

**The Attorney General's
2020 Annual Report to Congress
Pursuant to the Equal Credit Opportunity Act
Amendments of 1976**



Submitted by

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The Department of Justice (DOJ or the Department) submits this report regarding its activities in 2020 to enforce the Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1691, *et seq.* See 15 U.S.C. 1691f. The report also includes information about DOJ’s lending work under the Fair Housing Act (FHA), 42 U.S.C. 3601, *et seq.*, and the Servicemembers Civil Relief Act (SCRA), 50 U.S.C. 3901, *et seq.* Within DOJ, the Civil Rights Division (Division) is responsible for enforcing ECOA, the FHA, and the SCRA. The Division’s Housing and Civil Enforcement Section handles this responsibility.



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I. INTRODUCTION

In January 2021, President Biden reaffirmed the critical role of the federal government in addressing legacies of housing segregation and discrimination, declaring that it is the policy of this Administration to eliminate “racial bias and other forms of discrimination in all stages of home-buying and renting.”¹ The Civil Rights Division of the Department of Justice (Division) is implementing the Administration’s policy of protecting Americans from housing discrimination by vigorously enforcing federal fair lending laws. Under its new leadership, the Division is rededicating efforts to root out and address fair lending violations. This year, the Division intends to focus on the persistent problem of redlining—a pernicious form of discrimination that plagues communities of color and widens existing racial disparities in wealth and homeownership. Using the full power of its enforcement authority, the Division is committed to holding financial institutions accountable and ensuring fair access to credit for all Americans.

In 2020, the Civil Rights Division settled two cases involving lending: one involving discrimination on the basis of race under ECOA, and one involving disability discrimination under the FHA. The Division also filed and settled a case involving unlawful failure to lower the interest rate on consumer retail installment contracts for SCRA-protected servicemembers.

II. LENDING DISCRIMINATION ENFORCEMENT UNDER ECOA AND THE FHA

The Division has authority to enforce ECOA and the FHA on its own initiative or upon referral from another agency. ECOA prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age, because an applicant receives income from a public assistance program, or because an applicant has in good faith exercised any right under the Consumer Credit Protection Act. The FHA prohibits discrimination in home mortgage loans, home improvement loans, and other home credit transactions because of race, color, religion, sex, national origin, familial status, or disability.

¹ See Memorandum on Redressing Our Nation’s and the Federal Government’s History of Discriminatory Housing Practices and Policies, The White House (Jan. 26, 2021).

In cases involving discrimination in mortgage or home improvement loans, the Division may file suit under both ECOA and the FHA.

The Division has authority under both statutes to challenge a pattern or practice of discriminatory conduct. The Division investigates discrimination in the mortgage market, including redlining and discriminatory underwriting and pricing. The Division also investigates allegations of unlawful conduct in non-mortgage lending, including discrimination in auto loans, unsecured consumer loans, student loans, and credit card products.

In 2020, the Division opened five fair lending investigations, filed one lawsuit alleging fair lending violations, and settled two matters.

2020 Filings, Settlements, and Compliance Monitoring

The Department settled *United States v. Guaranteed Auto Sales* (D. Md.), a case the Division reported filing in the [2019 ECOA report](#). The [complaint](#), filed on September 30, 2019, alleged that defendant Guaranteed Auto Sales, a used car dealership, along with its owner and manager, violated ECOA by offering different terms of credit based on race to those seeking to purchase and finance used cars at the dealership in Glen Burnie, Maryland. The lawsuit was based on testing by the Department's Fair Housing Testing Program in which individuals posed as prospective car buyers. The testing indicated that the defendants offered less favorable loan terms to Black testers, including telling the Black testers that they must provide larger down payments and that they must pay the down payment in one lump sum, which was different from the terms offered to white testers. Defendants also made other statements to discourage Black testers. The [consent order](#), which the court entered on July 2, 2020, requires the defendants to implement a number of specific practices to ensure that loan terms are offered to customers on a nondiscriminatory basis, including developing written policies to govern financing decisions, posting and distributing nondiscrimination notices to potential purchasers, and attending training on the requirements of ECOA.

On July 23, 2020, the Division simultaneously filed a complaint and proposed settlement agreement resolving *United States v. Bank of America* (E.D.N.Y.). The [complaint](#) alleged that Bank of America discriminated on the basis of disability, in violation of the FHA, through implementation of a policy that prohibited the issuance of mortgage loans to adults who had legal guardians or conservators. The [settlement agreement](#) was entered by the court on September 11, 2020, and requires the bank to maintain new policies that permit loans to adults with guardians or conservators, to ensure that employees are trained on the new policies, and to pay damages of \$4,000 for each loan application that was denied as a result of the bank's prior unlawful policy.

Throughout 2020, the Division continued to monitor the actions of First Merchants Bank to ensure compliance with the court-approved settlement agreement and agreed order in *United States v. First Merchants Bank* (S.D. Ind.). The case alleged that the bank engaged in redlining of majority-Black neighborhoods in the Indianapolis metropolitan area. In 2020, First Merchants opened a branch and a loan production office to serve predominantly-Black neighborhoods. The bank

continues to draw from the \$1.2 million loan subsidy fund to provide down payment assistance and other support for borrowers in the previously redlined areas, and continues to invest in advertising, outreach, and credit education intended to remedy the harm caused by the actions alleged in the complaint.

In addition, the Division continued monitoring compliance with settlements in *United States v. American Honda Finance Corporation* (C.D. Cal.), *United States v. BancorpSouth Bank* (N.D. Miss.), *United States v. Hatfield* (W.D.N.C.), *United States v. Hudson City Savings Bank* (D.N.J.), *United States v. The Home Loan Auditors* (N.D. Cal.), *United States v. Toyota Motor Credit Corporation* (C.D. Cal.), and *United States v. Union Savings Bank* (S.D. Ohio).

Ongoing Discrimination Investigations

At the end of 2020, the Division had eight open fair lending investigations covering a variety of issues.² These investigations were predicated on possible violations including:

- Redlining discrimination by providing unequal access to credit because of the racial or ethnic demographics of the neighborhoods in which consumers live; and
- Discrimination in the pricing of mortgage loan products based on race, national origin and sex.

One of those investigations was completed in 2021 and resulted in a complaint and consent order filed on August 30, 2021, in *United States v. Cadence Bank, N.A.* The complaint alleges that, from 2013 to 2017, Cadence violated ECOA and the FHA by engaging in unlawful redlining in the Houston area: the bank avoided serving predominantly Black and Hispanic neighborhoods because of the race, color, and national origin of the people living in those neighborhoods. The complaint also alleges that Cadence's branches were concentrated in majority-white neighborhoods, that the bank's loan officers did not serve the credit needs of majority-Black and Hispanic neighborhoods, and that the bank's outreach and marketing avoided those neighborhoods. The investigation was opened based on a referral from the Office of the Comptroller of the Currency.

When banks fail to provide equal access to credit in communities of color, they violate our civil rights laws and they deprive people in those communities of the opportunity to build wealth. Redlining is an illegal practice that has far-reaching consequences for people of color, their families and for the neighborhoods where they live.

Assistant Attorney General for the Civil Rights Division, Kristen Clarke

Under the terms of the settlement, Cadence Bank will invest \$4.17 million in a loan subsidy fund for residents of predominantly Black and Hispanic neighborhoods in the Houston area, \$750,000 for development of community partnerships to provide services that increase access to residential mortgage credit in those neighborhoods, and at least \$625,000 for advertising, outreach, consumer

² As explained elsewhere in this report, the Division has independent authority to enforce ECOA and the FHA without a referral from another agency. Accordingly, not all of these investigations are based on referrals.

financial education, and credit repair initiatives. The bank will dedicate at least four mortgage loan officers to majority-Black and Hispanic neighborhoods in Houston and open a new branch in one of those neighborhoods. Cadence will employ a director of community lending and development who will oversee these efforts and work in close consultation with the bank's leadership.

III. PROTECTION OF SERVICEMEMBERS' LENDING RIGHTS



The Civil Rights Division enforces a number of laws designed to protect the rights of members of the military, including the Servicemembers Civil Relief Act (SCRA). The SCRA provides protections, in areas such as housing and credit, for individuals in military service, so that they can focus their full attention on their military responsibilities without adverse consequences for themselves or their families. The SCRA's benefits and protections include: a six percent interest rate cap on financial obligations that were incurred prior to military service; the ability to postpone civil court proceedings; protections in connection with default judgments; protections related to residential and motor vehicle lease terminations; and special requirements related to evictions, mortgage foreclosures, and installment contracts, such as auto loans.

Enforcing these rights is an important priority of the Division. Members of the military who have made great personal sacrifices on behalf of this country should not return from military service to find their credit ruined, their cars repossessed, or their homes foreclosed on in violation of the SCRA.

Outreach Efforts

As part of the efforts to protect the rights of servicemembers, in 2014, the Department established the Servicemembers and Veterans Initiative (Initiative) to coordinate within the Department's components and other federal agencies to build a comprehensive legal support and protection network focused on servicemembers, veterans, and their families.

During 2020, the Department presented on the SCRA and the Initiative's work at 21 events nationwide, most of which took place virtually due to the pandemic. These events were held for groups across the country, reaching all five branches of the military, reserve components, National Guard, as well as military families and outside groups supporting these populations. At these events, the Initiative provided substantive trainings on the SCRA for legal professionals (including military attorneys), know-your-rights presentations for enlisted servicemembers, and presentations for law school clinics and outside legal assistance organizations. Many of these events relied on the support and participation of the Civil Rights Division's Housing and Civil Enforcement and Employment Litigation Sections, and U.S. Attorney's Offices from across the country.

Filing Related to Interest Rates

On January 29, 2021, the court entered a [consent order](#) in *United States v. Conn Credit I, LP, et al.* (S.D. Tex.). Conn Credit is a furniture, mattress, electronics, and appliance store chain headquartered in The Woodlands, Texas. It has retail stores in over 130 locations in at least 14 states. The [complaint](#), which was filed on September 15, 2020, alleges that Conn Credit engaged in a pattern or practice of violating the SCRA by failing to lower the interest rate on consumer retail installment contracts to six percent for at least 184 SCRA-protected servicemembers. The consent order requires Conn Credit to refund all overcharged interest, pay an additional \$500 to each servicemember, and pay \$50,000 as a civil penalty. The consent order has a term of three years and requires Conn Credit to hire an independent consultant to identify all affected servicemembers. This is the Department’s first SCRA case against a consumer retail store. The Department launched its investigation based on a referral from the U.S. Army Staff Judge Advocate at the Oklahoma National Guard Joint Force Headquarters.



Sgt. Travon Sargent, complainant in *U.S. v. Conn Credit*

IV. COLLABORATION WITH FEDERAL AND STATE PARTNERS AND OUTREACH TO STAKEHOLDERS

The Division continued its collaborative work with other federal and state partners through interagency engagement, joint investigations, and outreach efforts. The Division is an active

participant in the federal Interagency Task Force on Fair Lending. The Task Force meets every other month to discuss emerging fair lending issues, share methods of identifying potential fair lending violations, and coordinate approaches on various fair lending issues. These meetings further consistency among agencies and address common issues that arise in referrals to the Division, allowing the participants to benefit from other agencies’ perspectives and experience. The Division is also an active participant in a CFPB-led meeting of federal enforcement and regulatory staff to discuss approaches to econometric analyses in fair lending enforcement work.

As in prior years, Division representatives participated in conferences, training programs, and meetings involving lenders, compliance officials, industry experts, enforcement and regulatory agencies, consumer groups, and others interested in fair lending throughout the country, in order to inform critical stakeholders about the Division’s enforcement activities. In 2020, Division staff participated in two such events, and for the tenth year in a row,

Civil Rights Division Partners

Bank regulatory agencies

CFPB - Consumer Financial Protection Bureau

FDIC - Federal Deposit Insurance Corporation

FRB – Federal Reserve Board

NCUA – National Credit Union Administration

OCC – Office of the Comptroller of the Currency

Other partners

FTC - Federal Trade Commission

HUD – Dep’t of Housing and Urban Development

Division staff as well as other federal fair lending enforcement agencies participated in a national webinar hosted by the Federal Reserve Board.

V. REFERRALS



Under ECOA, the bank regulatory agencies are required to refer matters to the Division when they have reason to believe a lender has engaged in a pattern or practice of discrimination. Referrals of lending matters are also made under ECOA by the FTC, and under the FHA by HUD and certain bank regulatory agencies. From 2001 through 2020, the bank regulatory agencies, the FTC, and HUD referred a total of 489 matters involving a potential pattern or practice of lending discrimination to the Justice Department. One hundred fifty-eight of those referrals involved race or national origin discrimination.

The Division received 13 ECOA and FHA lending referrals in 2020: four from the CFPB, three each from the FDIC and NCUA, two from the FRB and one from the OCC. As explained in prior reports, when the Division receives a referral from a regulatory agency, it determines whether to open an investigation or return the matter to the regulator for administrative enforcement.

Factors Considered By DOJ When Evaluating Referrals

In 1996, based on the recommendation of the Government Accountability Office, DOJ provided a summary to the federal bank regulatory agencies on pattern or practice referrals. The summary describes the factors that DOJ would consider in determining which matters it would return to the agency for administrative resolution and which ones it would pursue for potential litigation. The summary is posted on the Division's website at <https://www.justice.gov/sites/default/files/crt/legacy/2014/03/05/regguide.pdf>.

The Division considers numerous factors in deciding whether to retain or return a referral. As a general matter, referrals that are most likely to be returned 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; examples of such violations may involve spousal signature violations and minor price breaks for certain age groups not entitled to preferential treatment; and
- There were either few potential victims or *de minimis* harm to potential victims.

As a general matter, the Division retains 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.

These factors are also applicable when DOJ has conducted an investigation and is making a decision whether the facts warrant a lawsuit.

2020 Referrals to DOJ

The 13 referrals in 2020 included the following types of alleged discrimination:³

- 5 involving race or national origin;
- 2 involving gender;
- 3 involving source of income;
- 4 involving marital status; and
- 3 involving age.

As set forth in charts immediately following this report, the referrals involved various types of credit and a range of alleged discriminatory conduct, including discriminatory underwriting, overt policies that discriminate on the bases of marital status and receipt of public assistance income.

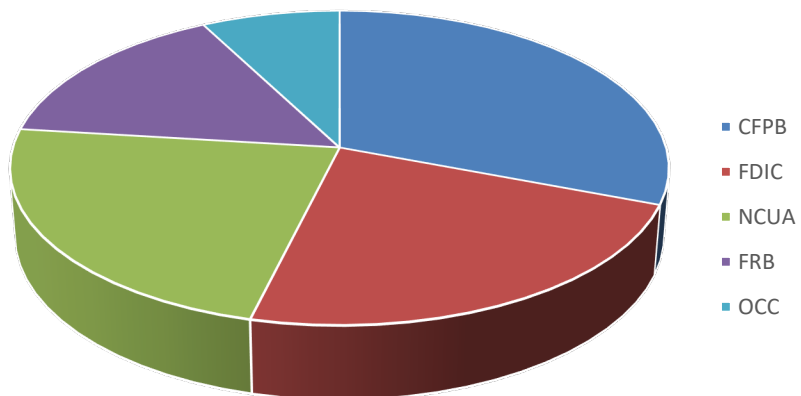
For eight of the 13 bank regulatory referrals in 2020, we returned the matter to the referring agency for enforcement without opening an investigation; this number includes referrals where the referring agency specifically requested we defer to it for administrative enforcement. The referrals that were returned for administrative enforcement during 2020 are also described, by agency, in the charts following this report. For each of the referrals we returned to the agencies, the Division evaluated the facts and circumstances of the matter in light of the factors described above.

³ Because individual referrals can involve more than one protected class, referrals detailed by protected class exceed the total number of referrals.

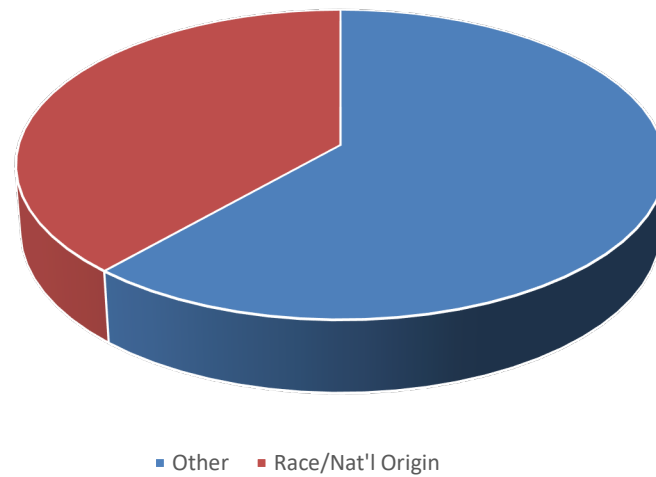
VI. CONCLUSION

The Civil Rights Division has a renewed commitment to the enforcement of civil rights statutes that protect individuals' rights to fair access to credit. Under its new leadership, the Division is redoubling its efforts to tackle fair lending problems on every level and in every arena necessary to protect the rights of all Americans to equal access to credit.

2020 Lending Referrals to DOJ by Agency

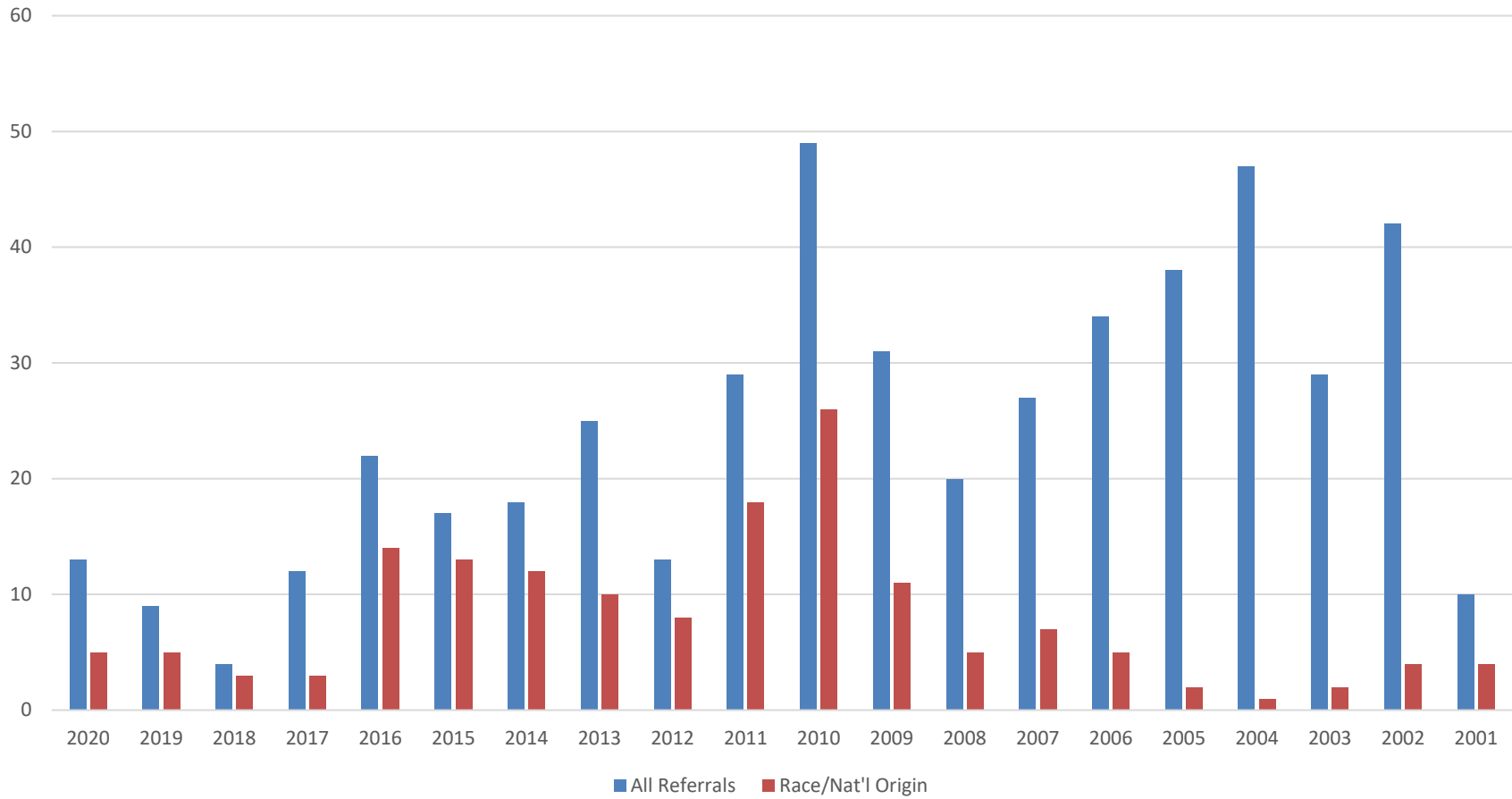


2020 Referrals by Protected Class








N = 13 referrals
FTC and HUD made no referrals



Historical Fair Lending Referrals to DOJ



Lending Discrimination Referrals to DOJ by Other Agencies

Bank regulatory agencies	2020 Referrals by Protected Class	2020 Referrals Resulting in DOJ Investigations	2020 Referrals Returned to Agency	Referrals Pending from Prior Years as of December 31, 2020
	<p><i>4 total</i></p> <p>2 race/national origin: redlining 1 race/sex: pricing 1 source of income: underwriting/loan modification programs</p>	<p><i>3</i></p> <p>2 race/national origin: redlining 1 race/sex: pricing (This investigation was opened in 2021.)</p>	<p><i>1</i></p> <p>1 source of income: underwriting/loan modification programs</p>	<p><i>0</i></p>
	<p><i>3 total</i></p> <p>1 marital status: pricing/consumer loans 1 age/source of income: underwriting pay day loans 1 age/source of income/sex: underwriting, pricing/credit scoring</p>	<p><i>0</i></p>	<p><i>3</i></p> <p>1 marital status: pricing/consumer loans 1 age/source of income: underwriting pay day loans 1 age/source of income/sex: underwriting, pricing/credit scoring</p>	<p><i>0</i></p>
	<p><i>2 total</i></p> <p>1 marital status: consumer/commercial loans spousal signature 1 race/national origin: redlining</p>	<p><i>1</i></p> <p>1 race/national origin: redlining</p>	<p><i>1</i></p> <p>1 marital status: consumer/commercial loans spousal signature</p>	<p><i>1</i></p> <p>1 race/national origin/sex: mortgage pricing</p> <p><i>Pacific Mercantile Bank, monitoring compliance with settlement</i></p>

Bank regulatory agencies	2020 Referrals by Protected Class	2020 Referrals Resulting in DOJ Investigations	2020 Referrals Returned to Agency	Referrals Pending from Prior Years as of December 31, 2020
NCUA 	<i>3 total</i> 1 age: underwriting auto loans 1 marital status: underwriting auto, recreation and unsecured consumer loans 1 marital status: underwriting real estate and consumer loans	<i>0</i>	<i>3</i> 1 age: underwriting auto loans 1 marital status: underwriting auto, recreation and unsecured consumer loans 1 marital status: underwriting real estate and consumer loans	<i>0</i>
OCC 	<i>1 total</i> 1 race/national origin: redlining	<i>1</i> 1 race/national origin: redlining	<i>0</i>	<i>1</i> <i>U.S. v. Cadence Bank, N.A., filed and settled in August, 2021</i>

Other partners	2020 Referrals by Protected Class	2020 Referrals Resulting in DOJ Investigations	2020 Referrals Returned to Agency	Referrals Pending from Prior Years as of December 31, 2020
FTC 	0	0	0	0
HUD 	0	0	0	2 <i>U.S. v. Advocate Law Groups of Florida, P.A., et al.</i> , in litigation <i>U.S. v. The Home Loan Auditors</i> , monitoring compliance with settlement

2001 – 2020 All Lending Discrimination Referrals by Other Agencies to DOJ

ALL REFERRALS	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	Total
<i>Bank regulatory agencies</i>																					
CFPB	4	3	0	2	8	8	15	6	1	0	—	—	—	—	—	—	—	—	—	—	47
FDIC	3	2	1	4	4	4	3	11	8	14	33	21	12	15	29	35	42	29	33	5	308
FRB	2	1	0	3	7	4	0	6	2	7	6	6	3	9	5	2	3	0	6	1	73
NCUA	3	1	1	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	7
OTS*	—	—	—	—	—	—	—	—	—	4	6	4	4	3	0	0	1	0	0	1	23
OCC	1	2	1	1	1	0	0	1	1	1	2	0	1	0	0	0	0	0	1	3	16
<i>Other partners</i>																					
HUD	0	0	1	0	2	1	0	1	1	1	2	0	0	0	0	1	1	0	2	0	13
FTC	0	0	0	0	0	0	0	0	0	2	—	—	—	—	—	—	—	—	—	—	2
Total	13	9	4	12	22	17	18	25	13	29	49	31	20	27	34	38	47	29	42	10	489

2001 – 2020 Race/National Origin Lending Discrimination Referrals by Other Agencies to DOJ

Race/Nat'l Origin	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	Total
<i>Bank regulatory agencies</i>																					
CFPB	3	2	0	1	7	7	10	2	0	0	—	—	—	—	—	—	—	—	—	—	32
FDIC	0	0	1	1	2	3	2	5	5	10	14	5	2	1	3	1	0	2	1	2	60
FRB	1	1	0	0	3	3	0	3	1	2	4	3	0	4	2	0	0	0	1	1	29
NCUA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OTS*	—	—	—	—	—	—	—	—	—	3	4	3	3	2	0	0	0	0	0	1	16
OCC	1	2	1	1	0	0	0	0	1	1	2	0	0	0	0	0	0	0	0	0	9
<i>Other partners</i>																					
HUD	0	0	1	0	2	0	0	0	1	0	2	0	0	0	0	1	1	0	2	0	10
FTC	0	0	0	0	0	0	0	0	0	2	—	—	—	—	—	—	—	—	—	—	2
Total	5	5	3	3	14	13	12	10	8	18	26	11	5	7	5	2	1	2	4	4	158

* On July 21, 2011, the CFPB launched and the Office of Thrift Supervision (OTS) merged into the OCC.

“—” indicates there is no entry for that agency in the ECOA report for that year.