

CFPB, DOJ Show Renewed Interest in Pursuing “Redlining” Cases

Article By:

Philip R. Stein

Evidence is mounting that the **Consumer Financial Protection Bureau (CFPB)** and the **Department of Justice (DOJ)** are taking a renewed interest in investigating possible redlining—the practice of lenders charging certain groups more for products, or altogether excluding minorities within certain geographic areas.

There has been a substantial increase in recent months of warnings by government officials to lenders about redlining, a lending practice that has been prohibited for decades. The CFPB and DOJ are evidently using slightly different screening methodologies than other regulators, and those differing methodologies are somewhat broader than the norm, which is leading to a larger number of findings of redlining. Regulators, however, assert that there is a different explanation for why they are finding more instances of redlining. Their view is that lenders, forced to scale back the availability of credit in the aftermath of the financial crisis, are resorting to the practice as a means of limiting the pool of borrowers to whom they might extend credit.

The CFPB has not yet taken a public enforcement action solely related to redlining. However, the CFPB’s fair lending office said on April 28th that it had “several open investigations of potential redlining” in progress at the end of last year. Public statements have made clear that the CFPB is working closely with the DOJ on the issue.

Overall, Justice had opened 25 fair lending investigations by the end of 2014 and 10 of those were being done jointly with the CFPB. Among 18 referrals that the DOJ received from other agencies during that year, 15 came from the CFPB, according to a DOJ official.

If a peer comparison shows a lender having a significant disparity from similar peers in the area, that could trigger a redlining investigation. One of the most prominent examples thus far of a joint investigation occurred when the CFPB and Justice Department cited Synchrony Bank last June partly for a legacy program from GE Capital Retail Bank. That legacy program allegedly blocked Hispanics

from accessing a debt-relief program provided to other customers. Synchrony agreed to pay \$225 million, making it the largest settlement of a credit card discrimination case for the authorities. One of the lessons to be learned from that case was that redlining, though it is typically applied to the origination and underwriting of mortgages, can be invoked as a concern in investigations related to products or services such as credit cards, auto loans or servicing of mortgages.

The need for financial services companies to be heavily involved in compliance-related training and careful monitoring of processes and outcomes was already acute, given the CFPB's high level of enforcement and investigative activity in recent years. The significant uptick in redlining investigations underscores how vital the training and monitoring processes really are at this point.

© 2024 Bilzin Sumberg Baena Price & Axelrod LLP

National Law Review, Volumess V, Number 132

Source URL: <https://www.natlawreview.com/article/cfpb-doj-show-renewed-interest-pursuing-redlining-cases>