

**The Attorney General's  
2016 Annual Report to Congress  
Pursuant to the Equal Credit Opportunity Act  
Amendments of 1976**



**Submitted by**

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**September 2017**

The Department of Justice (DOJ or the Department) submits this report regarding its activities in 2016 to enforce the Equal Credit Opportunity Act (ECOA), 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), 42 U.S.C. 3601, *et seq.*, and the Servicemembers Civil Relief Act (SCRA), 50 U.S.C. 3901, *et seq.* Within DOJ, the Civil Rights Division is responsible for enforcing ECOA, the FHA, and the SCRA. This responsibility is handled by the Division's Housing and Civil Enforcement Section.

## I. INTRODUCTION

In 2016, the Civil Rights Division attained substantial relief for victims of lending discrimination in six settlements addressing a variety of practices. Two of those cases addressed redlining discrimination, a practice in which a lender provides unequal access to credit because of the racial or ethnic demographics of the neighborhood in which the consumer lives. One of those cases also involved pricing and underwriting discrimination and denial of loan applications based on race. The other three cases were: (1) a case involving targeting minorities for predatory loans; (2) a case involving underwriting discrimination based on disability and receipt of public assistance income; and (3) a case involving discrimination on the basis of familial status.

Highlights of the Division's recent work include:

- **Addressing Redlining Discrimination**

In addition to the two redlining settlements referenced above, the Division currently has seven redlining investigations across the country involving allegations that lenders unlawfully refused to serve the mortgage lending needs of minority communities.

- **Ongoing efforts to implement settlements**

Throughout 2016, the Division continued to work with lenders in the implementation of settlements currently in effect. That work includes reviewing policies and procedures, identifying borrowers eligible for compensation, and reviewing the progress made under the settlement terms.

- **Continuing and Improving Inter-Agency Collaboration**

The Division continued to build its working relationships with the bank regulatory agencies, the Department of Housing and Urban Development (HUD) and the Federal Trade Commission (FTC) to strengthen our individual and collective capabilities to enforce fair lending laws. As part of those efforts, we have routinely entered into information-sharing agreements with the relevant

entities to ensure effective collaboration. We also continue to seek opportunities to work in partnership with various state attorneys general. In Section V below, we discuss fair lending matters the bank regulatory agencies are required to refer to the Division under ECOA when they have reason to believe a lender has engaged in a pattern or practice of discrimination. The 2016 referrals reflect that cooperation and coordination with our partners in fair lending enforcement.

## **II. LENDING DISCRIMINATION ENFORCEMENT UNDER ECOA AND THE FHA**

The Division has authority to enforce ECOA and the FHA on its own initiative 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.

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 discriminatory underwriting and pricing. The Division also investigates allegations of unlawful conduct in non-mortgage lending, including discrimination in auto loans, unsecured consumer loans, student loans, and credit card products.

In 2016, the Division opened 18 fair lending investigations involving allegations of a variety of lending practices, filed seven fair lending lawsuits, and settled six of them, obtaining nearly \$37 million in relief. Following is a description of the six cases that were filed and simultaneously settled in 2016.

### **Mortgage Redlining Discrimination**

The Division filed and settled two lawsuits alleging mortgage redlining in 2016.

On June 29, 2016, the Division and the CFPB filed a complaint and consent order in *United States and Consumer Financial Protection Bureau v. BancorpSouth Bank* (N.D. Miss.). The complaint alleges that the bank violated ECOA and the FHA by failing to provide its home mortgage

#### **Civil Rights 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*

FTC - Federal Trade Commission

HUD - Dep't of Housing and Urban Development



lending services on an equal basis to majority-minority neighborhoods in the Memphis metropolitan area, as compared to predominantly white neighborhoods in that area; by discriminating on the basis of race in the pricing and underwriting of mortgage loans originated by its Community Banking Department; and by implementing a discriminatory practice in its Mortgage Department of denying loan applications from minorities more quickly than those from similarly-situated white applicants.

The *BancorpSouth* consent order, entered by the court on July 25, 2016, requires the bank to amend its pricing and underwriting policies, establish a monitoring program, train its employees in fair housing and fair lending, extend credit offers to unlawfully denied, but qualified, applicants, and open a new full-service branch or Loan Processing Office (LPO) in a predominantly minority neighborhood, among other injunctive relief. The consent order also includes a \$2.78 million settlement fund to compensate harmed borrowers for pricing and underwriting discrimination; a \$4 million fund to remedy the harm caused to communities by providing a subsidy for mortgage loans to qualified applicants in the Memphis area; at least \$800,000 in advertising, outreach, and other efforts to remedy the practices alleged in the complaint; and a \$3 million civil money penalty to the CFPB.

On December 28, 2016, the Division filed a complaint and consent order in *United States v. Union Savings Bank and Guardian Savings Bank* (S.D. Ohio). In that case, the Division alleged that two related banks had engaged in redlining of majority-African-American neighborhoods in Cincinnati, Dayton, and Columbus, Ohio, as well as Indianapolis, Indiana, in their mortgage businesses. Of the \$9 million settlement, \$7 million will provide loan subsidies for qualified mortgage applicants in majority-African-American neighborhoods to remedy the harm caused by the banks' redlining practices in the affected cities. There are also requirements that Union open two full-service branches and Guardian open one loan production office to serve the residents of African-American neighborhoods that were harmed by the banks' practices. The banks will invest \$2 million in advertising, outreach, financial education and other efforts designed to remedy the harm caused by the banks' redlining. The settlement also requires both banks to develop robust internal controls to ensure compliance with fair lending obligations and conduct fair lending training for their employees. The court entered the consent order on January 3, 2017.

#### **Discrimination on the Basis of National Origin**

On September 28, 2016, the Division filed a complaint and consent order in *United States v. Charter Bank* (S.D. Tex.), alleging that from 2009 to 2014, the bank violated ECOA by discriminating on the basis of national origin in the pricing of vehicle-secured consumer loans to Hispanic consumers. A vehicle-secured loan allows a customer to borrow from the bank by tapping the equity in a car the customer already owns. As alleged in the complaint, the bank charged Hispanic borrowers higher interest rates, on average, than similarly-situated non-Hispanic customers. The consent order, which was entered by the court of October 12, 2016, requires the bank to maintain uniform pricing policies and procedures, monitor its loans for potential disparities based on national origin, and provide fair lending training to its employees. The bank will also pay \$165,820 to affected borrowers. This matter was referred to the Division by the FDIC.

### **Discrimination on the Basis of Familial Status**

On September 9, 2016, the Division filed a complaint and consent order in *United States v. First Federal Bank of Florida* (M.D. Fla.). The complaint alleges that the bank discriminated on the basis of familial status by requiring two women on maternity leave to return to work before closing on their loans, which caused each of them to shorten their maternity leave. The case was referred to the Division after HUD received complaints, conducted an investigation, and issued a charge of discrimination. Under the terms of the consent order, the bank will pay the HUD complainants a total of \$45,000, implement non-discriminatory policies and practices and obtain fair lending training for officials and employees. The bank will also not require an applicant on maternity or paternity leave to physically return to work before a loan can close and will monitor compliance with this policy. The court entered the consent order on October 12, 2016.

The Division also filed and settled two other fair lending lawsuits in 2016. Both cases -- *United States v. Evolve Bank & Trust* (W.D. Tenn.), alleging discrimination on the basis of disability and source of income in the underwriting of mortgage applications, and *United States v. Toyota Motor Credit Corp.* (C.D. Cal.), alleging discrimination based on race and national origin in the pricing of indirect automobile loans -- were discussed at length in the Division's 2015 ECOA report.

### **Predatory Targeting of Minority Homeowners**

On August 23, 2016, the Division filed a complaint in *United States v. The Home Loan Auditors et al.* (N.D. Cal.), a matter referred to the Division by HUD. The Division filed an amended complaint in May 2017, alleging that the defendants violated the FHA by intentionally discriminating against Hispanic homeowners by targeting them for predatory mortgage loan modification services and interfering with their ability to receive financial assistance to maintain their homes. The complaint alleges that defendants told the homeowners that "forensic home loan audits" were essential for a loan modification, but in fact the audits had no impact on the loan modification process and provided no financial benefit. The complaint further alleges that as part of their advertised loan modification service, the defendants encouraged their clients to stop making mortgage payments and instructed them to cease contact with their lenders. The complaint alleges that this conduct resulted in many homeowners defaulting on their mortgage payments and ultimately losing their homes. The matter is currently in litigation.

### **Ongoing Discrimination Investigations**

At the end of 2016, the Division had 33 open fair lending investigations covering a variety of issues. The subject matters of these investigations include allegations of:

- Redlining discrimination, by providing unequal access to credit because of the racial or ethnic demographics of the neighborhood in which the consumer lives;
- Discrimination based on race and national origin in the underwriting or pricing of mortgage loans;
- Discrimination based on race or national origin in denying mortgage loans to minority applicants;



- Targeting of minority borrowers for predatory rent-to-own transactions involving previously repossessed homes in poor condition;
- Discrimination based on race or national origin in the sale of manufactured homes;
- Discrimination based on race, national origin or sex in the financing of automobiles;
- Targeting of minority borrowers for predatory auto financing; and
- Discrimination based on disability in mortgage lending.

### III. SERVICEMEMBERS' LENDING ENFORCEMENT

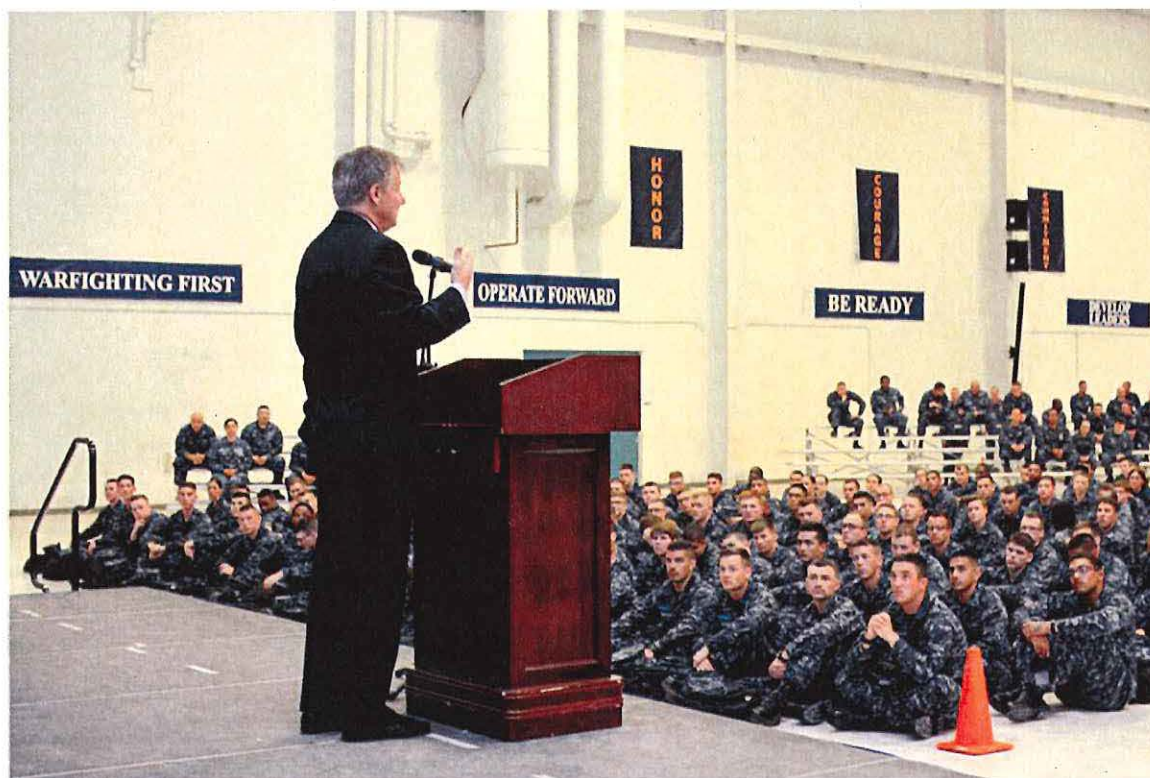


The Civil Rights Division enforces several laws designed to protect the rights of members of the military, including the Servicemembers Civil Relief Act (SCRA). The SCRA postpones, suspends, terminates, or reduces the amount of certain consumer debt obligations for active duty members of the armed forces, 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, (2) a prohibition on repossession of a servicemember's motor vehicle without court approval if the servicemember paid a deposit or installment before entering military service, and (3) the right of a servicemember to have his or her interest rate lowered to 6% on debt that was incurred before entering military service.

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 return from military service to find their credit ruined, their cars repossessed, or their homes foreclosed on and sold in violation of the SCRA.

## Servicemembers and Veterans Initiative

On November 2, 2016, the Department of Justice announced a new pilot program to support enforcement efforts related to protecting the rights of current and former military personnel as part of the Department's Servicemembers and Veterans Initiative. With the support of the Executive Office for United States Attorneys and the Civil Rights Division, the new pilot program funds Assistant U.S. Attorney and Division trial attorney positions, and also designates military judge advocates (JAGs) currently serving as legal assistance attorneys to serve as Special Assistant U.S. Attorneys, to support the Department's enforcement efforts related to the SCRA. United States Attorneys throughout the country have been asked to appoint Initiative Liaisons to work with local military and veteran communities. The pilot provides full-time support for SCRA enforcement efforts through the end of Fiscal Year 2018 and funds Assistant U.S. Attorneys in districts with major military installations and additional trial attorneys in the Civil Rights Division. The Assistant U.S. Attorneys are principally responsible for coordinating with Staff Judge Advocate's Offices on military installations and bringing claims in coordination with the Civil Rights Division against those who violate the rights of servicemembers.



Former Acting Assistant Attorney General Tom Wheeler, II speaking to troops during a town hall meeting on February 28, 2016 at the Naval Air Technical Training Center in Pensacola, Florida. Mr. Wheeler and his staff were visiting northwest Florida military installations discussing servicemembers' rights and answering questions during open forum discussions.

*Photo courtesy of Center for Naval Aviation Technical Training Public Affairs*



## Wells Fargo Settlement

On September 29, 2016, the Department announced that Wells Fargo Bank N.A., doing business as Wells Fargo Dealer Services, agreed to change its policies and pay over \$4.1 million to resolve allegations that it violated the SCRA by repossessing 413 cars owned by protected servicemembers without obtaining court orders.

The Department began its investigation after receiving a complaint in March 2015 from the U.S. Army's Legal Assistance Program alleging that Wells Fargo had repossessed Army National Guardsman Dennis Singleton's used car in Hendersonville, North Carolina, while he was preparing to deploy to Afghanistan to fight in Operation Enduring Freedom. After Wells Fargo repossessed the car, it sold it at a public auction and then tried to collect a deficiency balance of over \$10,000 from Singleton and his family. In October 2014, while seeking assistance with debt consolidation, Army National Guardsman Singleton met with a National Guard attorney, who informed him of his rights under the SCRA. The attorney requested information from Wells Fargo about the original loan and repossession, and asked for copies of the correspondence and payment history. The attorney never received a response from Wells Fargo. The Department's subsequent investigation corroborated Mr. Singleton's complaint and found a pattern of unlawful repossessions spanning over more than seven years, from January 1, 2008 through July 1, 2015.



Under the terms of the agreement, Wells Fargo is in the process of paying \$10,000 to each of the affected servicemembers, plus any lost equity in the vehicle with interest. Wells Fargo also must repair the credit of all affected servicemembers. The agreement also requires Wells Fargo to pay a \$60,000 civil penalty to the United States and to determine, in the future, whether any vehicle it is planning to repossess is owned by an active duty servicemember. If so, Wells Fargo will not repossess the vehicle without first obtaining a court order. The agreement also contains provisions ensuring that all eligible servicemembers will receive the benefit of the SCRA's 6% interest rate cap on their auto loans.

Dennis Singleton with his two-year old twins at the send-off ceremony in Clyde, NC, before leaving for his November 2013-August 2014 Afghanistan deployment, during which his car was repossessed.

*Used by permission of Dennis Singleton*



## **HSBC Settlement**

On August 8, 2016, the Department announced that HSBC Finance Corporation, as successor to HSBC Auto Finance Inc., agreed to pay \$434,500 to resolve allegations that it violated the SCRA by repossessing 75 cars owned by protected servicemembers without obtaining the necessary court orders. During the investigation, the Department learned that HSBC conducted repossessions without court orders even when it had evidence in its own records suggesting that a borrower could be a protected servicemember. In one such case, HSBC continued with a repossession after learning that an initial attempt was unsuccessful because guards would not allow the “repo truck” to enter a “secured military post” in Indiana, where the car was located.



HSBC Auto Finance Inc. originated and serviced car loans until 2010, when it sold its car lending operations and assets to Santander Consumer USA Inc. In February 2015, the Department entered a settlement with Santander that provided servicemembers with more than \$10.5 million in compensation for repossessions that violated the SCRA. As part of the investigation of Santander’s repossession practices, the department learned that HSBC sold to Santander the right to collect debts owed by servicemembers after their cars had been repossessed by HSBC without court orders.

Most of the servicemembers compensated through the HSBC settlement received partial compensation through the settlement with Santander. The agreement requires HSBC to pay \$5,500 to each of the servicemembers who received partial compensation from Santander. HSBC paid \$11,000 to affected servicemembers who did not receive payments from the Santander settlement. HSBC also must repair the credit of all affected servicemembers.

## **COPOCO Lawsuit**

On July 26, 2016, the Department filed a lawsuit to recover damages from the COPOCO Community Credit Union, alleging that it violated the SCRA by repossessing protected servicemembers’ motor vehicles without obtaining the necessary court orders. The Department’s complaint alleges that COPOCO’s vehicle repossession procedures did not include any process to determine customers’ military status – such as checking the Department of Defense’s database – prior to conducting repossessions without court orders. The complaint also alleges that COPOCO illegally repossessed U.S. Army Private First Class Christian Carriveau’s car, along with his two-year-old daughter’s car seat, out of his driveway in Lacey, Washington, near Joint Base Lewis-McChord. His wife, Alyssa Carriveau, initially believed that the car had been stolen, but she subsequently learned that it had been repossessed. Private First Class Carriveau was away at military training at the time, and Alyssa Carriveau was not able to get to work without the vehicle.

On July 6, 2017, the Division announced it entered into a settlement agreement with COPOCO under which the lender will provide \$10,000 in compensation to each of the affected servicemembers, plus any lost equity in the vehicle with interest. The Carriveaus, who had their car returned to them the day after the repossession at the department’s request, will receive

\$7,500. COPOCO also must repair the credit of all affected servicemembers, pay a \$5,000 civil penalty to the United States and determine, in the future, whether any vehicle it is planning to repossess is owned by an active duty servicemember. If so, COPOCO will not repossess the vehicle without first obtaining a court order or valid waiver of SCRA rights. The agreement also contains provisions ensuring that all eligible servicemembers will receive the benefit of the SCRA's 6% interest rate cap on their auto loans.

**National Mortgage Settlement**

Under the SCRA portion of the 2012 National Mortgage Settlement, five of the nation's largest mortgage servicers are paying \$367 million in compensation via six settlements to 19,200 servicemembers and their co-borrowers whose homes were unlawfully foreclosed on or who were overcharged interest on their mortgage loans between January 1, 2006 and April 4, 2012. These amounts include compensation for non-judicial foreclosures that were done without first getting approval from a court, judicial foreclosures where the mortgage servicer failed to file a proper affidavit with the court stating whether or not the servicemember was in military service, and instances where the servicer failed to reduce servicemembers' interest rates to 6% upon receipt of notice of military service and a copy of military orders. The distribution of compensation for interest rate overcharges is continuing

CASE	COMPENSATION FOR WRONGFUL FORECLOSURES	COMPENSATION FOR INTEREST RATE OVERCHARGES	TOTAL COMPENSATION
<i>U.S. v. BAC Home Loans Servicing, LP (f/k/a Countrywide) (C.D. Cal. May 31, 2011)</i>	\$43,410,270	N/A	\$43,410,270
<i>U.S. v. Bank of America Global Servicing Agreement (D.D.C. Apr. 4, 2012)</i>	\$63,686,567	\$12,596,774	\$76,283,341
<i>Citibank, NA Global Servicing Agreement (D.D.C. Apr. 4, 2012)</i>	\$39,027,122	\$5,683,662	\$44,710,784
<i>Ally Financial Inc. Global Servicing Agreement (D.D.C. Apr. 4, 2012)</i>	\$25,236,590	\$18,721,403	\$43,957,993
<i>Chase Home Finance Global Servicing Agreement (D.D.C. Apr. 4, 2012)</i>	\$63,545,093	N/A	\$63,545,093
<i>Wells Fargo Bank, N.A. Global Servicing Agreement (D.D.C. Apr. 4, 2012)</i>	\$87,801,573	\$7,698,516	\$95,649,838
	<b>\$322,707,215</b>	<b>\$44,700,355</b>	<b>\$367,407,570</b>



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

The Division continues its collaborative work with other federal partners, including in its participation in the Federal Interagency Fair Lending Task Force where issues of relevance to fair lending enforcement are discussed. Those discussions often center around topics such as consistency in approaches among the Division and the agencies, substantive discussions of issues that result in referrals to the Division, or investigatory issues that can arise across the various agencies, allowing the participants to benefit from other agencies' perspectives and experience.

As in prior years, Division representatives participated in numerous conferences, training programs, and meetings involving lenders, compliance officials, industry experts, enforcement and regulatory agencies, consumer groups, and others interested in fair lending throughout the country, in order to inform critical stakeholders about the Division's enforcement activities. The Division has made outreach and education for industry stakeholders a priority because it plays a critical role in promoting compliance with the law. In 2016, Division staff participated in 17 outreach events focused on our fair lending and SCRA enforcement. For the sixth year in a row, the Division and all other federal fair lending enforcement agencies participated in a national webinar hosted by the FRB. The Division will continue outreach efforts in 2017 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 2001 through 2016, the bank regulatory agencies, the FTC and HUD referred a total of 451 matters involving a potential pattern or practice of lending discrimination to the Justice Department. One hundred forty-two of those referrals involved race or national origin discrimination.

The Division received 22 ECOA and FHA referrals in 2016: eight from the CFPB, four from the FDIC, seven from the FRB, one from the OCC, and two from HUD. The Division opened eight investigations regarding these referred matters. In addition, all but one of the lawsuits the Division filed in 2016 were based in part on referrals.

- Two of the lawsuits arose from joint investigations with and referrals from the CFPB:
  - *United States and CFPB v. BancorpSouth Bank*
  - *United States v. Toyota Motor Credit Corp.*
- One arose from a referral from the FDIC:
  - *United States v. Charter Bank*
- One arose from a referral from the FRB:
  - *United States v. Evolve Bank & Trust*

- Two arose from referrals from HUD:
  - *United States v. First Federal Bank of Florida*
  - *United States v. The Home Loan Auditors*

These cases are discussed earlier in this report.

As explained in prior reports, 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. 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 shortening our review time to 60 days starting with 2013 referrals. To date we have met our goal 100% of the time.

### **Factors Considered By DOJ When Evaluating Referrals**

In 1996, upon the recommendation of the Government Accountability 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 <https://www.justice.gov/sites/default/files/crt/legacy/2014/03/05/regguide.pdf>.

Under this guidance, 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.



These factors are also applicable when DOJ has conducted an investigation and is making a decision whether the facts warrant a lawsuit.

### **2016 Referrals to DOJ**

The 22 referrals in 2016 included the following types of alleged discrimination:

- 14 involving race or national origin;
- 6 involving marital status;
- 3 involving source of income;
- 2 involving age;
- 1 involving sex.<sup>1</sup>

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, including redlining, discriminatory underwriting, overt policies that discriminate on the bases of marital status and receipt of public assistance income, and discrimination based on familial status.

As noted earlier, the Division opened eight investigations based on the 22 referrals in 2016.<sup>2</sup> Additionally, at the end of 2016, we continued to investigate nine referrals received in prior years, and had two referrals that were authorized for suit: seven from the CFPB, three from the FRB, and one from the FDIC.<sup>3</sup> Seven of these nine ongoing investigations involve race and national origin discrimination.

For 12 of the 22 referrals in 2016, 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. The referrals that were returned for administrative enforcement during 2016 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 2016, key factors for returning a referral to the referring agency included the factors referenced in the 1996 memorandum discussed earlier in this section: 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.

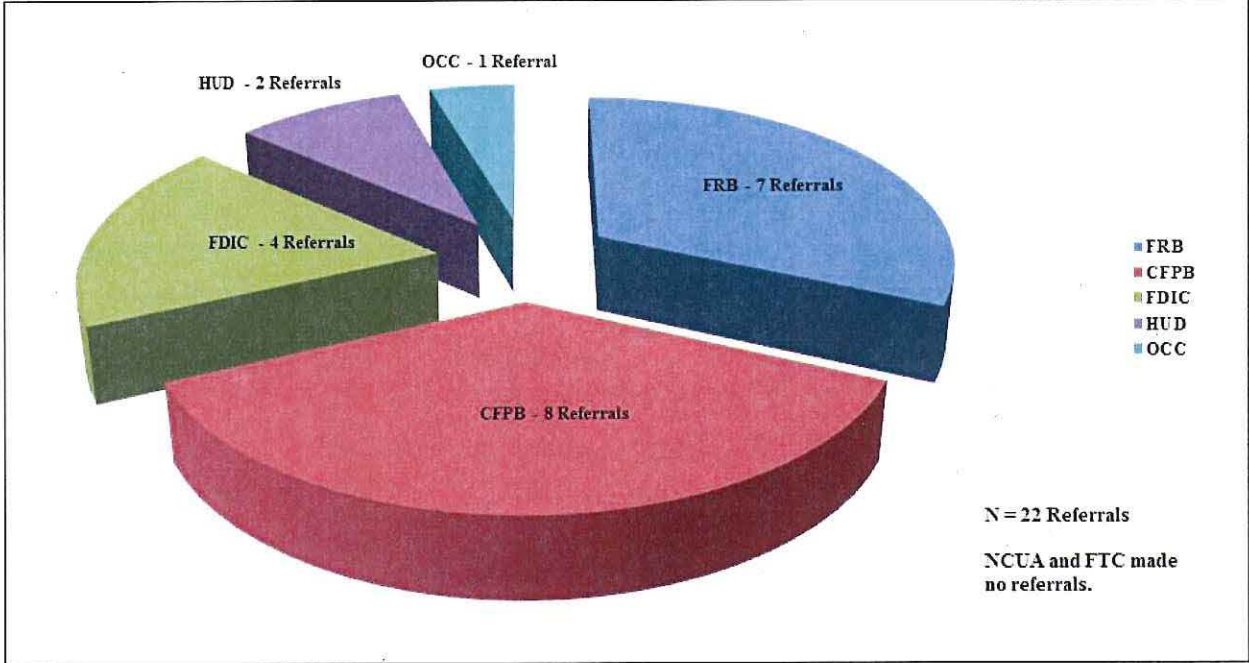
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<sup>1</sup> Several referrals involved multiple protected classes; therefore, the number of referrals by protected class categories totals more than 22.

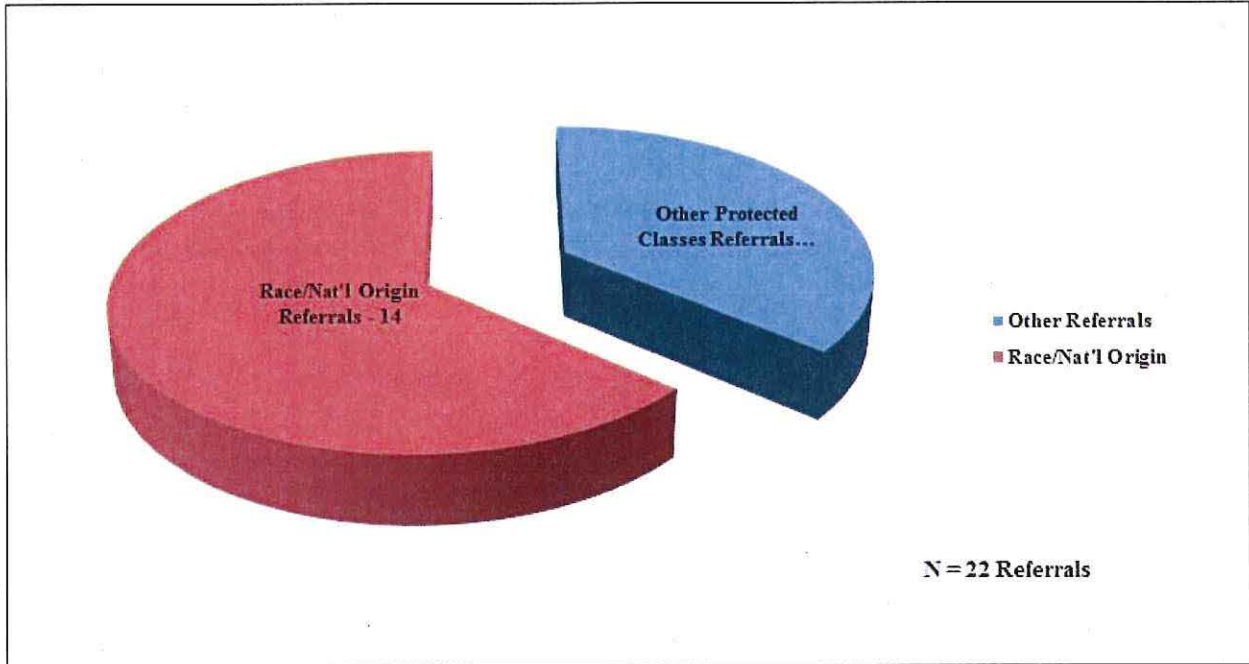
<sup>2</sup> As explained elsewhere in this report, the Division has authority to enforce ECOA and the FHA on its own without a referral from another agency, and some of the investigations had been opened prior to receipt of the referral on the same lender.

<sup>3</sup> Since January 1, 2017, the Division returned three additional referrals to the appropriate regulator.

**2016 Lending Referrals to DOJ by Agency**

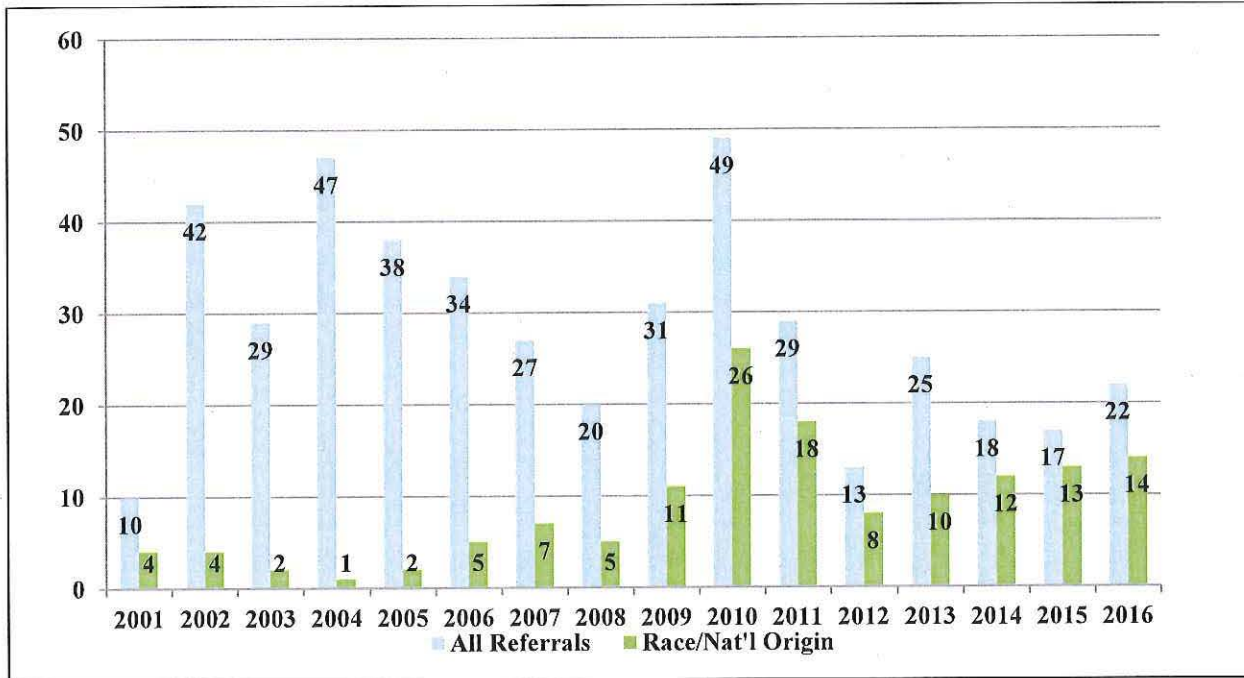


**2016 Lending Referrals to DOJ by Protected Class**





### 2001-2016 Fair Lending Referrals to DOJ





## VI. LOOKING FORWARD




Through its vigorous enforcement of fair lending laws, the Civil Rights Division seeks to create a level playing field for all Americans to obtain credit. By rooting out and addressing lending discrimination, we expand access to credit for qualified borrowers in communities throughout the country.



In addition, our commitment to the rights of those who serve this country in our armed forces is unwavering. We will continue to aggressively enforce laws to protect military members against unlawful financial practices so that they can rest assured that they are not penalized for their courageous decision to serve our nation.

**Lending Discrimination Referrals by Other Agencies to DOJ**

Bank regulatory agencies	2016 Referrals by Protected Class	2016 Referrals Resulting in DOJ Investigations	2016 Referrals Returned to Agency	Referrals Pending from Prior Years
<p>CFPB</p> 	<p><i>8 total</i></p> <p>6 race/national origin 1 race/national origin/source of income 1 age/marital status/source of income/sex</p>	<p><i>4 total</i></p> <p>3 race/national origin 1 race/national origin/source of income</p>	<p><i>4 total</i></p> <p>3 race/national origin 1 age/marital status/source of income/sex</p>	<p><i>7 total</i></p> <p><i>7 open investigations</i></p> <p>6 race/national origin: auto lending 1 race/national origin/marital status/source of income/sex/age: auto lending</p> <p>Filed:</p> <p>* <i>U.S. v. Toyota Motor Credit Corporation</i> * <i>U.S. and CFPB v. BancorpSouth Bank</i></p>
<p>FDIC</p> 	<p><i>4 total</i></p> <p>1 race 1 national origin 1 age 1 source of income</p>	<p><i>1 total</i></p> <p>1 race</p>	<p><i>3 total</i></p> <p>1 national origin 1 age 1 source of income</p>	<p><i>3 total</i></p> <p><i>3 open investigations</i></p> <p>1 race/national origin: broker compensation 2 national origin: auto lending</p> <p>Filed:</p> <p>* <i>U.S. v. Charter Bank</i></p>



Bank regulatory agencies	2016 Referrals by Protected Class	2016 Referrals Resulting in DOJ Investigations	2016 Referrals Returned to Agency	Referrals Pending from Prior Years
FRB 	<i>7 total</i>  1 race 1 national origin 1 race/national origin 4 marital status	<i>0</i>	<i>7 total</i>  1 race 1 national origin 1 race/national origin 4 marital status	<i>2 total</i>  2 open investigations  2 race/national origin: pricing  Filed:  * <i>U.S. v. Evolve Bank &amp; Trust</i>
NCUA 	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
OCC 	<i>1 total</i>  1 marital status	<i>0</i>	<i>1 total</i>  1 marital status	<i>0</i>

Other partners	2016 Referrals by Protected Class	2016 Referrals Resulting in DOJ Investigations	2016 Referrals Returned to Agency	Referrals Pending from Prior Years
FTC 	0	0	0	0
HUD 	<i>2 total</i>  2 national origin	<i>2 total</i>  2 national origin	0	0  Filed: * <i>U.S. v. The Home Loan Auditors</i> * <i>U.S. v. First Federal Bank of Florida</i>



**2001-2016 All Lending Discrimination Referrals by Other Agencies to DOJ**

<b>ALL REFERRALS</b>	<b>2016</b>	<b>2015</b>	<b>2014</b>	<b>2013</b>	<b>2012</b>	<b>2011</b>	<b>2010</b>	<b>2009</b>	<b>2008</b>	<b>2007</b>	<b>2006</b>	<b>2005</b>	<b>2004</b>	<b>2003</b>	<b>2002</b>	<b>2001</b>	<b>Total</b>
<i>Bank regulatory agencies</i>																	
CFPB*	8	8	15	6	1	0	—	—	—	—	—	—	—	—	—	—	38
FDIC	4	4	3	11	8	14	33	21	12	15	29	35	42	29	33	5	298
FRB	7	4	0	6	2	7	6	6	3	9	5	2	3	0	6	1	67
NCUA	0	0	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	1	0	0	1	1	1	2	0	1	0	0	0	0	0	1	3	11
<i>Other partners</i>																	
HUD	2	1	0	1	1	1	2	0	0	0	0	1	1	0	2	0	12
FTC	0	0	0	0	0	2	—	—	—	—	—	—	—	—	—	—	2
<b>Total</b>	<b>22</b>	<b>17</b>	<b>18</b>	<b>25</b>	<b>13</b>	<b>29</b>	<b>49</b>	<b>31</b>	<b>20</b>	<b>27</b>	<b>34</b>	<b>38</b>	<b>47</b>	<b>29</b>	<b>42</b>	<b>10</b>	<b>451</b>

\*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.

**2001-2016 All Race/National Origin Lending Discrimination Referrals by Other Agencies to DOJ**

<b>Race/Nat'l Origin</b>	<b>2016</b>	<b>2015</b>	<b>2014</b>	<b>2013</b>	<b>2012</b>	<b>2011</b>	<b>2010</b>	<b>2009</b>	<b>2008</b>	<b>2007</b>	<b>2006</b>	<b>2005</b>	<b>2004</b>	<b>2003</b>	<b>2002</b>	<b>2001</b>	<b>Total</b>
<i>Bank regulatory agencies</i>																	
CFPB*	7	7	10	2	0	0	—	—	—	—	—	—	—	—	—	—	26
FDIC	2	3	2	5	5	10	14	5	2	1	3	1	0	2	1	2	58
FRB	3	3	0	3	1	2	4	3	0	4	2	0	0	0	1	1	27
NCUA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OIS*	—	—	—	—	—	3	4	3	3	2	0	0	0	0	0	1	16
OCC	0	0	0	0	1	1	2	0	0	0	0	0	0	0	0	0	4
<i>Other partners</i>																	
HUD	2	0	0	0	1	0	2	0	0	0	0	1	1	0	2	0	9
FTC	0	0	0	0	0	2	—	—	—	—	—	—	—	—	—	—	2
<b>Total</b>	<b>14</b>	<b>13</b>	<b>12</b>	<b>10</b>	<b>8</b>	<b>18</b>	<b>26</b>	<b>11</b>	<b>5</b>	<b>7</b>	<b>5</b>	<b>2</b>	<b>1</b>	<b>2</b>	<b>4</b>	<b>4</b>	<b>142</b>

\*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.