

Press Releases

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OTS 00-65 - OTS Tests 'Mystery Shopping' To Help Check Thrifts' Fair Lending Compliance

Office of Thrift Supervision

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OTS TESTS 'MYSTERY SHOPPING' TO HELP CHECK THRIFTS' FAIR LENDING COMPLIANCE

WASHINGTON, D.C., July 27, 2000 - The Office of Thrift Supervision announced today it is conducting a pilot program to determine whether "mystery shopping" is a feasible tool to use as part of its oversight of the thrift industry's compliance with its fair lending obligations.

"OTS is committed to assuring that lenders achieve compliance with fair lending laws in all phases of the credit transaction," OTS Director Ellen Seidman said. "The pilot program will enable us to evaluate our ability to conduct 'mystery shopping' as a reliable means of fulfilling this commitment. On the whole, our examinations have revealed few violations in the thrift industry over the years, and the few we have found have been referred to the Justice Department."

OTS's pilot program will use contract shoppers at a handful of OTS-regulated institutions over the next several months to determine whether borrowers are treated differently on a prohibited basis in the pre-application phase of the mortgage or consumer lending process. The program will focus on institutions whose risk assessment indicates the strong possibility of prescreening, disparate treatment or other discriminatory practice.

OTS also will evaluate whether testing is a useful and efficient means of identifying weaknesses in an institution's compliance program that would permit discriminatory treatment or discouragement of loan applicants on a prohibited basis. OTS will announce the results of the pilot when it is completed and the findings are analyzed.

"The success of this pilot will not be measured by the number of fair lending violations proven," said Richard Riese, OTS director for compliance policy, "but rather by assessing the effectiveness of 'mystery shopping' in revealing lending practices that increase the institution's risk of engaging in pre-application discrimination."

Before embarking on the pilot program, OTS met with representatives of state and federal government and other groups to learn from their experiences in using "mystery shopping" to

identify discriminatory housing and credit practices. The agency continues to welcome comment from the thrift industry and community groups on the mystery shopping technique.

In December 1998, the Federal Financial Institutions Examination Council approved new interagency Fair Lending Examination Procedures (FLEXPRO) designed to identify fair lending violations and compliance management deficiencies through a file analysis regimen. The procedures represent a significant improvement in the agencies' approach to determining whether violations of the Fair Housing Act and the Equal Credit Opportunity Act exist. OTS fully implemented FLEXPRO as part of its compliance examinations beginning in March 1999. Nonetheless, the agencies' ability to detect illegal credit discrimination in the pre-application stage of the mortgage loan process is often limited because of the lack of a paper trail.

In an earlier report to Congress, the General Accounting Office (GAO) suggested testing as a means of addressing this limitation. OTS, in its response to the GAO report, agreed to study the use of testing methodologies.

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The Office of Thrift Supervision (OTS), an office of the U.S. Treasury, regulates and supervises the nation's thrift industry. OTS's mission is to ensure the safety and soundness of thrift institutions and to support their role as home mortgage lenders and providers of other community credit and financial services. For copies of news releases or other documents visit the OTS web page at www.ots.treas.gov.