

**The Attorney General's
2014 Annual Report to Congress
Pursuant to the Equal Credit Opportunity Act
Amendments of 1976**



Submitted by

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April 2015

The Department of Justice (DOJ or the Department) submits this report regarding its activities in 2014 to enforce the Equal Credit Opportunity Act (ECOA), as amended, 15 U.S.C. 1691, *et seq.* See 15 U.S.C. 1691f. The report also includes information about DOJ's lending work under the Fair Housing Act (FHA), as amended, 42 U.S.C. 3601, *et seq.*, and the Servicemembers Civil Relief Act (SCRA), as amended, 50 U.S.C. App. 501, *et seq.* Within DOJ, the Civil Rights Division is responsible for enforcing the ECOA, FHA, and SCRA. This responsibility is handled by the Division's Housing and Civil Enforcement Section.

I. INTRODUCTION

In 2014, the Civil Rights Division continued to achieve significant results in its fair lending enforcement efforts, including the federal government's largest credit card discrimination settlement in history. While doing so, the Division worked diligently to ensure that money obtained in recent settlements reached aggrieved persons. Highlights of the Division's recent work include:

Record Relief

From 2010 through 2014, the Division has obtained more than \$1.2 billion in monetary relief in lending settlements under ECOA, FHA, and SCRA.

- **Identifying New Sources of Systemic Discrimination**

In June 2014, the Division, working jointly with the Consumer Financial Protection Bureau (CFPB), brought a case against one of the nation's major credit card issuers for discrimination on the basis of national origin by denying approximately 108,000 Hispanic borrowers the opportunity to participate in two credit card debt-repayment programs. Additionally, the Division, along with the State of North Carolina, filed the federal government's first-ever discrimination lawsuit involving "buy here, pay here" auto lending. After a year of litigation, the parties announced a settlement in early 2015.

- **Compensating Victims of Past Discrimination**

In 2014, the Division, working closely with defendant lenders and settlement administrators, oversaw the distribution of over \$500 million to hundreds of thousands of identified victims from fair lending cases settled since 2010. Additionally, in early 2015, the Division announced that 952 servicemembers and their co-borrowers are eligible to receive over \$123 million for non-judicial foreclosures that violated the Servicemembers Civil Relief Act, pursuant to the National Mortgage Settlement and an earlier settlement.

- **Strengthening Inter-Agency Collaboration**

The Division continued to engage in substantial cross-agency and cross-government coordination. In 2014, the Division initiated four investigations with the CFPB; we filed a lawsuit and settled one of those matters. In addition, seven joint investigations with the CFPB, which were initiated before 2014, are ongoing.

We continue to work closely with the bank regulatory agencies, the Department of Housing and Urban Development (HUD), and the Federal Trade Commission (FTC). We also continue our successful partnerships with various state attorneys general. The 2014 referrals, detailed below, are representative of the close coordination and cooperation we enjoy with our federal and state partners.

II. LENDING DISCRIMINATION ENFORCEMENT UNDER ECOA AND THE FHA

The Division has authority to enforce ECOA and the FHA on its own or upon referral from another agency. ECOA prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age; because an applicant receives income from a public assistance program; or because an applicant has in good faith exercised any right under the Consumer Credit Protection Act. The FHA prohibits discrimination in home mortgage loans, home improvement loans, and other home credit transactions because of race, color, religion, sex, national origin, familial status, or disability.¹

In cases involving discrimination in mortgage loans or home improvement loans, the Division may file suit under both ECOA and the FHA.

The Division has authority under both statutes to challenge a pattern or practice of discriminatory conduct. The Division focuses on the range of abuses in the mortgage market, including redlining and underwriting and pricing discrimination. The Division also investigates abuses in non-mortgage lending, including pricing discrimination and reverse redlining involved in auto loans, unsecured consumer loans, student loans, and credit card products.

In 2014, the Division opened 11 fair lending investigations, filed three fair lending lawsuits, and obtained four fair lending settlements.²

¹ In March 2014, the Department published a final rule raising the maximum civil penalties under the FHA. As part of the changes, the maximum civil penalty for a first violation under the FHA has increased from \$55,000 to \$75,000; for a subsequent violation the new maximum is \$150,000. The new maximums apply only to violations occurring on or after April 28, 2014.

² We lodged two of those settlements with federal district courts in 2013 and the courts entered the settlements as court orders in early 2014. *Consumer Financial Protection Bureau and United States v. National City Bank* (W.D. Pa.); *United States v. Fort Davis State Bank* (W.D. Tex.).

Division Partners

Bank regulatory agencies

CFPB - Consumer Financial Protection Bureau

FDIC - Federal Deposit Insurance Corporation

FRB - Federal Reserve Board

NCUA - National Credit Union Administration

OCC - Office of the Comptroller of the Currency

Other partners

HUD - Dep't of Housing and Urban Development

FTC - Federal Trade Commission

Reverse Redlining Discrimination in Auto Lending

On January 13, 2014, the Division and the North Carolina Attorney General filed a complaint in *United States and State of North Carolina v. Auto Fare, Inc.* (W.D.N.C.), which alleged that the owners and operators of two “buy here, pay here” used car dealerships violated ECOA by engaging in a pattern or practice of reverse redlining – or intentionally targeting African-American customers for unfair and predatory credit practices – in the financing of used car purchases. The State of North Carolina also alleged that the defendants’ actions violated the state Unfair and Deceptive Trade Practices Act. In 2014, the district court denied the dealerships’ motion to dismiss the case and agreed that reverse redlining by an auto lender is illegal discrimination.

On February 10, 2015, the Division and the North Carolina Attorney General filed a proposed consent order to resolve the lawsuit. The consent order, which was entered by the court on March 30, 2015, requires the dealerships to implement specific practices designed to ensure that the terms of their loans and repossession practices are no longer unfair and predatory. The required changes include: limiting projected monthly payments to no more than 25% of a borrower’s income; requiring interest rates to be at least five percentage points below the state’s interest rate cap; mandating a lower interest rate for borrowers who have specified evidence of lower credit risk; requiring competitive sales prices; prohibiting hidden fees on top of the required down payment; prohibiting repossessions until a borrower has missed at least two consecutive payments; providing down payment refunds to borrowers who quickly go into default; requiring strict compliance with provisions of state repossession law enacted to protect consumers; providing borrowers improved disclosures at the time of sale (including disclosing the presence of any GPS, or automatic shut off, device); allowing borrowers to obtain an independent inspection of the car before completing the purchase; and providing borrowers improved notices before repossession. The proposed consent decree also requires defendants to establish a \$225,000 settlement fund to compensate victims for their past discrimination.



“It is not only illegal, but also fundamentally wrong, to target borrowers of color for predatory loans and exploit their need for a car to do essential tasks such as getting to work. Combating discrimination in all segments of the auto lending market is, and will remain, a top priority for the Civil Rights Division...”

Acting Assistant Attorney General for the Civil Rights Division, Vanita Gupta

National Origin Discrimination in Credit Card Lending

On June 19, 2014, the Division filed a complaint and consent order in *United States v. Synchrony Bank, f/k/a GE Capital Retail Bank* (D. Utah). The complaint alleged that the bank engaged in a nationwide pattern or practice of discrimination in violation of ECOA on the basis of national origin; the bank excluded Hispanic borrowers from two of its credit card debt-repayment programs if they had a mailing address in Puerto Rico or denoted Spanish as their

preferred language for various communications. The Division investigated this matter jointly with the CFPB. On the same day the Division announced the filings, the CFPB issued an administrative order settling the same claims, as well as claims relating to the sale of credit card add-on products.³

The consent order provides at least \$169 million in relief to approximately 108,000 borrowers, in the form of monetary payments and the reduction or complete waiver of borrowers' credit card balances. The bank also agreed to other injunctive relief, including credit repair corrective actions for affected borrowers. The court entered the consent order on June 27, 2014. The agreement is the federal government's largest credit card discrimination settlement in history.



“The blatant discrimination that occurred here is unlawful and will not be tolerated. Borrowers have the right to credit card terms that do not differ based on their national origin, and the settlement today sends the message that the Justice Department can and will vigorously enforce the law against lenders who violate that right.”

Former Acting Assistant Attorney General, Jocelyn Samuels

Discrimination in Mortgage Lending Based on Disability and Receipt of Public Assistance Income

On August 7, 2014, the Division filed a complaint and consent order in *United States v. Fifth Third Mortgage Co.* (M.D. Ga.). The complaint alleged that Fifth Third Mortgage Company and Cranbrook Mortgage Corporation engaged in a pattern or practice of discrimination in violation of the FHA and ECOA. Specifically, the defendants required credit applicants with disabilities to provide an official letter from their medical doctor to substantiate that their disability income would continue, but did not impose a documentation burden on applicants without disabilities to prove their income would continue. The case arose from a referral from HUD.

The consent order provides \$1.52 million to compensate victims who had been asked to provide medical documentation to prove that the income they received from Social Security Disability Insurance would continue for three years. The bank also agreed to other injunctive relief, including employee training and the implementation of new policies. The court entered the consent order on August 11, 2014.

³ The settlement terms on the fair lending claim are in substantively identical documents: the Division filed its proposed consent order in federal district court; the CFPB filed its consent order in its administrative process.

Pricing Discrimination in Unsecured Consumer Lending

On January 15, 2015, the Division filed a complaint and consent order in *United States v. First United Bank* (N.D. Tex.). The complaint alleged that First United Bank violated ECOA by charging higher prices on unsecured consumer loans made to Hispanic borrowers than to non-Hispanic borrowers from 2008 to 2012. Specifically, we alleged that Hispanic borrowers were charged an average interest rate 142 basis points higher than the average rate charged to similarly-situated non-Hispanic borrowers. This matter was referred to the Division by the FDIC.

Under the settlement, First United will pay \$140,000 to compensate Hispanic victims of discrimination. To ensure that the price charged for its loans are set in a non-discriminatory manner, the bank will maintain its revised pricing policies, monitor its loans for potential disparities based on national origin, and provide fair lending training to its employees. The court entered the consent order on January 28, 2015.

Compliance Work: Implementing Consent Orders from 2010-2014

During 2014, the Division continued to work aggressively to oversee the implementation of consent orders entered by courts since 2010. The Division worked closely with defendant lenders and settlement administrators to ensure they used the most effective standards to identify, locate, and communicate with identified victims of the alleged discrimination. In 2014, over \$500 million recovered through the Division's recent settlements was disbursed to hundreds of thousands of victims of alleged discrimination. This includes distribution of 91 percent of the \$335 million settlement in *United States v. Countrywide Financial Corporation* (C.D. Cal. 2011) and 98 percent of the \$184 million settlement in *United States v. Wells Fargo Bank, N.A.* (D.D.C. 2012). The process of victim identification, location, and compensation in our lending resolutions is ongoing, but the Division will continue to ensure that victims of past alleged discrimination receive compensation in a timely manner.

In addition, many of our settlements require lenders to implement revised lending policies and practices to ensure that the past alleged discrimination does not recur. In 2014, Division staff engaged in a rigorous, detailed review of many defendant lenders' new policies and programs to determine whether past inadequacies have been corrected and to identify any new potential fair lending concerns. With the Division's guidance, these lenders continue to make improvements to their business practices to the benefit of both the institution and the people they serve.

Beyond the Numbers

United States v. Wells Fargo Bank, N.A. (D.D.C. 2012)

In 2005, an African-American borrower on the outskirts of Baltimore, Maryland, visited a Wells Fargo loan office to obtain a loan to purchase an investment property. At the time, her credit score was over 700. She says that Wells Fargo did not inform her about any choices in loan products, rates, or terms. She didn't know that she was eligible for a prime loan, or that what Wells Fargo offered her was a subprime loan. The borrower signed the loan and rented out the property to tenants. A few years later, the interest rate increased, and only then did she discover that Wells Fargo had given her an adjustable rate mortgage. During the recession, her tenants stopped paying rent. She worried that she might lose the home due to the higher mortgage payments. She asked Wells Fargo to modify her loan to a fixed rate, but was denied.

This borrower received over \$21,000 from the Wells Fargo settlement. She says that thanks to this damages check, "now she is finally caught up with her mortgage payment." She is 90 years old.

Disparate Impact Standard under the Fair Housing Act

On December 23, 2014, the United States filed an *amicus* brief in the United States Supreme Court in *Texas Department of Housing and Community Affairs v. The Inclusive Communities Project, Inc.*, arguing that disparate impact claims are cognizable under the Fair Housing Act. The Solicitor General participated in the oral argument on January 21, 2015. A decision is expected by the end of the Supreme Court's current term.

Pending Discrimination Investigations

At the end of 2014, the Division had 25 open fair lending investigations. In nine of those investigations, the parties were engaged in pre-suit negotiations.⁴ The subject matter of these investigations includes:

- Discrimination based on race and national origin in the underwriting or pricing of mortgage loans, including in the setting of discretionary interest rate markups and fees;
- Discrimination based on race and national origin in the pricing of unsecured consumer and vehicle secured loans;
- Discrimination based on race, national origin, gender, or age in the pricing of indirect automobile and motorcycle loans, including in the setting of discretionary interest rate markups;

⁴ One of these investigations, *United States v. First United Bank*, discussed at p. 5 above, was filed on January 15, 2015.

- Redlining through the failure to provide equal lending services to minority neighborhoods; and
- Discrimination based on disability in the underwriting of mortgage loans.

The Division expects that a number of its pending investigations will result in contested litigation or settlements in 2015.

III. SERVICEMEMBERS' LENDING ENFORCEMENT

The Civil Rights Division enforces several laws designed to protect the rights of members of the military, including the Servicemembers Civil Relief Act (SCRA). The SCRA postpones, suspends, terminates, or reduces the amount of certain consumer debt obligations for active duty members of the armed forces, so that they can focus their full attention on their military responsibilities without adverse consequences for themselves or their families. Among these protections are: (1) a prohibition on foreclosure of a servicemember's property without first getting approval from the court if the servicemember obtained the mortgage prior to entering military service, and (2) the right for a servicemember to have his or her interest rate lowered to six percent on debt that was incurred before entering military service.⁵

Enforcing these rights is an important priority of the Division. Members of the military who have made great personal sacrifices on behalf of this country should not be required to transition to civilian life only to find their credit ruined and their homes foreclosed on and sold in violation of the SCRA.

Continuing SCRA Enforcement

On May 13, 2014, the Division filed the first SCRA lawsuit brought by the Department of Justice against servicers and owners of student loans in *United States v. Sallie Mae, Inc.* (D. Del.). The defendants are Sallie Mae, Inc. (now known as Navient Solutions, Inc.), SLM DE Corporation (now known as Navient DE Corporation), and Sallie Mae Bank, collectively "Sallie Mae." The complaint alleges that Sallie Mae violated Section 527 of the SCRA when it failed to reduce to six percent the interest rates on pre-service loans held by approximately 60,000 servicemembers. The complaint also alleges that Sallie Mae violated Section 521 of the SCRA by obtaining improper default judgments against SCRA-protected servicemembers.



The consent order, entered by the court on September 29, 2014, requires that Sallie Mae provide \$60 million to compensate aggrieved servicemembers and pay a \$55,000 civil penalty to the United States. The settlement requires that Sallie Mae streamline the process by which

⁵ In March 2014, the Department published a final rule raising the maximum civil penalties under the SCRA. As part of the changes, the maximum civil penalty under the SCRA is \$60,000 for a first violation and \$120,000 for a second violation. The new maximums apply only to violations occurring on or after April 28, 2014.

servicemembers may obtain SCRA interest rate benefits, including online intake and customer service representatives specially trained on the rights of servicemembers. The settlement also requires that Sallie Mae correct negative credit entries associated with interest overcharges and improper default judgments. The settlement covers the entire portfolio of student loans serviced by, or on behalf of, Sallie Mae, including private student loans, Direct Department of Education Loans, and student loans that originated under the Federal Family Education Loan Program for violations of the SCRA that occurred since late 2005.



“Federal law protects our servicemembers from having to repay loans under terms that are unaffordable or unfair. That is the least we owe our brave servicemembers who make such great sacrifices for us. But as alleged, the student lender Sallie Mae sidestepped this requirement by charging excessive rates to borrowers who filed documents proving they were members of the U.S. military. By requiring Sallie Mae to compensate its victims, we are sending a clear message to all lenders and servicers who would deprive our servicemembers of the basic benefits and protections to which they are entitled: this type of conduct is more than just inappropriate; it is inexcusable. And it will not be tolerated.”

Attorney General Eric Holder

On February 25, 2015, the Division filed a complaint and proposed consent order in *United States v. Santander Consumer USA* (N.D. Tex.). The complaint alleges that Santander Consumer USA – one of the nation’s largest retail auto lenders – was responsible for the unlawful repossession of 1,112 automobiles from servicemembers in violation of the SCRA. The consent order, as amended by the court on March 27, 2015, requires Santander to pay at least \$9.49 million to those servicemembers, as well as a \$55,000 civil penalty.

National Mortgage Settlement

In 2012, the federal government and 49 states reached a settlement with the nation’s then-five largest mortgage servicers to address mortgage servicing, foreclosure, and bankruptcy abuses (the “National Mortgage Settlement” or “NMS”).⁶

With regard to SCRA relief, the Division announced, on February 9, 2015, that 952 servicemembers and their co-borrowers are eligible to receive over \$123 million for non-judicial foreclosures that violated Section 533 of the SCRA. This constitutes the first round of payments

⁶ The five mortgage servicers are JP Morgan Chase Bank N.A. (JP Morgan Chase); Wells Fargo Bank N.A. and Wells Fargo & Co. (Wells Fargo); Citi Residential Lending Inc., Citibank, NA and CitiMortgage Inc. (Citi); GMAC Mortgage, LLC, Ally Financial Inc. and Residential Capital LLC (GMAC Mortgage); and BAC Home Loans Servicing LP, formerly known as Countrywide Home Loans Servicing LP (Bank of America).

under the SCRA portion of the 2012 settlement. Six hundred and sixty-six servicemembers and their co-borrowers are eligible to receive over \$88 million from JP Morgan Chase, Wells Fargo, Citi and GMAC Mortgage. The other 286 servicemembers and their co-borrowers are receiving over \$35 million from Bank of America through an earlier settlement. The non-judicial foreclosures at issue took place between January 1, 2006, and April 4, 2012.

Section 533 of the SCRA prohibits non-judicial foreclosures against servicemembers who are in military service or within the applicable post-service period, as long as they originated their mortgages before their period of military service began. Even in states that normally allow mortgage foreclosures to proceed non-judicially, the SCRA prohibits servicers from doing so against protected servicemembers during their military service and applicable post-military service coverage period.

Under the NMS, for mortgages serviced by Wells Fargo, Citi and GMAC Mortgage, the identified servicemembers will each receive \$125,000, plus any lost equity in the property and interest on that equity. Eligible co-borrowers will also be compensated for their share of any lost equity in the property. To ensure consistency with an earlier private settlement, JP Morgan Chase will provide any identified servicemember either the property free and clear of any debt or the cash equivalent of the full value of the home at the time of sale, and the opportunity to submit a claim for compensation for any additional harm suffered, which will be determined by a special consultant, retired U.S. District Court Judge Edward N. Cahn. Payment amounts have been reduced for those servicemembers or co-borrowers who have previously received compensation directly from the servicer or through a prior settlement, such as the independent foreclosure review conducted by the Office of the Comptroller of the Currency and the Federal Reserve Board.



The NMS also provides compensation for two other categories of servicemembers: (1) servicemembers who were foreclosed upon pursuant to a court order where the mortgage servicer failed to file a proper affidavit with the court stating whether or not the servicemember was in military service; and (2) servicemembers who gave proper notice and military orders to the servicer, but were denied the full benefit of the SCRA's 6% interest rate cap on pre-service mortgages. The servicemembers entitled to compensation for these alleged violations will be identified later in 2015.

"We are very pleased that the men and women of the armed forces who were subjected to unlawful non-judicial foreclosures while they were serving our country are now receiving compensation. We look forward, in the coming months, to facilitating the compensation of additional servicemembers who were subjected to unlawful judicial foreclosures or excess interest charges. We appreciate that JP Morgan Chase, Wells Fargo, Citi, GMAC Mortgage and Bank of America have been working cooperatively with the Justice Department to compensate the servicemembers whose rights were violated."

Acting Assistant Attorney General for the Civil Rights Division, Vanita Gupta

IV. COLLABORATION WITH FEDERAL AND STATE PARTNERS AND OUTREACH TO STAKEHOLDERS

As Acting Assistant Attorney General Gupta underscored in her keynote address at the CRA⁷ & Fair Lending Colloquium in November 2014, “when it comes to enforcement, the core of the Division’s success is its collaboration with federal and state partners. Every single ECOA, FHA, and SCRA case has involved collaboration with other government agencies and other offices within the Department, including the U.S. Attorneys’ offices.”

The Division continues to bring cases based on referrals from the federal bank regulatory agencies. In addition, the Division continued its work with the CFPB under the Memorandum of Understanding executed in 2012, which strengthens coordination and collaborative efforts between the agencies. In 2014, the Division jointly investigated with the CFPB one matter that resulted in a lawsuit in federal court, filed concurrently with the CFPB’s administrative proceeding, *United States v. Synchrony Bank, f/k/a GE Capital Retail Bank*. At the end of 2014, the Division was conducting 10 joint investigations with the CFPB; in five of those investigations, the parties are engaged in pre-suit negotiations.

In the state context, the Division worked closely with the North Carolina Attorney General’s office to investigate, file, and settle *United States and State of North Carolina v. Auto Fare, Inc.* (W.D.N.C.) (discussed above at p. 3). We have also partnered with other state attorneys general on other ongoing matters.

The Division continues to participate in the Federal Interagency Fair Lending Task Force with federal regulatory agencies empowered to refer matters to DOJ and to discuss and coordinate fair lending enforcement activities. As illustrated in Section V of this report, much of that work has resulted in a steady stream of referrals from those agencies involving race or national origin discrimination over the past several years.



“Our job at the Civil Rights Division is to uphold some of the most basic tenets of what it means to be an American – that is, equal opportunity and equal justice. Since our country’s founding, Americans have held onto these principles as promises.”

Acting Assistant Attorney General for the Civil Rights Division, Vanita Gupta, at the Community Reinvestment Act & Fair Lending Colloquium

Finally, in 2014, the Acting Assistant Attorney General and other Division representatives participated in numerous conferences, training programs, and meetings involving

⁷ CRA refers to the Community Reinvestment Act, 12 U.S.C. 2901, *et seq.*

lenders, enforcement agencies, advocacy and consumer groups, and others interested in fair lending throughout the country, in order to inform critical stakeholders about the Division's enforcement policies and activities. The Division has made outreach and education to industry stakeholders a priority because it plays a critical role in promoting compliance with the law. In 2014, Division staff participated in 28 outreach events focused on our fair lending and SCRA enforcement work. For the fourth year in a row, the Division and all other federal fair lending enforcement agencies participated in a webinar hosted by the Federal Reserve Board. The webinar enabled over 5,000 registered participants to hear about government-wide fair lending priorities. The Division will continue outreach efforts in 2015 in order to strengthen and improve its enforcement of fair lending protections.

V. REFERRALS

Under ECOA, the bank regulatory agencies are required to refer matters to the Division when they have reason to believe a lender has engaged in a pattern or practice of discrimination. Referrals also are made under ECOA by the FTC and under the FHA by HUD. From 2009 through 2014, the bank regulatory agencies, the FTC and HUD referred a total of 165 matters involving a potential pattern or practice of lending discrimination to the Justice Department. Eighty-five of those referrals involved race or national origin discrimination. In striking contrast, during the preceding six-year period, from 2003 through 2008, the Division received only 22 race and national origin discrimination referrals.

The Division received 18 referrals in 2014: 15 from the CFPB and three from the FDIC. The Division opened 12 investigations regarding referred matters. In addition, two of the Division's three lending discrimination cases in 2014 were based in part on referrals: one referral came from the CFPB, *U.S. v. Synchrony Bank, f/k/a GE Capital Retail Bank*, and the other came from HUD, *U.S. v. Fifth Third Bank, et al.* Both cases are discussed earlier in this Report.

When the Division receives a referral from a bank regulatory agency, it must determine whether to open an investigation or defer the matter to the regulator for administrative enforcement. Shortly after the creation of the new Fair Lending Unit and in response to feedback from industry groups, lenders, and regulatory agencies, the Division made it a priority to review and make an initial decision to either defer the matter for administrative enforcement or open a DOJ investigation for further review within 90 days of receiving a complete referral under ECOA. In 2012, the Division met this goal 100% of the time with an average of approximately 60 days. In December 2012, as part of our continuing effort to increase the effectiveness and efficiency of our fair lending enforcement, we made a new commitment to the regulators that, starting with 2013 referrals, our goal for the initial review time will be 60 days from the date of receiving a complete referral. We met that goal 100% of the time in both 2013 and 2014, with an average time to decision of 35 and 24 days, respectively.

Factors Considered By DOJ When Evaluating Referrals

In 1996, upon the recommendation of the General Accounting Office, DOJ provided guidance to the federal bank regulatory agencies on pattern or practice referrals. That guidance described the factors that DOJ would consider in determining which matters it would return to the agency for administrative resolution and which it would pursue for potential litigation. The

guidance is posted on the Division's website at http://www.justice.gov/crt/about/hce/housing_ecoa.php.

The Division considers numerous factors in deciding whether to retain or return a referral. As a general matter, referrals that are most likely to be returned have the following characteristics:

- The practice has ceased and there is little chance that it will be repeated;
- The violation may have been accidental or arose from ignorance of the law's more technical requirements; examples of such violations may involve spousal signature violations and minor price breaks for certain age groups not entitled to preferential treatment; and
- There either were few potential victims or *de minimis* harm to any potential victims.

As a general matter, the Division retains referrals that do not meet the criteria set forth above, and have one or more of the following characteristics:

- The practice is serious in terms of its potential for either financial or emotional harm to members of protected classes (for example, discrimination in underwriting, pricing, or provision of lender services);
- The practice is not likely to cease without court action;
- The protected class members harmed by the practice cannot be fully compensated without court action;
- Damages for victims, beyond out-of-pocket losses, are necessary to deter the lender (or others like it) from treating the cost of detection as a cost of doing business; or
- The agency believes the practice to be sufficiently common in the lending industry, or raises an important issue, so as to require action to deter lenders.

2014 Referrals to DOJ

The 18 referrals in 2014 included the following types of alleged discrimination:

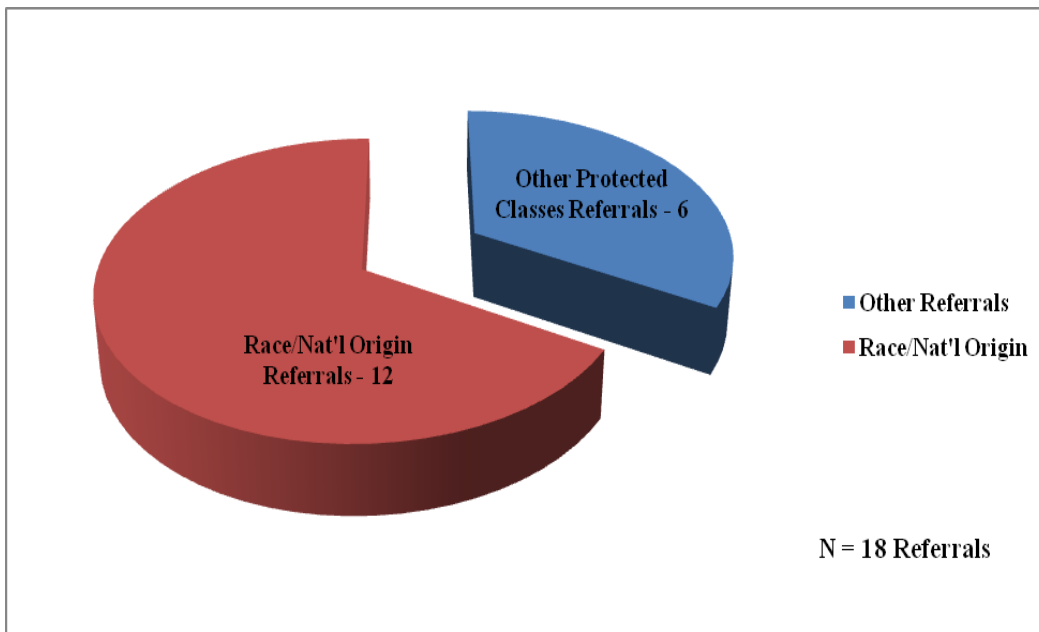
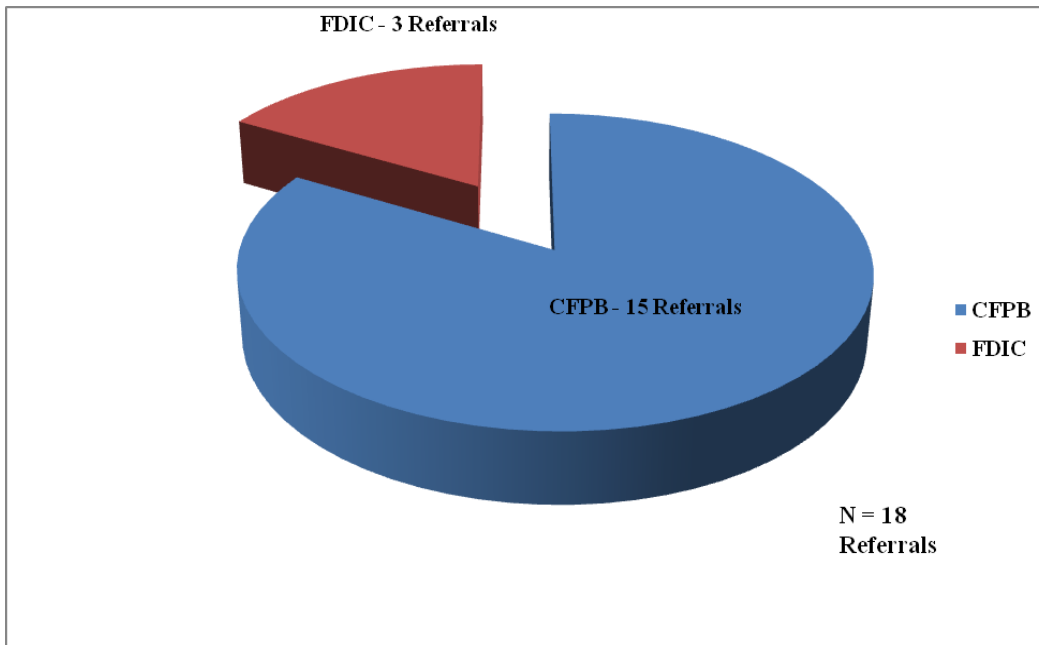
- 12 involving race or national origin;
- 5 involving sex;
- 4 involving marital status;
- 3 involving age; and
- 3 involving source of income.⁸

As set forth in charts immediately following Section VI of this report, the referrals involved a wide range of discriminatory conduct and various types of credit. In 2014, in addition to eight referrals involving pricing discrimination in auto lending, the Division received four referrals involving mortgage loan pricing discrimination, two involving discrimination in consumer loans, one involving discrimination in both residential and consumer lending, two involving discrimination in credit cards, and one involving discrimination in student loans.

⁸ Several referrals involved multiple protected classes; therefore, the number of referrals by protected class categories totals more than 18.

Of the 18 referrals in 2014, the Division opened 12 investigations; some of those investigations were opened prior to receipt of the referral. In the other six referrals, we returned the matter to the referring agency for enforcement without opening an investigation, including in referrals where the referring agency specifically requested we defer to it for administrative enforcement. This is higher than the historical rate of investigations opened based on referrals. For example, in contrast to the 67% in 2014, from 2010-2013, the Division opened investigations for 38% of the referrals.

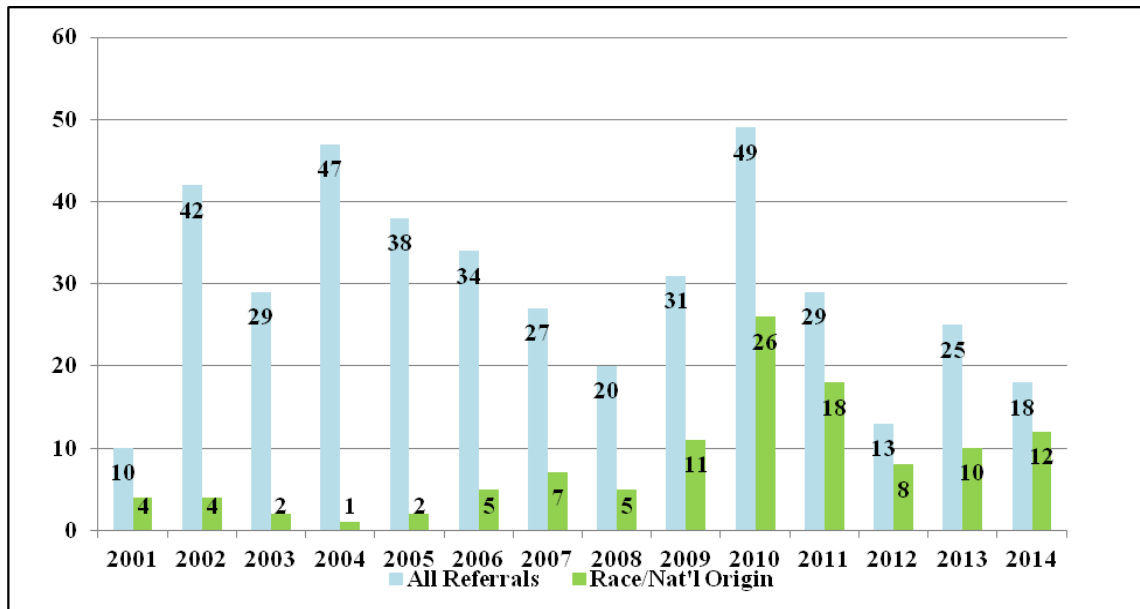
2014 Lending Referrals to DOJ by Agency & Protected Class



At the end of 2014, we continued to investigate six referrals (including four in which we have authorized lawsuits) received in prior years: three from the FDIC, one from the FTC, and two from the FRB. Five of the six ongoing investigations involved race and national origin discrimination.

The referrals that were returned for administrative enforcement during 2014 are also described, by agency, in the charts following Section VI of this report. For each of the referrals we returned to the agencies, the Division evaluated the facts and circumstances of the matter in light of the factors described above. During 2014, key factors for returning a referral to the referring agency included the factors referenced in the 1996 memorandum discussed at pages 11-12, above: the nature of the violation; whether the bank had revised the relevant lending policies and practices; whether the bank had taken, or expressed willingness to take, appropriate corrective action for any persons who were aggrieved by the discriminatory policy; and the number of potential victims and the magnitude of any damages they incurred. These factors are also applicable when DOJ has conducted an investigation and is making a decision on how to proceed.




2001-2014 Fair Lending Referrals to DOJ







VI. LOOKING FORWARD

The Civil Rights Division continued in an unprecedented path of vigorous fair lending enforcement in 2014. We strengthened our strong and collaborative relationships with the Division's federal, state, and community partners; those efforts resulted in groundbreaking cases and nationwide relief involving credit card, auto, mortgage, and unsecured consumer lending discrimination and servicemembers' rights. We also maintained our robust commitment to overseeing the implementation of settlement terms in earlier cases and ensuring that the money obtained in those settlements reached persons aggrieved by the past alleged discrimination. In 2015 and beyond, the Division will continue to use all tools in our arsenal to ensure that every eligible person has access to credit opportunities, free from discrimination.

Lending Discrimination Referrals by Other Agencies to DOJ

Bank regulatory agencies	2014 Referrals by Protected Class	2014 Referrals Resulting in DOJ Investigations	2014 Referrals Returned to Agency	Referrals Pending from Prior Years
CFPB 	<i>15 total</i> 7 race/national origin 3 race/national origin/sex 1 marital status 1 age 1 source of income 2 marital status/age/sex/source of income	<i>10 total</i> 5 race/national origin 1 national origin 3 race/national origin/sex 1 marital status/age/sex/source of income Filed 2014 referral: <i>U.S. v. Synchrony Bank, f/k/a GE Capital Retail Bank</i>	<i>5 total</i> 1 race/national origin 1 marital status/age/sex/source of income 1 age 1 source of income 1 marital status	<i>0</i>
FDIC 	<i>3 total</i> 2 national origin 1 marital status	<i>2 total</i> 2 national origin	<i>1 total</i> 1 marital status	<i>3 total</i> <i>3 ongoing investigations</i> 2 national origin: pricing 1 race: redlining
FRB 	<i>0</i>	<i>0</i>	<i>0</i>	<i>2 total</i> <i>2 ongoing investigations</i> 1 national origin: mortgage pricing 1 source of income: underwriting

Bank regulatory agencies	2014 Referrals by Protected Class	2014 Referrals Resulting in DOJ Investigations	2014 Referrals Returned to Agency	Referrals Pending from Prior Years
NCUA 	0	0	0	0
OCC 	0	0	0	0

Other partners	2014 Referrals by Protected Class	2014 Referrals Resulting in DOJ Investigations	2014 Referrals Returned to Agency	Referrals Pending from Prior Years
FTC 	0	0	0	<i>1 total</i> <i>1 ongoing investigation</i> <i>1 race/national origin: mortgage pricing</i>
HUD 	0	0	0	<i>1 total</i> <i>U.S. v. Fifth Third Bank, et al.</i>

2001-2014 All Lending Discrimination Referrals by Other Agencies to DOJ

ALL DISCRIMINATION REFERRALS	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	Total
<i>Bank regulatory agencies</i>															
CFPB*	15	6	1	0	—	—	—	—	—	—	—	—	—	—	22
FDIC	3	11	8	14	33	21	12	15	29	35	42	29	33	5	290
FRB	0	6	2	7	6	6	3	9	5	2	3	0	6	1	56
NCUA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OTS*	—	—	—	4	6	4	4	3	0	0	1	0	0	1	23
OCC	0	1	1	1	2	0	1	0	0	0	0	0	1	3	10
<i>Other partners</i>															
HUD	0	1	1	1	2	0	0	0	0	1	1	0	2	0	9
FTC	0	0	0	2	—	—	—	—	—	—	—	—	—	—	2
Total	18	25	13	29	49	31	20	27	34	38	47	29	42	10	412

*On July 21, 2011, the CFPB launched and the Office of Thrift Supervision (OTS) was merged into the OCC.

“—” indicates there is no entry for that agency in the ECOA report for that year.

2001-2014 All Race/National Origin Lending Discrimination Referrals by Other Agencies to DOJ

RACE/NATIONAL ORIGIN DISCRIMINATION REFERRALS	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	Total
<i>Bank regulatory agencies</i>															
CFPB*	10	2	0	0	—	—	—	—	—	—	—	—	—	—	12
FDIC	2	5	5	10	14	5	2	1	3	1	0	2	1	2	53
FRB	0	3	1	2	4	3	0	4	2	0	0	0	1	1	21
NCUA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OTS*	—	—	—	3	4	3	3	2	0	0	0	0	0	1	16
OCC	0	0	1	1	2	0	0	0	0	0	0	0	0	0	4
<i>Other partners</i>															
HUD	0	0	1	0	2	0	0	0	0	1	1	0	2	0	7
FTC	0	0	0	2	—	—	—	—	—	—	—	—	—	—	2
Total	12	10	8	18	26	11	5	7	5	2	1	2	4	4	115

*On July 21, 2011, the CFPB launched and the Office of Thrift Supervision (OTS) was merged into the OCC.

“—” indicates there is no entry for that agency in the ECOA report for that year.