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ON

LOAN DISCRIMINATION

BEFORE THE

SUBCOMMITTEE ON CONSUMER AND REGULATORY AFFAIRS  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS  
UNITED STATES SENATE

10:00 A.M.  
October 24, 1989  
Room SD-538, Dirksen Senate Office Building

## SUMMARY OF FDIC LOAN DISCRIMINATION TESTIMONY

As required by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), the FDIC recently submitted to the Congress a report containing findings on the extent of discriminatory lending practices by mortgage lenders subject to regulation or supervision by the FDIC.

Our report concludes that, fortunately, the great majority of FDIC-supervised institutions are in satisfactory or better compliance with the fair lending laws. Over the last three years, we have had only five citations against FDIC-supervised institutions for illegal discriminatory practices in mortgage lending.

The FDIC monitors possible illegal mortgage discrimination on the part of FDIC-supervised institutions primarily through our consumer compliance examinations. In recent years, we have steadily increased the number of these examinations we conduct each year. We also monitor such activity through CRA protests by the public against applications and through our toll-free consumer "hotline". Institutions that do not comply with consumer protection and civil rights laws and regulations find that violations can result in increased regulatory oversight, administrative actions, civil money penalties, and delays or denials of applications. No FDIC-supervised institution with a CRA rating of less than satisfactory has had an application approved without first agreeing to take appropriate corrective actions.

There have been a number of recent changes to the laws, regulations and procedures that relate to loan discrimination and fair lending compliance and enforcement. In FIRREA, Congress enacted several amendments to the Community Reinvestment Act and the Home Mortgage Disclosure Act. These changes, which become effective in 1990, will greatly enhance the ability of the public and the regulators to ensure compliance with and vigorous enforcement of the loan discrimination laws. In addition, the FDIC plans to establish a new program in the very near future in which independent community outreach specialists will be responsible for strengthening our efforts in the community outreach area. These individuals will provide information to the FDIC examination staff to assist them in evaluating the fair lending performance of FDIC-supervised institutions.

Finally, prior to enactment of FIRREA, the Federal Financial Institutions Examination Council Consumer Compliance Task Force had formulated ideas and possible recommendations for strengthening compliance with the fair lending laws. The FDIC does not want to advocate any of these ideas until we have had a chance to further analyze them in light of the recent changes in the fair lending enforcement area made by FIRREA.

Good morning, Mr. Chairman and members of the Subcommittee. We are pleased to testify today on the Federal Deposit Insurance Corporation's report on loan discrimination. This report was submitted to the Congress as required by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"). Our report contained findings, based on a review of currently available loan acceptance and rejection statistics, on the extent of discriminatory lending practices by mortgage lenders subject to regulation or supervision by the FDIC.

Our report concludes that most FDIC-supervised institutions are in satisfactory or better compliance with the fair lending laws. However, we share the concerns of the Congress and the public regarding recent studies which indicate possible disparities in mortgage lending. We are committed to doing whatever is necessary to address these concerns.

The FDIC uses a number of legal tools to monitor and oversee the lending practices of FDIC-supervised institutions. These include the Fair Housing Act ("FHA"), the Equal Credit Opportunity Act ("ECOA"), the Community Reinvestment Act ("CRA"), and the Home Mortgage Disclosure Act ("HMDA").

The FDIC enforces these fair lending laws largely through its consumer compliance examination program. Despite a dramatic increase in the number of failed and problem institutions in recent years, which has required the FDIC to devote significantly more resources to problems involving safety and soundness, we have steadily increased the number of compliance examinations we conduct each year. In 1986, we conducted 1,228 compliance examinations; in 1987, 2,242; and in 1988, 3,066. For 1989, we expect approximately the same number of examinations as in 1988. More than 1,230 examinations were conducted during the first half of 1989. Our goal is to examine institutions rated 1, 2, or 3 for compliance once every 24 months, and institutions rated 4 and 5 at least every 12 months, with visitations conducted as necessary.

The FDIC provides its examination staff with a Manual of Compliance Examinations which contains explicit procedures to be followed in examining for compliance with the consumer protection and civil rights laws for which the FDIC has enforcement responsibility. These procedures are currently being revised to reflect changes in the laws made by FIRREA.

In evaluating an institution's compliance with consumer protection and civil rights laws, the FDIC uses two rating systems. One is the Consumer Compliance Rating System; the other is the Interagency CRA Assessment Rating System (See Attachment in FDIC Loan Discrimination Report). Under the latter, the CRA assessment factors contained in Part 345 of the

FDIC's Rules and Regulations are grouped into five "performance categories," including one category entitled "Discrimination or Other Illegal Credit Practices." It is in this performance category that we evaluate an institution's compliance with anti-discrimination and credit laws.

It is the FDIC's view that evidence of an illegal discriminatory pattern or practice in mortgage lending is one of the most serious compliance violations for which an institution may be cited. Over the last three years, FDIC-supervised institutions have been cited for only five such violations. Other fair housing violations we have found have generally been of a technical nature, primarily related to advertising, poster requirements and data collection.

Institutions that do not comply with consumer protection and civil rights laws and regulations find that violations can result in increased regulatory oversight, administrative actions, and civil money penalties. An institution also is likely to be subject to CRA protests and complaints, which can result not only in denials of applications, but in costly time delays. However, the FDIC's overall experience, with few exceptions, has been that once a problem is brought to an institution's attention, steps are taken to correct it. No FDIC-supervised institution with a CRA rating of less than satisfactory has had an application approved without first agreeing to take appropriate corrective actions.

The following table indicates the CRA ratings for FDIC-supervised institutions examined during the past three years:

CRA Ratings

Year:	1	2	3	4 and 5
1986	115	1,086	19	1
1987	221	1,965	40	8
1988	307	2,683	58	12

Our composite consumer compliance ratings are an additional measure of possible discriminatory patterns and practices. The



following table indicates the composite compliance ratings for FDIC-supervised institutions during the past three years:

Composite Compliance Ratings

Year	1	2	3	4 and 5
1986	178	891	148	11
1987	319	1,617	290	16
1988	472	2,166	394	34

Based on CRA and composite compliance ratings, it can be seen that, fortunately, the great majority of FDIC-supervised institutions are in satisfactory or better compliance with the fair lending laws.

CRA protests by the public against applications provide the FDIC with an additional vehicle through which we can monitor possible illegal mortgage lending discrimination by FDIC-supervised institutions. The FDIC received two CRA-related application protests in 1986 (against two institutions), nine in 1987 (against seven institutions) and five in 1988 (against five institutions). One protest has been submitted during 1989.

The FDIC's toll-free "hotline" is another useful indicator of possible lending discrimination practices. During 1988, the FDIC's Office of Consumer Affairs and our Regional Offices reported approximately 39,400 telephone calls for information and assistance. Of this number, 331 calls involved community reinvestment matters and 711 involved fair housing. For the first eight months of 1989, nearly 32,200 telephone calls were reported, with 348 relating to community reinvestment and 1,190 concerning fair housing matters. Many of these calls were from bankers in connection with regulation revisions. In 1988, OCA and the Regional Offices also received about 3,500 written complaints and inquiries, twenty of which involved CRA-related issues and three of which involved fair housing. During the first eight months of 1989, over 2,900 written complaints and inquiries were received. Six of these involved community reinvestment and four involved fair housing. We made no findings of mortgage lending discrimination in any of these instances.

The FDIC encourages the public to advise us of possible noncompliance by FDIC-supervised institutions with the laws the FDIC is charged with enforcing. The FDIC reviews, responds to and follows-up on all complaints received. If we receive a complaint concerning mortgage redlining, we usually perform an on-site investigation at the affected institution. All allegations of substantive, as well as technical, violations of law are taken seriously.

RECOMMENDATIONS

There have been a number of recent changes to the laws, regulations and procedures that relate to loan discrimination

and fair lending compliance and enforcement. Some have been statutory changes -- others have been instituted by the agencies of their own volition. For example, the federal financial institution supervisory agencies issued a revised CRA policy statement in March, 1989 for the specific purpose of strengthening the agencies' oversight and enforcement of CRA.

The recent amendments to CRA and HMDA contained in FIRREA provide for significant new authorities and data that will enhance greatly the ability of both the public and the regulators to monitor compliance with, and ensure the vigorous enforcement of, the loan discrimination laws. Most importantly, once the amendments to HMDA become effective and the information required by those amendments becomes available, the agencies and the public will have at their disposal more specific data to make findings on discriminatory mortgage lending practices such as those requested by the Loan Discrimination Report in FIRREA.

Beginning in 1990, HMDA will require disclosure by financial institutions of both (1) data on loan applications and their disposition and (2) the race, sex and income of borrowers and applicants. The Federal Reserve Board, in consultation with the other agencies, recently published proposed revisions to Regulation C implementing these new requirements. These revisions would require a "register" form of reporting under which lenders would record the required data on a loan-by-loan and application-by-application basis. These registers would be submitted to the federal supervisory agencies and reports reflecting individual institution and aggregate data will be generated. Thus, the information that will be available in the future as a result of these changes to the law should go a long way in addressing the need for changes to assure nondiscriminatory lending practices.

Even so, the FDIC has given significant consideration to additional ways in which we can further enhance the monitoring and enforcement of anti-discrimination laws. As a result, we anticipate the establishment of a new program in the very near future that will strengthen our efforts in the area of community outreach. FDIC policy currently provides that examiners should make outside contacts during regular compliance examinations when necessary to assess an institution's performance in meeting community credit needs. In addition, the FDIC's outreach efforts include representation at meetings, conferences and seminars sponsored by the FDIC and by community and industry groups.

However, the new program we plan to establish would provide for independent, community outreach specialists. A new position, Community Affairs Officer, would be established under our Office of Consumer Affairs, which is an independent office reporting directly to the Office of the Chairman. A similar position also would be created for each of our eight Regional Offices,

reporting to the Office of Consumer Affairs. These Officers would be primarily responsible for making contact and meeting with consumer and community groups, government and industry organizations, and others regarding community needs and the lending practices of institutions within their communities. These individuals would work independently of our compliance examiners and thus would be supplementing their analysis. However, they would provide information and data to the examination staff to assist them in evaluating FDIC-supervised institutions as to their fair lending performance. The results of these efforts to gather and analyze pertinent information regarding community credit needs and loan discrimination also would be shared with other federal financial regulators.

Finally, prior to the enactment of FIRREA, the Federal Financial Institutions Examination Council Consumer Compliance Task Force had formulated ideas and possible recommendations for strengthening compliance with the fair lending laws. The FDIC does not at this time want to advocate any of these ideas until it has had a chance to analyze the need for such measures in view of the fair lending enforcement enhancements contained in FIRREA. Further, at this time the concepts have not been reviewed by the Council, but are only ideas formulated by the Task Force.