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# Fair Lending: How to Work with Your Examiner

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# Agenda

- Areas of Concern for 2024
- Notable Enforcement Actions/Litigation
- Successful Examination Tips
- Compliance Management System
- Takeaways

# Areas of Concern for 2024

# Indirect Auto Lending



## FDIC findings:

Banks incentivizing dealer discretion based on commission structure



**“Banks are directly responsible for any discriminatory pricing or other discriminatory decisions made by a dealer acting as an agent of the bank.”**

# Appraisal Bias

- FFIEC Statement of Principles Related to Valuation Discrimination
- Automated Valuation Models
- Interagency Guidance on Reconsiderations of Value

## Adverse Action Notice

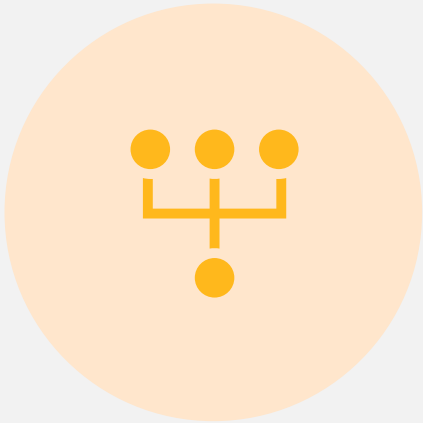
Please contact us by calling \_\_\_\_\_ to report any concerns of improper influence, discrimination or bias during the process of this loan application." An effective complaint management process will help ensure that customer feedback is properly addressed.

## Appraisal Transmittal Letter

\_\_\_\_\_ is committed to maintaining appraiser independence and preventing attempts to influence appraisers in the preparation of appraisal reports, as well as avoiding any discrimination or bias in the appraisal process. If you believe that any person has attempted to influence the appraiser in the preparation of the appraisal of your property, or have any concerns with the reliability or credibility of the appraisal, please contact \_\_\_\_\_ by calling \_\_\_\_\_ as soon as possible to report any concerns of discrimination or bias or to discuss your options to contest the reliability of the appraisal.

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# Redlining



BRANCHING ACTIVITIES



FDIC STATEMENT OF  
POLICY ON BANK MERGERS



BEWARE OF MARKETING  
STRATEGIES



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# Joint Statement - Discrimination and Bias in Automated Systems

- Concerns:
  - Data and Datasets
  - Model Opacity and Access
  - Design and Use
- Take a progressive approach
  - Customer Service → Fraud Monitoring → Credit Underwriting

# Third Party Risk Management/Vendor Management



FRB, FDIC, and OCC published finalized guidance on Third-Party Relationships: Risk Management



Vendors often used for marketing, processing of loan applications, loan servicing, collections, and loss mitigation



How do you ensure compliance?

- Contractual provisions
- Ongoing monitoring
- Tracking complaints



# Enforcement Actions/Litigation

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# Citi Intentionally Discriminated Against Armenian Americans

Occurred from 2015-2021

Discrimination based on:

- Applicant Names
- Credit Card Product
- Location

Citi attempted to hide discrimination and lied about denial reasons

\$25.9 million in fines and consumer redress



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## Colony Ridge - Bait-and-Switch Land Sales and Predatory Financing

- Illegal land sales scheme targeting Hispanic borrowers with false statements and predatory loans
- Advertising:
  - Almost exclusively in Spanish
  - Used social media, including TikTok
  - Used national flags and regional music from Latin America
  - Promised the dream of home ownership with no credit check and only a small deposit
- High foreclosure and interest rates
- Falsely represented the infrastructure of lots it sold



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# Bank of America Reports False Mortgage Data

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\$12 million penalty for submitting false HMDA data

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Falsely reporting that applicants declined to provide information

Failing to ask  $\neq$  Failure to respond

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“Properly collected demographic data more than 99% of the time, and notified the government after receiving a complaint in 2020”

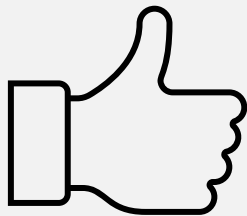
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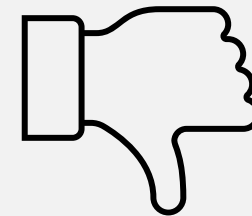
# Protecting Consumers' Right to Challenge Discrimination

- Emigrant Mortgage and Emigrant Bank are claimed to have targeted minority homeowners with predatory mortgage loans
- Emigrant is claiming that borrowers signed paperwork stating they “release and forever discharge Emigrant . . . from any and all claims”

Bank contracting w/ Bank



Bank contracting w/ Consumer





# Tips for Fair Lending Examination

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# Successful Examinations



PRE-EXAM PREP



LAY THE  
GROUNDWORK



EXAM-TIME  
FLUIDITY



POST-EXAM  
FOLLOW-UP

# Compliance Management Toolkit



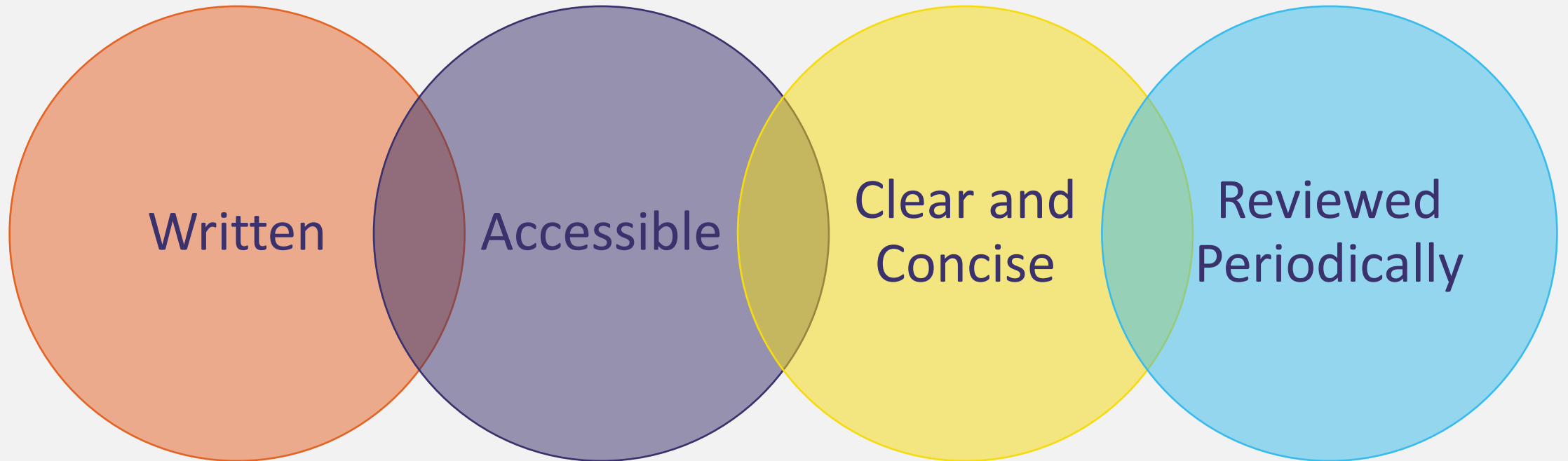
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# Components of CMS for Fair Lending



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# Policies and Procedures



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## Training

### Who?

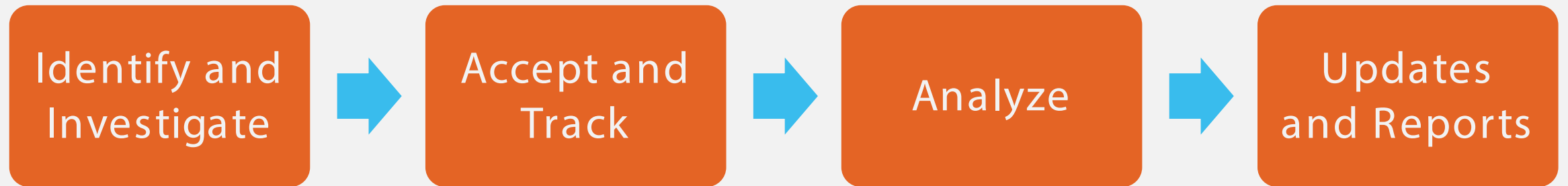
- Board
- Management
- Personnel w/  
Customer Contact

### Focus?

- Frequency
- Method
- Tailored
- Monitoring

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# Complaint Management



## Audit/Monitoring

Audit/Self-Evaluation

- Internal Controls
- Operations
- Risk Management Framework

Monitoring

- Procedural Weaknesses
- Training Weaknesses

# Takeaways

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## Takeaways

- A strong compliance management system is your best defense in an examination.
- Communication and guiding the narrative with an examiner is key.
- Understand what has changed in your organization since your last fair lending examination.
- TPRM is essential – regulators probing institutions solely based on vendors.
- If you're not using statistics to track fair lending data internally and against peers, you're behind.



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# Thank you!