

**NCUA Fair Lending Compliance Program**  
**For**  
**Federal Credit Unions**  
**Frequently Asked Questions and Answers**  
July 2017

1. *Which Laws and Regulations Apply for Fair Lending?*

Fair lending laws and regulations include: the Equal Credit Opportunity Act (ECOA), and its implementing regulation, Regulation B; the Home Mortgage Disclosure Act (HMDA), and its implementing regulation, Regulation C; and the Fair Housing Act (FH Act). In addition, the National Credit Union Administration (NCUA) regulations contain nondiscrimination requirements for real estate-related loans. See 12 CFR § 701.31.

2. *What is HMDA?*

The Home Mortgage Disclosure Act, or HMDA, is a federal law that requires many lenders to collect certain data on residential mortgage loan applications and submit the information each year to a federal database. The specific data includes information about the applicants, the loan, and the property. Starting in 2018, those reporting HMDA data must do so electronically to a system maintained by the Consumer Financial Protection Bureau. Some of the data is made available to the public.

HMDA names NCUA as the enforcement agency for all federally insured credit unions.

3. *Is my credit union required to file an annual HMDA report?*

Credit unions are covered by Regulation C and must file a HMDA report if they: (1) exceed the asset threshold on the preceding December 31; (2) have a home or branch office in a Metropolitan Statistical Area on the preceding December 31; (3) originate at least one home purchase loan or refinancing of a home purchase loan secured by a first lien on a one-to-four-family dwelling in the preceding calendar year; and (4) originate at least 25 home purchase loans, including refinancings of home purchase loans, in each of the two preceding calendar years. Credit unions should check annually for the adjusted thresholds and any changes to reporting requirements. NCUA provides updated information on these requirements in the Consumer Compliance Regulatory Resources section of its website, [www.ncua.gov](http://www.ncua.gov). NCUA may impose administrative sanctions, including civil money penalties for repeated failure to file or late filing.

4. *Does NCUA examine for HMDA compliance?*

NCUA reviews summary statistics of credit union HMDA data submitted each year and may follow up through offsite fair lending supervision contacts or onsite fair lending examinations. When NCUA schedules a fair lending examination based on HMDA data integrity concerns, examiners will evaluate the accuracy of the credit union's HMDA LAR during the

examination. Safety and soundness examiners may also review for HMDA compliance during their risk-focused examinations.

5. *What if a credit union's reported HMDA data contains errors?*

NCUA does not consider an error in compiling or recording required HMDA data a violation of the regulation if it was unintentional and occurred despite the credit union's maintenance of procedures reasonably adapted to avoid such errors. NCUA's policy has been to require credit unions to correct and resubmit their HMDA data when a HMDA LAR validation conducted during an onsite fair lending examination reveals sample error rates exceeding certain thresholds or errors making analysis of a credit union's data unreliable. Credit unions are required to correct and resubmit HMDA data when 10 percent or more of the HMDA LAR sample entries contain errors or when an individual data field contains an error rate of 5 percent or more.

6. *What federal agencies have fair lending enforcement authority over credit unions?*

NCUA, CFPB, the U.S. Department of Housing and Urban Development, and the U.S. Department of Justice.

ECOA requires NCUA to refer matters to the U.S. Department of Justice when NCUA has a reason to believe that a federal credit union has engaged in a pattern or practice of discrimination on a prohibited basis. NCUA reports violations of the FH Act to HUD or DOJ.

7. *What agency is responsible for conducting fair lending examinations at federal credit unions?*

NCUA examines federal credit unions with assets less than \$10 billion; state supervisory authorities examine state-chartered credit unions with assets less than \$10 billion; and the CFPB examines credit unions with assets over \$10 billion.

8. *What is NCUA doing to improve fair lending compliance? What resources are available for credit unions?*

NCUA offers a number of fair lending resources for credit unions which are available at <https://www.ncua.gov/regulation-supervision/Pages/policy-compliance/resource-centers/consumer/fair-lending.aspx>. Materials include a fair lending guide, regulatory alerts, webinars, HMDA resources, exam procedures, and other related information.

9. *Are NCUA's fair lending examination procedures available to credit unions?*

Yes, NCUA conducts fair lending examinations in accordance with the Federal Financial Institutions Examination Council Interagency Fair Lending Examination Procedures. Credit unions can download the procedures from NCUA's website at <https://www.ncua.gov/regulation-supervision/Pages/policy-compliance/resource-centers/consumer/fair-lending.aspx>.

*10. Will all federal credit unions receive a NCUA fair lending examination or off-site supervision contact?*

No, most credit will not be selected for a NCUA fair lending examination or off-site supervision contact. Federal credit unions selected for a fair lending exam or off-site supervision contact will have demonstrated the potential for a higher fair lending risk. 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 data, fair lending violations, and general compliance risks. Additional information about the selection criteria is provided in [Letter to Federal Credit Unions 13-FCU-02](#).

*11. How will NCUA notify a federal credit union if it is selected for a fair lending examination or off-site supervision contact?*

NCUA's Office of Consumer Financial Protection (OCFP) will send a notification letter to your chief executive officer. The letter will include an items needed list, loan officer questionnaire, and request for information about products and services offered by the credit union. It will also include the name of an OCFP staff contact who can answer any questions about the notification letter.

*12. Does NCUA review a federal credit union's financial performance during fair lending examinations and off-site supervision contacts?*

No, fair lending examinations and off-site supervision contacts focus on credit unions' lending policies, procedures, marketing or advertising, and training programs. Fair lending examinations also include a review of loan applications and loan files, and, if applicable HMDA data.

*13. What NCUA reports will a federal credit union receive at the conclusion of a fair lending examination or off-site supervision contact?*

At the conclusion of a fair lending examination, a credit union will receive a written examination report including an Overview, Supplementary Facts, Findings, Loan Exceptions and, if applicable, a Document of Resolution.

At the conclusion of a supervision contact, a credit union will receive written results including an Overview, Supplementary Facts, and Findings. If the off-site supervision contact identifies deficiencies, OCFP will provide recommendations for corrective action.

*14. How can a federal credit union dispute or appeal a fair lending exam or an off-site supervision contact?*

If a federal credit union disagrees with its fair lending examination report, the credit union may request a review by the OCFP Director. The OCFP Director will also 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.

Fair Lending examinations and 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.

*15. Does a fair lending examination or off-site supervision contact affect a federal credit union's CAMEL or risk ratings?*

OCFP does not have authority to change a credit union's CAMEL or risk ratings. However, findings from a fair lending examination or supervision contact may be used by NCUA safety and soundness examiners to determine a credit union's CAMEL or risk ratings.

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