



U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, D.C. 20410-0001

June 8, 2006

THE SECRETARY

The Honorable Barney Frank  
Ranking Member  
Committee on Financial Services  
U.S. House of Representatives  
Washington, DC 20515-6050

Dear Representative Frank:

Thank you for your letter concerning the 2004 Home Mortgage Disclosure Act (HMDA) data. As you are aware, the Federal Reserve provided the Department of Housing and Urban Development with its evaluation of this data and identified lenders with significant disparities in loan pricing for white and minority borrowers.

HUD has reviewed the study by the Federal Reserve Board and has conferred with the Federal Trade Commission, the Department of Justice, and other federal regulatory agencies on the findings of the study. HUD has also assembled a team within the Department consisting of fair housing investigators, economists, and attorneys to plan the possible investigation of individual lenders. At the team's request, the Federal Reserve has conducted additional analysis of the 2004 HMDA data, and HUD economists have contributed additional analysis. HUD is using a variety of factors to determine which lenders may be the subject of a HUD Secretary-initiated investigation. HUD is identifying which lenders, if any, on the list were the subject of past HUD complaints or have been identified by HUD partners as engaging in possible lending discrimination. HUD is also considering the volume of loans made by the lender, the locations where the lender has made loans, and the degree of pricing disparities, based on race and national origin. If HUD decides to conduct a Secretary-initiated investigation of any lender, HUD will obtain additional information from that lender regarding the credit histories of individual borrowers and the overall practices of the mortgage company in determining whether the lender has violated the Fair Housing Act.

Thank you for your interest in the Department's programs.

Sincerely,

A handwritten signature in black ink, appearing to read "Alphonso Jackson", followed by a horizontal line.

Alphonso Jackson



U.S. Department of Justice  
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 1, 2006

The Honorable Barney Frank  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Frank:

This is in response to your letter to Attorney General Gonzales concerning certain lending institutions identified by the Board of Governors of the Federal Reserve ("Federal Reserve") as having statistically significant disparities between white and minority borrowers in the proportion of loans with interest rates above specified levels ("higher-priced loans"). The Federal Reserve's study was based on 2004 data submitted by most mortgage lenders under the Home Mortgage Disclosure Act (HMDA). You have asked for information about the process being used by the Department of Justice ("Department") to evaluate whether any of the identified lending institutions are in violation of fair lending laws. Please excuse our delay in responding.

The Department enforces various federal civil rights laws, two of which proscribe discrimination in mortgage lending. The Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, prohibits discrimination in residential real estate-related transactions, including loans and other financial assistance, on the basis of race, color, religion, national origin, sex, familial status and disability. The Equal Credit Opportunity Act, 15 U.S.C. § 1691, *et seq.*, prohibits creditors from discriminating in any aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, age, or because an applicant receives income from a public assistance program.

In September 2005, Federal Reserve staff published a study of the 2004 HMDA data entitled, "New Information Reported under HMDA and Its Application in Fair Lending Enforcement," 2005 Federal Reserve Bulletin 344. As part of that study, the Federal Reserve compared each lender's white and minority borrowers to determine whether there were statistically significant disparities in the rate at which each group received higher-priced loans or the interest rates charged for such loans, as well as comparing several other loan characteristics including the rate at which applications for home loans were denied. In the study, the Federal Reserve noted that it found approximately 200 lenders with statistically significant disparities in the rate at which white and minority borrowers received higher-priced loans, which disparities could not be explained by the data available in the HMDA reports. The Federal Reserve shared

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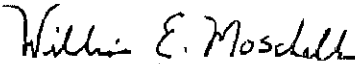
information regarding its study and the identified lenders with the Department, the banking regulatory agencies, and other government agencies with the authority to enforce fair lending requirements.

In deciding whether to initiate an investigation of a particular lender, the Department evaluates the information from the Federal Reserve study, along with a variety of other information, and conducts its own analysis of the HMDA data. To date, we have opened investigations of several lenders, contacted those lenders, and requested additional information regarding their business practices, loan products and loan data. While we cannot discuss details of ongoing investigations, we would note that all of the lenders currently under investigation are cooperating with the Department.

These investigations are ongoing, and we continue to evaluate whether enforcement action is appropriate. We also continue to review all available information to determine if additional investigations should be opened. We are coordinating our efforts with those of other federal agencies, as appropriate, to ensure that the federal government enforcement efforts in these areas are as efficient and effective as possible.

We hope this information is helpful. Please do not hesitate to contact the Department if we can be of assistance in other matters.

Sincerely,

  
William E. Moschella  
Assistant Attorney General



Comptroller of the Currency  
Administrator of National Banks

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April 27, 2006

The Honorable Barney Frank  
Ranking Member  
Committee on Financial Services  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Frank:

I am pleased to respond to your letter to me dated March 17, 2006, concerning the Office of the Comptroller of the Currency's (OCC's) use of Home Mortgage Disclosure Act (HMDA) data as a screening tool in our fair lending compliance oversight of national banks. In particular, you ask about the process the OCC follows to evaluate the compliance of national banks that are identified as having statistically significant disparities based on the 2004 HMDA data, including those banks identified by the Federal Reserve Board in its initial screening of these data for all lenders.<sup>1</sup>

At the OCC, our fair lending supervision for national banks and their operating subsidiaries ("national banks") entails a process of ongoing fair lending risk assessments and periodic in-depth fair lending examinations. The supervisory offices for each national bank conduct ongoing risk assessments during each supervisory cycle, including compliance risk. Each assessment conducted by the OCC includes a *fair lending risk assessment* to determine the quantity of fair lending risk and the quality of fair lending risk management. The scope of a fair lending assessment depends on a wide range of factors that may include prior examination findings, changes in the bank's business lines or lending practices, consumer complaints, and the adequacy of, and any changes to, its compliance risk management system. This assessment helps the examiners establish a supervisory strategy, scope, and schedule that is appropriate to the level of risk that has been identified.

The OCC supervisory offices also select national banks each year for in-depth *fair lending examinations* using our fair lending risk screening process. This annual screening process supplements the ongoing oversight for fair lending risk at national banks described above. The

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<sup>1</sup> As noted in former Chairman Greenspan's letter to you dated January 30, 2006, responding to your request for a list of the names of lenders identified by the Federal Reserve as having significant loan-pricing differences in 2004, "these results represent an initial screening, do not in themselves prove violations of fair lending laws at any institution, and are considered confidential information that is part of the supervision and enforcement process."

OCC fair lending screening process uses a number of criteria to identify fair lending risk, including the risks of discrimination in loan underwriting, discrimination in loan terms and conditions, discrimination in loan pricing, discrimination in loan marketing, and of redlining. Information from these screens not only helps to identify the banks that will undergo a fair lending examination, but also helps to shape the scope, or focus, of the examinations. In addition, a number of national banks are selected each year for fair lending examinations based on a random selection process.

The HMDA data significantly influence the OCC's identification of fair lending risks in mortgage lending by national banks. However, HMDA data are by no means the only indicators of fair lending risk. Other information that is considered in our screening process includes information developed through our examiner risk assessments described above; consumer complaints received by our Customer Assistance Group (CAG); comments on fair lending performance by national banks we receive from the public in the course of our community outreach activities; information from government entities; and other information that bears on a national bank's fair lending compliance.

As part of our fair lending screening process, the OCC reviewed a list of banks provided to us in September 2005 by the Federal Reserve Board, in connection with our own initial analysis of the HMDA data, to identify those institutions whose pricing data suggested the need for a closer look. We carefully evaluated the fair lending compliance risks at each of the banks on this list. Of the roughly four-dozen national bank entities on the Federal Reserve list, most had already been identified by the OCC's screening process as having potential fair lending compliance risks.

A few of the banks that appeared on the Federal Reserve list were not selected for an in-depth fair lending examination this year.<sup>2</sup> We viewed these banks as presenting a low degree of pricing discrimination risk because a majority of their higher cost loans were made to non-minorities, their level of higher cost lending to minorities was low, and they did not exhibit other indicia of fair lending risks in our internal screening process. In addition, two banks that appeared on the Federal Reserve list are no longer subject to our jurisdiction, having been acquired by non-OCC regulated institutions.

For those banks on the final lists produced by the OCC's processes, augmented by the data provided by the Federal Reserve, as described above, many examinations are underway, and have been completed. In these examinations for potential discrimination in loan pricing decisions, examiners -- in consultation with OCC lawyers and statistical modeling experts, where appropriate -- conduct a comparative file review. When the volume of applications is sufficient, more complex statistical analysis may be used to assist our evaluation of the banks' lending record. HMDA data are valuable inputs into these processes -- in helping examiners identify loan files for review and in providing some of the data elements to be reviewed. Many other qualitative factors are considered in this type of analysis, of course, that are not included in the HMDA data, to permit a more comprehensive evaluation of the lending practices under review

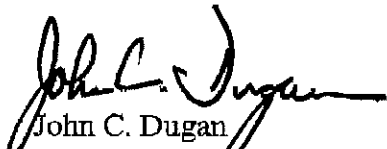
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<sup>2</sup> As Mr. Greenspan noted in his letter to you, "The Federal Reserve has not identified a particular level of statistical significance of denial or price disparities shown by HMDA data that, by itself, would trigger a heightened or more detailed fair lending review."

and to provide the basis for a determination about compliance with the fair lending laws. These include an analysis of the bank's underwriting and pricing criteria, borrower credit characteristics, credit scores, debt-to-income ratios, and loan-to-value ratios. If, after this review, loan pricing disparities remain that have not been determined to be the result of objective, nondiscriminatory credit criteria, bank management will be presented with the OCC's findings and given an opportunity to respond. If the bank cannot provide a satisfactory explanation for these disparities, the violations will be documented in the examination report and decisions will be made on referrals to the Department of Justice and/or HUD, as well as on what other OCC enforcement or supervisory actions should be taken.

I share your interest in ensuring that statistical disparities in the HMDA data and other indicators of fair lending compliance risk are used effectively by the bank regulatory agencies to identify lending practices that violate the fair lending laws. I hope that this has been responsive to your questions about the OCC's fair lending compliance process in this regard. If you have any further questions, please do not hesitate to contact me.

Sincerely,



John C. Dugan  
Comptroller of the Currency



**Office of Thrift Supervision**  
Department of the Treasury

1700 G Street, N.W., Washington, DC 20552 • (202) 906-6590

John M. Reich  
Director

**MAY 24 2006**

May 16, 2006

The Honorable Barney Frank  
Ranking Member  
Committee on Financial Services  
2129 Rayburn House Office Building  
Washington, DC 20515

Dear Congressman Frank:

This is in response to your March 17, 2006 inquiry regarding institutions within our jurisdiction that the Board of Governors of the Federal Reserve System (FRB) indicates demonstrate statistically significant disparities in mortgage lending based on the 2004 HMDA data submitted to the FRB under the Home Mortgage Disclosure Act (HMDA). In particular, you ask for an explanation of our process for evaluating the HMDA data disparities along with the status of our review of these cases.

As you note, statistical HMDA data disparities alone are not conclusive evidence of discriminatory mortgage lending practices. HMDA data do not include certain determinants of credit risk that lenders consider in pricing mortgage loan products, such as a borrower's credit history, loan-to-property-value ratio, and consumer debt-to-income ratio. Thus, while HMDA data disparities may suggest a need for closer evaluation of a lender, additional credit data is required in order to determine whether the lender may be unlawfully discriminating against certain borrowers.

In its analysis of the 2004 HMDA data forwarded to us, the FRB identified savings associations with statistically significant disparities in at least one mortgage product. Our process for evaluating these institutions consisted of several steps. At the outset, OTS staff contacted management at each of the institutions and provided them copies of the FRB analysis. The institutions were asked to respond to the FRB's findings. We also conducted on-site visits at these institutions to review internal assessments, as well as third party assessments, of the institutions' compliance with fair lending laws and regulations. Finally, we requested and reviewed all additional credit data considered by the lenders in their pricing of mortgage loan products highlighted in the FRB's HMDA data analysis.

In connection with our review of the institutions highlighted in the FRB's 2004 HMDA data, we were able to eliminate statistically significant pricing disparities for all of the institutions we regulate based on our analysis of the additional credit information used by these institutions to price the mortgage loan products highlighted in the FRB's analysis. In all of the

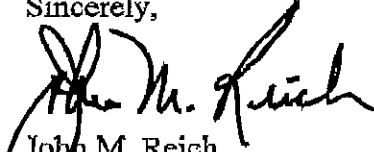
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cases we reviewed, the objective factors in the additional credit information explained the disparities identified by the FRB's analysis. As a result, we concluded that there was no evidence of unlawful discrimination and closed our review of these institutions.

Aside from our review conducted pursuant to the FRB's analysis of the 2004 HMDA data, please be advised that OTS periodically reviews the mortgage pricing policies and procedures of the institutions we regulate during our regularly scheduled fair lending examinations of each institution. These reviews are conducted pursuant to the Federal Financial Institutions Examination Council's Interagency Fair Lending Examination Procedures.

If we may provide you with any additional information regarding this matter, please feel free to contact me directly at 202-906-6590, or Kevin Petrasic, Managing Director, External Affairs, at 202-906-6452. Thank you.

Sincerely,



John M. Reich  
Director





FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

OFFICE OF THE CHAIRMAN

April 20, 2006

Honorable Barney Frank  
Ranking Minority Member  
Committee on Financial Services  
House of Representatives  
Washington, D.C. 20515

Dear Congressman Frank:

Thank you for your letter regarding the Federal Deposit Insurance Corporation's review of the 2004 Home Mortgage Disclosure Act (HMDA) data to identify violations of fair lending laws.

During 2005, the FDIC had numerous discussions with the Federal Reserve involving proper screening techniques for the 2004 HMDA data. As a result of those discussions, the FDIC developed its own screening techniques to identify FDIC institutions that exhibit an unusually high risk of pricing discrimination against one or more racial/ethnic minority groups or females and, as a result, identified additional institutions not flagged by the Federal Reserve screens. The data of each of these institutions is receiving increased scrutiny to determine whether discriminatory or other illegal credit practices may exist. These reviews, which began in 2005, are assessing not only the 2004 data but also any subsequent HMDA data collected by the institutions. For those institutions that we have not been able to resolve the questions about their data, the FDIC has scheduled on site examinations to commence no later than the end of this year.

The FDIC will not tolerate unlawful credit discrimination by the institutions we supervise. When pattern or practice violations of the Equal Credit Opportunity Act are identified, we make the required referrals to the U.S. Department of Justice (DOJ). We then coordinate with DOJ to require institutions to provide appropriate relief for the victims and to take the actions necessary to ensure that the violations do not recur.

Thank you for your interest in this important issue. If you have further questions, Alice Goodman, our Director of Legislative Affairs, can be reached at 898-8730.

Sincerely,

Martin J. Gruenberg  
Acting Chairman

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**National Credit Union Administration**



Office of the Chairman

March 31, 2006

Honorable Congressman Barney Frank  
U.S. House of Representatives  
Committee on Financial Services  
2129 Rayburn House Office Building  
Washington, DC 20515

Dear Congressman Frank:

I am responding to your letter dated March 17, 2006, regarding the Agency's analysis of HMDA data. The National Credit Union Administration (NCUA) evaluates credit unions having statistically significant disparities in their 2004 Home Mortgage Disclosure Act (HMDA) data as reported by the Federal Reserve Board (FRB):

Of the 200 financial institutions identified by the FRB as having significant differences in their 2004 HMDA data, two were credit unions. Typically, NCUA will conduct a full fair lending examination or an on-site review at credit unions having statistically significant differences in their data. Both credit unions identified by the FRB were referred to our regional offices for additional review including an on-site visit. During our on-site review, we noted errors on the loan application registers but both credit unions have filed corrected reports for 2005. Overall, our reviews did not indicate any pattern or practice of discrimination and we found that the credit unions treated applicants fairly with no evidence of disparate treatment.

Credit unions must collect HMDA data throughout the calendar year and file the data with the Federal Reserve Board by March 1st of the following calendar year. NCUA takes these HMDA filing requirements seriously. In 2005, the Agency issued orders of assessment of civil money penalties against 18 federally insured credit unions for late submissions of data required by HMDA. The amount of the civil money penalties collected against these credit unions totaled \$220,250.

It is our Agency's goal to encourage credit unions to provide quality services such as loans to all qualified groups or individuals who desire them. We also understand the importance of collecting HMDA data and will continue take necessary action against late filers.

Thank you for your interest in this very important area.

Sincerely,

A handwritten signature in cursive script that reads 'JoAnn Johnson'.

JoAnn Johnson  
Chairman

EL:LKM/lm