

Regulatory Issues Impacting Real Estate Lending

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57th Annual William W. Gibson, Jr.
Mortgage Lending Institute

OCTOBER 11-12, 2023
AUSTIN, TX

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Fair Lending –CFPB Enforcement Actions

- ▶ CFPB and Department of Justice have made FAIR LENDING a priority
- ▶ A ton of attention to REDLINING CASES
- ▶ Number of cases, as well as new theories, are noteworthy

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Fair Lending –CFPB Enforcement Actions

- ▶ **Redlining:** Trustmark 2021 Consent Order
 - Traditional redlining case against a bank based on CRA and HMDA data
 - Asserted Trustmark engaged in “redlining” by avoiding lending activities in minority neighborhoods of Memphis
 - Discrimination against neighborhoods instead of individual people.

Trustmark **Redlining** Consent Order

- ▶ CFPB asserted that Branch locations contributed to unlawful redlining
 - 21 branches in majority white areas
 - 3 branches in majority minority areas
 - CFPB argued the location of the branches discouraged applications from minorities

Trustmark **Redlining** Consent Order

- ▶ Lack of walk-in ability was noted by CFPB
- ▶ Bank took no meaningful steps to hire LOs that served black or Hispanic communities
- ▶ Marketing materials were targeted to appeal to a white audience and were disseminated in places they would be seen by white applicants.

Trustmark **Redlining** Consent Order

- ▶ Bank lacked internal fair lending oversight over their operations
- ▶ Bank did not establish fair lending risk assessment until 2018
- ▶ Fair lending was not a consideration in expansion plans or hiring

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First appeared as part of the conference materials for the
57th Annual William W. Gibson, Jr. Mortgage Lending Institute session
"Regulatory Issues Impacting Real Estate Lending"