

# **FAIR HOUSING ACT (FHA)**

## **EXAMINATION PROCEDURES**

The examination procedures in this section are primarily for the technical compliance review. Fair lending is not covered in these procedures. Findings from the technical review may aid the review for fair lending. These procedures should be conducted to ensure compliance with all sections of the subject regulation.

- Examiners must review compliance with these provisions in all compliance examinations that include review of files, and they may elect to do so as part of a regular, scheduled supervisory activity that includes a review of fair lending risk.
- Examiners must determine whether the credit union's policies, procedures, and internal controls are adequate for compliance with FHA. These procedures must also address third party loan servicers.

### **Technical Compliance Procedures**

#### **Recordkeeping Requirements**

Determine if the credit union that makes home purchase and refinance loans requests and retains the following initial data on each home loan applicant as defined by 12 CFR 203.1(b) (oral or written requests):

- Race/national origin
- Sex
- Marital status
- Age

#### **Disclosure**

Determine that the credit union informs the applicant(s) that the data regarding race/national origin, marital status, age, and sex is being requested by the Federal government for the purposes of monitoring compliance with the Federal statutes that prohibit discrimination on those bases. The credit union shall also inform the applicant(s) that the credit union is required to note the race/national origin and sex based on visual observation should the applicant(s) choose not to provide his/her race/national origin, marital status, age, and sex. (12 CFR 202.13(c))

#### **Compilation of Loan Data**

Determine that credit unions required to file a Home Mortgage Disclosure Act loan application register (LAR) maintain, update and report such LAR's in accordance with Regulation C, Home Mortgage Disclosure Act. 12 CFR Part 203.

## **Record Retention**

Determine that the credit union retains the monitoring information requested from applicants for 25 months after the credit union notifies an applicant of the action taken on an application. This requirement also applies to records of home purchase loans originated by the credit union and subsequently sold.

## **Mortgage Lending of a Credit Union Service Organization (CUSO) or Other Related organization that is a Controlled Entity**

Determine through interviews with credit union staff and review of the loan files, whether the credit union:

- Refers any applicants to a CUSO or other related organization that is more than 50% controlled by the credit union, and
- Purchases any home loans or home improvement loans (as defined by Regulation C) originated by the controlled entity as a condition to transacting any business with the controlled entity.

If this arrangement exists, the credit union is required to enter into a written agreement with that entity. The written agreement shall provide that the entity will:

- Comply with the Fair Housing Act implementing Regulations, 24 CFR Part 100 and if otherwise subject to Regulation C, Home Mortgage Disclosure Act;
- Provide its books and records for examination by the Division of Credit Unions (DCU); and
- Comply with all provisions of Regulation C with respect to home loan practices.

## **Advertisements and Public Notices**

1. If a printed advertisement of a loan for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling or any loan secured by a dwelling is used, determine whether the Equal Housing Lender or Equal Housing Opportunity logotype and legend are appropriately used.

*NOTE: The Equal Housing Lender (symbol of house) with legend (the phrase "Equal Housing Lender") or the Equal Housing Opportunity (symbol of house) with the legend (the phrase "Equal Housing Opportunity") must be used together, respectively. (12 CFR 701.31(d)(1)(i))*

*NOTE: This section may be satisfied in an oral advertisement by stating "Equal Housing Lender" or "Equal Housing Opportunity."*

2. Determine that the required Fair Housing Poster, either the Equal Housing Lender poster or HUD's Equal Housing Opportunity poster is:

- 11 x 14 inches in size;
- Conspicuously displayed in a central location within the credit union where deposits are received or residential real estate-related transactions are made (701.31(d)(2); and
- The Equal Housing Lender poster contains the correct text in the proper format of for (701.31(d)(3) or 24 CFR Part 110.25 for HUD's Equal Housing Opportunity poster.

## **REFERENCE: 2006 FDIC EXAMINATION MANUAL**

## **NCUA RULES AND REGULATIONS**