
INFORMATIONAL MEMORANDUM



April 6, 2021

To: Chief Executive Officer
Each Farm Credit System Institution

From: Roger Paulsen, Director and Chief Examiner
Office of Examination

Subject: Updated interpretation of sex discrimination in fair lending laws and regulations

This informational memorandum discusses recent updates to the interpretation of the prohibition against sex discrimination in the fair lending laws and regulations. The updates prohibit discrimination on the basis of sexual orientation or gender identity. We are providing this information as a courtesy to keep you informed of issues that may affect your institution.

Equal Credit Opportunity Act and Regulation B

The Consumer Financial Protection Bureau (CFPB) issued an [interpretive rule \(PDF\)](#) to clarify the prohibition against sex discrimination in the Equal Credit Opportunity Act (ECOA) and Regulation B. The prohibition applies to any aspect of a credit transaction.

The interpretive rule clarifies that the prohibition against sex discrimination encompasses discrimination because of sexual orientation or gender identity. It further clarifies that sexual orientation discrimination or gender identity discrimination includes discrimination because of actual or perceived nonconformity with sex- or gender-based stereotypes, as well as discrimination on the basis of an applicant's associations.

The interpretive rule was published in the Federal Register at 86 FR 14363 on March 16, and it was effective on the date of publication.

Fair Housing Act and FCA regulations at part 626

The acting assistant secretary for fair housing and equal opportunity at the Department of Housing and Urban Development (HUD) released a [memorandum \(PDF\)](#) dated February 11 directing the Office of Fair Housing and Equal Opportunity to take actions to administer and fully enforce the Fair Housing Act to prohibit discrimination because of sexual orientation or gender identity.

Although this memorandum does not apply directly to FCA, section 808(d) of the Fair Housing Act ([42 U.S.C. 3608\(d\)](#)) requires all agencies (including any federal agency having

regulatory or supervisory authority over financial institutions) to administer their programs and activities relating to housing and urban development in a manner that furthers the goal of fair housing. It also requires agencies to cooperate with the secretary of HUD to further this goal.

FCA adopted its regulations at part 626 to implement the requirements of section 808(d) of the Fair Housing Act:

- [Section 626.6005\(b\)\(1\)](#) prohibits a System institution from discriminating on the basis of sex (among other bases) in any aspect of a credit transaction or a financial service involving a credit transaction.
- [Section 626.6010](#) prohibits a System institution from discriminating against loan applicants on the basis of sex (among other bases). This is consistent with the Fair Housing Act, the ECOA, and the regulations that implement these acts.
- [Section 626.6015](#) prohibits a System institution from discriminating against a person on the basis of sex (among other bases) when conducting, using, or relying upon an appraisal of residential real property that is subject to sale, rental, or other financing transactions.

Consistent with the HUD memorandum, as well as with the CFPB's interpretation of the ECOA and Regulation B, the prohibition on sex discrimination in part 626 includes a prohibition on discrimination on the basis of sexual orientation or gender identity.

CFPB provides compliance resources

You can find the language of all CFPB rules, as well as resources for implementing and complying with its rules, on the [CFPB website](#). Since the CFPB constantly updates this information, you should refer to the website frequently to ensure you have the latest information. To receive updates on rules and compliance resources as they become available, go to the [Compliance](#) page and sign up for email updates.

Please note that reviewing this informational memorandum is not a substitute for reviewing the resources provided on the CFPB website. Reviewing this website is part of exercising your due diligence in monitoring issues that may affect your institution.

If you have any questions about this informational memorandum, please contact Jennifer Cohn, Senior Counsel, Office of General Counsel, at (720) 213-0440 or cohnj@fca.gov; or Lynn Major, Senior Examiner, Office of Examination, at (703) 883-4285 or majors@fca.gov.