

Federal Reserve Bank of San Francisco
101 Market Street, San Francisco, California 94105

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To State Member Banks, Bank
Holding Companies, Financial Holding
Companies, Savings and Loan Holding Companies,
and Foreign Banking Offices
in the Twelfth Federal Reserve District

CA 13-15 Federal Regulators Provide Guidance on Qualified Mortgage Fair Lending Risks

On Tuesday, October 22, 2013, five federal regulatory agencies issued a statement to address industry questions about fair lending risks associated with offering only Qualified Mortgages. Creditors have asked for clarity regarding whether the disparate impact doctrine of the Equal Credit Opportunity Act (ECOA) and its implementing regulation, Regulation B, allows them to originate only Qualified Mortgages. For the reasons described in the statement, the five agencies do not anticipate that a creditor's decision to offer only Qualified Mortgages would, absent other factors, elevate a supervised institution's fair lending risk.

The Consumer Financial Protection Bureau's Ability-to-Repay Rule implements provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act that require creditors to make a reasonable, good faith determination that a consumer has the ability to repay a mortgage loan before extending credit to the consumer. Lenders are presumed to have complied with the Ability-to-Repay Rule if they issue Qualified Mortgages, which must satisfy requirements that prohibit or limit risky features that harmed consumers in the recent crisis.

The ECOA makes it illegal for a creditor to discriminate in any aspect of a credit transaction based on characteristics including race, religion, marital status, color, national origin, sex, and age.

The agencies note the decisions creditors will make about product offerings in response to the Ability-to-Repay Rule are similar to decisions creditors have made with regard to other significant regulatory changes affecting particular types of loans. The statement counsels that creditors should continue to evaluate fair lending risk as they would for other types of product selections, including by carefully monitoring policies and practices and implementing effective compliance management systems.

The agencies issuing the statement with supervisory authority for the Fair Housing Act (FHA) believe that the same principles apply in determining compliance with the FHA and its implementing regulation.

The statement is being issued by the Board of Governors of the Federal Reserve System, the Consumer Financial Protection Bureau, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency.

Additional Information

All circulars and documents are available on the Internet through the Federal Reserve Bank of San Francisco's website, at <http://www.frbsf.org/banking-supervision/publications/district-circular-letters/>.

For additional information, please contact:

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Attachment: [Interagency Statement on Fair Lending Compliance and the Ability-to-Repay and Qualified Mortgage Standards Rule](#)