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Comptroller of the Currency
Administrator of National Banks
US Department of the Treasury

Incorporated: OCC 1994-30 has been incorporated into the Comptroller's Handbook Fair Lending booklet.

OCC 1994-30

**Subject: Discrimination in Lending -- Interagency
Policy Statement
Date: May 3, 1994**

**To: The Chief Executive Officers and Compliance
Officers of all National Banks, Department and
Division Heads, all Examining Personnel, and other
interested parties**

Description: Policy Statement on Discrimination in Lending

On March 8, 1994, the Comptroller, as a member of the Interagency Task Force on Fair Lending, joined with the top officials of the nine other member agencies to announce a policy statement on discrimination in lending. The policy statement has been formally approved and adopted by the member agencies and was published in the Federal Register on April 15, 1994.

The agencies participating in the Interagency Task Force on Fair Lending are:

- The Department of Housing and Urban Development
- The Department of Justice
- The Office of the Comptroller of the Currency
- The Board of Governors of the Federal Reserve
- The Office of Thrift Supervision
- The Federal Deposit Insurance Corporation
- The Federal Housing Finance Board
- The National Credit Union Administration
- The Federal Trade Commission
- The Office of Federal Housing Enterprise Oversight

The task force policy statement on fair lending describes what constitutes discrimination under the Equal Credit Opportunity Act (ECOA) and the Fair Housing Act (FH Act) for purposes of administrative enforcement of those statutes. The policy statement is designed to provide guidance to lenders consistent with those statutes and their implementing regulations. The policy statement does not create or confer any substantive or procedural rights on third parties that could be enforceable in any administrative or civil proceeding.

The policy statement was issued to inform lenders about what factors the agencies consider in determining whether lending discrimination exists, and to provide the agencies with a foundation for future interpretations and rulemakings. It will be used by the agencies as a tool for administrative enforcement of fair lending statutes. The policy statement applies to all lenders, including banks and thrifts, credit unions, mortgage brokers, finance companies, retailers, credit card issuers and any other persons or entities who extend credit of any type.

The policy statement describes the ECOA and the FH Act and identifies specific discriminatory practices prohibited by these laws. It continues with a description of the three methods of proving lending discrimination under these statutes -- overt evidence of discrimination, evidence of disparate treatment, and evidence of disparate impact. The statement describes the steps involved in each of these methods of proof and provides concrete examples of how they may apply.

Commonly asked questions about fair lending violations are addressed in the final section. Answers to these questions include a detailed discussion of the criteria the agencies will use in determining the nature and severity of sanctions to address discriminatory lending practices, and the conditions under which the primary regulatory agencies will make referrals for investigation and enforcement. How the principles outlined in the policy statement will apply in practice will, of course, depend on the facts in each case.

All interested parties are encouraged to review this policy statement. Questions on how the principles apply in specific cases are encouraged. For further information, contact R. Russell Bailey, Fair Lending Specialist, Compliance Management, (202) 874-4446, or Margaret Hesse, Attorney, Bank Operations and Assets Division, (202) 874-4460.

National banks and others may send their comments to: Communications Division, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, DC 20219, Attention Docket No. 94-04.

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