

NCUA LETTER TO FEDERAL CREDIT UNIONS

NATIONAL CREDIT UNION ADMINISTRATION
1775 Duke Street, Alexandria, VA 22314

DATE: March 2013 **LETTER NO.:** 13-FCU-02

TO: Federal Credit Unions

SUBJ: 2013 Fair Lending Examination Program and Compliance Assistance

ENCL: [New NCUA Fair Lending Guide](#)

Dear Board of Directors and Chief Executive Officer:

The purpose of this letter is to notify you of 2013 developments in the National Credit Union Administration (NCUA) Fair Lending Examination Program. These developments include new fair lending educational and compliance tools to help federal credit unions comply with fair lending laws, and the institution of off-site supervision contacts in certain instances. This letter also covers NCUA's criteria for conducting a fair lending exam or off-site supervision contact.

Which Laws and Regulations Apply for Fair Lending?

NCUA supervises and enforces fair lending laws and regulations at federal credit unions, and helps educate federally insured credit unions on their fair lending and consumer protection obligations. Fair lending laws and regulations include:

- Equal Credit Opportunity Act (Regulation B);
- Home Mortgage Disclosure Act (Regulation C); and
- Fair Housing Act (FHA).

Although NCUA did not issue these regulations, the laws require NCUA to enforce these regulations in the process of supervising federal credit unions.

New Fair Lending Guide Available for Download

NCUA has created a new Fair Lending Guide, which you can download by clicking [here](#), to assist you in developing or evaluating your credit union's fair lending compliance program. The guide includes:

- an overview of fair lending law and regulations;
- credit union operational requirements;
- issues to consider when developing fair lending compliance policies; and
- checklists for testing compliance with laws and regulations, or developing a fair lending policy for compliance.

NCUA Fair Lending Webinar Scheduled for April 4, 2013

NCUA's Office of Consumer Protection (OCP) will host a fair lending webinar on Thursday, April 4, 2013, from 1:00 p.m. to 2:30 p.m. Eastern Daylight Time. The webinar will provide an overview of NCUA's 2013 fair lending examination program, including:

- how the fair lending off-site supervision contact process works;
- fair lending tips and best practices that credit unions should consider; and
- questions and answers.

Fair Lending Exams and Supervision Contacts for 2013

As done in past years, this year NCUA will select a number of federal credit unions for a fair lending examination. Most federal credit unions will *not* be selected for a fair lending examination or an off-site supervision contact this year. Federal credit unions that *will* be selected for a fair lending exam or off-site supervision contact will have demonstrated the potential for a *higher fair lending risk* based on criteria discussed below. *For the selected federal credit unions that fit the criteria, OCP will provide advance written notification of the exam or off-site supervision contact.*

Which Federal Credit Unions Will Be Examined or Receive a Supervision Contact?

NCUA will use multiple factors to determine whether a federal credit union demonstrates the potential for higher fair lending risk which could lead to a fair lending exam or an off-site supervision contact. Some of those factors include:

- ***HMDA Outliers.*** NCUA will review the federal credit union's annual Home Mortgage Disclosure Act (HMDA) report. This report must be filed if the federal credit union makes mortgages, has an office in a Metropolitan Statistical Area, and is above the asset threshold required to report HMDA data. If a review of the HMDA report indicates that the federal credit union's lending practices fall outside the normal range for pricing, denials, withdrawals, or lending terms when compared to other financial institutions, the federal credit union is considered a HMDA outlier. Federal credit unions that are HMDA outliers and demonstrate the potential for higher fair lending risk are subject to a fair lending exam in accordance with the FFIEC exam procedures.¹
- ***Fair Lending Violations.*** In addition to HMDA data, NCUA will consider whether a federal credit union has received fair lending findings or violations noted in recent safety and soundness exams. This includes a review of the number of compliance exceptions for fair lending or other consumer lending regulations.
- ***General Compliance Risks.*** Federal credit unions that receive moderate or high risk ratings on compliance issues during their most recent safety and soundness exam may be selected.

¹ NCUA adopted the Federal Financial Institution Examination Council (FFIEC) fair lending exam procedures in 1999. Each region selected federal credit unions to examine based on the number of exam hours allocated by the Office of Examination and Insurance. In 2010, NCUA centralized the fair lending exam program in the Office of Consumer Protection. Consumer Compliance Policy and Outreach (CCPO) Analysts complete fair lending exams nationwide under the supervision and direction of the CCPO Director.

- **Other Factors.** NCUA will also consider whether a federal credit union demonstrates the potential for higher fair lending risk because of the volume, types(s), or complexity of the products and services offered, types of communities served, and whether the federal credit union has been the subject of lending discrimination complaints.

Federal credit unions that demonstrate the potential for higher fair lending risk—but are not HMDA outliers—are subject to an off-site fair lending supervision contact. If an off-site supervision contact indicates the possibility of discriminatory practices or significant findings of non-compliance with fair lending laws or regulations, a federal credit union will be considered for a fair lending exam during the next exam cycle.

Additionally, in determining which federal credit unions fit the selection criteria, NCUA also takes into account any unique factors or features related to each specific field of membership.

Fair Lending Supervision Contact Procedures ²

Minimum requirements of an off-site supervision contact include a review of policies, procedures, audit or verification assessments (or both), and compliance assessments. An off-site supervision contact will also include an evaluation of the accuracy of the Loan Application Register (LAR) for federal credit unions required to submit annual HMDA reports. OCP staff will communicate with federal credit union staff throughout each off-site supervision contact. Once the off-site supervision contact is completed, the federal credit union will receive written and oral reports of the results, including recommendations.³

We hope that the new Fair Lending Guide and upcoming webinar will answer any questions you might have about your credit union's responsibilities to comply with existing Fair Lending laws. If you have any questions regarding the NCUA fair lending program or examinations, please contact the Office of Consumer Protection at 703-518-1140 or ComplianceMail@ncua.gov.

Sincerely,

/s/

Debbie Matz
Chairman

Enclosure (embedded link)

² OCP staff will use the revised 2009 FFIEC Interagency Fair Lending Examination Procedures as a guide to complete fair lending supervision contacts. The procedures are available on the FFIEC website at www.ffiec.gov/PDF/fairlend.pdf and www.ffiec.gov/pdf/fairappx.pdf.

³ Fair Lending off-site supervision contacts are not considered material supervisory determinations and, therefore, are not subject to appeal or review under Interpretive Ruling and Policy Statement (IRPS) 11-1, as amended by IRPS 12-1. The OCP Director will resolve all concerns or disputes about the results of a supervision contact, or direct a fair lending exam if a supervision contact identifies questionable fair lending or overt discriminatory practices at a federal credit union.