Fair Housing 2021: What Counselors Need to Know

Credit and Lending Discrimination Under the Equal Credit Opportunity Act and the Fair Housing Act

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Karen Hoskins: Hello, everyone. And welcome back. My name is Karen Hoskins. And I am a technical assistance provider with the ICF team. I have a background in housing counseling and lending. And I'm delighted to be a part of this session today. We have a wealth of information to share with you. Our speakers will be coming up shortly. But this session is Credit and Lending Discrimination under the Equal Credit Opportunity Act and the Fair Housing Act. Again, welcome. There's a lot to cover, so we won't waste any time in moving forward.

Just as a reminder, we are utilizing both the chat and the Q&A functions within Zoom. The chat is exclusively for any technical assistance issues you might have with the technology. Our staff is available to assist with any questions you might have related to the technology. The Q&A box -- which you can find at the bottom of your screen if you hover over it with your cursor -- is where you would pose content-related questions. Anything that the presenters or speakers today might say or any information that you might see on their presentations and you have a specific question that you want to ask, the Q&A box is where all of that would get posted. So we hope you'll take advantage of that.

We will be using Mentimeter. Mentimeter will be used throughout the conference. We'll be using it for polling, as well as knowledge checks. We want to check periodically to make sure everybody is understanding the information that is presented. Again, Mentimeter will be used in this session as well. Just to make sure everybody's familiar with Mentimeter, we'll do a quick icebreaker question using Mentimeter. And that's Mentimeter.com. A question is, which is not a protected category under the Fair Housing Act?

Is it race, sex, religion, social status, or disabilities -- what's not protected under the Fair Housing Act? We know that it covers a lot, but some things are not covered. Thank you for submitting your responses. It looks like we have a consensus coming in. Fantastic. I think we can all agree that social status is not a protected category under the Fair Housing Act. Mentimeter is very easy to use. And you will be seeing it again throughout this presentation.

So moving forward in our agenda, we'll be talking about certainly the Equal Credit Opportunity Act. We'll also be taking a fairly deep dive on the Fair Housing Act and fair lending. We'll talk about some resources that are available to counselors that can help you in having these conversations with your clients. And as time allows, we'll also be monitoring that Q&A box. And we'll take some time at the end to answer some questions.

Joining me today is Bobby Conner. He's the senior policy counsel with the Consumer Financial Protection Bureau, or CFPB. Also, Danielle Sievers is an Equal Opportunity Specialist, the Office of Systemic Investigation, the HUD Office of Fair Housing and Equal Opportunity. We have some real expertise joining us today. We want to go ahead and get started, so here to talk about the Equal Credit Opportunity Act is Bobby Conner. Bobby, I'll hand it over to you to get started.

Bobby Conner: Thank you, Karen. Thank you so much. And thanks to the organizers for allowing me to be part of this impressive Fair Housing conference. Today I'm going to speak about the Equal Credit Opportunity Act, or the ECOA, or [pronounces] ECOA as it's also known, and how it protects you and your clients from lending discrimination. My goal here is to provide you with general information on the law, including how the law is applied, through easy-to-understand examples. And then before closing, I will also provide a few tips and resources that might be helpful to you and your clients in the future.

But first, I need to provide a couple disclaimers. And we can stay on this slide for one moment. These disclaimers are required for all our presentations. And I encourage you to read them in their entirety. But for the second time, let me just paraphrase a couple of important thoughts here. First, I am making this presentation on behalf of the CFPB. And my presentation does not constitute legal interpretation, guidance, or advice. Also, any opinions that I state today are my own and may not represent the Bureau's.

Second, during this presentation, we've included a few links to some third-parties. Please note that this is not an endorsement of those parties, and we have not vetted them or their content or services offered on their websites. And there may be also other sources and entities not listed that may also serve you and your clients' needs. And finally, just a reminder that this deck is being used as part of a live discussion; and when viewed alone, it will likely not reflect the entirety of our discussion here today. Next slide, please. So let's get started.

ECOA is a federal law that prohibits discrimination in lending and holds lenders accountable when they violate the law. It was enacted in 1974, and at that time, only prohibited lending discrimination based on sex or marital status. But then not long after in 1976, Congress expanded the law to include other protected characteristics, including race, color, religion, national origin, age, receipt of public assistance income, and exercising rights under the Consumer Credit Protection Act.

In some circumstances, lenders are allowed to ask about this type of information, but they cannot deny credit based on any of the protected characteristics. Also, lenders cannot steer people away from applying for credit or charge higher costs, like a higher interest rate or a higher fee, based on a protected characteristic either. And even if lenders do not discriminate on the protected characteristic of a person applying for credit, they also cannot discriminate against the person based on the protected characteristics of those they're connected to -- so their associates, their friends.

For example, if a person applies for a mortgage and brings along a friend, the lender is prohibited from discriminating against the borrower based on the friend's race or sex or religion or other protected characteristic. Several government agencies enforce ECOA. And the CFPB is only one of those federal agencies. In a few moments, you're going to hear a little bit more about the Fair Housing Act, or the FHA. Please note that the CFPB does not have any jurisdiction over the Fair Housing Act. Next slide, please.

Regarding the scope and applicability of the law, ECOA and its implementing regulation, Regulation B, applied to all credit -- commercial and personal -- without regard to the nature or type of credit or the creditor. Thus, ECOA applies to home loans, car loans, credit cards, student loans, business loans, and other types of credit.

And ECOA protects you during any aspect of the credit transaction from the time you apply for credit to when the account is closed. And the law may also apply if a person is discouraged from applying for credit. Next slide, please. So we're going to spend a little bit of time on this particular slide. And let's discuss a few examples of what lenders and cannot do under ECOA. First, a lender cannot reject a credit application based on any of the protected characteristics. This one's easy, and plus we've already discussed it.

So for instance, a lender cannot reject a credit application because a consumer comes from a particular country; or in other words, based on their national origin. However, a lender is sometimes permitted to consider immigration status if the lender believes that that could affect the repayment of the loan. Next, another easy one here -- lenders cannot change the credit terms or conditions based on a protected characteristic.

As previously mentioned, this would include offering a higher interest rate or imposing excessive fees because of a consumer's race, religion, or other protected characteristic. Lenders are also generally prohibited from asking if the consumer receives alimony, child support, or separate maintenance payments. But there are a few caveats here. If the lender does ask for this, the lender must first tell the consumer that the answer is only required if the consumer is relying on those payments to quality for the credit.

Note, however, that a lender is permitted to ask if the consumer has to pay alimony, child support, or separate maintenance payments as part of the qualification process. Next, lenders are not allowed to ask if the consumer is widowed or divorced. There are some caveats here as well, or little twists here. A lender is sometimes allowed to ask, though, whether the consumer is married, unmarried, or separated. And then the lender can also explain that the category "unmarried" includes single, divorced, or widowed person.

Next, lenders are also generally prohibited from asking information about a consumer's spouse, such as the spouse's income. You may have guessed it -- there are some caveats. Asking about information for a spouse is allowed when the spouse is applying for joint credit; when the spouse is allowed to use the account; or is legally liable on the account; or when the consumer is relying on the spouse's income or other payments from the spouse to get approved for the credit; or finally, when the consumer lives in a state with community property laws or is using property in a state with those laws to get approved for the credit.

Next, lenders are prohibited from treating a consumer differently based on age. And I know you're going to hold me to this, but I think you can guess what I'm going to say next. This, too, is allowed under certain circumstances. So it all depends on all this stuff. For example, when a consumer is too young to enter into the contract in the first place, or when the consumer is at least 62 years old and the lender offers better terms or otherwise favors older consumers, or when perhaps the lender uses age to determine whether the consumer is credit-worthy.

In that example, they would be considering things like whether a consumer's income is going to drop because of an upcoming retirement. Next, lenders cannot refuse to accept public assistance income. For instance, a lender cannot refuse to consider the vouchers from the Section 8 Housing Choice Voucher Homeownership Program as a source of income, or only accept them for certain mortgage products. And the CFPB actually issued guidance about this through a compliance bulletin in 2015.

If you're interested in learning more about that, you can find that compliance bulletin on our website at consumerfinance.gov. And finally, closing out our examples in this list, is that a lender cannot discriminate based on sex. And the prohibition of sex discrimination includes: sexual orientation, gender identity, and conformity with sex-based and gender-based stereotypes. So for example, lenders cannot require married same-sex couples to provide different documentation of their marriage than they do for married opposite-sex couples.

Or otherwise, they cannot discriminate against someone who is transgender, who expresses their gender identity during the application process. Likewise, lenders cannot tell a prospective applicant to go home and change their clothes because -- in their view -- the consumer's attire does not match their gender. And earlier this year, the Bureau issued guidance to lenders to clear up any confusion on this, clarifying that the prohibition of sex discrimination under ECOA includes sexual orientation and gender identity.

If you're interested in learning more about that guidance, that, too, is on our website. It's an interpretive rule. And with all of these examples, remember the associational aspects as well. So not only can lenders not discriminate against the borrower or the applicant, but also they're not able to discriminate based on a protected characteristic of a person that they're associated with -- so, again, that associational aspect, the friend, the other people that you're connected too.

So you might ask after all this, what can they consider? And within limits, basically lenders are permitted and should be considering factors that are relevant to credit-worthiness, such as income, debt, credit history, and other information. Next slide, please. Discrimination can be difficult to spot. But you and your clients can more easily spot it if you know some warning signs. Some warning signs to share with your clients include: whether they are treated differently in person than on the phone or online, whether they are discouraged from applying for credit, or perhaps steered or directed to what may be an inferior product or an inferior loan.

Also, when hearing the lender make negative comments about a protected characteristic. And keep in mind, this would also include written statements in an advertisement or their marketing materials. Another warning sign is whether they are refused credit even though they qualify for it based on the advertised requirements; or likewise, offered credit at a higher interest rate than they applied for, even though they qualify for the lower rate based on the advertised requirements.

And we're going to be talking about research next. And this is one of the reasons why research is so important. The more your clients know, the better they can arm themselves and protect themselves. Next slide. Discrimination can also be difficult to combat on an individual base. And we understand that. But as I said, there are some ways that clients can arm themselves.

And a few tips that we would love for you to share with your clients and go over with them include: do the research. This is one of the most important ones. When seeking credit, encourage your clients to research, research, research. Research current interest rates. Research credit products and offers. Then compare those credit products and offers from several lenders. So if your clients are looking for a mortgage, they should reach out and research the different types of mortgages and rates available to them, and do that from several lenders.

And if this is their first mortgage or their first home buying experience, I hope that you'll use some of the CFPB resources to help them understand the home buying and mortgage process. Next on the list is to know their credit history. This is another big one, and I think you guys already know this. But it's very important to encourage your clients to know their credit history and to review their credit reports from all three of the largest credit reporting agencies, maybe to make sure that there are no mistakes or missing information on their file.

For example, are there accounts that appear unpaid that have already been paid off? Or does an address or other information need to be updated? And remember, consumers have a right to request one free copy of their credit report from each of the three largest credit reporting agencies each year. And you can do that by visiting annualcreditreport.com. Another thing to remember and to inform your LEP clients is that they should ask whether their credit report is available in their preferred language, if necessary.

Next on the list is ask questions about total costs. This is another important one. We need to help our clients look beyond the monthly payment. And this is actually a lesson for all of us as consumers. We need to make sure that they understand the rates and the total amount of interest and fees paid over the long run, and encourage them to ask which fees and charges may be negotiable. Negotiating is very much part of the process, and many people that are new to the process don't realize that.

There are many fees on a mortgage loan, such as the origination, application, or processing fees that may be negotiable. So you should encourage your clients to ask their loan officer or broker to explain each of the fees, and then also ask whether there is flexibility on the amounts. And finally, just remind your clients that they are in control, and to be sure before signing. Consumers and your clients should never feel pressure to sign. Your clients should take the time that they need to make sure that the credit product and terms actually work for them and their families; that so, even if it means that they need to walk away or take a couple nights to sleep on it.

Next slide, please. Despite our best efforts, problems sometimes do come up. And we all understand that. If your client does have a problem with a financial product or service, encourage them to contact the company and try to work things out first. This is often a good idea even if they must later submit a complaint with our agency or another government agency, or hire an attorney. And we all know that there are many ways now days to contact financial companies. Most of them can be reached by phone, social media, email, chat, and in other ways. But a few tips to give to your clients when contacting companies -- you may want to share these few tips.

They may seem a little bit like common sense, but it's always good to remind folks. First, they should never post personal data only social media or review sites. Second, they should avoid angry, sarcastic, or threatening language. And I'll confess -- when I get upset, I get a little sarcastic. So this is a good reminder even for me. And third, they should keep notes of who, when, and what -- who responded, when they responded, and what they said. And the more detailed notes the better.

And before your client actually contacts the company, they should make sure they have the following information on hand: the name, address, phone number, and account number or transaction number, question, what happened. And encourage them to be as clear and to the point as possible. And then also, how they want to fix the problem, how they see the problem being resolved, as well as any documents or screenshots that would show or prove what has happened to them. Next slide, please.

Getting help for your clients -- simply put, if your client believes they've been discriminated against, they should contact an attorney for legal advice. And you all probably know how to obtain legal services in your area better than I do. But for a few examples, a good place to start may be lawhelp.org or the Legal Services Corporation. You should also keep in mind that there are legal services available for current and former military personnel. And your state and local bar associations are also very good at general attorney referrals.

Another thing to keep in mind is that many states have their own equal credit opportunity laws. So in addition to seeking the legal advice that they need, they should probably also contact their state attorney general to see if the creditor has violated any state laws aside from what we're talking about, the federal law of ECOA. So aside from getting your clients the legal help they need, we also want to hear from you and your clients. The more we hear from you and your clients, the more insight that we have into the financial market and what's affecting your communities.

Folks can do this by submitting a consumer complaint through our online portal, or otherwise just tell us their story -- and it can be good or bad. And you can do this through our online "Tell your story" portal. There are direct links on the slide deck to both of these portals. Otherwise, you can find them off of our website, consumerfinance.gov. And I can't emphasize it enough -- these consumer experiences truly do inform our work, which in turn help us help others. So please encourage folks to let us know and to keep us posted what's going on. Next slide, please. Thank you.

Just a couple resources that you might want to keep in mind as that kind of concludes our general refresher or general talk on ECOA. I would suggest for more information about the law and the protections under it, I encourage you to review our ECOA brochures. They highlight many of the examples that we've covered here today. These are Know Your Rights Brochures that are specifically drafted to be user-friendly for both consumers and those that work with consumers.

There are actually two brochures that we hope that you will use together. And they are currently in seven languages. And best of all, they're free. So we encourage you to review them and to give them to your clients' networks to help us get the word out on these important protections under the law. And with that, I think we'll pause for Karen to come back and ask us a question.

Karen Hoskins: Yeah. Thanks, Bobby. We want to take a quick pause and see if our audience is still with us. Bobby, stay close at hand. We may ask you to weigh in on some of this. What is not a protected category under ECOA? What is NOT a protected category? We have disability, race, sex, national origin, public assistance income. Thanks for weighing in, everyone. Okay. And it looks like public assistance income is topping the leaderboard here. A few said disability. A couple folks said national origin. Bobby, you want to share with us the correct answer?

Bobby Conner: Sure. I feel like I didn't do my job here. The correct answer actually is disability. And that surprises a lot of people. Most people think that it's automatically a protected category. But under ECOA, it is not. I notice that public assistance is -- it looks like -- the highest, I believe, that folks have selected. And that actually is a protected category under ECOA. Under the law, basically, lenders must consider public assistance income the same way they would any other income. So that's very important to keep in mind as you're working with your clients and whether they receive public assistance income.

Karen Hoskins: Okay. Thank you. And then our next question for our audience is, can a lender ask a customer if they receive child support payments? What do folks think? Can a lender ask a customer if they receive child support payments? For some folks, it's a flat no. Some have said yes. And it looks like the number responding with it depends is our largest growing number. I'll give it one or two more seconds here. Yeah. It looks like it depends is the leader in response. Bobby, anything to clarify what is meant by "it depends"?

Bobby Conner: Yes. This was a little bit of a tricky question. Because our deck says that this is prohibited. Frankly, this particular slide in the deck is why we have all those disclaimers, because it does not show the full picture. The correct answer here is likely, should be it depends. And as we discussed when I was going over some of the examples, they can ask for this if the consumer is relying on the payments to actually qualify for the credit.

So that's what you want to look for to make sure that it's connected to their actual application in that way, that they're actually wanting to use it as income to be approved. The flipside, of course, was that they can ask if you have to pay child support and other types of payments during the qualification process. So the correct answer is it depends.

Karen Hoskins: It depends. Okay. Great. Thank you for that. And thank you to our audience for participating in that learning check. We appreciate your participation. Bobby, I'm going to turn it back over to you to finish out.

Bobby Conner: Great. Thank you so much. And I think early on in my discussion, I think I said "natural" origin instead of "national" origin. If I did, I apologize. That's a little bit of nerves creeping in. Let's move forward here. I thought I would close with just a few resources. I hope you all are already aware of them. But I just want to point out a couple. And I would be remiss if I didn't do that.

Also, the Bureau just recently sent out some COVID-related and other helpful resources to over 1,400 housing counselors. So I hope some of those people listening are some of those folks that actually received some of those packages. But if you weren't, fret not. All of our resources are available off of our website. And you can print them directly from there. For the second time on this slide, I will just mention a couple resources. And then we'll move on.

The first one is actually the second resource listed. It's the CFPB FinEx group. And this group is where financial educators, practitioners, counselors, and others can get together and share information, learn from each other, as well as see what the Bureau is doing to help consumers. And it is truly an excellent opportunity and source for networking, training, and other financial literacy resources to get them and to share it with each other. If you're not already a part of this group, I would highly recommend at least looking into it. And we would love to have you join.

The second thing I want to highlight is the Your Money, Your Goals toolkit, which I hope everyone is already aware of. But this toolkit was essentially developed specifically so that folks such as yourselves could talk about money issues with their clients and the people that they serve. So you can use this resource to talk to your clients to help make spending decisions or ordering fixed credit reports, make decisions about repaying debts or taking on new debts, or keeping track of their income or bills, and many more topics that that toolkit explores. So I highly recommend you check that out.

Also, check out some of the other resources there that are listed. They are all good and can lead you on to other ones. Next slide, please. I saw a note come up about ordering publications from the Bureau. This is one way that folks can order print resources in bulk. And you can do that from the website that's included on this slide right here. And in most cases, you can order up to 200 free copies of each publication. And it is free, and free for shipping. We encourage you to do so. Next slide, please.

And finally, for your clients that prefer to listen while learning -- and I must admit that I'm actually one of these people -- we do have audio files for our six most requested brochures in eight different languages. I want you to take advantage of that. But while we're also on this page, I want to call special attention to the link that is in the middle of the page there. It says Spanish and English, and it's right under that. And I want to hard stop on this link, because the link goes to a page that's titled, Tools and Resources to use with the People you Serve. And this is actually one of my favorite places on the entire website.

On this page, we've gathered all of our tools, our worksheets, our handouts, our audio recordings. And we've organized them by topic and by the clients that you serve. And that includes justice-involved individuals, native communities, people with disabilities, and other communities. So there are many, many housing resources on that site. And we truly hope that you take advantage of them. And most importantly, they're all accessible from that one site. In closing, I'll just note once again to thank everyone for attending this session. And I thank the organizers for allowing me to participate in the session.

You know, I think the work that each of you do is so very important. And it certainly inspires me and others here at the Bureau. So I just want to say, keep up the good work. And please keep us in mind and keep our resources in mind when you're working with your clients. And with that, I look forward to connecting with folks either later in this session or on the Whova board. So thank you again.

Karen Hoskins: Thank you so much, Bobby. We appreciate lots of great information that you shared. So thank you again. I just want to remind folks, our audience, that we are utilizing the Q&A box. At the bottom of your screen, you'll see the Q&A box. That's where you would post your content-related questions for our speakers. The chat box is for technical questions only. So thank you for that. We see the questions coming in through the Q&A box. So we look forward to trying to get to as many of those as we can. With that, we will move on to the Fair Housing Act and Fair Lending and our speaker, Danielle Sievers. Danielle, I'll turn it over to you.

Danielle Sievers: Thank you, Karen. I wanted to likewise thank the host for an invite to present today. Just a little bit about myself. I've worked for HUD in various roles for about 10 years now, most of that time as an investigator of housing discrimination complaints. I've also done presentations for a lot of our investigators as well. So any time I'm talking about the Fair Housing Act, I really like to start with the law -- what is prohibited, who is protected.

And the main provision under the Fair Housing Act related to fair lending is Section 3605, which you see on the screen. And it makes it unlawful for any person or entity engaged in residential real estate-related transactions to discriminate because of a protected class. And the seven protected classes covered under the Fair Housing Act are listed there for you on the slide -- race, color, religion, sex, disability, familial status, and national origin. I did want to put a note: I do know part of the conference tomorrow you'll be talking a bit about the Bostock Decision and sex discrimination under the Fair Housing Act.

Sex discrimination does include discrimination because of sexual orientation and gender identity. And the links I've provided in the slide will take you to the Supreme Court decision under Bostock and also HUD's memorandum that adopted that interpretation. So you can get more details there. Also, I just always like define familial status a little bit more. That includes children under the age of 18 living with a parent or legal custodian, pregnant women, and people securing custody of children under 18. I've also linked the definition there for you as well.

Next slide, please. You saw on the last slide we kind of bolded real estate-related transactions. So it's really important to know what those are. The definition is on your screen. It's at 3605 (b). And that includes the making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing or maintaining a dwelling; or secured by residential real estate; as well as the selling, brokering, or appraising of residential real property. Next slide.

What that definition is telling us is that discrimination can occur at any stage in the lending process. That includes the marketing of mortgage loan products, meaning refusing to provide information regarding favorable loans based on protected class in the mortgage loan transaction; steering an applicant based on their protected class towards a bad or inferior mortgage loan product; and the terms of conditions of the loan -- the interest rates, points, fees, or costs.

And the link that is provided there actually goes to a news release for a case that HUD settled that alleged that a lender's practices contributed to borrowers of color being charged higher annual percentage rates, or APRs, and fees than similarly situated white borrowers; and also that the lender denied applicants of color loans more often than similarly situated white applicants. Other parts of the process that discrimination can creep up in would be the appraisal of a home. This is kind of a hot topic that is in the news now and a lot of research.

And we'll go in more depth in a subsequent slide on that. It can occur in the loan servicing -- providing inferior service to a protected class or superior service based on protected class. It can also apply to home loan modification assistance, homeowners insurance. And it applies to purchases as well as refinancing. I've also linked there the regulations, which I always love diving into because they give you really great examples of different ways in which discrimination has occurred. Next slide, please.

Some of the things to be aware of in terms of either signs or actions which could lead to or are discrimination in and of themselves would be: in communities of color, if they're not being provided information regarding mortgage loans. If those communities are being aggressively solicited for adverse credit loan terms. There are more advantageous loan products being offered outside of those neighborhoods. Or persons from those neighborhoods are being steered to higher cost loans. Women being required to have a cosigner, but not men. Additional conditions, or denying or delaying loans for pregnant women.

A lot of times, some of these loans -- which HUD often coins, the maternity leave cases -- there were cases where women were required by the lender to either return to work or to end their maternity leave in order to be approved for their loan. Other examples -- requirements for documentation that's more burdensome for those with disability income. Linked is a new release to a HUD settlement for a case that alleged a lender required persons with disabilities to provide medical and other documentation regarding their disability because the lender insisted that they needed this documentation to prove that the disability income would continue for three years.

Other examples -- unnecessary or inflated costs and fees based on protected class; undervalued properties because of the protected class of the borrower or the residents in the surrounding neighborhood; harsher collection or foreclosure practices -- which could be not allowing payment plans in one neighborhood that is majority persons of color, but allowing the payment plans in another neighborhood that is majority white; options being offered to white borrowers, but not to African American or Latino borrowers. So those are just some examples.

And I'll go a little bit more in depth in the next slide regarding appraisals. There really has been a wealth of research and current examples of discriminatory appraisals. In particular, I've linked the Brookings Institution Report, which found that a home in a majority Black neighborhood is likely to be valued for 23 percent less than a near identical home in a majority white neighborhood. And some other recent examples that you may have seen in the New York Times or NPR or some HUD conciliation agreements that have come out recently; a lot of them are showing mostly in refinancing.

And when the borrower removes indications of their race from their home and replace them with pictures of white persons or had a white neighbor stand in for them for the appraisal, the home value increased substantially. So the New York Times article, the original appraisal was for a $330,000. They took out their family photos, certain books and holiday photo cards that they had. And only the husband, who was white, was present at the second appraisal. And then the appraisal came back -- the second one -- at $465,000, which was a 40 percent increase.

The second example in the article talks about value going up $40,000 within just a few weeks of the first appraisal because of removing indicators of race from the home for the appraisal. The HUD Conciliation Agreement was a settlement of a complaint that JPMorgan Chase valued a black woman's home at an amount lower than its actual worth because of her race. The settlement included $50,000 for her, required training, and a review of the process when a customer requests a reconsideration of valuation, as well as changes to notices and information to provide consumer's information about their rights and what they can request during that process.

And then the NPR link is a link about an appraisal where a woman actually had three appraisals. The first one came back at $125,000, then $110,000. And then once again, she took out those indicators of race from her home and the appraisal came back at $259,000. So what you're looking at really with appraisals is where was the deviation from the industry standards? A lot of times you can find that by looking at the appraisal report and the comparables that were used.

If there were a lot of adjustments to them, a lot of times that can be an indication of discrimination that they're making a lot of adjustments to those comparables to make them match the property that's being appraised. And why is this important? What's the result of discriminatory appraisals? It really does stymie the path for building equity. As we all know, homeownership is one of the best sources to build wealth in the country. And it also further perpetuates income inequality that we've all seen.

What is HUD doing about that? Right now, HUD has an inner-agency task force on property, appraisal, and valuation equity, which is also called PAVE. There's a link there to their website. And it will be used to address inequity in home appraisals. They will deliver a final report that describes the extent, causes, and consequences of undervaluing properties and provide a road map of industry actions and policy implementations to address the undervaluing of properties. I've also linked a training that the National Fair Housing Training Academy had.

They have a monthly fair housing forum. They're really awesome. And you can find it on HUD Exchange as well -- the fair housing forum. While it's saying that it's strategies for investigating discriminatory residential appraisals, I have found that all the forums always provide great information whether you're an investigator or not. They give you resources on the page. All the forums are recorded. So they can be a great wealth of information as well. Next slide, please. A little bit more on discrimination in foreclosures.

As many foreclosure prevention services are provided and moratoriums are lifted, it's important that all services, terms, and policies are provided to all regardless of their protected class. Examples on the slide include potentially refusing to provide the same terms, providing less favorable terms, denying forbearance, or failing to explain available policies because of someone's protected class.

Again, another great fair housing forum that took place recently was talking about post-COVID forbearance options and preventing discriminatory foreclosures. The link goes to that recording, as well as a list of the resources that were available. Next slide. I also wanted to highlight one partnership between HUD and the Federal Housing Finance Agency. These two agencies executed a memorandum of understanding to enhance enforcement of the Fair Housing Act and oversight of the Federal and National Mortgage Association, Fannie Mae, and the Federal Home Loan Mortgage Corporation, Freddie Mac.

It allows for information sharing, coordination, and a framework for advance notice and an opportunity to comment on fair housing or lending regulations or guidance. And a link to the press release and also the MOU is provided for you. Next slide. How can you help borrowers as a housing counselor? One of the most important things to do is to educate them on the lending process. It is easier to determine what is out of the norm if you know what the norm is. So letting them know what documents they should be familiar with, and helping familiarize them with those documents -- so the loan application, the loan estimate, the appraisal report, the inspection report, the closing disclosure document.

Knowing what those documents are, what they should be looking for in those documents, and what is normal to see in those documents is really important to help them recognize if something is not typical, not normal. Let them know what the normal steps are in the process, the types of loans that are generally available, the terminology they should be familiar with as they go through the process, what usually involves a cost or a fee, and what that typical cost or fee can be for the appraisal, the inspection, closing fees, broker fees, etc.

And what is typically provided at no cost, so they know if someone's telling them there's a cost for this that they should question that. Also, remind them to retain documentation and document their interactions, especially if they feel that something was off or something was out of the norm. Provide them those resources if they feel like they have experienced housing discrimination. There's a link to those resources for HUD available on the slide, as well as our FHAP and FHIP agencies.

FHAP agencies are fair housing assistance program agencies. There are state and local agencies that enforce both the state and local fair housing laws as well as the Fair Housing Act. And FHIP organizations advocate for complainants, provide education and outreach; and they also do enforcement and investigation through testing. I believe we're going to pause again and Karen's going to give us another Mentimeter.

Karen Hoskins: Sounds good. Thank you, Danielle. We are going to check in with our audience and see where they are in terms of their understanding of some of the information that has been presented. Our first Mentimeter question is, would providing inferior servicing of a loan to an African American borrower be considered a discriminatory lending practice? A lot of times we think about discrimination in terms of the application process. But this question is, does that also apply to the servicing of the loan? Yes or no. Danielle, anything you might want to add related to this at all?

Danielle Sievers: I'm not going to add, but I'm very happy to see that most are saying yes to this. As we discussed early on, it really can happen at any point in the process whether it's the marketing of the loan, the applying for the loan, and then after you actually have that loan, the servicing of that loan.

Karen Hoskins: Okay. Great. Yes. And it looks like everyone agrees that that also is an indication of discrimination. And then a servicer denies forbearance to a borrower because they have a disability. Is this an example of discrimination? Any comment, Danielle, on this one?

Danielle Sievers: Again, happy to see we're all saying yes again. It's important to know that -- as Bobby had said -- while ECOA doesn't cover disability, the Fair Housing Act definitely does. There are very stringent protections in the Fair Housing Act for persons with disabilities.

Karen Hoskins: Okay. Great. Thank you. And the responses are still coming in. I think we can all agree that that is in fact an act of discrimination. So thank you, Danielle, And thank you, everyone, for your participation in our knowledge check. So moving on, we wanted to talk a little bit about the tremendous resources that are available that folks can access to learn more about fair housing and its implications. Again, all of the slide deck and this information will be available on the HUD Exchange for you to access following this presentation.

And those materials are already posted to the HUD Exchange -- so Fair Lending: Learn the Facts; fair lending web page; and the other resources indicated here. In addition, the Office of Housing Counseling and the Fair Housing Equal Opportunity, you're seeing the website for the Exchange, as well as some additional websites that may be of interest. Also note, you can email the Office of Housing Counseling -- housing.counseling@hud.gov. If you have specific questions related to client scenarios or anything similar to that, that email address would be a great place to send your questions in order to gain some clarification and response.

Okay. So I want to really thank Bobby and Danielle for their presentations. We're going to take a moment to look at some questions that have come into the Q&A box, and get their feedback on what's posted there. And the conversation is also continuing on Whova. And Whova really is a good place if you have specific scenarios that you have faced with clients and would like some additional input on. Whova's a great place to have those conversations. So we encourage you to take advantage of it.

But for our questions, Bobby, this first one is for you. We talked about lenders under certain circumstances. The response was it depends -- cannot ask about child support, alimony. This participant also wants to know, is that the same if a borrower is widowed or divorced? Would the response to that be depend as well? They say because they see it as an option on lender applications whether the person is widowed or divorced. Bobby, is that also a depends response?

Bobby Conner: Thank you for that. I would actually like to see if this person -- I don't know if there's availability through Whova -- I'd like to see specifically what the situation -- what is being said here. That way I can actually see the form and maybe respond a little in greater detail. Basically, if I understand the question, it goes to asking about being widowed or divorced. And generally speaking, as I said, no. That's not allowed.

They can ask if you're married, unmarried in certain circumstances. And then they can kind of describe what some of those categories mean that could package in some of these things that we're talking about. Like maybe being divorced and widowed would fall into one of the categories that they're asking. But I'd be curious to know exactly what we're talking about -- what kind of product it is, what the application looks like. And if there's a way that we can do that, I would love to respond to that person more fully.

Karen Hoskins: Okay. And for the person that asked that question, I would encourage you to go to Whova -- and the community board for this session is up and available -- and pose more specifics about your enquiry there and we'll make sure you get an answer.

Bobby Conner: We can also take it offline, obviously, if it's something that needs to be not discussed on a public forum.

Karen Hoskins: Okay. Sounds good. Sounds great. Okay. And, Bobby, I'll ask this one of you also. There was a lot of dialogue about what you can ask, what you can't ask related to divorce and other scenarios. Just another one related to divorce -- are you aware of any loans that require the person to finalize a divorce because of liability issues? In other words, would there be certain -- and maybe this is an "it depends" scenario -- but would there be a certain set of circumstances where the fact that the person was divorced was relevant for the application and should be asked by the lender? Any comment there?

Bobby Conner: I actually don't know the answer to that off the top of my head. But if I could get -- I think I was talking with Danielle earlier on a lot of these specific questions. It's like we get a little bit of information and we just want to know more to make sure that we give the best answer possible. But if we could, I'll be happy to look at that in Whova as well.

Karen Hoskins: Okay. Yeah. These are complex issues for sure. And there's no one answer --

Bobby Conner: And I would hate to give a wrong answer, obviously, or something to lead someone astray.

Karen Hoskins: Absolutely. Understood. And this last one, Danielle, I'll direct to you. The participant wants to know, what happens when you are acting as a lender and also providing HUD grants? They say, we provide grants with loans and are both a lender and a housing counseling agency. So within some housing counseling agencies there may be counseling services offered, but also that same agency has a lending operation.

And in many agencies, there's a firewall between the two. But my understanding of this question is in those scenarios where both services are being provided, is there any guidance around implications between the two? Are there things that the housing counseling agency might be able to do that those staff in the lending operation might not be able to ask a client, for example? Any thoughts there?

Danielle Sievers: I would definitely say on the lending side of things, the Fair Housing Act is definitely going to apply to you. So you're going to want to make sure that you're providing your services regardless of protected class. In terms of the overlap, that's probably a better question for our Office of Housing Counseling than Fair Housing. They would know more if that's allowable if you're providing HUD grants as well as lending services, so I would direct that question towards them.

Karen Hoskins: Okay. Great. Thank you. Thank you both, Bobby and Danielle for sharing such great information with our audience this afternoon. We really appreciate it. If we did not get to your question, know that our team is monitoring the Q&A box. And we will do our best to answer those questions either through Whova, or tomorrow during our closing session, we will also try to address any unanswered questions that maybe we didn't get to. So I hope that is helpful.

We hope that you found the information that was shared today helpful, and that this session was a good investment of your time. Thank you all so much for joining. And I want to remind you about our final session of the day that's coming up in 30 minutes -- "Reaching Limited English Proficient Populations," also commonly known as LEP. So please join us back here in 30 minutes for that session.

And thank you so much for joining today. This concludes this session.

(END)