriting, line assignment, and servicing, including the treatment of consumers residing in Puerto Rico or who indicate that they prefer to speak in Spanish. Our work in this highly-concentrated market has covered institutions responsible for more than 75% of outstanding credit card balances in the United States.[15]
  - Other product areas. The Bureau has focused supervision and enforcement work in other markets as well. For example, this year we began targeted ECOA reviews of small-business lending, focusing in particular on the quality of fair lending compliance management systems and on fair lending risks in underwriting, pricing, and redlining. We remain committed to assessing and evaluating fair lending risk in all credit markets under the Bureau's jurisdiction.
- Rulemaking. In October 2015, the Bureau published a final rule to amend Regulation C, the regulation that implements HMDA, to require covered lenders to report additional data elements, among other changes.[16] In January 2016, in response to ongoing conversations with industry about compliance with Regulation C, the Bureau published a Request for Information (RFI) on the Bureau's HMDA data resubmission guidelines.[17]
- Guidance. In May 2015, the Bureau issued a compliance bulletin on the Section 8 Housing Choice Voucher (HCV) Homeownership Program.[18] The Bulletin reminds creditors of their obligations under ECOA [19] and its implementing regulation, Regulation B,[20] to provide non-discriminatory access to credit for mortgage applicants by considering income from the Section

[8] *See* Dodd-Frank Act section 1013(c)(2)(D) (codified at 12 U.S.C. 5493(c)(2)(D)).

[9] Public Law 111–203, 124 Stat. 1376 (2010).

[10] Dodd-Frank Act, section 1013(c)(2)(A) (codified at 12 U.S.C. 5493(c)(2)(A)).

[11] Figures represent estimates of monetary relief for consumers ordered by the Bureau as a result of supervisory or enforcement actions on solely fair lending matters in 2015, as well as other monetary payments such as loan subsidies, increased consumer financial education, and civil money penalties. The Bureau also ordered institutions to provide non-monetary relief to consumers.

[12] CFPB analysis of HMDA data for 2015.

[13] ECOA targeted reviews focus on a specific line of business, such as mortgages, credit cards, or auto finance and typically include statistical analysis and, in some cases, loan file reviews in order to evaluate an institution's compliance with ECOA and Regulation B within the specific business line selected.

[14] CFPB analysis of 2015 AutoCount data from Experian Automotive.

[15] CFPB analysis of 3Q 2015 call reports.

[16] *See* Home Mortgage Disclosure Act (Regulation C), 80 FR 66128 (Oct. 28, 2015) (codified at 12 U.S.C. 1003 *et. seq.*), *available at https://www.gpo.gov/fdsys/pkg/FR-2015-10-28/pdf/2015-26607.pdf.*

[17] Consumer Financial Protection Bureau, Request for Information Regarding Home Mortgage Disclosure Act Resubmission Guidelines 2015–0058 (Jan. 12, 2016), *available at http://files.consumerfinance.gov/f/201601_cfpb_request-for-information-regarding-home-mortgage-disclosure-act-resubmission.pdf.*

[18] Consumer Financial Protection Bureau, Section 8 Housing Choice Voucher Homeownership Program Bulletin 2015–02 (May 11, 2015), *available at http://files.consumerfinance.gov/f/201505_cfpb_bulletin-section-8-housing-choice-voucher-homeownership-program.pdf.*

[19] 15 U.S.C. 1691 *et seq.*

[20] 12 CFR 1002 *et seq.*

8 HCV Homeownership Program. In addition, throughout the year, the Office of Fair Lending provided guidance and information on market trends through *Supervisory Highlights.*

• Outreach to industry, advocates, consumers, and other stakeholders. The Bureau continues to initiate and encourage industry and consumer engagement opportunities to discuss fair lending compliance and access to credit issues, including through speeches, presentations, blog posts, webinars, rulemaking, public comments, and communication with Members of Congress.

• Interagency coordination and collaboration. The Bureau continues to coordinate with the Federal Financial Institutions Examination Council (FFIEC) agencies,[21] as well as the Department of Justice (DOJ), the Federal Trade Commission (FTC), and the Department of Housing and Urban Development (HUD), as we each play a role in enforcing our nation's fair lending laws and regulations. In 2015, the Office of Fair Lending entered into a Memorandum of Understanding with HUD to formalize information-sharing between our agencies and maximize opportunities for joint investigations, when possible.

This report generally covers the Bureau's fair lending work during calendar year 2015.

1. Fair Lending Prioritization

1.1 Risk-Based Prioritization: A Data-Driven Approach To Prioritizing Areas of Potential Fair Lending Harm to Consumers

To use the CFPB's fair lending research, supervision, and enforcement resources most efficiently and effectively, the Office of Fair Lending, working with other offices in the Bureau, developed a fair lending risk-based prioritization approach that assesses and determines how best to address areas of potential fair lending harm to consumers in the entities, products, and markets under our jurisdiction.

The Bureau considers both qualitative and quantitative information at the institution, product, and market levels to determine where potential fair lending harm to consumers may be occurring. This information includes: Consumer complaints; tips from advocacy groups, whistleblowers, and government agencies; supervisory and enforcement history; quality of lenders' compliance management systems; results from data analysis; and market insights. The Office of Fair Lending integrates all of this information into the fair lending risk-based prioritization process, which is incorporated into the Bureau's larger risk-based prioritization process, allowing the Bureau to efficiently allocate its fair lending resources to areas of greatest risk to consumers. We then coordinate with other regulators so that our focus and efforts may inform their work and vice versa.

1.1.1 Complaints and Tips

The CFPB uses input from a variety of external and internal stakeholders to inform its fair lending prioritization process. We consider fair lending complaints handled by the Bureau's Office of Consumer Response and tips brought to the Office of Fair Lending's attention by advocacy groups, whistleblowers, and other government agencies (at the local, state, and federal levels). As part of the prioritization process the Office of Fair Lending also considers public and private fair lending litigation.

1.1.2 Supervisory and Enforcement History

The Bureau considers information gathered from prior fair lending work of the Bureau and other regulators, including any supervisory or enforcement actions. At the institution level, the Bureau considers results from past reviews, including information the Bureau has gathered about the fair lending risk(s) presented by a lender's policies, procedures, practices, or business model; the extent and nature of any violations previously cited; and the institution's remediation efforts. Additionally, the Bureau considers self-identified issues and whether the institution took appropriate corrective action when it identified those issues. We also closely monitor institutions' compliance with orders arising from previous enforcement actions. Finally, we coordinate with other regulators to share and consider the results of our respective fair lending efforts.[22]

1.1.3 Quality of Compliance Management Systems

One critical piece of information the Bureau obtains through our supervisory work is the quality of an institution's fair lending compliance management system, which is a key factor considered in the fair lending prioritization process. The Bureau has previously identified common features of a well-developed fair lending compliance management system,[23] though we recognize that the appropriate scope of an institution's fair lending compliance management system will vary based on its size, complexity, and risk profile.

Many CFPB-supervised institutions face similar fair lending risks, but they may differ in how they manage those risks, based on their size, complexity, and risk profile. A key consideration is that, the lower the quality of an institution's fair lending compliance management system, the less likely that the institution will identify and effectively address fair lending risks. As a result, a lower quality fair lending compliance management system generally indicates a higher fair lending risk to consumers.

1.1.4 Data Analysis

The Bureau's fair lending prioritization process is also driven by quantitative data analysis that evaluates developments and trends at the institution and market levels. For example, in the housing finance marketplace, HMDA data allow regulators to assess a specific institution's risk as well as risk across the market in order to identify those institutions or segments that appear to present heightened fair lending risk to consumers. Such analyses can be particularly useful in identifying those lenders that appear to deviate significantly from their peers in, for example, the extent to which they provide access to credit in communities of color.

1.1.5 Market Insights

The Office of Fair Lending works closely with all of the Bureau's markets offices, which monitor consumer financial markets to identify emerging developments and trends. These offices monitor key consumer financial products and services, including mortgages, credit cards, auto lending, consumer reporting, installment lending, student lending, and payday lending. The Bureau uses market

[21] 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 Consumer Financial Protection Bureau (CFPB). The State Liaison Committee was added to FFIEC in 2006 as a voting member.

[22] Other regulators may take into account the Bureau's fair lending findings in their evaluations of lender compliance with the Fair Housing Act, performance under the Community Reinvestment Act, or in conjunction with the review of merger/acquisition applications and other similar applications.

[23] *See Fair Lending Report of the Consumer Financial Protection Bureau* 13-14 (Apr. 2014), *available at http://files.consumerfinance.gov/f/201404_cfpb_report_fair-lending.pdf.*

intelligence and the trends identified by our markets offices to provide insight into the markets we oversee and to identify fair lending risks in a given market that may require further study or attention. For example, our work with the Office of Installment Lending and Collections Markets has assisted in our understanding of indirect auto lenders' business models and pricing policies. Information on fair lending risks in a market is then incorporated into our risk-based prioritization process to determine the level of attention needed in a market and our focus within that market.

Based on our evaluation of the information and data gathered from the sources above, this year we identified mortgage lending (including both origination and servicing), auto finance, and credit cards as priority markets for our fair lending supervision and enforcement work. We also identified small business lending as a priority market in connection with the Bureau's exploration of the issues that will need to be addressed in the rulemaking required under Section 1071 of the Dodd-Frank Act, which amended ECOA to require financial institutions to collect and report data on lending to women-owned, minority-owned, and small businesses.[24] We remain committed to assessing and evaluating fair lending risk in all credit markets under the Bureau's authority.

1.1.6 Addressing Areas of Potential Fair Lending Harm

Once fair lending risks are identified and prioritized through our risk-based prioritization process, the Office of Fair Lending considers, as part of its strategic planning process, how best to address those risks and which resources to dispatch to address the risks.

The Bureau's fair lending risk-based prioritization is an ongoing rather than a static process. Even after priorities are identified and steps are taken to effectuate those priorities, we continue to receive and consider information relevant to prioritization. At an institution level, such information may include new whistleblower tips and leads; additional risks identified in ongoing supervisory and enforcement activities; and compliance issues identified and brought to our attention by institutions themselves.

The Office of Fair Lending considers a number of factors in determining how best to address this new information. Such factors may include the nature and extent of the fair lending risk; the degree of consumer harm involved; whether the risk appears to be isolated or widespread within a market; whether the risk was self-identified and/or self-disclosed to the Bureau; and the nature and extent of an institution's remediation plans. Based on these and other factors, the Office of Fair Lending may decide to initiate supervisory or enforcement activity, conduct additional research or ongoing monitoring of particular issues or institutions, issue guidance, leverage outreach events, or engage in other activity within the Bureau's authority. Fair Lending takes account of responsible conduct as set forth in CFPB Bulletin 2013–06, Responsible Business Conduct: Self-Policing, Self-Reporting, Remediation, and Cooperation.[25]

2. Fair Lending Supervision

The CFPB's Fair Lending Supervision program assesses compliance with Federal consumer financial laws and regulations at banks and nonbanks over which the Bureau has supervisory authority. Supervision activities range 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 continues to conduct three types of fair lending reviews at Bureau-supervised institutions: ECOA baseline reviews, ECOA targeted reviews, and HMDA data integrity reviews. Our supervisory work has focused in the priority areas of mortgage, auto lending, credit cards, and small business lending.

When the CFPB identifies situations in which fair lending compliance is inadequate, it directs institutions to establish fair lending compliance programs commensurate with the size and complexity of the institution and its lines of business. When fair lending violations have been identified, the CFPB may direct institutions to provide remediation and restitution to consumers, and may pursue other appropriate relief. The CFPB also refers a matter 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.[26] The CFPB may also refer other potential ECOA violations to the Justice Department.

2.1 Fair Lending Supervisory Observations

Although the Bureau's supervisory process is confidential, the Bureau publishes regular reports called *Supervisory Highlights,* which provide information on supervisory trends the Bureau observes without identifying specific entities. The Bureau may also draw on its supervisory experience to publish compliance bulletins in order to remind the institutions that we supervise of their legal obligations. Industry participants can use this information to inform and assist in complying with ECOA and HMDA. Throughout the year, the Office of Fair Lending, in coordination with other offices within the Division of Supervision, Enforcement and Fair Lending, engages in outreach to provide information on trends from the Bureau's supervisory experience as it relates to fair lending risk.

2.1.1 Adverse Action Notice Deficiencies

Regulation B requires a creditor to notify an applicant of an adverse action on the application taken within 30 days after receiving a completed application.[27] The notice must be in writing and contain a statement of the action taken; the name and address of the creditor; a statement describing the provisions of section 701(a) of ECOA; the name and address of the Federal agency that administers compliance with respect to the creditor; and either a statement of the specific reasons for the action taken, or a disclosure of the applicant's right to a statement of specific reasons within 30 days, if the statement is requested within 60 days of the creditor's notification.[28]

In the Winter 2015 edition of *Supervisory Highlights,* the Office of Fair Lending described supervisory observations of instances in which supervised entities failed to provide the requisite information in denial notices as set forth in Regulation B and failed to notify an applicant of action taken within 30 days after receiving the completed application.[29] These errors were attributed to weaknesses in the compliance audit programs and the monitoring and corrective action component of the compliance

[24] Dodd-Frank Act section 1071(a) (codified at 15 U.S.C. 1691c–2(a)).

[25] Consumer Financial Protection Bureau, Responsible Business Conduct: Self-Policing, Self-Reporting, Remediation, and Cooperation 2013–06 (June 25, 2013), *available at http://files.consumerfinance.gov/f/201306_cfpb_bulletin_responsible-conduct.pdf.*

[26] 15 U.S.C. 1691e(g).

[27] 12 CFR 1002.9(a)(1)(i).

[28] 15 U.S.C. 1691 *et seq.;* 12 CFR 1002.9(a)(2).

[29] Consumer Financial Protection Bureau, *Supervisory Highlights* Winter 2015 at 12 (March 11, 2015), *available at http://files.consumerfinance.gov/f/201503_cfpb_supervisory-highlights-winter-2015.pdf.*

programs.[30] In instances where these violations have been observed, the Bureau has directed the supervised entities to conduct a review of all mortgage loan applications denied within the relevant time period and take appropriate corrective action, including providing corrected notices to applicants.[31]

2.1.2 Consideration of Protected Forms of Income

In 2015, the Bureau published guidance in *Supervisory Highlights* and in a compliance bulletin to remind industry stakeholders and consumers of ECOA and Regulation B provisions regarding consideration of protected sources of income. ECOA forbids a creditor from discriminating against any applicant ''because all or part of the applicant's income derives from any public assistance program.'' [32] Regulation B states that a creditor ''shall not . . . exclude from consideration the income of an applicant . . . because of a prohibited basis or because the income is derived from part-time employment or is an annuity, pension, or other retirement benefit . . . .'' [33] Regulation B also states that a ''creditor shall not make any . . . written statement, in advertising or otherwise, to applicants or prospective applicants that would discourage on a prohibited basis a reasonable person from making or pursuing an application.'' [34]

The Winter 2015 edition of *Supervisory Highlights* discussed supervisory observations during recent examinations of instances in which Bureau examination staff found one or more violations of ECOA and Regulation B related to the treatment of protected sources of income.[35] Applicants were automatically declined if they sought to rely on income from a non-employment source, such as Social Security income or retirement benefits, in order to repay the loan. Marketing materials contained written statements regarding the prohibition and may have discouraged applicants who received public assistance or other protected sources of income from applying for credit.

While the general rules governing the prohibition against consideration of protected sources of income include narrow exceptions (*e.g.,* while a creditor may not consider the fact that an applicant receives public assistance income, the creditor can consider ''[t]he length of time an applicant will likely remain eligible to receive such income'' [36]), for these exceptions to apply, an institution must analyze each applicant's particular situation.[37] A blanket practice of denying any applicant who relies on public assistance income, or a specific form of public assistance income, without an assessment of an applicant's particular situation, may violate ECOA and Regulation B.

The relevant supervised entities were directed by examination staff to identify mortgage applicants who were wrongly denied on the basis of their protected income source, as well as prospective applicants who were discouraged by the marketing materials. Supervision also directed that remediation be made to harmed applicants and prospective applicants, including reimbursement of fees and interest; the opportunity to reapply; and additional remuneration for any consumers who were improperly denied and subsequently lost their homes.

The Winter 2015 edition of *Supervisory Highlights* [38] also emphasized guidance issued in the Bureau's November 18, 2014, bulletin on avoiding prohibited discrimination against consumers receiving Social Security disability income.[39] The bulletin reminded lenders that requiring unnecessary documentation from consumers who receive Social Security disability income raises fair lending concerns, and called attention to standards and guidelines that may help lenders comply with the law.

2.1.3 Consideration of Protected Forms of Income: Section 8 Housing Choice Voucher Homeownership Program

The Summer 2015 edition of *Supervisory Highlights* [40] and the CFPB bulletin issued on May 11, 2015, provide guidance to help lenders avoid prohibited discrimination against consumers receiving public assistance income.[41] Specifically, the bulletin reminds creditors of their obligations under ECOA and Regulation B to provide non-discriminatory access to credit for mortgage applicants by considering income from the Section 8 Housing Choice Voucher (HCV) Homeownership Program.

The Section 8 HCV Homeownership Program was created to assist low-income, first-time homebuyers in purchasing homes. The program is a component of the Department of Housing and Urban Development's (HUD) broader Section 8 Housing Choice Voucher Program, which also includes a rental assistance program.[42] These programs are funded by HUD and administered by participating local Public Housing Authorities (PHAs). Through the Section 8 HCV Homeownership Program, the participating PHA may provide an eligible consumer with a monthly housing assistance payment to help pay for homeownership expenses associated with a housing unit purchased in accordance with HUD's regulations.[43] In addition to HUD's regulations, the PHAs may also adopt additional requirements, including lender qualifications or terms of financing.[44]

As stated above, ECOA and Regulation B prohibit creditors from discriminating in any aspect of a credit transaction against an applicant ''because all or part of the applicant's income derives from any public

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[30] *Id.*

[31] *Id.*

[32] 15 U.S.C. 1691(a)(2).

[33] 12 CFR 1002.6(b)(5). Regulation B also states that ''[w]hen an applicant relies on alimony, child support, or separate maintenance payments in applying for credit, the creditor shall consider such payments as income to the extent that they are likely to be consistently made.'' *Id.*

[34] *Id.* at § 1002.4(b).

[35] Consumer Financial Protection Bureau, *Supervisory Highlights* Winter 2015 at 13 (March 11, 2015), *available at http://files.consumerfinance.gov/f/201503_cfpb_supervisory-highlights-winter-2015.pdf.*

[36] *See* Official Interpretations, 12 CFR 1002, ¶ 6(b)(2)–6 (Supp. I).

[37] *See id.* (''When considering income derived from a public assistance program, a creditor may take into account, for example: i. The length of time an applicant will likely remain eligible to receive such income. ii. Whether the applicant will continue to qualify for benefits based on the status of the applicant's dependents (as in the case of Temporary Aid to Needy Families, or social security payments to a minor).'').

[38] Consumer Financial Protection Bureau, *Supervisory Highlights* Winter 2015 at 18 (March 11, 2015), *available at http://files.consumerfinance.gov/f/201503_cfpb_supervisory-highlights-winter-2015.pdf.*

[39] *See* Consumer Financial Protection Bureau, Social Security Disability Income Verification Bulletin 2014–03 (November 18, 2014), *available at http://files.consumerfinance.gov/f/201411_cfpb_bulletin_disability-income.pdf.*

[40] Consumer Financial Protection Bureau, *Supervisory Highlights* Summer 2015 at 20 (June 23, 2015), *available at http://files.consumerfinance.gov/f/201506_cfpb_supervisory-highlights.pdf.*

[41] Consumer Financial Protection Bureau, Section 8 Housing Choice Voucher Homeownership Program Bulletin 2015–02 (May 11, 2015), *available at http://files.consumerfinance.gov/f/201505_cfpb_bulletin-section-8-housing-choice-voucher-homeownership-program.pdf.*

[42] ''Section 8 Housing Choice Voucher Homeownership Program'' refers to the homeownership assistance program authorized by the Quality Housing & Work Responsibility Act of 1998 (Pub. L. 105–276, approved October 21, 1998; 112 Stat. 2461), and the applicable implementing regulations, 24 CFR 982.625–982.643. The program is also referred to as the Voucher Homeownership Program, the Housing Choice Voucher Homeownership Option, or the Section 8 Homeownership Program.

[43] 24 CFR 982.625(c).

[44] *Id.* at § 982.632(a).

assistance program.'' [45] ''Any Federal, state, or local governmental assistance program that provides a continuing, periodic income supplement, whether premised on entitlement or need, is 'public assistance' for purposes of the regulation. The term includes (but is not limited to) . . . mortgage supplement or assistance programs . . . .'' [46] As such, mortgage assistance provided under the Section 8 HCV Homeownership Program is income derived from a public assistance program under ECOA and Regulation B.

Regulation B further provides that ''[i]n a judgmental system of evaluating creditworthiness, a creditor may consider . . . whether an applicant's income derives from any public assistance program only for the purpose of determining a pertinent element of creditworthiness.'' [47] However, ''[i]n considering the separate components of an applicant's income, the creditor may not automatically discount or exclude from consideration any protected income. Any discounting or exclusion must be based on the applicant's actual circumstances.'' [48] Accordingly, a blanket practice of excluding or refusing to consider Section 8 HCV Homeownership Program vouchers as a source of income or accepting the vouchers only for certain mortgage loan products or delivery channels, without an assessment of an applicant's particular situation, may violate ECOA and Regulation B.

Through the supervisory process, the Bureau has become aware of one or more institutions excluding or refusing to consider income derived from the Section 8 HCV Homeownership Program during the mortgage loan application and underwriting process. Some institutions have restricted the use of Section 8 HCV Homeownership Program vouchers to only certain home mortgage loan products or delivery channels. Supervision has required one or more institutions to update their policies and procedures to ensure that their practices concerning Section 8 HCV Homeownership Program vouchers comply with ECOA and its implementing regulation, Regulation B. In addition, Supervision has required one or more institutions to identify borrowers who, due to their reliance on Section 8 HCV Homeownership Program vouchers, were either denied loans, or discouraged from applying; and to provide those borrowers with financial remuneration and an opportunity to reapply.

2.1.4 Underwriting Disparity Findings and Remedial Actions

The Fall 2015 edition of *Supervisory Highlights* detailed the Bureau's supervisory work on ECOA targeted reviews that analyze an institution's underwriting practices. It describes the Bureau's supervisory underwriting reviews, methodologies used to understand underwriting outcomes and identify potential disparities, file selection methods, and guidance to institutions on managing fair lending risks in underwriting.[49]

CFPB examination teams conduct targeted ECOA reviews to evaluate areas of heightened fair lending risk. These reviews generally focus on a specific line of business, such as mortgages, credit cards, automobile finance or small business lending. Our underwriting reviews typically include a statistical analysis, and in some cases a loan file review, that assess an institution's compliance with ECOA and its implementing regulation, Regulation B, within the specific business line selected.

In each examination where a file review is conducted, the review is tailored to the specific heightened areas of risk that have previously been identified. If the examiners identify examples of files that may provide evidence of discrimination, they share the files with the institution to obtain the institution's explanation. If, following the statistical analysis and the file review, the examination team believes that there may be a violation of ECOA, the CFPB may share the findings with the institution in a Potential Action and Request for Response for Fair Lending letter (detailed below).

We noted that CFPB examination teams have conducted numerous examinations to determine whether statistical disparities in underwriting outcomes attributable to race, national origin, or some other prohibited basis characteristic constituted a violation of ECOA. Many of these examinations have concluded without findings of discrimination. In one or more examinations, however, examiners concluded that the disparities resulted from illegal discrimination in violation of ECOA.

When examiners identify underwriting disparities that violate ECOA, the Bureau will require the institution to pay remuneration to affected borrowers, which may include application or other fees, costs, and other damages. Institutions also may be required to re-offer credit. In addition, institutions must identify and address any underlying compliance management system (CMS) weaknesses that led to the violations.

2.2 Potential Action and Request for Response for Fair Lending (PARR–FL) Letters

In the event that the Bureau is considering formal action, the Bureau may send a Potential Action and Request for Response for Fair Lending (PARR–FL) letter to the institution.[50] As part of the examination process, the Bureau sends a PARR–FL letter to provide the entity notice of preliminary findings of violation(s) of Federal consumer financial law. The PARR–FL letter also notifies the entity that the Bureau is considering taking supervisory action, such as a non-public memorandum of understanding, or a public enforcement action, based on the potential violations identified and described in the letter. If there is a potential ECOA violation that could be referred to the DOJ, the PARR–FL letter provides the entity notice of the potential for a referral.

Generally, a PARR–FL letter will:

- Identify the laws that the Bureau has preliminarily identified may have been violated and describe the possible illegal conduct;
- Generally describe the types of relief available to the Bureau;
- Inform the relevant institution of its opportunity to submit a written response presenting its positions regarding relevant legal and policy issues, as well as facts through affidavits or declarations;
- Describe the manner and form by which the institution should respond, if it chooses to do so, and provide a submission deadline, generally 14 calendar days, for timely consideration;
- Inform the relevant institution that the Bureau is considering recommending corrective action; and
- When appropriate, inform the relevant institution that the Office of Fair Lending is considering recommending that the Bureau refer the institution to the DOJ.

Typically, when a PARR–FL letter results from supervisory activity, the

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[45] 15 U.S.C. 1691(a)(2); 12 CFR 1002.2(z), 1002.4(a).

[46] Official Interpretations, 12 CFR 1002.2, ¶ 2(z)–3 (Supp. I).

[47] 12 CFR 1002.6(b)(2)(iii).

[48] Official Interpretations, 12 CFR 1002.6 ¶ 6(b)(5)–3(ii) (Supp. I).

[49] Consumer Financial Protection Bureau, *Supervisory Highlights* Fall 2015 at 27 (November 3, 2015), *available at http://files.consumerfinance.gov/f/201510_cfpb_supervisory-highlights.pdf.*

[50] A recent issue of *Supervisory Highlights* described non-Fair Lending PARR letters and the ARC process. *See* Consumer Financial Protection Bureau, *Supervisory Highlights* Summer 2015 at 27 (June 23, 2015), *available at http://files.consumerfinance.gov/f/201506_cfpb_supervisory-highlights.pdf.*

Bureau will send the PARR–FL letter prior to finalizing the examination report or supervisory letter. The Bureau carefully considers the institution's response before reaching a final decision about whether to cite an ECOA violation, what corrective action to take, and, as appropriate, whether to refer the matter to the DOJ. Depending on the response, the Bureau may determine that there is no violation of law, and that, therefore, neither corrective action nor a referral is appropriate. If the Bureau finds a violation, the examination report or supervisory letter will convey the final findings to the institution, the Bureau will seek appropriate corrective action, and the Bureau will inform the institution of any referral of the matter to the DOJ.

2.3 ECOA Baseline Modules Update

On October 30, 2015, the CFPB published an update to the ECOA Baseline Review Modules, which are part of the CFPB Supervision and Examination Manual. Examination teams use the ECOA Baseline Review Modules to conduct ECOA Baseline Reviews, which evaluate how well institutions' compliance management systems identify and manage fair lending risks. The revised Baseline Review modules better align in content and organization with the CFPB's examination procedures for CMS. The revised modules are consistent with the FFIEC Interagency Fair Lending Examination Procedures and organized by fair lending risk areas, such as origination and servicing. In addition, the fifth module, ''Fair Lending Risks Related to Models,'' is a new module that examiners will use to review empirical models that supervised financial institutions may use.

When using the modules to conduct an ECOA Baseline Review, CFPB examination teams review an institution's fair lending supervisory history, including any history of fair lending risks or violations previously identified by the CFPB or any other federal or state regulator. Examination teams collect and evaluate information about an entity's fair lending compliance program, including board of director and management participation, policies and procedures, training materials, internal controls and monitoring and corrective action. In addition to responses obtained pursuant to information requests, examination teams may also review other sources of information, including any publicly-available information about the entity as well as information obtained through interviews with an institution's staff or supervisory meetings with an institution. Examiners may complete one or more modules as part of a broader review of compliance within an institution product line. For example, in order to evaluate fair lending risks related to mortgage servicing, examination teams may use Module IV, Fair Lending Risks Related to Servicing. This module includes questions on such topics as servicing consumers with Limited English Proficiency and policies and procedures related to the offering of hardship and/or loss mitigation options.

The updated ECOA Baseline Review Modules and the CFPB Supervision and Examination Manual can be found on the Bureau's Web site at *www.consumerfinance.gov.*

3. 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.[51] However, when the Bureau makes a referral to the DOJ, the Bureau can still take its own independent action to address a violation. In 2015, the Bureau announced four 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.

3.1 Fair Lending Public Enforcement Actions

3.1.1 Mortgage

Hudson City Savings Bank

On September 24, 2015, the CFPB and the DOJ filed a joint complaint against Hudson City Savings Bank (Hudson City) alleging discriminatory redlining practices in mortgage lending and a proposed consent order to resolve the complaint.[52] The complaint alleges that from at least 2009 to 2013 Hudson City illegally redlined by providing unequal access to credit to neighborhoods in New York, New Jersey, Connecticut, and Pennsylvania. Specifically, Hudson City structured its business to avoid and thereby discourage residents in majority-Black-and-Hispanic neighborhoods from accessing mortgages. The consent order requires Hudson City to pay $25 million in direct loan subsidies to qualified borrowers in the affected communities, $2.25 million in community programs and outreach, and a $5.5 million penalty. This represents the largest redlining settlement in history as measured by such direct subsidies. On October 30, 2015, Hudson City was acquired by M&T Bank Corporation, and Hudson City was merged into Manufacturers Banking and Trust Company (M&T Bank), with M&T Bank as the surviving institution. As the successor to Hudson City, M&T Bank is responsible for carrying out the terms of the Consent Order.

Hudson City was a federally-chartered savings association with 135 branches and assets of $35.4 billion and focused its lending on the origination and purchase of mortgage loans secured by single-family properties. According to the complaint, Hudson City illegally avoided and thereby discouraged consumers in majority-Black-and-Hispanic neighborhoods from applying for credit by:

- Placing branches and loan officers principally outside of majority-Black-and-Hispanic communities;
- Selecting mortgage brokers that were mostly located outside of, and did not effectively serve, majority-Black-and-Hispanic communities;
- Focusing its limited marketing in neighborhoods with relatively few Black and Hispanic residents; and
- Excluding majority-Black-and-Hispanic neighborhoods from its credit assessment areas.

The consent order, which was entered by the court on November 4, 2015,[53] requires Hudson City to pay $25 million to a loan subsidy program that will offer residents in majority-Black-and-Hispanic neighborhoods in New Jersey, New York, Connecticut, and Pennsylvania mortgage loans on a more affordable basis than otherwise available from Hudson City; spend $1 million on targeted advertising and outreach to generate applications for mortgage loans from qualified residents in the affected majority-Black-and-Hispanic neighborhoods; spend $750,000 on local partnerships with community-based or governmental organizations that provide assistance to residents in majority-Black-and-Hispanic neighborhoods; and

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[51] 15 U.S.C. 1691e(g).

[52] *Consumer Financial Protection Bureau* v. *Hudson City Savings Bank, F.S.B.,* No. 2:15–cv–07056–CCC–JBC (D.N.J. Sept. 24, 2015) (complaint), *available at http://files.consumerfinance.gov/f/201509_cfpb_hudson-city-joint-complaint.pdf.*

[53] *Consumer Financial Protection Bureau* v. *Hudson City Savings Bank, F.S.B.,* No. 2:15–cv–07056–CCC–JBC (D.N.J. Sept. 24, 2015) (consent order), *available at http://files.consumerfinance.gov/f/201511_cfpb_hudson-city-consent-order.pdf.*

spend $500,000 on consumer education, including credit counseling and financial literacy. In addition to the monetary requirements, the decree orders Hudson City to open two full-service branches in majority-Black-and-Hispanic communities, expand its assessment areas to include majority-Black-and-Hispanic communities, assess the credit needs of majority-Black-and-Hispanic communities, and develop a fair lending compliance and training program.

Provident Funding Associates

On May 28, 2015, the CFPB and the DOJ filed a joint complaint against Provident Funding Associates (Provident) alleging discrimination in mortgage lending, along with a proposed order to settle the complaint.[54] The complaint alleges that from 2006 to 2011, Provident discriminated in violation of ECOA by charging over 14,000 African-American and Hispanic borrowers more in brokers' fees than similarly-situated non-Hispanic White borrowers on the basis of race and national origin. Provident is required under the order to pay $9 million in damages to harmed African-American and Hispanic borrowers.

Provident is headquartered in California and originates mortgage loans through its nationwide network of brokers. Between 2006 and 2011, Provident made over 450,000 mortgage loans through its brokers. During this time period, Provident's practice was to set a risk-based interest rate and then allow brokers to charge a higher rate to consumers. Provident would then pay the brokers some of the increased interest revenue from the higher rates—these payments are also known as yield spread premiums. Provident's mortgage brokers also had discretion to charge borrowers higher fees. The fees paid to Provident's brokers were thus made up of these two components: Payments by Provident from increased interest revenue and through the direct fees paid by the borrower.

The CFPB and the DOJ alleged that Provident violated ECOA by charging African-American and Hispanic borrowers more in total broker fees than non-Hispanic White borrowers based on their race and national origin and not based on their credit risk. The DOJ also alleged that Provident violated the Fair Housing Act, which also prohibits discrimination in residential mortgage lending. The agencies alleged that Provident's discretionary broker compensation policies caused the differences in total broker fees, and that Provident unlawfully discriminated against African-American and Hispanic borrowers in mortgage pricing. Approximately 14,000 African-American and Hispanic borrowers paid higher total broker fees because of this discrimination.

The consent order, which was entered by the court on June 18, 2015, requires Provident to pay $9 million to harmed borrowers, to pay to hire a settlement administrator to distribute funds to the harmed borrowers identified by the CFPB and the DOJ, and to not discriminate against borrowers in assessing total broker fees.[55] Provident will maintain the non-discretionary broker compensation policies and procedures it implemented in 2014. Provident's current policy does not allow discretion in borrower- or lender-paid broker compensation because individual brokers are unable to charge or collect different amounts of fees from different borrowers on a loan-by-loan basis. The consent order also requires that Provident continue to have in place a fair lending training program and broker monitoring program.

Provident must hire a settlement administrator to distribute the $9 million to harmed borrowers.

3.1.2 Auto Finance

Fifth Third Bank

On September 28, 2015, the CFPB resolved an action with Fifth Third Bank (Fifth Third) that requires Fifth Third to change its pricing and compensation system by substantially reducing or eliminating discretionary markups to minimize the risks of discrimination. On that same date, the DOJ also filed a complaint and proposed consent order in the U.S. District Court for the Southern District of Ohio addressing the same conduct. That consent order was entered by the court on October 1, 2015. Fifth Third's past practices resulted in thousands of African-American and Hispanic borrowers paying higher interest rates than similarly-situated non-Hispanic White borrowers for their auto loans. The consent orders require Fifth Third to pay $18 million in restitution to affected borrowers.[56]

As of the second quarter of 2015, Fifth Third was the ninth largest depository auto loan lender in the United States and the seventeenth largest auto loan lender overall. As an indirect auto lender, Fifth Third sets a risk-based interest rate, or ''buy rate,'' that it conveys to auto dealers. Fifth Third then allows auto dealers to charge a higher interest rate when they finalize the transaction with the consumer. As described above, this is typically called ''discretionary markup.'' Markups can generate compensation for dealers while giving them the discretion to charge similarly-situated consumers different rates. Fifth Third's policy permitted dealers to mark up consumers' interest rates as much as 2.5% during the period under review.

From January 2013 through May 2013, the Bureau conducted an examination that reviewed Fifth Third's indirect auto lending business for compliance with ECOA and Regulation B. On March 6, 2015, the Bureau referred the matter to the DOJ. The CFPB found and the DOJ alleged that Fifth Third's indirect lending policies resulted in minority borrowers paying higher discretionary markups, and that Fifth Third violated ECOA by charging African-American and Hispanic borrowers higher discretionary markups for their auto loans than non-Hispanic White borrowers without regard to the creditworthiness of the borrowers. Fifth Third's discriminatory pricing and compensation structure resulted in thousands of minority borrowers paying, on average, over $200 more for their auto loans originated between January 2010 and September 2015.

The CFPB's administrative consent order and the DOJ's consent order require Fifth Third to reduce dealer discretion to mark up the interest rate to a maximum of 1.25% for auto loans with terms of five years or less, and 1% for auto loans with longer terms, or move to non-discretionary dealer compensation. Fifth Third is also required to pay $18 million to affected African-American and Hispanic borrowers whose auto loans were financed by Fifth Third between January 2010 and September 2015. The Bureau did not assess penalties against Fifth Third because of the bank's responsible conduct, namely the proactive steps the bank is taking that directly address the fair lending risk of discretionary pricing and compensation systems by substantially reducing or eliminating that discretion altogether. In addition, Fifth Third Bank must hire a settlement

[54] *United States and Consumer Financial Protection Bureau* v. *Provident Funding Associates, L.P.*, No. 3:15–cv–023–73 (N.D. Cal. May 28, 2015) (complaint), *available at http://files.consumerfinance.gov/f/201505_cfpb_complaint-provident-funding-associates.pdf.*

[55] *United States* v. *Provident Funding Associates, L.P.*, No. 3:15–cv–02373 (N.D. Cal. June 18, 2015) (consent order), *available at http://files.consumerfinance.gov/f/201505_cfpb_consent-order-provident-funding-associates.pdf.*

[56] *In re, Fifth Third Bank,* No. 2015–CFPB–0024 (Sept. 28, 2015) (consent order), *available at http://files.consumerfinance.gov/f/201509_cfpb_consent-order-fifth-third-bank.pdf.*

administrator who will contact consumers, distribute the funds, and ensure that affected borrowers receive compensation.

American Honda Finance Corporation

On July 14, 2015, the CFPB resolved an action with American Honda Finance Corporation (Honda) that, like Fifth Third Bank, requires Honda to change its pricing and compensation system by substantially reducing or eliminating discretionary markups to minimize the risks of discrimination.[57] On that same date, the DOJ also filed a complaint and proposed consent order in the U.S. District Court for the Central District of California addressing the same conduct. That consent order was entered by the court on July 16, 2015. Honda's past practices resulted in thousands of African-American, Hispanic, and Asian and Pacific Islander borrowers paying higher interest rates than similarly-situated non-Hispanic White borrowers for their auto loans. As part of the enforcement action, Honda is required to pay $24 million in restitution to affected borrowers.

Honda is wholly-owned by American Honda Motor Co., Inc. and as of the first quarter of 2015, Honda was the fourth largest captive auto lender in the United States and the ninth largest auto lender overall. As an indirect auto lender, Honda sets a risk-based interest rate, or ''buy rate,'' that it conveys to auto dealers. Honda then allows auto dealers to charge a higher interest rate when they finalize the transaction with the consumer. As described above, this is typically called ''discretionary markup.'' The discretionary markups can generate compensation for dealers while giving them the discretion to charge similarly-situated consumers different rates. Honda permitted dealers to mark up consumers' risk-based interest rates as much as 2.25% for contracts with terms of five years or less, and 2% for contracts with longer terms.

The enforcement action was the result of a joint CFPB and DOJ investigation that began in April 2013. The agencies investigated Honda's indirect auto lending activities' compliance with ECOA. The CFPB found and the DOJ alleged that Honda's indirect lending policies resulted in minority borrowers paying higher discretionary markups and that Honda violated ECOA by charging African-American, Hispanic, and Asian and Pacific Islander borrowers higher discretionary markups for their auto loans than similarly-situated non-Hispanic White borrowers. Honda's discriminatory pricing and compensation structure resulted in thousands of minority borrowers paying, on average, from $150 to over $250 more for their auto loans originated from January 2011 through July 14, 2015.

The CFPB's administrative consent order and the DOJ's consent order require Honda to reduce dealer discretion to mark up the interest rate to a maximum of 1.25% for auto loans with terms of five years or less, and 1% for auto loans with longer terms, or move to non-discretionary dealer compensation. Honda is also required to pay $24 million to affected African-American, Hispanic, and Asian and Pacific Islander borrowers whose auto loans were financed by Honda between January 1, 2011 and July 14, 2015. As in the case of Fifth Third, the Bureau did not assess penalties against Honda because of Honda's responsible conduct, namely the proactive steps the company took to directly address the fair lending risk of discretionary pricing and compensation systems by substantially reducing or eliminating that discretion altogether. In addition, Honda, through American Honda Motor Co., will contact consumers, distribute the funds, and ensure that affected borrowers receive compensation.

3.2 *Implementing Public Consent Orders*

When an enforcement action is resolved through a public consent order, the Bureau (and the DOJ, where relevant) will take steps to ensure that the respondent or defendant complies with the requirements of the order. As appropriate to the specific requirements of individual public consent orders, the Bureau may take steps to ensure that borrowers who are eligible for compensation receive remuneration and that the defendant has implemented a comprehensive fair lending compliance management system. Throughout 2015, the Offices of Fair Lending and Supervision worked to implement and oversee compliance with three separate consent orders that were issued by Federal courts or the Bureau's Director in prior years. A description of these is included below.

3.2.1 *Settlement Administration*

Synchrony Bank, Formerly Known as GE Capital Retail Bank

On June 19, 2014, the CFPB, as part of a joint enforcement action with the DOJ, ordered Synchrony Bank, formerly known as GE Capital, to provide $169 million in relief to about 108,000 borrowers excluded from debt relief offers because of their national origin.[58]

As previously reported, Synchrony Bank had two different promotions that allowed credit card customers with delinquent accounts to address their outstanding balances, one by paying a specific amount to bring their account current in return for a statement credit and another by paying a specific amount in return for waiving the remaining account balance. However, it did not extend these offers to any customers who indicated that they preferred to communicate in Spanish and/or had a mailing address in Puerto Rico, even if the customer met the promotion's qualifications. This practice denied consumers the opportunity to benefit from these promotions on the basis of national origin in direct violation of ECOA. This public enforcement action represented the federal government's largest credit card discrimination settlement in history.

In the course of administering the settlement, Synchrony Bank identified additional consumers who were excluded from these offers and had a mailing address in Puerto Rico or indicated a preference to communicate in Spanish. Synchrony Bank provided a total of approximately $201 million in redress including payments, credits, interest, and debt forgiveness to approximately 133,463 eligible consumers. This amount includes approximately $4 million of additional redress based on its identification of additional eligible consumers. Synchrony completed redress to consumers as of August 8, 2015.

PNC Bank, as Successor to National City Bank

As previously reported, on December 23, 2013, the CFPB and the DOJ filed a joint complaint against National City Bank for discrimination in mortgage lending, along with a proposed order to settle the complaint. Specifically, the complaint alleged that National City Bank charged higher prices on mortgage loans to African-American and Hispanic borrowers than similarly-situated non-Hispanic White borrowers between 2002 and 2008. The consent order, which was entered on January 9, 2014, by the U.S. District Court for the Western District of Pennsylvania, required National City's successor, PNC Bank, to pay $35 million in restitution to harmed African-American and Hispanic borrowers. The

[57] *In re. American Honda Finance Corp.,* No. 2015–CFPB–0014 (July 14, 2015) (consent order), *available at http://files.consumerfinance.gov/f/201507_cfpb_consent-order_honda.pdf.*

[58] *In re. Synchrony Bank, f/k/a GE Capital Retail Bank,* No. 2014–CFPB–0007 (June 19, 2014) (consent order), *available at http://files.consumerfinance.gov/f/201406_cfpb_consent-order_synchrony-bank.pdf.*

consent order also required PNC to pay to hire a settlement administrator to distribute funds to victims identified by the CFPB and the DOJ.[59]

In order to carry out the Bureau's and the DOJ's 2013 settlement with PNC, as successor in interest to National City Bank, the Bureau and the DOJ worked closely with the settlement administrator and PNC to distribute $35 million to harmed African-American and Hispanic borrowers. On September 16, 2014, the Bureau published a blog post (available in English[60] and Spanish[61]) announcing the selection of the settlement administrator and providing information on contacting the administrator and submitting settlement forms. Under the supervision of the government agencies, the settlement administrator contacted over 90,000 borrowers who were eligible for compensation and made over 120,000 phone calls in an effort to ensure maximum participation. As of the participation deadline of February 17, 2015, borrowers on approximately 74% of the affected loans responded to participate in the settlement. The settlement administrator mailed checks to participating borrowers totaling $35 million plus accrued interest on May 15, 2015.

Ally Financial Inc. and Ally Bank

On December 19, 2013, the CFPB and the DOJ entered into the federal government's largest auto loan discrimination settlement in history[62] which required Ally Financial Inc. and Ally Bank (Ally) to pay $80 million in damages to harmed African-American, Hispanic, and Asian and Pacific Islander borrowers. The CFPB found and the DOJ alleged that minority borrowers on more than 235,000 auto loans paid higher interest rates than similarly-situated non-Hispanic White borrowers between April 2011 and December 2013 because of Ally's discriminatory discretionary markup and compensation system.

Ally hired a settlement administrator to distribute the $80 million in damages to harmed borrowers. On June 15, 2015, the Bureau published a blog post announcing the selection of the settlement administrator and providing information on contacting the administrator and submitting settlement forms.[63] On June 26, 2015, the settlement administrator sent letters to Ally borrowers identified as potentially eligible for remediation from the settlement fund. Consumers had until October 2015 to respond, after which the agencies determined the final distribution amount for each eligible borrower. Following the conclusion of the participation period, Ally's settlement administrator identified approximately 301,000 eligible, participating borrowers and co-borrowers—representing approximately 235,000 loans—who were overcharged as a result of Ally's discriminatory pricing and compensation structure during the relevant time period. On January 29, 2016, the Ally settlement administrator mailed checks totaling $80 million plus accrued interest to harmed borrowers participating in the settlement.[64] In addition to the $80 million in settlement payments for consumers who were overcharged between April 2011 and December 2013, Ally paid roughly $38.9 million to consumers that Ally determined were both eligible and overcharged on auto loans issued during 2014, pursuant to its continuing obligations under the terms of the orders.

3.3 Equal Credit Opportunity Act Referrals to the Department of Justice

The CFPB must refer to the DOJ 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.[65] The CFPB also may refer other potential ECOA violations to the DOJ. In 2015, the CFPB referred eight matters to the DOJ. With respect to two of the eight matters referred to the DOJ, the DOJ declined to open an independent investigation and deferred to the Bureau's handling of the matter. The CFPB's referrals to the DOJ in 2015 covered a variety of practices, specifically discrimination in mortgage lending on the bases of the receipt of public assistance income, sex, marital status, race, color, and national origin, and discrimination in auto lending on the bases of age, receipt of public assistance income, sex, marital status, race, and national origin.

3.4 Pending Fair Lending Investigations

In 2015 the Bureau had a number of ongoing fair lending investigations and authorized enforcement actions against a number of institutions. In particular, as mortgage lending is among the Bureau's top priorities, the Bureau focused its fair lending enforcement efforts on addressing 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 2015, the Bureau had a number of authorized enforcement actions in settlement negotiations and pending investigations.

The Bureau is also focused on institutions' indirect auto lending, specifically discrimination resulting from lender compensation policies that give auto dealers discretion to set loan prices. In 2015, the Bureau investigated several indirect auto lenders and at the end of 2015 had a number of authorized enforcement actions in settlement negotiations and pending investigations.

Finally, the Bureau is also investigating other areas for potential discrimination. At the end of 2015, the Bureau had a number of pending investigations in other markets including credit cards.

4. Rulemaking and Related Guidance

4.1 Home Mortgage Disclosure Act (Regulation C)

In October 2015, the Bureau issued and published in the **Federal Register** a final rule to implement the Dodd-Frank amendments to HMDA.[66] The rule also finalizes certain amendments that the Bureau believes are necessary to improve the utility of HMDA data, further the purposes of HMDA, improve the quality of HMDA data, and create a more transparent mortgage market.

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[59] *Consumer Financial Protection Bureau* v. *National City Bank,* No. 2:13–cv–01817–CB (W.D. Pa. Jan. 9, 2014) (consent order), *available at http://files.consumerfinance.gov/f/201312_cfpb_consent_national-city-bank.pdf.*

[60] Patrice Ficklin, Consumer Financial Protection Bureau, *National City Bank Settlement Administrator Will Contact Eligible Borrowers Soon* (Sept. 16, 2014), *available at http://www.consumerfinance.gov/blog/national-city-bank-settlement-administrator-will-contact-eligible-borrowers-soon/.*

[61] Patrice Ficklin, Consumer Financial Protection Bureau, *El administrador de negociación del National City Bank pronto se pondrá en contacto con los prestatarios elegibles* (Sept. 16, 2014), *available at http://www.consumerfinance.gov/blog/el-administrador-de-negociacion-del-national-city-bank-pronto-se-pondra-en-contacto-con-los-prestatarios-elegibles/.*

[62] *In re. Ally Financial Inc.,* No. 2013–CFPB–0010 (Dec. 20, 2013) (consent order), *available at http://files.consumerfinance.gov/f/201312_cfpb_consent-order_ally.pdf.*

[63] Patrice Ficklin, Consumer Financial Protection Bureau, *Ally Settlement Administrator Will Contact Eligible Borrowers Soon* (June 15, 2015), *available at http://www.consumerfinance.gov/blog/ally-settlement-administrator-will-contact-eligible-borrowers-soon/.*

[64] Patrice Ficklin, Consumer Financial Protection Bureau, *Harmed Ally Borrowers Have Been Sent $80 Million in Damages* (January 29, 2016), *available at http://www.consumerfinance.gov/blog/harmed-ally-borrowers-have-been-sent-80-million-in-damages/.*

[65] 15 U.S.C. 1691e(g).

[66] 80 FR 66128 (Oct. 28, 2015), *available at https://www.gpo.gov/fdsys/pkg/FR-2015-10-28/pdf/2015-26607.pdf; see* 12 CFR part 1003.

4.1.1 HMDA History

HMDA was enacted 40 years ago to respond to redlining concerns and the effects of disinvestment in urban neighborhoods and to encourage reinvestment in the nation's cities. The statute, as implemented by Regulation C, is intended to provide the public with loan data that can be used to help determine whether financial institutions are serving the housing needs of their communities; to assist public officials in distributing public-sector investment to attract private investment in communities where it is needed; and to assist in identifying possible discriminatory lending patterns and enforcing anti-discrimination statutes.[67] HMDA data are also used for a range of mortgage market monitoring purposes by community groups, public officials, the financial industry, economists, academics, social scientists, regulators, and the media. Bank regulators and other agencies use HMDA to monitor compliance with and enforcement of the Community Reinvestment Act (CRA) and federal anti-discrimination laws, including ECOA and the Fair Housing Act (FHA).

The Dodd-Frank Act transferred rulemaking authority for HMDA to the Bureau, effective July 2011. It also amended HMDA to require financial institutions to report new data points and authorized the Bureau to require financial institutions to collect, record, and report additional information.

4.1.2 Rule History

On August 29, 2014, the Bureau published in the **Federal Register** a proposed rule to implement changes to Regulation C and sought public comment on the proposal.[68] The comment period ran through the end of October 2014. The Bureau received approximately 400 comments on its HMDA proposal. Commenters included consumer advocacy groups; national, State, and regional industry trade associations; banks; credit unions; software providers; housing counselors; academics; and others. The Bureau also consulted with or offered to consult with the prudential regulators (the Federal Reserve Board (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency (OCC)), the DOJ, HUD, the Federal Housing Finance Agency, the Securities and Exchange Commission (SEC), and the FTC.

In adopting the final rule, the Bureau carefully reviewed and considered all of the comments it received, and published the final rule in the **Federal Register** on October 28, 2015 (the HMDA Rule). The Bureau has also issued a number of regulatory implementation tools and resources to assist industry in understanding and implementing the new rule's requirements, which are available at *www.consumerfinance.gov/hmda.*

4.1.3 Summary of Regulation C Changes

The rule modifies the types of institutions and transactions subject to Regulation C, adds new data reporting requirements, clarifies several existing data reporting requirements and modifies the processes for reporting and disclosing the required data.

The HMDA Rule changes institutional coverage in two phases. First, to reduce burden on industry, certain lower-volume depository institutions will no longer be required to collect and report HMDA data beginning in 2017. A bank, savings association, or credit union will not be subject to Regulation C in 2017 unless it meets the asset-size, location, federally related, and loan activity tests under current Regulation C and it originates at least 25 home purchase loans, including refinancings of home purchase loans, in both 2015 and 2016. Second, effective January 1, 2018, the HMDA Rule adopts a uniform loan-volume threshold for all institutions. Beginning in 2018, an institution will be subject to Regulation C if it originated at least 25 covered closed-end mortgage loan originations in each of the two preceding calendar years or at least 100 covered open-end lines of credit in each of the two preceding calendar years. Other applicable coverage requirements will apply, depending on the type of covered entity.

The Rule also modifies the types of transactions covered under Regulation C. In general, the HMDA Rule adopts a dwelling-secured standard for transactional coverage. Beginning on January 1, 2018, covered loans under the HMDA Rule generally will include closed-end mortgage loans and open-end lines of credit secured by a dwelling and will not include unsecured loans.

For HMDA data collected on or after January 1, 2018, covered institutions will collect, record, and report additional information on covered loans. New data points include those specifically identified in Dodd-Frank as well as others the Bureau determined will assist in carrying out HMDA's purposes. The HMDA Rule adds new data points for applicant or borrower age, credit score, automated underwriting system information, debt-to-income ratio, combined loan-to-value ratio, unique loan identifier, property value, application channel, points and fees, borrower-paid origination charges, discount points, lender credits, loan term, prepayment penalty, non-amortizing loan features, interest rate, and loan originator identifier as well as other data points. The HMDA Rule also modifies several existing data points.

For data collected on or after January 1, 2018, the HMDA Rule amends the requirements for collection and reporting of information regarding an applicant's or borrower's ethnicity, race, and sex. First, a covered institution will report whether or not it collected the information on the basis of visual observation or surname. Second, covered institutions must permit applicants to self-identify their ethnicity and race using disaggregated ethnic and racial subcategories. However, the HMDA Rule will not require or permit covered institutions to use the disaggregated subcategories when identifying the applicant's or borrower's ethnicity and race based on visual observation or surname.

The Bureau is developing a new web-based submission tool for reporting HMDA data, which covered institutions will use beginning in 2018. Regulation C's appendix A is amended effective January 1, 2018 to include new transition requirements for data collected in 2017 and reported in 2018. Covered institutions will be required to electronically submit their loan application registers (LARs). Beginning with data collected in 2018 and reported in 2019, covered institutions will report the new dataset required by the HMDA Rule, using revised procedures that will be available at *www.consumerfinance.gov/hmda.*

Beginning in 2020, the HMDA Rule requires quarterly reporting for covered institutions that reported a combined total of at least 60,000 applications and covered loans in the preceding calendar year. An institution will not count covered loans that it purchased in the preceding calendar year when determining whether it is required to report on a quarterly basis. The first quarterly submission will be due by May 30, 2020.

Beginning in 2018, covered institutions will no longer be required to provide a disclosure statement or a modified LAR to the public upon request. Instead, in response to a request, a covered institution will provide a notice that its disclosure

[67] 12 U.S.C. 2801 *et seq.*

[68] 79 FR 51732 (Aug. 29, 2014), *available at http://www.gpo.gov/fdsys/pkg/FR-2014-08-29/pdf/2014-18353.pdf.*

statement and modified LAR are available on the Bureau's Web site. These revised disclosure requirements will apply to data collected on or after January 1, 2017 and reported in or after 2018.

For data collected in or after 2018 and reported in or after 2019, the Bureau will use a balancing test to determine whether and, if so, how HMDA data should be modified prior to its disclosure in order to protect applicant and borrower privacy while also fulfilling HMDA's disclosure purposes. At a later date, the Bureau will provide a process for the public to provide input regarding the application of this balancing test to determine the HMDA data to be publicly disclosed.

4.1.4 Reducing Industry Burden

The Bureau took a number of steps to reduce industry burden while ensuring HMDA data are useful and reflective of the current housing finance market. A key part of this balancing is ensuring an adequate implementation period. Most provisions of the HMDA Rule go into effect on January 1, 2018—more than two years after publication of the Rule—and apply to data collected in 2018 and reported in 2019 or later years. At the same time, an institutional coverage change that will reduce the number of depository institutions that need to report is effective earlier: On January 1, 2017. Institutions subject to the new quarterly reporting requirement will have additional time to prepare: That requirement is effective on January 1, 2020, and the first quarterly submission will be due by May 30, 2020.

As with all of its rules, the Bureau continues to look for ways to help the mortgage industry implement the new mortgage lending data reporting rules, and has created regulatory implementation resources that are available online. These resources include an overview of the final rule, a plain-language compliance guide, a timeline with various effective dates, a decision tree to help institutions determine whether they need to report mortgage lending data, a chart that provides a summary of the reportable data, and a chart that describes when to report data as not applicable. The Bureau will monitor implementation progress and will be publishing additional regulatory implementation tools and resources on its Web site to support implementation needs.[69]

4.1.5 HMDA Data Resubmission RFI

In response to dialogue with industry and other stakeholders, the Bureau is considering modifications to its current resubmission guidelines. In comments on the Bureau's proposed changes to Regulation C, some stakeholders asked that the Bureau adjust its existing HMDA resubmission guidelines to reflect the expanded data the Bureau will collect under the HMDA Rule.

Accordingly, on January 7, 2016, the Bureau published on its Web site a Request for Information (RFI) asking for public comment on the Bureau's HMDA resubmission guidelines.[70] Specifically, the Bureau requested feedback on the Bureau's use of resubmission error thresholds; how they should be calculated; whether they should vary with the size of the HMDA submission or kind of data; and the consequences for exceeding a threshold, among other topics. Some examples of questions posed to the public include:

- Should the Bureau continue to use error percentage thresholds to determine the need for data resubmission? If not, how else may the Bureau ensure data integrity and compliance with HMDA and Regulation C?
- If the Bureau retains error percentage thresholds, should the thresholds be calculated differently than they are today? If so, how and why?
- If the Bureau retains error percentage thresholds, should it continue to maintain separate error thresholds for the entire HMDA LAR sample and individual data fields within the LAR sample? If not, why?

The RFI was published in the **Federal Register** on January 12, 2016.[71] The 60-day comment period ended on March 14, 2016. As of this report's publication date, the Bureau was reviewing the comments received in response to the RFI.

4.2 Small Business Data Collection

Section 1071 of Dodd-Frank requires financial institutions to compile, maintain, and submit to the Bureau certain data on credit applications for women-owned, minority-owned, and small businesses.[72] Congress enacted Section 1071 for the purpose of facilitating enforcement of fair lending laws and identifying business and community development needs and opportunities for women-owned, minority-owned, and small businesses. In December 2015, the Bureau updated its Unified Agenda and Regulatory Plan to reflect that rulemaking pursuant to Section 1071 is now in the pre-rule stage.[73] The first stage of the Bureau's work will be focused on outreach and research, after which the Bureau will begin developing proposed rules concerning the data to be collected and determining the appropriate procedures and privacy protections needed for information-gathering and public disclosure.

The Bureau has begun to explore some of the issues involved in the rulemaking, including engaging numerous stakeholders about the statutory reporting requirements. The Bureau is also considering how best to work with other agencies to, in part, gain insight into existing small business data collection efforts and possible ways to cooperate in future efforts. In addition, current and future small business lending supervisory activity will help 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.

4.3 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 our 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 May 28, 2015, the Bureau with the Solicitor General of the United States filed an amicus brief in *Hawkins* v. *Community Bank of Raymore* addressing the question whether Regulation B permissibly interprets ECOA's definition of "applicant" to encompass guarantors.[74] Regulation B forbids creditors from requiring one spouse to guarantee the other spouse's debt obligation solely because the couple is married. The regulation further defines the "applicants" protected from that discriminatory practice to include any such guarantor. The amicus brief argues that this interpretation of "applicant" is a

[69] These resources are *available at http://www.consumerfinance.gov/regulatory-implementation/hmda/.*

[70] *See http://www.consumerfinance.gov/newsroom/cfpb-seeks-public-input-on-mortgage-lending-information-resubmission-guidelines/.*

[71] 81 FR 1405 (Jan. 12, 2016).

[72] Dodd-Frank Act, section 1071 (codified at 15 U.S.C. 1691c–2).

[73] 80 FR 78055, 78058 (Dec. 15, 2015).

[74] Brief for the United States as Amicus Curiae Supporting Petitioners, *Hawkins* v. *Community Bank of Raymore,* 135 S.Ct. 1492 (2015) (granting cert.) (No. 14–520), *available at http://www.consumerfinance.gov/amicus/.*

permissible interpretation of ECOA that is entitled to deference and should be upheld.[75] In an equally divided 4–4 decision that lacks precedential effect, the Supreme Court affirmed the decision of the Court of Appeals for the Eighth Circuit.[76]

In 2015, the Bureau also began the process of working on an amicus brief in *Alexander* v. *Ameripro Funding, Inc.,* appealing the United States District Court for the Southern District of Texas's dismissal of an ECOA complaint alleging discrimination because all or part of the applicants' income derives from a public assistance program. The District Court held that the allegations in the complaint failed to state a *prima facie* claim of discrimination and to allege direct evidence of discrimination because the allegations were ''conclusory'' and failed to allege hostility or animus.[77] The Bureau filed its amicus brief on February 23, 2016, and argued that allegations that creditors refused to consider public assistance income state a claim under ECOA sufficient to survive a motion to dismiss. The brief also argued that hostility and animus are not elements of a discrimination claim under ECOA.[78]

The Bureau's Amicus Program is ongoing and we welcome suggestions of pending cases that might make good candidates for the program.

5. Research

As part of the Bureau's commitment to transparency and to being a data-driven agency, we continue to evaluate and share our fair lending methodologies and analytical approaches. In the Bureau's 2015 Fair Lending Report to Congress,[79] we discussed our evaluation of our proxy methodology, and responded to feedback from stakeholders. During the past year we have engaged in further dialogue around the Bureau's proxy methodology. We have also described the Bureau's approach to analyzing underwriting outcomes.

5.1 Proxy Methodology

On September 17, 2014, the Bureau published a white paper, titled *Using Publicly Available Information to Proxy for Unidentified Race and Ethnicity,* that details the Bayesian Improved Surname Geocoding (BISG) methodology the Bureau uses to calculate the probability that an individual is of a specific race and ethnicity based on his or her last name and place of residence.[80]

The analysis in the white paper showed that, compared to the distribution of self-reported race and ethnicity in a sample of mortgage applicants, the BISG proxy underestimated the percentage of non-Hispanic White mortgage applicants and overestimated the percentage of minority applicants. The analysis suggested that this pattern of under- and over-estimation is likely more pronounced for mortgage applicants, who tend to be disproportionately more non-Hispanic White than the U.S. adult population, and that in other settings, such as auto lending, the pattern may be less pronounced.

Subsequent analysis of auto loan originations reported in the Consumer Expenditure Survey (CEX), a publicly-available survey of U.S. consumer expenditures conducted by the Bureau of Labor Statistics,[81] and mortgage originations reported in the 2012 HMDA data supports this point. For instance, 12% of the U.S. adult population is African American, and in 2012 African-American consumers received 10% of auto loan originations compared to 4% of mortgage loan originations. The general pattern of the percentage of auto loan originations being closer to the corresponding population percentage holds for non-Hispanic White, Asian and Pacific Islander, and Hispanic borrowers. This evidence suggests that for a nationally representative sample of consumers, the distribution of race and ethnicity for auto loan borrowers more closely approximates the distribution of race and ethnicity in the U.S. adult population than does the distribution of race and ethnicity for mortgage borrowers.

TABLE 1—COMPARISON OF DISTRIBUTIONS OF RACE AND ETHNICITY

Race/ethnicity	Adult population (census 2010) (percent)	Auto loan originations (CEX 2012) (percent)	Mortgage loan originations (HMDA 2012) (percent)
Non-Hispanic White	67	73	82
African American	12	10	4
Asian and Pacific Islander	5	4	7
Hispanic	14	11	7

The Bureau's methodology is designed to arrive at the best estimate, based on publicly available data, of the total number of harmed borrowers and to accurately identify the full scope of harm. The Bureau makes final determinations regarding discriminatory outcomes and their scope in dialogue with individual lenders, and carefully considers every argument lenders make about alternative ways to identify the number of harmed borrowers and the amount of harm. These alternative methods do not typically suggest an absence of discrimination or consumer harm, but rather a lower level than the Bureau's original estimates. In some instances, as a result of dialogue with institutions, the Bureau has adopted changes to our analyses and reduced our estimates in response to specific alternatives offered by individual lenders with regard to their specific loan portfolios. In other instances, the Bureau has retained its original estimates, for example, where we have concluded that the proffered alternatives would underestimate the level of discrimination and harm without an adequate basis.

As we stated in our white paper, the Bureau is committed to continuing our dialogue with other federal agencies,

[75] *Id.* at 11.

[76] *Hawkins* v. *Community Bank of Raymore,* 577 U.S. (2016), 2016 WL 1092416.

[77] *Alexander* v. *Ameripro Funding, Inc.,* 2015 WL 4545625 at *4 (S.D. Tex. 2015).

[78] Brief of Amicus Curiae Consumer Financial Protection Bureau in Support of Appellants and Reversal, *Alexander, et al.* v. *Ameripro Funding, Inc., et al.,* No. 15–20710 (5th Cir. Feb. 23, 2016), *available at http://www.consumerfinance.gov/amicus/.*

[79] *Available at http://files.consumerfinance.gov/f/201504_cfpb_fair_lending_report.pdf.*

[80] *Available at http://www.consumerfinance.gov/reports/using-publicly-available-information-to-proxy-for-unidentified-race-and-ethnicity/.*

[81] *See* United States Department of Labor, Bureau of Labor Statistics, Consumer Expenditure Survey, public-use microdata *available at http://www.bls.gov/cex/pumdhome.htm.*

lenders, industry groups, consumer advocates, and researchers regarding the Bureau's methodology, the importance of fair lending compliance, and the use of proxies when self-reported race and ethnicity is unavailable. We expect the methodology will continue to evolve as enhancements are identified that further increase accuracy and performance.

5.2 Methodologies That Can Be Used To Understand Underwriting Disparities

As noted above, the Fall 2015 edition of *Supervisory Highlights* detailed the Bureau's supervisory work on ECOA targeted reviews that analyze an institution's underwriting practices, including methodologies used to understand underwriting outcomes and identify potential disparities.

In CFPB underwriting reviews, which typically evaluate potential disparities in denial rates, Bureau economists and analysts may rely on various methods to measure whether outcomes differ based on race, national origin, sex, or other prohibited bases.

One traditional method involves odds ratios, which measure the ratio of the odds of two different events. In the context of an underwriting analysis, the ratio reflects the odds of a loan application denial between groups of borrowers.

However, the Bureau may use other methods of analysis, including marginal effects, to gain a better understanding of the nature and relative magnitude of any underwriting disparities. In contrast to odds ratios, the marginal effect expresses the absolute change in denial probability associated with being a member of a prohibited basis group. For example, a marginal effect of 0.10 in an underwriting analysis means the probability of denial for the test group is 10 percentage points higher than the probability of denial for the control group. When the CFPB calculates marginal effects, it also considers a conditional marginal effect, which provides the increased chances of denial for a group holding all other factors constant, and thus controls for other, legitimate credit characteristics that may affect the probability of denial.

An additional benefit of marginal effects is that they can be compared across groups and institutions, and to the institution's overall approval and denial rates in the specific product reviewed. In this manner, the CFPB can contextualize the disparity to determine whether it warrants additional inquiry. In a number of instances, our review of marginal effects data has allowed us to decide that a particular disparity does not merit additional inquiry.

6. Interagency Coordination

6.1 Interagency Coordination and Engagement

The Office of Fair Lending regularly coordinates the CFPB's fair lending efforts with those of other federal agencies and state regulators to promote consistent, efficient, and effective enforcement of federal fair lending laws.[82] Through our interagency engagement, we work to address current and emerging fair lending risks.

6.1.1 Financial Fraud Enforcement Task Force's Non-Discrimination Working Group

The Financial Fraud Enforcement Task Force was established in November 2009 by an Executive Order aimed at strengthening the efforts of the DOJ and federal, state, and local agencies ''to investigate and prosecute significant financial crimes and other violations relating to the current financial crisis and economic recovery efforts, recover the proceeds of such financial crimes and violations, and ensure just and effective punishment of those who perpetuate financial crimes and violations.'' [83] The Non-Discrimination Working Group focuses on and monitors financial fraud or other unfair practices and emerging trends in order to proactively address emerging discriminatory practices directed at people or neighborhoods based on race, color, religion, national origin, gender, age, disability, or other bases prohibited by law.

6.1.2 Interagency Task Force on Fair Lending

The CFPB, 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.

6.1.3 Interagency Working Group on Fair Lending Enforcement

The CFPB 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. 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 with the prudential regulators to coordinate our fair lending work.

6.1.4 FFIEC HMDA/Community Reinvestment Act Data Collection Subcommittee

The CFPB takes part in the FFIEC HMDA/Community Reinvestment Act Data Collection Subcommittee, which is a subcommittee of the FFIEC Task Force on Consumer Compliance, as its work relates to the collection and processing of HMDA data jurisdiction.

6.2 CFPB–HUD Memorandum of Understanding

To increase efficiency and reduce industry burden where appropriate, the Bureau and HUD frequently collaborate and share information when there is overlapping authority. On September 2, 2015, the Bureau and HUD entered into a Memorandum of Understanding (MOU) delineating how each agency will use and properly share information to enhance fair lending compliance and interagency collaboration around institutions and issues over which the two agencies share jurisdiction. The MOU further extends the Bureau's robust working relationship with HUD. In particular, HUD can now access the Bureau's Government Portal, allowing HUD to view the Bureau's consumer complaints. HUD, in turn, provides to the Bureau reports describing the fair lending complaints that it has received. Additionally, the agencies have agreed to coordinate joint fair lending investigations to minimize duplication of efforts; meet quarterly to discuss current fair lending investigations of entities within the jurisdiction of both Agencies; coordinate action(s) in a manner consistent and complementary to each agency's actions, including determining whether multiple or joint actions are necessary and appropriate; notify each agency of relevant information under specified circumstances; and meet annually to assess the implementation of the MOU.

7. Outreach: Promoting Fair Lending Compliance and Education

Pursuant to Dodd-Frank,[84] the Office of Fair Lending regularly engages in outreach with Members of Congress, industry, bar associations, consumer advocates, civil rights organizations, other government agencies, and other stakeholders to help educate and inform

[82] Dodd-Frank Act, section 1013(c)(2)(B) (codified at 12 U.S.C. 5493(c)(2)(B)).

[83] Exec. Order No. 13519, 74 FR 60123 (Nov. 17, 2009).

[84] Dodd-Frank Act, section 1013(c)(2)(C) (codified at 12 U.S.C. 5493(c)(2)(C)).

about fair lending. The Bureau is committed to communicating directly with all stakeholders on its policies, compliance expectations, and fair lending priorities. As part of this commitment to outreach and education in the area of fair lending, equal opportunity and ensuring fair access to credit, Bureau personnel have engaged in dialogue with stakeholders on issues including the use of public assistance income in underwriting, disparate impact, HMDA data collection and reporting, indirect auto financing, the use of proxy methodology, and the unique challenges facing limited English proficient (LEP) and lesbian, gay, bisexual and transgender (LGBT) consumers in accessing credit. Outreach is accomplished through issuance of Interagency Statements, *Supervisory Highlights,* Compliance Bulletins, and blog posts, speeches and presentations at conferences and trainings, interaction with Members of Congress and their staff, and participating in convenings to discuss fair lending and access to credit matters.

7.1 Section 8 HCV Homeownership Compliance Bulletin

When the Bureau becomes aware of compliance issues that may be widespread, it works to share information with industry stakeholders and consumers to address the concerns. On May 11, 2015, the Bureau issued a compliance bulletin on the Section 8 Housing Choice Voucher (HCV) Homeownership Program.[85] The Bulletin reminds creditors of their obligations under ECOA [86] and Regulation B [87] to provide non-discriminatory access to credit for mortgage applicants using income from the Section 8 HCV Homeownership Program. In addition to publishing the Bulletin on its Web site, the Bureau published a blog post to raise consumer awareness of the Bulletin and the issues it addresses.[88]

The Bureau became aware of circumstances where institutions were excluding or refusing to consider income derived from the Section 8 HCV Homeownership Program during mortgage loan application and underwriting processes. Some institutions have restricted the use of Section 8 HCV Homeownership Program vouchers to only certain home mortgage loan products or delivery channels. Our reminder to mortgage lenders, in the form of the compliance bulletin, should help consumers who receive Section 8 HCV Homeownership Program vouchers receive fair and equal access to credit and will help industry comply with current law.

7.2 HMDA Rule and RFI

As explained more fully earlier in this report, the Bureau published its final rule implementing the Dodd-Frank Act's amendments to HMDA and Regulation C in October 2015. Prior to publishing its final rule, the Bureau received and reviewed approximately 400 comments in response to its proposed rule. Additionally, the Bureau, in accordance with its obligation under the Dodd-Frank Act to consult with the appropriate prudential regulators and other Federal agencies prior to proposing a rule and during the comment process,[89] proactively met with regulators throughout the rulemaking process to seek and consider their feedback.

In conjunction with the HMDA Rule, the Bureau published a Web page dedicated to HMDA to consolidate resources for consumers, industry, academia, the media and other stakeholders. The HMDA Web page contains the new rule, materials for better understanding the rule and its requirements, a tool to explore HMDA data, helpful facts and figures about HMDA data, and more. The Web page can be accessed at *www.consumerfinance.gov/hmda.*

In addition, on January 12, 2016, the Bureau published in the **Federal Register** a Request for Information (RFI) on possible modifications to the HMDA data resubmission guidelines.[90] More information on both the HMDA Rule and the HMDA resubmission RFI may be found in Section 4.1 of this Report.

7.3 Blog Posts

The Bureau firmly believes that an informed consumer is the best defense against predatory lending practices. When issues arise that consumers need to know about, the Bureau uses many tools to spread the word. The Bureau regularly uses its blog as a tool to communicate effectively to consumers on timely issues, emerging areas of concern, Bureau initiatives, and more. In 2015 we published several blog posts related to fair lending, including announcement of the Hudson City redlining settlement, published in both English [91] and Spanish; [92] updates on the Ally settlement, published in both English [93] and Spanish; [94] information about income from the Section 8 Housing Choice Voucher Homeownership Program; [95] and, a summary of the 2014 Annual Report.[96]

The blog may be accessed any time at *www.consumerfinance.gov/blog.*

7.4 Fair Lending Webinar

On October 15, 2015, along with federal partners from the FRB, the DOJ, the FDIC, the OCC, HUD, and the NCUA, the Office of Fair Lending staff participated in and presented at the 2015 Federal Interagency Fair Lending Hot Topics webinar. The webinar covered several fair lending topics,

[85] Consumer Financial Protection Bureau, Section 8 Housing Choice Voucher Homeownership Program Bulletin 2015–02 (May 11, 2015), *available at http://files.consumerfinance.gov/f/201505_cfpb_bulletin-section-8-housing-choice-voucher-homeownership-program.pdf.*

[86] 15 U.S.C. 1691 *et seq.*

[87] 12 CFR part 1002 *et seq.*

[88] Patrice Ficklin & Daniel Dodd-Ramirez, Income from the Section 8 Housing Choice Voucher Homeownership Program Shouldn't Mean You Don't Qualify for a Mortgage (May 11, 2015), *available at http://www.consumerfinance.gov/blog/income-from-the-section-8-housing-choice-voucher-homeownership-program-shouldnt-mean-you-dont-qualify-for-a-mortgage/.*

[89] Dodd-Frank Act, section 1022(b)(2)(B) (codified at 12 U.S.C. 5512(b)(2)(B)).

[90] Consumer Financial Protection Bureau, Request for Information Regarding Home Mortgage Disclosure Act Resubmission Guidelines 2015–0058 (Jan. 12, 2016), *available at http://files.consumerfinance.gov/f/201601_cfpb_request-for-information-regarding-home-mortgage-disclosure-act-resubmission.pdf.*

[91] Patrice Ficklin, Consumer Financial Protection Bureau, Hudson City Savings Bank to Pay $27 million to Increase Access to Credit in Black and Hispanic Neighborhoods it Discriminated against (September 24, 2015), available at *http://www.consumerfinance.gov/blog/hudson-city-savings-bank-to-pay-27-million-to-increase-access-to-credit-in-black-and-hispanic-neighborhoods-it-discriminated-against/.*

[92] Patrice Ficklin, Consumer Financial Protection Bureau, El Banco de Ahorros Hudson City pagará $27 millones para aumentar el acceso al crédito en vecindarios mayormente afroamericanos e hispanos que discriminaba (October 21, 2015), *available at http://www.consumerfinance.gov/blog/el-banco-de-ahorros-hudson-city-pagara-27-millones-para-aumentar-el-acceso-al-credito-en-vecindarios-mayormente-afroamericanos-e-hispanos-que-discriminaba/.*

[93] Patrice Ficklin, Consumer Financial Protection Bureau, Ally Settlement Administrator Will Contact Eligible Borrowers Soon (June 15, 2015), *available at http://www.consumerfinance.gov/blog/ally-settlement-administrator-will-contact-eligible-borrowers-soon/.*

[94] Patrice Ficklin, Consumer Financial Protection Bureau, Un administrador del acuerdo de Ally en breve estará en contacto con prestatarios elegibles (June 15, 2015), *available at http://www.consumerfinance.gov/blog/un-administrador-del-acuerdo-de-ally-en-breve-estara-en-contacto-con-prestatarios-elegibles/.*

[95] Patrice Ficklin & Daniel Dodd-Ramirez, Consumer Financial Protection Bureau, Income from the Section 8 Housing Choice Voucher Homeownership Program Shouldn't Mean You Don't Qualify for a Mortgage (May 11, 2015), *available at http://www.consumerfinance.gov/blog/income-from-the-section-8-housing-choice-voucher-homeownership-program-shouldnt-mean-you-dont-qualify-for-a-mortgage/.*

[96] Patrice Ficklin, Consumer Financial Protection Bureau, We're Making Progress toward Ensuring Fair Access to Credit (April 28, 2015), *available at http://www.consumerfinance.gov/blog/were-making-progress-toward-ensuring-fair-access-to-credit/.*

including the use of data in evaluating fair lending risk, compliance management, maternity leave discrimination, post-origination risks, and auto lending settlements. The webinar was viewed by more than 6,000 registrants.

7.5 Supervisory Highlights

Supervisory Highlights publications anchor the Bureau's efforts to communicate with supervised entities about supervisory findings. Because the Bureau's supervisory process is confidential, *Supervisory Highlights* reports provide information to all market participants on broad supervisory and market trends that the Bureau observes. In 2015, *Supervisory Highlights* covered many topical issues pertaining to fair lending, including an overview of Bureau underwriting reviews, discussion of mortgage origination policies that violate ECOA and Regulation B by failing to consider public assistance income, and settlement updates for recent enforcement actions that were originated in the supervisory process.

More information about the topics discussed this year in *Supervisory Highlights* can be found in Section 2.1 of this Report. As with all Bureau resources, all editions of *Supervisory Highlights* are available on *www.consumerfinance.gov/reports.*

8. Interagency Reporting

Pursuant to ECOA, the CFPB is required to file a report to Congress describing the administration of its functions under ECOA, providing an assessment of the extent to which compliance with ECOA has been achieved, and giving a summary of public enforcement actions taken by other agencies with administrative enforcement responsibilities under ECOA.[97] This section of this report provides the following information:

- A description of the CFPB's and other agencies' ECOA enforcement efforts; and
- an assessment of compliance with ECOA.

In addition, the CFPB's annual HMDA reporting requirement calls for the CFPB, in consultation with HUD, to report annually on the utility of HMDA's requirement that covered lenders itemize certain mortgage loan data.[98]

8.1 Equal Credit Opportunity Act 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.

8.1.1 Public Enforcement Actions

In addition to the CFPB, the agencies charged with administrative enforcement of ECOA under Section 704 include: The FRB, the FDIC, the OCC, and the NCUA (collectively, the FFIEC agencies);[99] the FTC, the Farm Credit Administration (FCA), the Department of Transportation (DOT), the SEC, the Small Business Administration (SBA), and the Grain Inspection, Packers and Stockyards Administration (GIPSA) of the Department of Agriculture.[100] In 2015, CFPB had four public enforcement actions for violations of ECOA, and the FDIC issued one public enforcement action for violations of ECOA and/or Regulation B.

8.1.2 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 2—MOST FREQUENTLY CITED REGULATION B VIOLATIONS BY FFIEC AGENCIES: 2015

FFIEC Agencies reporting	Regulation B violations: 2015
CFPB, FDIC, FRB, NCUA, OCC	12 CFR 1002.4(a): Discrimination on a prohibited basis in a credit transaction. 12 CFR 1002.5(b), (d): Improperly requesting information about an applicant's race, color, religion, national origin, sex, marital status or source of income. 12 CFR 1002.6(b)(1), (b)(2), (b)(5), (b)(9): Improperly considering age, receipt of public assistance, certain other income, or another prohibited basis in a system of evaluating applicant creditworthiness. 12 CFR 1002.7(a), (d)(1): Refusing to grant an individual account to a creditworthy applicant on a prohibit basis; improperly requiring the signature of an applicant's spouse or other person. 12 CFR 1002.9(a)(1), (a)(2), (b)(1), (b)(2), (c): Failure to timely notify an applicant when an application is denied; failure to provide sufficient information in an adverse action notification, including the specific reasons the application was denied; failure to timely and/or appropriately notify an applicant of either action taken or of incompleteness after receiving an application that is incomplete. 12 CFR 1002.12(b)(1), (b)(3): Failure to preserve records on actions taken on an application or of incompleteness, and on adverse actions regarding existing accounts. 12 CFR 1002.13(a) and (b): Failure to request and collect information about the race, ethnicity, sex, marital status, and age of applicants seeking certain types of mortgage loans. 12 CFR 14(a): Failure to 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 notice in writing of the applicant's right to receive a copy of all written appraisals developed in connection with the application.

TABLE 3—MOST FREQUENTLY CITED REGULATION B VIOLATIONS BY OTHER ECOA AGENCIES, 2015

Other ECOA agencies	Regulation B violations: 2015
FCA	12 CFR 1002.9: Failure to timely notify an applicant when an application is denied; failure to provide sufficient information in an adverse action notification, including the specific reasons the application was denied. 12 CFR 1002.13: Failure to request and collect information about the race, ethnicity, sex, marital status, and age of applicants seeking certain types of mortgage loans.

[97] 15 U.S.C. 1691f.

[98] 12 U.S.C. 2807.

[99] 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 Jan. 26, 2016).

[100] 15 U.S.C. 1691c.

The GIPSA, the SEC, and the SBA reported that they received no complaints based on ECOA or Regulation B in 2015. In 2015, 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.

8.2 Referrals to the Department of Justice

In 2015, the FFIEC agencies including the CFPB referred a total of 16 matters to the DOJ. The FDIC referred four matters to the DOJ. These matters alleged discriminatory treatment of persons in credit transactions due to protected characteristics, including race, national origin, marital status and receipt of public assistance income. The FRB referred four matters to the DOJ. These matters alleged discriminatory treatment of persons in credit transactions due to protected characteristics, including race, national origin, and marital status. The CFPB referred eight matters to the DOJ during 2015, finding discrimination in credit transactions on the following prohibited bases: Race, color, national origin, age, receipt of public assistance income, sex, and marital status.

8.3 Reporting on the Home Mortgage Disclosure Act

The CFPB's annual HMDA reporting requirement calls for the CFPB, in consultation with the Department of Housing and Urban Development (HUD), to report annually on the utility of HMDA's requirement that covered lenders itemize in order to disclose the number and dollar amount of certain mortgage loans and applications, grouped according to various characteristics.[101] The CFPB, in consultation with HUD, finds that itemization and tabulation of these data further the purposes of HMDA. For more information on the Bureau's proposed amendments to HMDA's implementing regulation, Regulation C, please see the Rulemaking section of this report (Section 4).

9. Conclusion

In this, our fourth Fair Lending Report to Congress, we outline our work in furtherance of our Congressional mandate to ensure fair, equitable, and nondiscriminatory access to credit. Our multipronged approach uses every tool at our disposal—supervision, enforcement, rulemaking, outreach, research, data-driven prioritization, interagency coordination, and more. We are proud to present this report as we continue to fulfill our Congressional mandate as well as the Bureau's mission to help consumer finance markets work by making rules more effective, by consistently and fairly enforcing these rules, and by empowering consumers to take more control over their economic lives.

Appendix A: Defined Terms

Term	Definition
Bureau	The Consumer Financial Protection Bureau.
CFPB	The Consumer Financial Protection Bureau.
CMS	Compliance Management System.
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 Consumer Financial Protection Bureau (CFPB). 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.
LEP	Limited English Proficiency.
LGBT	Lesbian, gay, bisexual and transgender.
NCUA	The National Credit Union Administration.
OCC	The U.S. Office of the Comptroller of the Currency.
SBA	Small Business Administration.
SEC	U.S. Securities and Exchange Commission.

[2]. Regulatory Requirements

This Fair Lending Report of the Consumer Financial Protection Bureau summarizes existing requirements under the law, and summarizes findings made in the course of exercising the Bureau's supervisory and enforcement authority. It is therefore exempt from notice and comment rulemaking requirements under the Administrative Procedure Act pursuant to 5 U.S.C. 553(b). Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. 5 U.S.C. 603(a), 604(a). The Bureau has determined that this Fair Lending Report does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

Dated: April 29, 2016.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2016–11138 Filed 5–11–16; 8:45 am]

BILLING CODE 4810–AM–P

[101] *See* 12 U.S.C. 2807.