

THE ATTORNEY GENERAL'S  
2010 ANNUAL REPORT TO CONGRESS  
PURSUANT TO THE  
EQUAL CREDIT OPPORTUNITY ACT  
AMENDMENTS OF 1976

SUBMITTED BY  
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April 5, 2011

This report is submitted pursuant to Section 1691f of the Equal Credit Opportunity Act, as amended (ECOA), 15 U.S.C. § 1691, *et seq.*, regarding the activities of the Department of Justice (DOJ or the Department) under the statute. This report covers the 2010 calendar year.

## I. INTRODUCTION

In 2010, the Civil Rights Division received more referrals, 49, from regulatory agencies of matters involving a possible pattern or practice of discrimination, than it received in at least the last 20 years. Twenty-six (26) of these referrals involved discrimination based on race or national origin. In contrast, from 2001 through 2008 the Division received only a combined total of 30 referrals involving discrimination based on race or national origin. In addition, our strengthened relationships with the regulatory agencies included several parallel investigations that have resulted in authorized lawsuits. In 2011, the Department will continue to build its capacity for fair lending work and strengthen its relationships with partners across the government so that we can ensure continued effective enforcement.

The recent housing and foreclosure crisis has devastated communities nationwide, wiping out family wealth earned over decades and leaving many middle class families facing the loss of their most important asset. The crisis has impacted not only those families who have lost their homes, but tens of millions of neighboring homeowners whose homes have lost value because of foreclosures in their communities and the resulting neglect, disrepair and blight. Renters have also increasingly found themselves victims of the crisis, as banks foreclose upon the homes or apartments they rent, leaving them without a roof over their heads.

This crisis has impacted communities of all kinds, in every state, from coast to coast. But one fact is clear; while the foreclosure crisis has touched so many communities across America, communities of color have been hit particularly hard, and have suffered greater consequences.

In response to the devastation caused by this crisis, the Department of Justice has made fair lending a top priority. In 2010, the Civil Rights Division worked to create the necessary infrastructure to expand and sustain our fair lending work, establishing a Fair Lending Unit in the Division's Housing and Civil Enforcement Section in order to devote more resources to fair lending enforcement. The unit is staffed with attorneys, economists and a mathematical statistician. More than 20 Section staff members devoted all or a significant portion of their time in 2010 to lending cases and matters. In addition, the Division's Special Counsel for Fair Lending, a new senior career position in the Office of the Assistant Attorney General, has worked to ensure that fair lending issues receive immediate attention and high priority.

The Fair Lending Unit is focusing on the entire range of abuses seen in the

market, from traditional access to credit issues -- such as redlining -- to pricing, steering, reverse redlining and other areas. While the housing and foreclosure crisis necessitates that much of our focus is on mortgage lending, the unit addresses discrimination in all areas of lending, including unsecured consumer lending, auto lending, and credit cards.

This new infrastructure has allowed the Division to identify major targets for enforcement and begin to fundamentally reshape our relationships with other federal agencies and state partners, including state attorneys general. In 2010, the Division worked to strengthen its working partnerships with the Department of Housing and Urban Development and bank regulatory agencies – partnerships that are critical to efficient and effective enforcement of federal fair lending laws, and have proven indispensable in the Department’s ramped up efforts to combat lending discrimination. In addition, the Financial Fraud Enforcement Task Force has provided an important forum for enhanced collaboration between the Department and its sister agencies.

## II. LITIGATION

The Division’s efforts aim to address the wide range of discriminatory practices by lenders, brokers, and other players in the mortgage market that contributed to our nation’s housing crisis and economic meltdown. No single case will capture the full range of discriminatory conduct occurring in the mortgage market. Rather, the Division is targeting its enforcement actions to specific discriminatory lending practices, including:

- Discrimination in the underwriting or pricing of loans, such as discretionary mark-ups and fees;
- Redlining through the failure to provide equal lending services to minority neighborhoods;
- Reverse redlining through the targeting of minority communities for predatory loans;
- Steering minority borrowers into less favorable loans; and
- Marital status, gender and age discrimination in lending.

The Department’s fair lending enforcement actions brought during 2010 focused on pricing discrimination against minority borrowers, which involves charging borrowers more because of their race or national origin than similarly qualified non-minority applicants. The two examples of pricing discrimination cases filed in 2010 described below involved loans made in the subprime market prior to 2007, as well as prime loans, and include loans made in the current mortgage market. In addition to the cases discussed below, there were four matters where a lawsuit was authorized in 2010, and the Department is engaged in pre-suit negotiations with the lender.

On March 4, 2010, the Division simultaneously filed and settled a case against AIG Federal Savings Bank (FSB) and Wilmington Finance Inc. (WFI), two subsidiaries

of American International Group, Inc., resolving allegations that they engaged in a pattern or practice of discrimination against African-American borrowers. *United States v. AIG Federal Savings Bank and Wilmington Finance, Inc.* (D. Del.). The court entered the consent order on March 22.<sup>1</sup>

The complaint alleged that the defendants violated the Fair Housing Act and the Equal Credit Opportunity Act when they charged higher fees on thousands of wholesale loans to African-American borrowers nationwide from July 2003 until May 2006, a period of time before the federal government obtained an ownership interest in American International Group, Inc. The complaint further alleged that AIG FSB and WFI contracted with mortgage brokers to obtain mortgage applications that were underwritten and funded by the defendants and failed to supervise or monitor brokers in setting broker fees.

The settlement marked the Department's largest monetary award to date for victims in a fair lending case, requiring AIG FSB and WFI to pay up to \$6.1 million to African-American customers who were charged higher broker fees than non-Hispanic white customers. It also requires the defendants to invest at least \$1 million in consumer financial education efforts, and prohibits the defendants from discriminating on the basis of race or color in any aspect of wholesale home mortgage lending. This case resulted from a referral by the Office of Thrift Supervision (OTS) to the Division. It marks the first time the Justice Department has held a lender responsible for failing to monitor its brokers to ensure that borrowers are not charged higher fees because of their race.

Another case which the Division simultaneously filed and settled against a national mortgage lender, on December 9, 2010, resolved allegations that the defendant engaged in a pattern or practice of discrimination against African-American borrowers nationwide between 2006 and 2009. *United States v. PrimeLending* (N.D. Tex.). The court entered the consent order on January 11, 2011.<sup>2</sup>

The complaint alleged that PrimeLending violated the Fair Housing Act and the Equal Credit Opportunity Act when it charged African-American borrowers higher annual percentage rates of interest between 2006 and 2009 for prime fixed-rate home loans and for home loans guaranteed by the Federal Housing Administration and Department of Veterans Affairs than it charged to similarly-situated white borrowers. PrimeLending's policy of giving its employees wide discretion to increase their commissions by adding "overages" to loans, which increased the interest rates paid by borrowers, had a disparate impact on African-American borrowers. The consent order requires the defendant to pay \$2 million to borrowers identified as victims of

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<sup>1</sup> <http://www.justice.gov/crt/about/hce/caselist.php>. Documents for all cases cited in the report can be found at this link. Click on "fair lending" to see the list of such cases.

<sup>2</sup> The pleadings are available at the link at footnote 1.

discrimination, and to have in place loan pricing policies, monitoring and employee training that ensure discrimination does not occur in the future. This case resulted from a referral by the Board of Governors of the Federal Reserve System (FRB) to the Division. It demonstrates federal government inter-agency cooperation in vigorously enforcing fair lending laws in order to ensure that borrowers are not charged more to obtain a home loan based on their race in the current credit market.

In the wake of the collapse of the mortgage market, the number of FHA-insured loans has increased dramatically. The Department, in collaboration with the Department of Housing and Urban Development and the Federal Reserve Board, has placed a special emphasis on ensuring that Federal Housing Administration-insured loans are available to all qualified borrowers on a non-discriminatory basis.

The Division continues its litigation in an auto financing case previously described in the 2009 ECOA Report<sup>3</sup> and is now litigating the impact of *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 127 S.Ct. 1937 (2009) on its fair lending complaints. While Defendant Nara Bank settled its part in this case by entering into a partial consent order that was filed simultaneously with the Department's complaint in 2009, the defendant auto dealerships contested the claims that they had discriminated on the basis of race or national origin in violation of the Equal Credit Opportunity Act by charging non-Asian customers, many of whom are Hispanic, higher "overages" or "dealer mark ups" than similarly-situated Asian customers.

On May 28, 2010, the district court granted the dealership defendants' motions to dismiss the United States' amended complaint, holding that the complaint did not set out a plausible disparate impact claim under ECOA. The Department has appealed this decision. Our appellate brief, filed on January 3, 2011, argues that the district court's ruling erroneously drew inferences in favor of the defendants rather than the plaintiff, set the bar too high for pleading discrimination cases, and undermined the notion that the filing of a complaint is the starting point for notice pleading that relies on discovery rules and summary judgment motions to define the issues and dispose of unmeritorious claims.<sup>4</sup>

### III. INVESTIGATIONS

During 2010, with the establishment of the Fair Lending Unit, the Department concentrated significant resources on fair lending investigations and had more than 60 active matters involving a variety of allegations.

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<sup>3</sup> See 2009 ECOA Report ([www.justice.gov/crt/publications](http://www.justice.gov/crt/publications)), *United States v. Nara Bank; Union Auto Sales d/b/a Union Mitsubishi; Han Kook Enterprises, Inc., d/b/a Los Angeles City Hyundai, Garden Grove Hyundai, Han Kook Imports, Vermont Chevrolet, and Han Kook Motors, Inc.* (C.D. Cal.)

<sup>4</sup> The pleadings are available at the link at footnote 1.

This year the Department also continued its efforts to work more collaboratively with the banking regulatory agencies in order to improve and streamline the referral process. The Department and FRB conducted parallel investigations of two lenders – the Department’s investigation based on its self-starting pattern or practice authority and the FRB’s in connection with its fair lending examinations of the same institutions. Both of these matters resulted in referrals from the FRB during 2010. This model allowed the Division and FRB to coordinate efforts during the investigative phase, leverage resources and implement more focused approaches once the FRB made the referrals. In 2010, we expanded this model to a third investigation, this time involving a lender supervised by the Office of the Comptroller of the Currency (OCC).<sup>5</sup> All three of these matters involved an alleged pattern or practice of discrimination based on race or national origin, and resulted in lawsuits authorized in 2010 that are currently in pre-suit negotiations.

The Department continued to have a substantial number of investigations involving alleged race or national origin discrimination in loan pricing and steering. Many of these investigations resulted from review, either by the Department or the bank regulatory agencies, of loan pricing data now available under the Home Mortgage Disclosure Act (HMDA).<sup>6</sup> As described below, in 2010 the quantity of referrals from bank regulatory agencies involving race or national origin based discrimination increased dramatically. In several matters active during this year, we examined allegations that local, regional and national lenders priced mortgage loans or loan-related fees differently based on the race or national origin of the borrower, or provided different types of loan products based on the race or national origin of the borrowers.<sup>7</sup>

The Department also continued to investigate allegations of redlining. In a redlining case, a lender does not provide its lending services on an equal basis in a neighborhood because of the race, color, or national origin of the people who live in the neighborhood, thereby denying residents of those communities equal access to residential, consumer, or small business credit. During 2010, we examined allegations that several lenders refused to do business in majority African-American and/or Hispanic neighborhoods because of the race, color, or national origin of those areas. We are also concerned that the prevalence of redlining may increase in the wake of the mortgage and foreclosure crisis, and will remain vigilant in our efforts to investigate such cases. Two of our authorized cases that are currently in pre-suit negotiations involve allegations that a bank engaged in redlining.

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<sup>5</sup> In addition to these three matters, as of February 1, 2011, we were also engaged in pre-suit negotiations in a fourth matter involving discrimination based on marital status.

<sup>6</sup> Since 2004, HMDA has required reporting lenders to collect and publicly report certain information about the interest rate charged on home mortgage loans that they originate.

<sup>7</sup> One of the authorized lawsuits in pre-suit negotiations at the end of 2010 involved claims of this type of product steering.

When prime lenders abandon communities by redlining, less scrupulous lenders may target those neighborhoods for abusive products or loans. This latter practice is known as reverse redlining. During 2010, we examined allegations that lenders or brokers targeted African-American and/or Hispanic communities for abusive loans. Lawsuits challenging redlining and reverse redlining practices are significant weapons in the battle against predatory lending, and we expect that some of the investigations begun in 2010 will lead to suits or settlements in 2011.

Also in 2010, we expanded our efforts to identify and address issues of potential discrimination in loan denials, loan servicing and foreclosures related to the ongoing mortgage crisis. As discussed in Sections IV and V, we have worked and will continue to work closely with other government agencies and external stakeholders to address these issues.

#### IV. REFERRALS

Partnerships with our sister federal agencies are critical to ensuring effective and efficient enforcement of fair lending laws. In 2010, the Division worked to strengthen these relationships.

Referrals occur when, in the course of the examination of a lender, the bank regulatory agency or HUD finds a potential pattern or practice of discrimination. Pursuant to ECOA, bank regulatory agencies with enforcement responsibilities are required to refer to the Attorney General matters where they believe a lender is engaged in a pattern or practice of discrimination.<sup>8</sup> HUD makes pattern or practice referrals, including those involving lending discrimination, to the Department pursuant to the Fair Housing Act.<sup>9</sup>

In 2010, the Department received more referrals than it received in any of the last 20 years. Notably, there were 26 referrals based on race or national origin discrimination, more than we received in any previous year and more than we received in the last three years combined.<sup>10</sup>

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

When the Division receives a referral, it must determine whether to file a lawsuit in federal court or return the matter to the regulator for administrative enforcement. The

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<sup>8</sup> The agencies “shall refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 1691(a) of this title.” 15 U.S.C. § 1691e(g).

<sup>9</sup> 42 U.S.C. § 3610(e)(2).

<sup>10</sup> The attached charts provide the detailed data underlying the graphs in this Section.

Division regularly defers to the bank regulatory agencies for administrative enforcement after a preliminary review of the information provided in a referral. Such reviews can be conducted most efficiently and effectively when the bank regulatory agency at the time of referral provides the Division with the available information critical to DOJ's determination of whether to pursue enforcement through litigation or to defer to the regulatory agency for administrative enforcement.

In 1996, upon the recommendation of the General Accounting 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. While numerous factors are considered, referrals that are most likely to be returned generally 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, such as 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.

Referrals that would likely be considered for litigation by the Department are 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.

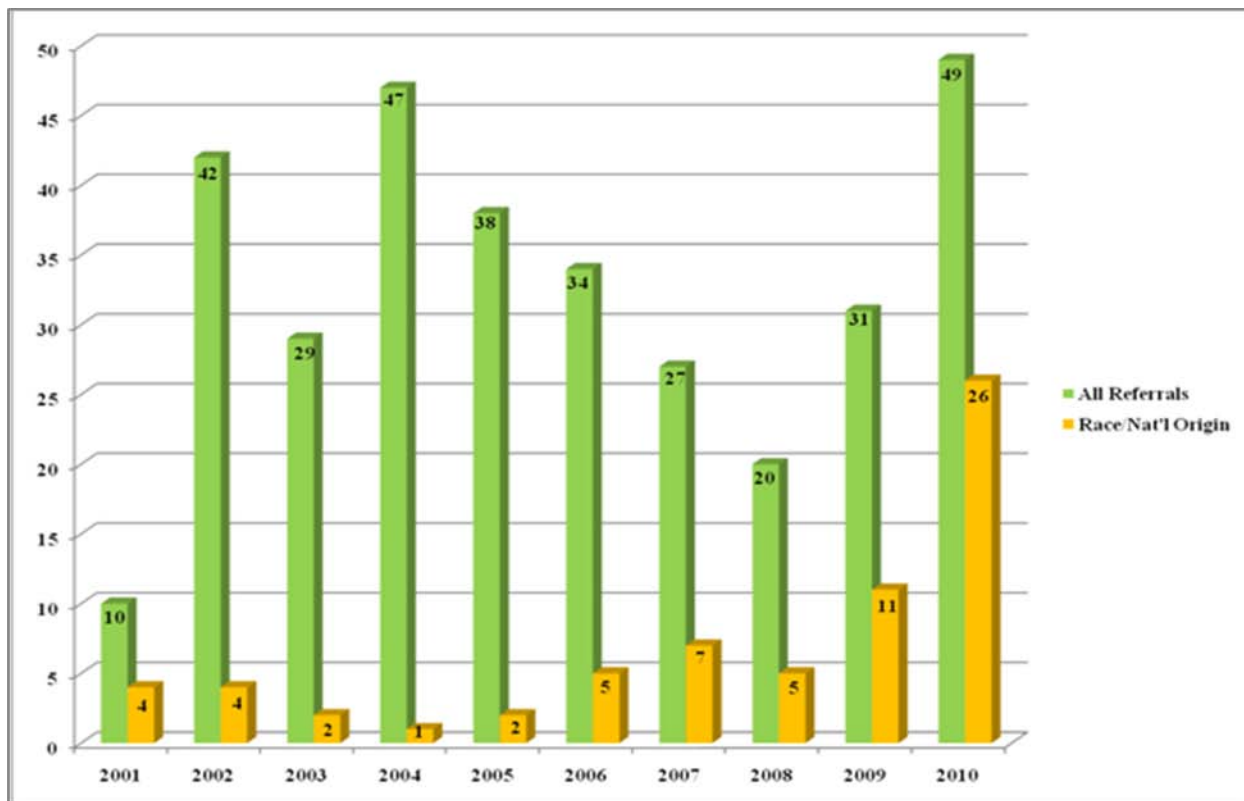
The referrals that were returned for administrative enforcement during 2010 are described below by agency. In sum, as of December 31, 2010, we had returned 28 of the 47 bank agency referrals for administrative resolution, or more than 59 percent. With the creation of the new Fair Lending Unit, we have made it a priority to review and make a decision to either defer for administrative enforcement or open a DOJ investigation for further review as soon as feasible and appropriate. Of the 28 referrals



we received and returned in 2010, more than two-thirds (19 of the 28) were returned within 90 days of receipt of the referral. By February 28, 2011, we had returned three more referrals for regulatory enforcement and continued to investigate or engage in pre-suit negotiations regarding the allegations in the 16 remaining referrals.

For each of the referrals we returned to the agencies, we evaluated the facts and circumstances of the matter in light of the factors described in above. Key factors for determining to return a referral to the bank agency during 2010 included 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 and magnitude of any damages for potential victims.

### 2001-2010 Fair Lending Referrals to DOJ<sup>11</sup>



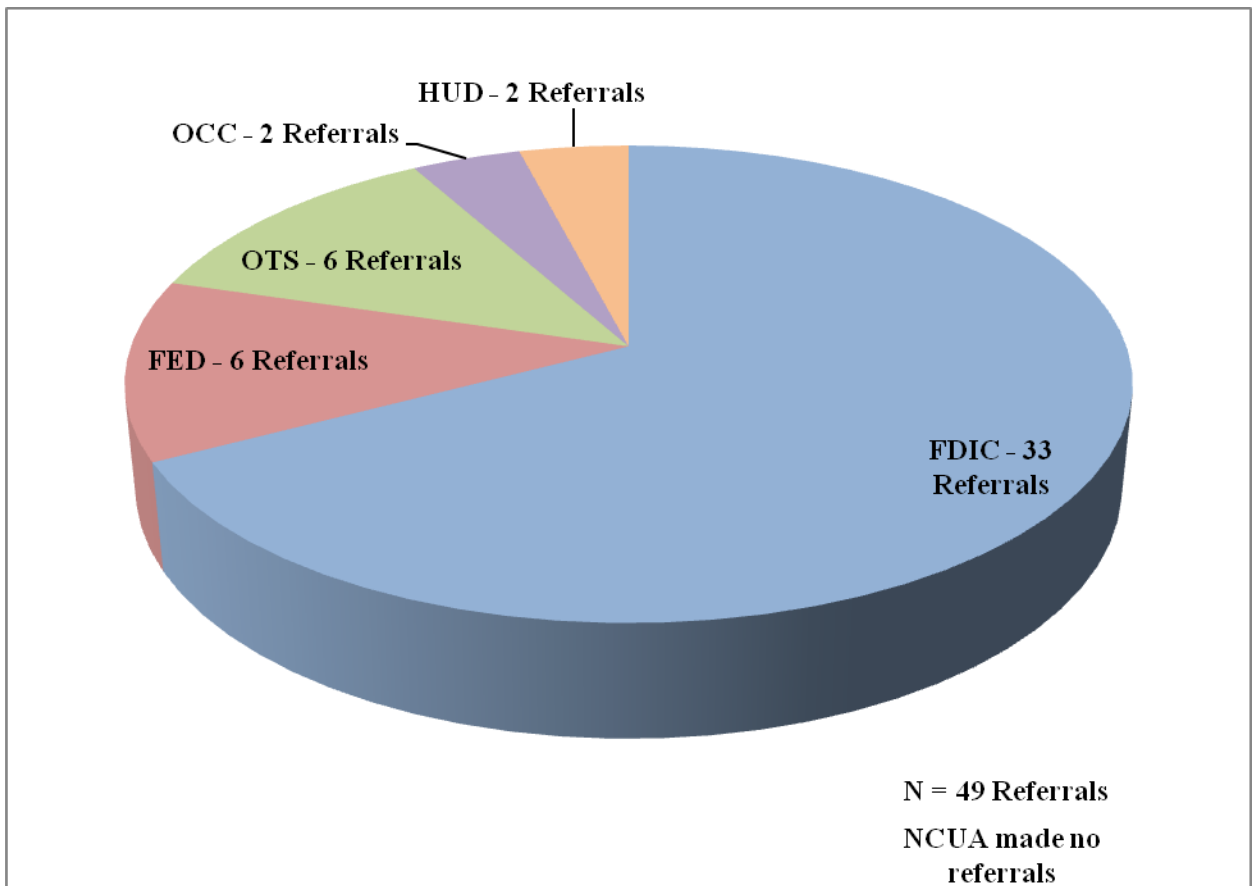
<sup>11</sup> The data on this chart is presented in spreadsheet form at page 16 of this report.

## B. Referrals to DOJ

In 2010, DOJ received 49 fair lending referrals involving potential ECOA claims from the bank regulatory agencies and HUD, the largest number in more than a decade. The referrals included:

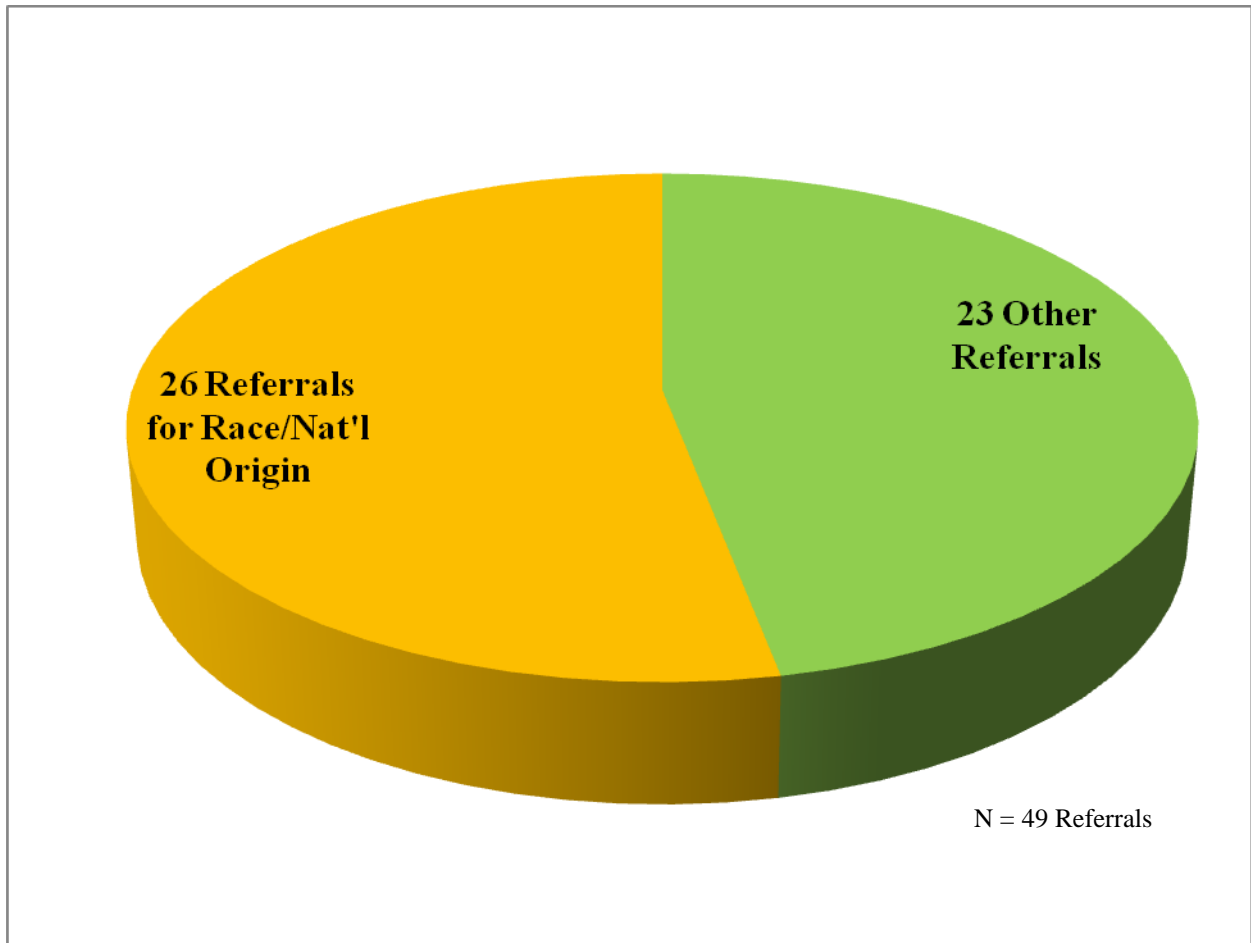
- 33 referrals from the Federal Deposit Insurance Corporation (FDIC);
- 6 referrals from the Federal Reserve Board (FRB);
- 6 referrals from the Office of Thrift Supervision (OTS);
- 2 referrals from the Office of the Comptroller of the Currency (OCC);
- None from the National Credit Union Administration (NCUA); and
- 2 referrals from HUD.

### 2010 Fair Lending Referrals to DOJ

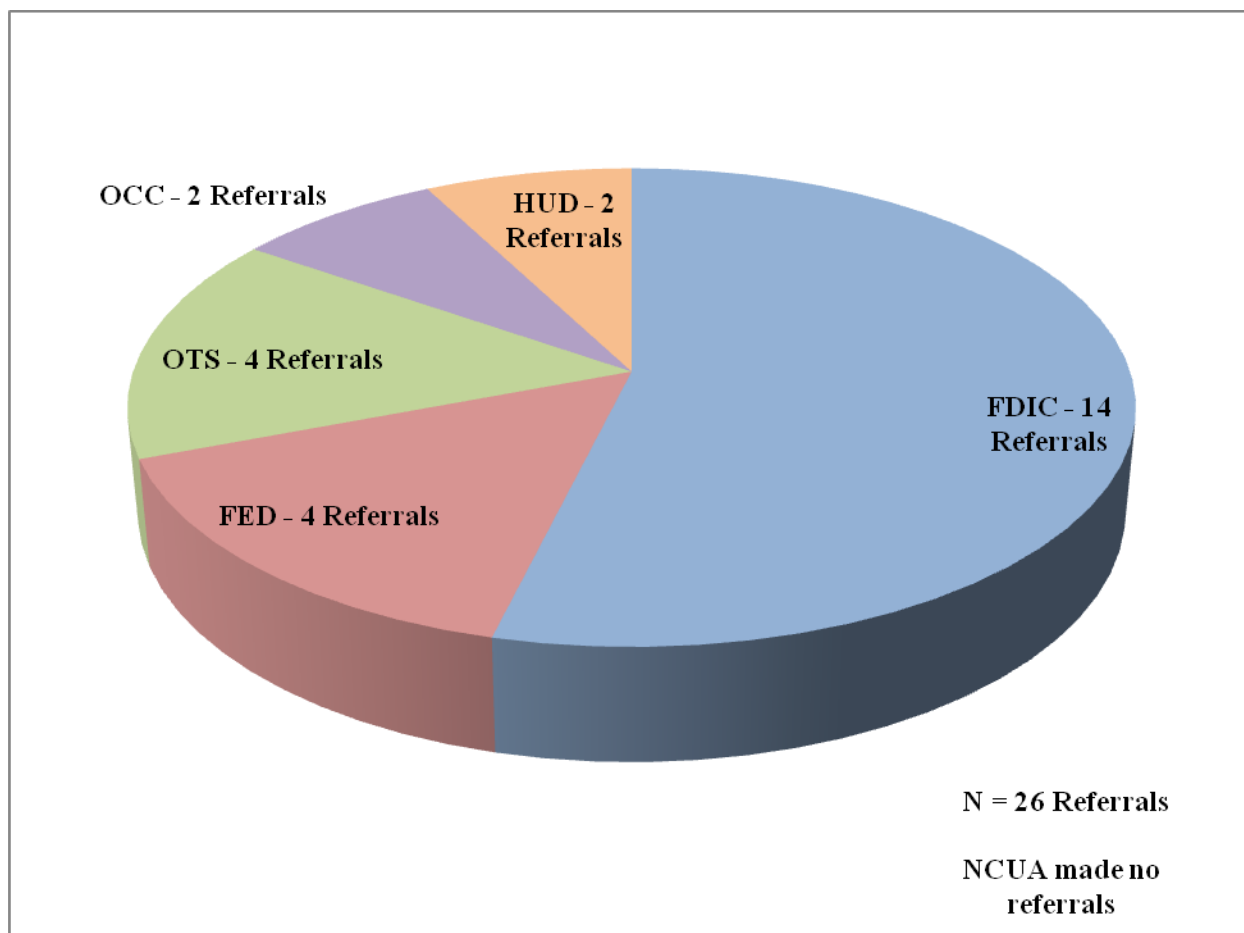


For the first time in 2010, more than one-half of these referrals involved discrimination based on race or national origin.

2010 Fair Lending Referrals to DOJ



2010 Fair Lending Referrals to DOJ Involving Race & National Origin Discrimination



Overall, the 2010 referrals included the following types of alleged discrimination:

- 26 involving race or national origin;
- 15 involving marital status;
- 5 involving age;
- 3 involving gender;
- 2 involving the exercise of rights protected under the Consumer Credit Protection Act; and
- 1 involving source of income.<sup>12</sup>

The referrals are described (by agency) below.

<sup>12</sup> Several referrals involved multiple protected classes; therefore, the number of referrals by protected class categories totals more than 49.

## Federal Deposit Insurance Corporation

The FDIC made 33 referrals in 2010:

- 14 involved race or national origin discrimination;
- 11 involved marital status discrimination;
- 4 involved age discrimination;
- 3 involved gender discrimination; and
- 1 involved exercise of rights protected under the Consumer Credit Protection Act.

Of the 33 referrals made, we returned 24 for administrative resolution in 2010:

- 11 involved marital status discrimination;
- 7 involved race or national origin discrimination;
- 4 involved age discrimination;
- 1 involved gender discrimination; and
- 1 involved exercise of rights protected under the Consumer Credit Protection Act.

The returned marital status discrimination referrals included allegations that the lender either applied different underwriting processes depending on whether co-applicants were married to each other, or improperly required spousal signatures on loan documents making a non-applicant spouse liable for the entire amount of the loan, even when the individual spouse owned the collateral and independently qualified for the loan under the creditor's standards of creditworthiness. The returned race and national origin discrimination referrals included allegations of discrimination in pricing of home loans, potential steering of borrowers to higher priced mortgage loans, impermissibly taking into account factors relating to race or national origin in the underwriting of credit cards, and the use of advertising practices designed to discourage certain borrowers. The returned age discrimination referrals included allegations of preferential treatment for persons in age groups not entitled to preferential treatment under ECOA. The returned gender discrimination referral involved allegations that one loan officer asked inappropriate pregnancy-related questions during the underwriting process. The last returned referral involved the exercise of rights protected under the Consumer Credit Protection Act, which does not allow differences in treatment of credit applicants based on the existence of a fraud alert in the borrower's credit history. At the end of 2010, we continued to review the seven other 2010 referrals based on race or national origin discrimination and the two other 2010 referrals based on gender discrimination.

We also continued to review three FDIC referrals from prior years. We returned one referral involving allegations that the lender discriminated by advertising its loan products only in certain languages.<sup>13</sup> We continued to review two of these referrals: one involving allegations that the lender discriminated on the basis of age and gender in processing applications for a credit card product; and the other involving allegations that the lender discriminated on the basis of race or national origin in steering. In addition,

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<sup>13</sup> We returned this referral in February, 2011.

we continue to monitor compliance with the consent orders entered in *United States v. First United Security Bank* (S.D. Ala.), and *United States v. First Lowndes Bank*. (M.D. Ala.), cases referred to DOJ by the FDIC in prior years.<sup>14</sup>

## **Federal Reserve Board**

The FRB made six referrals in 2010:

- 4 involved race or national origin discrimination.<sup>15</sup>
- 2 involved marital status discrimination.

During 2010, we returned for administrative resolution the two referrals that involved marital status discrimination and included allegations that the lender improperly required spousal signatures on loan documents making a non-applicant spouse liable for the entire amount of the loan, even when the applicant spouse independently qualified for the loan under the creditor's standards of creditworthiness or when the non-applicant spouse had no corporate or business relationship with the applicant. At the end of 2010, we continued to review the four remaining FRB referrals from 2010, which involve allegations that the lender discriminated on the basis of race or national origin in the pricing of mortgage loans or by redlining.

Also during 2010, we continued to investigate four other referrals received from the FRB in prior years, all involving allegations that nationwide lenders discriminated in mortgage lending based on race or national origin. One of these resulted in the *United States v. PrimeLending* (N.D. Tex.) lawsuit described above, which is now in compliance. In addition, we continued to monitor compliance with the partial consent order in *United States v. Nara Bank, et al.* (C.D. Cal.).

## **Office of Thrift Supervision**

The OTS made six referrals in 2010.

- 3 involved race or national origin discrimination.
- 1 involved marital status and age discrimination;
- 1 involved marital status discrimination; and
- 1 involved discrimination based on race, source of income and exercise of rights protected under the Consumer Credit Protection Act.

During 2010 and early 2011, we returned the two marital status and age discrimination referrals, the referral involving alleged discrimination based on race, source of income and exercise of rights protected under the Consumer Credit Protection Act, and one of the referrals based on race or national origin for administrative

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<sup>14</sup> The pleadings are available at the link at footnote 1.

<sup>15</sup> As described above, two of these referrals were the subject of parallel DOJ investigations during the examination phase.

resolution. We continue to review the other two 2010 referrals involving alleged race or national origin discrimination based on minimum loan amount and pricing policies.

In 2010, we also continued our review of four referrals received from the OTS in prior years. We returned one referral that included allegations of pricing discrimination based on race and national origin. We continued our review of two other referrals that involve allegations that nationwide lenders discriminated in mortgage lending based on race or national origin, one of which also involves allegations of marital status discrimination in mortgage lending. Our investigation of the fourth of these referrals resulted in the *United States v. AIG Federal Savings Bank and Wilmington Finance, Inc.* (D. Del.) lawsuit described above, which is now in compliance.

### **Office of the Comptroller of the Currency**

The OCC made two referrals in 2010. One involves allegations of discrimination based on race in the lender's mortgage pricing and steering practices;<sup>16</sup> and the other involves allegations of discrimination based on race and national origin in pricing of mortgages. One of these referrals is in pre-suit negotiations; we continue to review the other referral.

### **National Credit Union Administration**

The NCUA made no referrals during 2010.

### **The Department of Housing and Urban Development<sup>17</sup>**

HUD made two referrals during 2010. One referral involves allegations of discrimination based on race or national origin in mortgage loan pricing; one involves allegations of discriminatory targeting based on race and age in reverse mortgage scams. We continue to review these referrals.

## **V. OUTREACH AND COLLABORATION**

The strengthened partnerships with our sister agencies are part of a broader, government-wide effort to improve enforcement efforts through enhanced collaboration. The Assistant Attorney General for Civil Rights continued to serve as a co-chair of the Non-Discrimination Working Group of the federal Financial Fraud Enforcement Task Force (FFETF). Division representatives participated actively in a wide range of Task Force enforcement and outreach efforts in 2010, and these efforts will expand in 2011. As part of its Task Force efforts, the Division focused in 2010 on working collaboratively

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<sup>16</sup> This matter was the subject of a parallel DOJ investigation during the OCC fair lending examination. As of February 2011, it is in pre-suit negotiations.

<sup>17</sup> As noted above, HUD may make pattern or practice referrals to the Department pursuant to the Fair Housing Act, 42 U.S.C. § 3610(e)(2).

with the United States Attorneys' offices, as well as other federal and state enforcement agencies, to identify synergies between mortgage fraud and lending discrimination enforcement activities in order to increase effective enforcement in both areas.

The Division also continues to participate in the federal Interagency Fair Lending Task Force with the FDIC, the FRB, the OCC, the OTS, the NCUA, HUD, FHFA, the Federal Housing Finance Board, and the Federal Trade Commission, to discuss fair lending issues and the activities of the various agencies. Throughout 2010, we also met regularly with these agencies separately and in subgroups to discuss and coordinate fair lending enforcement activities, as appropriate. Among these subgroup meetings are regularly scheduled meetings with the FTC and HUD to discuss issues relating to each agency's fair lending investigations, consider joint or separate efforts and discuss critical issues of importance in those investigations, and periodic meetings with several of the bank regulators that make referrals under ECOA. Through these efforts, the Division has strengthened its working relationships with the other federal agencies empowered to refer pattern or practice fair lending matters to DOJ.

In addition, the Division in 2010, through its Special Counsel for Fair Lending, laid the groundwork for its collaboration with the new Consumer Financial Protection Bureau. We are working to ensure that when this agency begins formal operations in July 2011, it and the Division will have a strong and cooperative system in place that will enhance fair lending enforcement.

Finally, Division representatives, led by the Assistant Attorney General, participated in 2010 in a variety of conferences and meetings involving lenders, enforcement agencies, advocacy and consumer groups, and others interested in fair lending throughout the country, in order to inform critical stakeholders about our enforcement policies and activities. These presentations were for groups as varied as law enforcement entities, industry representatives, defense bar groups, fair housing councils and other fair housing/fair lending advocates. We look forward in 2011 to continuing to build on our connections with all of these groups and agencies as we move forward to more effective fair lending enforcement.

## VI. LOOKING FORWARD

With the establishment of the Fair Lending Unit and an increased effort government-wide to attack fair lending violations, we laid a critical foundation in 2010, resulting in a productive year for ECOA enforcement and fair lending enforcement overall. In 2011, the Division will continue to build on this enhanced infrastructure to increase its capacity to enforce fair lending laws and to combat lending discrimination. With the increased number of referrals and ongoing outreach, we expect our docket of investigations to grow in the coming year. Further, we anticipate that a number of the investigations initiated in 2010 will lead to litigation or settlements in 2011.



<b>ALL REFERRALS</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>
FDIC	33	21	12	15	29	35	42	29	33	5	<b>254</b>
FRB	6	6	3	9	5	2	3	0	6	1	<b>41</b>
OTS	6	4	4	3	0	0	1	0	0	1	<b>19</b>
OCC	2	0	1	0	0	0	0	0	1	3	<b>7</b>
NCUA	0	0	0	0	0	0	—	—	—	—	<b>0</b>
HUD	2	0	0	0	0	1	1	0	2	—	<b>6</b>
<b>Total</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>327</b>

<b>Race/Nat'l Origin Discrimination</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>
FDIC	14	5	2	1	3	1	0	2	1	2	<b>31</b>
FRB	4	3	0	4	2	0	0	0	1	1	<b>15</b>
OTS	4	3	3	2	0	0	0	0	0	1	<b>13</b>
OCC	2	0	0	0	0	0	0	0	0	0	<b>2</b>
NCUA	0	0	0	0	0	0	—	—	—	—	<b>0</b>
HUD	2	0	0	0	0	1	1	0	2	—	<b>6</b>
<b>Total</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>67</b>

“—” indicates there was no reference to the agency in that year’s ECOA report.