

RESCINDED

Compliance Management Analysis
Questionnaire

This rescission applies to the transmitting document only and not the attached interagency guidance. Refer to Comptroller's Handbook - Consumer Compliance - Fair Lending for the status of the attached interagency guidance.

This questionnaire is for use in conjunction with the Compliance Management Analysis Program as a device for examiners to evaluate the institution's capacity to prevent and to identify and self-correct compliance issues or issues selected for analysis. The questionnaire is not intended to be an absolute test of an institution's compliance management program. Programs containing all or most of the features described in the list may nonetheless be flawed for other reasons; conversely, a compliance program that encompasses only a portion of the factors listed below may nonetheless adequately support a strong program under appropriate circumstances. In short, you must exercise your best judgment in utilizing this list and in assessing the overall quality of an institution's efforts to ensure fair lending compliance.

If the transactions within the proposed scope are covered by a listed preventive measure, and the answer is "Yes," check the box in the left column. You may then reduce the intensity (mainly the sample size) of the planned comparative file review to the degree that the preventive measures cover transactions within the proposed scope. Document your findings in sufficient detail to justify any resulting reduction in the intensity of the examination.

You are not required to learn whether preventive measures apply to specific products outside the proposed scope. However, if the information you have obtained shows that the measure is a general practice of the institution, and thus applies to all loan products, check the box in the second column in order to assist future examination planning.

PREVENTIVE MEASURES

Determine whether policies and procedures exist that tend to prevent illegal disparate treatment in the transactions you plan to examine. There is no legal or agency requirement for institutions to conduct these activities. The absence of any of these policies and practices is never, by itself, a violation.



Compliance Management Analysis Questionnaire

Yes No NA

Lending Practices and Standards

1. Principal policy issues

- Are **underwriting practices** clear, objective and generally consistent with industry standards? Yes No NA
- Is pricing within reasonably confined ranges with guidance linking variations to risk and/or cost factors? Yes No NA
- Does management monitor the nature and frequency of exceptions to its standards? Yes No NA
- Are **denial reasons** accurately and promptly communicated to unsuccessful applicants? Yes No NA
- Are there clear and objective standards for referring applicants to (i) subsidiaries, affiliates, or other lending channels within the institution, (ii) classifying applicants as “prime” or subprime” borrowers, or (iii) deciding what kinds of alternative loan products should be offered or recommended to applicants? Yes No NA
- Are loan officers required to document any deviation from the rate sheet? Yes No NA
- Does management monitor consumer complaints alleging discrimination in loan pricing or underwriting? Yes No NA

2. Do *training, application-processing aids, and other guidance* correctly and adequately describe:

- Prohibited bases under ECOA, Regulation B, and the Fair Housing Act? Yes No NA
- Other substantive credit access requirements of Regulation B (e.g., spousal signatures, improper inquiries, protected income)? Yes No NA

3. Is it specifically *communicated to employees* that they must not, *on a prohibited basis*:

- Refuse to deal with individuals inquiring about credit? Yes No NA
- Discourage inquiries or applicants by delays, discourtesy, or other means? Yes No NA

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	Yes	No	NA
• Provide different, incomplete, or misleading information about the availability of loans, application requirements, and processing and approval standards or procedures (including selectively informing applicants about certain loan products while failing to inform them of alternatives)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Encourage or more vigorously assist only certain inquirers or applicants?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Refer credit seekers to other institutions, more costly loan products, or potentially onerous features?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Refer credit seekers to nontraditional products (i.e., negative amortization, interest only, “payment option” adjustable rate mortgages) when they could have qualified for traditional mortgages?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Waive or grant exceptions to application procedures or credit standards?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• State a willingness to negotiate?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Use different procedures or standards to evaluate applications?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Use different procedures to obtain and evaluate appraisals?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Provide certain applicants opportunities to correct or explain adverse or inadequate information, or to provide additional information?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Accept alternative proofs or creditworthiness?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Require co-signers?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Offer or authorize loan modifications?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Suggest or permit loan assumptions?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Impose late charges, reinstatement fees, etc.?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Initiate collection or foreclosure?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Has the institution taken specific initiatives to <i>prevent the following practices</i> ?			
• Basing credit decisions on assumptions derived from racial, gender, and other stereotypes, rather than facts?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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<ul style="list-style-type: none"> • Seeking consumers from a particular racial, ethnic, or religious group, or of a particular gender, to the exclusion of other types of consumers, on the basis of how “comfortable” the employee may feel in dealing with those different from him/her? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Limiting the exchange of credit-related information or limiting efforts to qualify an applicant from a prohibited basis group. 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Drawing the institution’s CRA assessment area by unreasonably excluding minority areas? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Targeting certain borrowers or areas with less advantageous products? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Does the institution have procedures to ensure that it does not:			
<ul style="list-style-type: none"> • State racial or ethnic limitations in advertisements? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Employ words or use photos in advertisements that convey racial or ethnic limitations or preferences? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Place advertisement that a reasonable person would regard as indicating minority consumers are less desirable? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Advertise only in media serving predominately minority or nonminority areas of the market? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Conduct other forms of marketing differentially in nonminority areas of the market? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Market only through brokers known to serve one racial or ethnic group in the market? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Use a prohibited basis in any prescreened solicitation? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Provide financial incentives for loan officers to place applicants in nontraditional products or higher-risk products? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Compliance Management Analysis Questionnaire

Yes No NA

Compliance Audit Function: Does the Institution Attempt to Detect Prohibited Disparate Treatment by Self-Test or Self-Evaluation?

NOTE: A self-test is any program, practice or study that is designed and specifically used to assess the institution's compliance with the ECOA and the Fair Housing Act. It creates data or factual information that is not otherwise available and cannot be derived from loan, application, or other records related to credit transactions (12 CFR 202.15(b)(1) and 24 CFR 100.141). The report, results, and many other records associated with a self-test are privileged unless an institution voluntarily discloses the report or results or otherwise forfeits the privilege. See 12 CFR 202.15(b)(2) and 24 CFR 100.142(a) for a complete listing of the types of information covered by the privilege. A self-evaluation, while generally having the same purpose as a self-test does not meet the self-test definition. It does not create any new data or factual information, but uses data readily available in loan or application files and other records used in credit transactions. See Using Self-Tests and Self-Evaluations to Streamline the Examination in the Appendix for more information about self-tests and self-evaluations.

While you may request the results of self-evaluations, you should not request the results of self-tests or any of the information listed in 12 CFR 202.15(b)(2) and 24 CFR 100.142(a). If an institution discloses the self-test report or results to its regulator, it will lose the privilege. The following items are intended to obtain information about the institution's approach to self-testing and self-evaluation, not the findings. Complete the questionnaire below for each self-evaluation and each self-test, where the institution voluntarily discloses the report or results. Evaluating the results of self-evaluations and voluntarily disclosed self-tests is described in Using Self-tests Self-Evaluations to [Streamline the Examination in this Appendix](#).

Mark the box if the answer is "yes" for the transactions within the scope.

1. Are the transactions reviewed by an independent analyst who:

- Is directed to report objective results?
- Has an adequate level of expertise?
- Produces written conclusions?

Compliance Management Analysis Questionnaire

	Yes	No	NA
2. Does the institution's approach for self-testing or self-evaluation call for:			
• Attempting to explain major patterns shown in the HMDA or other loan data?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Determining whether actual practices and standards differ from stated ones and basing the evaluation on the actual practices?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Evaluating whether the reasons cited for denial are supported by facts relied on by the decision maker at the time of the decision?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Comparing the treatment of prohibited basis group applicants to control group applicants?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Obtaining explanations from decision makers for any unfavorable treatment of the prohibited basis group that departed from policy or customary practice?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Covering significant decision points in the loan process where disparate treatment or discouragement might occur, including:			
— The approve/deny decision?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
— Pricing?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
— Other terms and conditions?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Covering at least as many transactions as examiners would independently, if using the Fair Lending Sample Size Tables in the Appendix for a product with the application volumes of the product to be evaluated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Maintaining information concerning personal characteristics collected as part of a self-test separately from application or loan files?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Timely analysis of the data?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Taking appropriate and timely corrective action?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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3. In the institution's plan for comparing the treatment of prohibited basis group applicants with that of control group applicants:			
• Are control and prohibited basis groups based on a prohibited basis found in ECOA or the FHAct and defined clearly to isolate that prohibited basis for analysis?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Are appropriate data to be obtained to document treatment of applicants and the relative qualifications vis-à-vis the requirement in question?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Will the data to be obtained reflect the data on which decisions were based?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Does the plan call for comparing the denied applicants' qualifications related to the stated reason for denial with the corresponding qualifications for approved applicants?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Are comparisons designed to identify instances in which prohibited basis group applicants were treated less favorably than control group applicants who were no better qualified?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Is the evaluation designed to determine whether control and prohibited basis group applicants were treated differently in the processes by which the institution helped applicants overcome obstacles and by which their qualifications were enhanced?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Are responses and explanations to be obtained for any apparent disparate treatment on a prohibited basis or other apparent violations of credit rights?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Are reasons cited by credit decision makers to justify or explain instances of apparent disparate treatment to be verified?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. For self-tests under ECOA that involved the collection of applicant personal characteristics, did the institution:			
• Develop a written plan that describes or identifies the:			
— Specific purpose of the self-test?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
— Methodology to be used?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
— Geographic area(s) to be covered?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
— Type(s) of credit transactions to be reviewed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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— Entity that will conduct the test and analyze the data?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
— Timing of the test, including start and end dates or the duration of the self-test	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
— Other related self-test data that is not privileged?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Disclose at the time applicant characteristic information is requested, that:			
— The applicant will not be required to provide the information?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
— The creditor is requesting the information to monitor its compliance with ECOA?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Corrective Measures

1. Determine whether the institution has provisions to *take appropriate corrective action* and *provide adequate relief* to victims for any violations in the transactions you plan to review.

- Who is to receive the results of a self-evaluation or voluntarily disclosed self-test?
- What decision process is supposed to follow delivery of the information?
- Is feedback to be given to staff whose actions are reviewed?
- What types of corrective action may occur?
- Are consumers to be:
 - Offered credit if they were improperly denied?
 - Compensated for any damages, both out of pocket and compensatory?
 - Notified of their legal rights?

2. Other corrective action:

- Are institutional policies or procedures that may have contributed to the discrimination to be corrected?
- Are employees involved to be trained and/or disciplined?

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<ul style="list-style-type: none">• Is the need for community outreach programs and/or changes in marketing strategy or loan products to better serve minority segments of the institution's market to be considered?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none">• Are audit and oversight systems to be improved in order to ensure there is not recurrence of any identified discrimination?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

COMMENTS

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