

Federal Reserve Board Launches “Consumer Compliance Supervision Bulletin”

Article By:

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On July 26, 2018, the Federal Reserve Board (“[FRB](#)”) [announced](#) the launch of the “Consumer Compliance Supervision Bulletin” (the “[Bulletin](#)”) and simultaneously published its [first issue](#). Aimed at “senior executives in banking organizations,” the Bulletin is published by the FRB’s Division of Consumer and Community Affairs with the intent to provide high-level summaries of various consumer protection issues and to enhance the transparency of the Federal Reserve’s consumer compliance supervisory program. While the Bulletin is primarily focused on state-chartered banks that are members of the Federal Reserve System, it contains advice which will be applicable to all banks and even non-banks. For example, it will highlight violations identified through supervision and examiner observations and provide practical steps for managing consumer compliance risks in coordination with similar FRB programs such as the [Consumer Compliance Outlook](#) and the [Outlook Live](#) webinar series. In comparison to the Consumer Financial Protection Bureau’s publication of Supervisory Highlights, which notably has not been published since mid-2017, the initial issue of the Bulletin appears focused on providing high-level risk management guidance to institutions as opposed to a simple laundry list of violations identified through examinations.

With this in mind, the July 2018 Bulletin focuses on a wide-range of consumer protection issues, including:

- [Redlining](#). The Bulletin reminds institutions that redlining risk may arise from failure to market products or locate branches in the minority prevalent locations or as a result of institutional changes such as mergers, acquisitions and new lending patterns and describes the key risk factors Federal Reserve examiners may consider, including whether a bank’s (i) Community Reinvestment Act (“[CRA](#)”) assessment area appears to inappropriately exclude majority minority census tracts; (ii) record of Home Mortgage Disclosure Act and/or CRA small business lending shows statistical disparities in majority minority census tracts; (iii) branch, product and marketing strategies have an impact on minority census tracts; and (iv) consumer complaints. It also provides guidance as to redlining risk management techniques such as (i) the regular review of assessment areas and credit market areas; (ii) evaluation of fair lending risk arising from the opening, acquiring or closing of branches and offices; (iii) evaluation through marketing and outreach programs; and (iv) complaints monitoring.
- [Mortgage Target Pricing](#). The Federal Reserve details risk management insights related to

“target prices” for mortgage loan originators, particularly where a higher target price is set for originators that serve minority areas, including: (i) reviewing financial incentives for compliance with Regulation Z; (ii) implementing policies and procedures to control for fair lending risks; (iii) managing risks for loan originators with higher target prices that serve minority neighborhoods; (iv) monitoring pricing by race and ethnicity across mortgage loan originators; and (v) mapping loans by target price.

- Small Dollar Loan Pricing. It details fair lending issues associated with small dollar loan pricing such as (i) a lack of rate sheets or other pricing guidelines; (ii) broad pricing discretion at the loan officer level; (iii) lack of clear documentation for pricing decisions; and (iv) lack of monitoring for pricing disparities, and it suggests managing these risks through detailed rate sheets and documentation and the monitoring of pricing exceptions.
- Disability Discrimination. The Federal Reserve notes that some bank practices related to disability benefits, such as requiring applicants receiving disability income to provide proof of disability through a doctor’s letter, may raise fair lending concerns, and suggests addressing these risks by reviewing policies and procedures and training employees to ensure compliance.
- Maternity Leave Discrimination. Similarly, it indicates that some bank practices related to applicants on maternity leave, such as treating such applicants as unemployed, may raise fair lending risks and also suggests managing this risk through policy and procedure reviews and training.
- UDAP Issues Related to Student Loans. While noting previous enforcement with respect to deceptive practices surrounding student loan deposit accounts, the Bulletin stresses the increased UDAP risk associated with third-party student loan servicers and suggests that such risks can be managed through (i) evaluating the financial condition and experience of the third party before onboarding; (ii) monitoring third party complaints; and (iii) ensuring oversight of the third party through monitoring and assessment.
- UDAP Issues with Overdraft Fees. The Federal Reserve reiterates assessing overdraft fees on transactions with sufficient funds at the time of the transaction but not at posting is a UDAP and details risk management techniques for overdraft fee practices that include: (i) vendor management; (ii) analysis of the overdraft processing methodology and accurate disclosure of same to consumers; (iii) prohibiting overdraft fees where there are sufficient funds at the time of the transaction; and (iv) review of overdraft fee guidance and implementation of best practices.
- UDAP Issues Related to Loan Officer Misrepresentations. The Bulletin describes potential UDAP violations that may occur when loan officers make misrepresentations, particularly with respect to eligibility for loan programs or qualifications for a loan. It notes that these misrepresentations are typically identified through consumer complaints and highlights related risk management strategies such as (i) consumer complaint monitoring; (ii) refraining from definitive statements when qualifications are uncertain; (iii) clear and accurate disclosure of qualification requirements; (iv) review and modification of internal policies; (v) adoption of automated underwriting criteria; and (v) appropriate employee training.
- Other Topics of Note. The Bulletin concludes with a brief discussion of the Uniform Interagency Consumer Compliance Rating System and changes to the Military Lending Act’s

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