



## **FAIR LENDING POLICY**

### **I. INTRODUCTION**

#### **A. OVERVIEW**

The purpose of this Fair Lending Policy (“Policy”) is to implement consumer protection mechanisms that ensure compliance with all applicable federal and state fair lending laws and guidance, including but not limited to, the Equal Credit Opportunity Act (“ECOA”) and its implementing regulation (Regulation B), the Interagency Policy Statement on Discrimination in Lending, which outlines methods of proving lending discrimination under ECOA, the Home Mortgage Disclosure Act (“HMDA”), the Fair Credit Reporting Act (“FCRA”), the Fair Housing Act (“FHAct”) and New York State’s Executive Law, § 296-a.

It is Equity Prime Mortgage’s (“Company”) policy to treat all consumers and prospective consumers consistently and equally without regard to race, color, creed or religion, national origin, sex, marital status, sexual orientation, military status, disability, familial status, age (provided the applicant has legal capacity to enter into a binding contract), receipt of public assistance, or the exercise of legal rights under the federal Consumer Credit Protection Act.

The Company takes a strategic and proactive approach to ensure companywide compliance with fair lending laws. The principles of this Policy extend to all areas of the Company’s operation, including but not limited to, marketing, loan origination, processing, and underwriting activities, as well as to all types of services and products offered.

The procedures and guidelines set forth in this Policy represent the minimum requirements under current applicable statutory and regulatory guidelines. Wherever local regulations are stricter than the requirements set out in this Policy, the stricter standard shall apply.

### **II. GENERAL OVERVIEW & EXPLANATION**

Fair lending laws are meant to ensure fair and equal access to credit in the marketplace. Various federal and state laws address fair lending. It is the Company’s policy to ensure adherence to all applicable fair lending laws and guidance.



## A. EQUAL CREDIT OPPORTUNITY ACT

The Equal Credit Opportunity Act (“ECOA”), 15 U.S.C. § 1691 et seq., and its implementing regulation, Regulation B, 12 C.F.R. Part 202, applies to all creditors and prohibits discrimination in connection with a credit transaction. Prohibited bases of discrimination under the ECOA include:

- Race;
- Religion;
- National origin;
- Sex;
- Marital Status (includes same-sex married couples whose marriage was valid at the time of the marriage in the jurisdiction where the marriage was celebrated, despite the person’s place of residency or the location of the subject property);
- Age (provided that the applicant has the capacity to enter a binding contract);
- Receipt of income through public assistance programs; and
- An applicant’s good faith exercise of any right under the Consumer Credit Protection Act (15 U.S.C. §§ 1601 et seq.) or any state law upon which an exemption has been granted by the Federal Reserve Executive Committee.

ECOA has two principal theories of liability in addition to overt discrimination: (i) disparate treatment and (ii) disparate impact. Disparate treatment occurs when a creditor treats an applicant differently based on a prohibited basis such as race or national origin. Disparate impact occurs when a creditor employs facially neutral policies or practices that, despite such facially neutral policies or practices have an adverse effect or impact on a member of a protected class and there is no legitimate business need that cannot reasonably be achieved by means that are less disparate in their impact.

Redlining is a form of illegal disparate treatment in which a creditor provides unequal access to credit, or unequal terms of credit, because of the race, color, national origin, or other prohibited characteristic(s) of the residents of the area in which the individual seeking credit resides or will reside, or in which the residential property to be mortgaged is located. Redlining may violate ECOA or the Fair Housing Act (discussed below). Managing redlining risk requires a combination of diligence with regard to business practices and statistical monitoring for potential risks, such as mapping loan applications, originations and branches in relation to minority populations within concentrations of minority population.

Regulation B addresses concerns not only with the treatment of individuals who submit an application, but also addresses creditor behavior before an application is even taken. A creditor shall not discriminate with regard to a credit transaction and may also not make oral or written statements to a prospective applicant that would discourage, on a prohibited basis, a prospective applicant from making or pursuing an application. Under Regulation B, an application exists when a customer first inquires about obtaining



credit from a lender. The purpose of this definition is to extend the Regulation's protections to individuals at the earliest possible phase of the application process because the opportunity to discriminate exists.

Once a creditor takes an application as defined under Regulation B, it is required to notify the applicant of its credit decision within thirty (30) days of receiving an application unless the creditor notifies the applicant of a counteroffer or notified the applicant of the incompleteness of his/her application. The notice of incompleteness must specify the information needed, designate a reasonable time for the applicant to provide the information, and inform the applicant that failing to provide the information will result in no further consideration being given to the application. If the creditor makes a counteroffer it must notify an applicant of adverse action within 90 days after making the counteroffer unless the applicant accepts or uses the credit during that time.

ECOA also contains a Valuations Rule requiring creditors to disclose to applicants that they have the right to receive copies of appraisals and written valuations. Under the rule, a creditor must automatically send a free copy of home appraisals and other written valuations promptly after completion of the reports and regardless of whether credit is extended or an application is denied, withdrawn or incomplete. The Valuations Rule covers closed-end or open-end loans secured by a first lien on a dwelling, including loans for business purposes, loss mitigation transactions, loans secured by mobile or manufactured homes, reverse mortgages, and time-shares.

The Company notifies all applicants in writing within three business days of application of their right to receive a free copy of any appraisal or other written valuation developed in connection with the application. The Company also delivers copies of appraisals and other written valuations "promptly upon completion," or at least three business days before consummation, whichever is earlier, and does not charge the applicant for such copies.

Committed to being a fair and responsible lender, the Company provides equal access to credit to all applicants and prospective applicants and does not discriminate against anyone based on any prohibited factors. To that end, the Company performs audits to assess compliance with ECOA, including but not limited to, reviewing its pipeline to identify aging loan applications, confirming the timeliness and accuracy of adverse action notices, and ensuring that appraisal disclosures and copies of all valuation reports are promptly provided to applicants.

## **B. FAIR HOUSING ACT**

The Fair Housing Act ("FHAAct"), 42 U.S.C. § 3601 et seq., prohibits discrimination in all aspects of "residential real-estate related transactions, including but not limited to, (i) making loans to buy, build, repair or improve a dwelling, (ii) purchasing real estate loans, (iii) selling, brokering or appraising residential real estate, and (iv) selling or renting a dwelling."

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The FHAct prohibits discrimination based on:

- Race or color;
- Religion;
- National origin;
- Sex;
- Familial status (defined as children under the age of 18 living with a parent or legal custodian, pregnant women, and people securing custody of children under 18); and
- Handicap.

Under the FHAct, the Company must make reasonable accommodations for a person with disabilities when such accommodations are necessary to afford the person an equal opportunity to apply for credit. Additionally, under both FHAct and ECOA it is unlawful to deny credit because a person is pregnant or takes maternity or paternity leave. Regulation B prohibits using assumptions related to the likelihood that any group of persons will rear children or will, for that reason, receive diminished or interrupted income in the future. As such, refusal of a creditor to consider an individual's employment status or income while that individual is on maternity or paternity leave is discriminatory. The Company mitigates its fair lending risk in this respect by (i) not assuming that a parent will not return to work after childbirth, (ii) using underwriting policies that treat applicants on maternity or parental leave and applicants on other types of leave similarly, (iii) reviewing and addressing complaints by consumers who were on parental leave carefully, and (iv) reviewing recent settlements related to this topic to stay abreast on problematic practices.

Because both the FHAct and ECOA apply to mortgage lending and because the Company is dedicated to fair and equal treatment of its consumers or prospective consumers, the Company will not discriminate based on any of the prohibited factors in either list.

### **C. HOME MORTGAGE DISCLOSURE ACT**

The Home Mortgage Disclosure Act ("HMDA"), 12 U.S.C. § 2801 et seq., enacted by Congress in 1975, is a disclosure law that requires lending institutions to report public loan data for the purpose of determining whether financial institutions are serving the housing needs of their communities and identifying possible discriminatory lending practices.

The Company utilizes its HMDA data to help assess its lending pattern of home mortgage-related credit transactions and to assist in the efforts to support the Company's policy of fair lending and non-discrimination.

Within thirty (30) days of the end of the calendar quarter, the Company records all HMDA reportable data on a loan application register ("LAR"). In completing these quarterly reports the Company performs



audits on the HMDA data to ensure data integrity and to confirm fair lending concerns are not raised by the data.

#### **D. FAIR CREDIT REPORTING ACT**

The Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681 et seq., regulates the collection, dissemination, and use of consumer information, including consumer credit information. In general, FCRA requires the consumer credit reporting industry to report an individual’s consumer credit information in a fair, timely, and accurate manner.

If a lender denies credit or increases the cost of credit based on the use of a credit report, it must provide the applicant with the name and address of the consumer reporting agency from which it received the report.

The Company obtains a credit report on a consumer for legitimate business needs only, including for credit purposes. The Company provides all required notices and credit scores to its consumers in compliance with applicable rules and regulations, including the name and address of the consumer reporting agency so that the consumer may dispute findings.

#### **E. INTERAGENCY POLICY STATEMENT ON DISCRIMINATION IN LENDING**

In 1994, the Interagency Task Force on Fair Lending, which was composed of ten federal agencies, including the Department of Justice, each of the federal prudential agencies with regulatory authority over financial institutions, and the Federal Trade Commission, released the Interagency Policy Statement on Discrimination in Lending (“Policy Statement”).

This Policy Statement provides a detailed discussion of federal fair lending laws and regulations and reiterates the regulatory agencies’ commitment to compliance with fair housing laws, policies and procedures. The Policy Statement also includes answers to questions often asked by financial institutions and the public concerning fair housing requirements.

#### **F. NEW YORK’S EXECUTIVE LAW, § 296-a**

There are various state laws that govern fair lending, including but not limited to, New York State’s Executive Law § 296-a, which makes it an unlawful discriminatory practice for any creditor (i) to discriminate on the basis of race, creed, color, national origin, age, sex, marital status, disability, familial status, sexual orientation, or military status; (ii) to discriminate on a prohibited basis in the granting, withholding, extending or renewing, or in fixing the rates, terms or conditions of any form of credit; (iii) to use any form of application for credit or use or make any record or inquiry which expresses, directly or indirectly, any limitation, specification, or discrimination as to a prohibited basis; (iv) to make any inquiry of an applicant concerning his or her capacity to reproduce, or his or her use or advocacy of any form of



birth control or family planning; (v) to refuse to consider sources of an applicant's income or to subject an applicant's income to discounting, in whole or in part, because of a prohibited basis or childbearing potential; or (vi) to discriminate against a married person because such person neither uses nor is known by the surname of his or her spouse.

New York guidelines further require creditors to formulate a fair lending plan to ensure its lending practices comply with Executive Law § 296-a and to continuously monitor the implementation and adherence to the plan. Among other requirements, as part of this plan, a creditor must provide adequate training to new and current employees, including management and other key personnel, and provides lending personnel with at least semi-annual updates on fair lending issues.

### **III. IMPLEMENTATION**

The Company routinely monitors its performance against applicable fair lending laws and regulations. Further, the Company maintains a “Zero Tolerance Policy” for violations of any applicable state or federal law, in addition to Agency guidelines and/or Company policies and procedures. Any violations of this Policy, whether intentional or negligent, will be subject to disciplinary action up to and including termination.

Additionally the following practices are strictly prohibited:

- Expressing a preference, whether orally or in writing, based on a prohibited factor or indicating that the Company or a particular employee will treat applicants differently on a prohibited basis; • Based on a prohibited basis, refuse to take a loan application, vary the terms offered (including, but not limited to, the loan amount, interest rate, period or type of loan), or use different credit standards to evaluate collateral or decide whether to extend credit;
- Discrimination based on a prohibited basis of the applicant or a person associated with the applicant including a joint applicant, spouse, business partner, the present or prospective occupants of the property to be financed; and/or
- Setting minimum loan amounts.

### **IV. OVERSIGHT & REVIEW**

The Company maintains shared responsibility for compliance with fair lending laws at every level of the Company. Further, all areas of the Company's operations must meet fair lending objectives, including but not limited to, marketing, origination, processing, underwriting, funding and servicing.

The Company implemented comprehensive training and monitoring processes to assist in raising awareness of fair lending issues at all levels and to help promptly identify where compliance deficiencies may exist. The Company performs both pre- and post-closing quality control reviews to monitor, among other things, data integrity and the treatment of consumers, on all applications no matter the disposition. The Company takes immediate corrective action in the event a fair lending issue arises.



## **A. COMPLIANCE OFFICER**

The day-to-day implementation and monitoring of this Policy is the responsibility of the Company's Compliance Officer. The Compliance Officer is appointed by the Executive Committee. Among other responsibilities, the Compliance Officer is tasked with:

- Implementation of and adherence to the Company's fair lending policies and procedures;
- Reviewing and addressing all fair lending complaints;
- Updating as necessary and at least annually this Policy to ensure compliance with all applicable federal and state laws;
- Implementing adequate company-wide fair lending training, including providing, at least semi-annually, updates on fair lending issues to all Company employees;
- Reviewing HMDA data and quality control review findings for fair lending compliance; and
- Identifying systemic or individual vulnerabilities and developing solutions and/or recommending corrective action where necessary to prevent fair lending risk.

In connection with these duties, the Compliance Officer shall prepare quarterly reports and present them to the Compliance Committee for review and analysis.

The current Compliance Officer is James Minghini who was appointed by the Executive Committee on May 26, 2015 and his contact information is 5 Concourse Parkway, Queen Building, Suite 2250, Atlanta, GA, (877) 255-3554, [jminghini@equityprime.com](mailto:jminghini@equityprime.com).

## **B. COMPLIANCE COMMITTEE**

The Company shall maintain a Compliance Committee consisting of the Compliance Officer and other members of Senior Management that will be responsible for analyzing and assessing the risks associated with consumer complaints, as well as any lending practices posing risks of consumer harm or noncompliance with this Policy and all applicable fair lending laws and regulations.

The Compliance Committee will produce a report for review by the Executive Committee on a no less than quarterly basis, containing their critically analyses of the Compliance Officer's reports, along with any industry trends and proposed changes that have potential fair lending impact.

## **C. MANAGEMENT OVERSIGHT**

This Fair Lending Plan shall be reviewed at least annually by the Compliance Committee to ensure that fair lending issues, specifically new fair lending legal or regulatory developments, are adequately addressed.



The Executive Committee is responsible for appointing a qualified Compliance Officer to oversee fair lending concerns at the Company and must allocate, on an ongoing basis, sufficient resources to ensure the successful implementation of this Policy.

## **V. INTERNAL CONTROLS**

The Company's compliance program includes internal controls to mitigate and monitor fair lending risk. Developing this Policy, performing risk assessments and audits, and ongoing monitoring of compliance with fair lending laws creates a good foundation for strong internal controls. In addition, the Company implemented the following procedures to assist with overall fair lending compliance.

### **A. REVIEW OF MARKETING MATERIAL**

The Company's Advertising Policy, which is included herein by reference, requires that all advertising and marketing material and strategies be reviewed by the Compliance Officer and/or outside compliance counsel prior to use and periodically while in circulation. The Compliance Department will identify if any such material or strategies are directed at any protected class of applicants or minority communities and ensure compliance with fair lending laws.

### **B. PROCESSING AND UNDERWRITING**

The Company established written processing and underwriting guidelines to promote and ensure consistency among all classes of applicants. The guidelines address all aspects of processing and underwriting, including gathering of documents and information, collateral standards, credit, income, source of funds, debt ratios, income documentation, ability to repay guidelines and other relevant factors for decision-making.

The Company offers its applicants the best available products for which the applicant would qualify based on creditworthiness, ability to document income, combined loan-to-value and ability to repay. If an applicant does not meet the Company's underwriting standards, the Company will provide an applicant with alternative lending options whenever possible.

In addition to Company's processing and underwriting guidelines, each loan file is subject to a preclosing compliance review to confirm, among other items, that all required disclosures were timely and properly provided to an applicant and that no fair lending concerns exist. Any and all requests for exceptions to the Company's lending standards and guidelines must be reviewed by the Underwriting Manager together with Senior Management.

The Company's Underwriting Manager automatically reviews all loan applications that receive adverse action, whether denied, withdrawn or closed for incompleteness. Withdrawal requests must be reviewed



within a reasonable period of time after withdrawal but not less than ten (10) days from the issuance the adverse action notice. All credit denials must undergo a second review by the Underwriting Manager when available or another underwriter prior to final decision and issuance of an adverse action notice.

As mentioned, the Company performs a secondary quality control loan review on at least a 10% sampling of its closed applications, in addition to its adverse action files. The reviews check compliance and ensure the Company's practices adhere to its lending policies. This review is performed by the Company's outside vendor specializing in quality control.

### **C. LOAN PRICING**

The Company recognizes discretionary overages and risk-based pricing as an area of vulnerability for compliance concerns. The Company may price its loans based on risk and, in some cases, business necessity. Discretionary pricing decisions must be approved by the Company's Risk Officer. Further, all discretionary pricing adjustments must be documented in writing with supporting valid business rationale (i.e. concessions, waivers, lock renegotiations). Overlays to investor pricing must be supported by a demonstrable business justification and/or need.

The Company periodically reviews its pricing schedules in all lending areas and monitors its pricing practices by each loan segment to ensure its pricing policies do not discriminate against any loan applicant on a prohibited basis. Among other things, the Company performs an examination of the interest rate and annual percentage rate, the frequency and size of concessions as well as exceptions to the Company's written guidelines, and differences in profit margins across all products.

### **D. COMPENSATION PRACTICES**

The Company also recognizes mortgage loan originator compensation as a key source of fair lending risk.

To prevent the effect of discriminating against a protected class the Company does not provide any financial incentives for its mortgage loan originators to charge higher rates or fees, or to steer borrowers to higher-cost products. Further, the Company monitors whether its higher-priced mortgage loan originators are concentrated in minority areas and regularly reviews its compensation plans and policies to promptly identify any inadvertent discriminatory effects.

### **E. SERVICING AND LOAN MODIFICATIONS**

The Company will not treat borrowers differently in the servicing of a loan or when invoking default remedies. The Company conducts self-testing to ensure compliance with this principle by collecting ordinary credit characteristics in addition to information on borrower hardships, such as whether the borrower suffered permanent setbacks like a divorce or termination of employment. Additionally, the



Company reviews and compares borrowers on the level of assistance (i.e. how many times the servicer attempted to contact a borrower) and modification outcome and terms, if applicable.

#### **F. THIRD PARTY ORIGINATIONS**

The Company's commitment to complying with fair lending laws extends to its relationships with third party originators (i.e. mortgage brokers and correspondents). By written agreement, the Company requires the mortgage brokers and correspondent lenders it does business with to comply with all applicable law, including all applicable federal and state fair lending laws. Further, the Company requires the mortgage brokers and correspondents it does business with to maintain their own written policies and procedures regarding fair lending.

The Company monitors the mortgage brokers and correspondents it does business with and promptly notifies them if it notes any fair lending deficiencies or vulnerabilities in their loan packages. Mortgage brokers and correspondents are required correct any such issues. The Company will take immediate corrective action in the event fair lending issues are not immediately resolved. This shall include suspension or termination of the business relationship when necessary.

The Company requires its business partners to certify, at least annually, their compliance with fair lending rules and regulations, including New York State's Executive Law § 296-a.

#### **G. PROMPT SERVICE AND RESPONSES TO COMPLAINTS**

The Company's commitment to fair lending extends to its review and response to all consumer inquiries, concerns, and/or complaints. The Company responds to all such communications in a timely, fair, and consistent manner to ensure its consumers have a positive experience throughout the financing process and afterwards.

The Company provides its consumers with a variety of methods for giving feedback, whether the feedback is critical or complimentary. A consumer may communicate their concerns and comments in person, by mail, email, or telephone. The Company also monitors for complaints from other sources, such as the Better Business Bureau and the Consumer Finance Protection Bureau's complaint database.

If at any time an employee is uncertain about the proper method of handling a situation or transaction or has difficulty with a consumer or third party service provider, the employee must refer the matter to his or her immediate supervisor for clarification and review. Complaints must be immediately referred to the Company's Compliance Officer, who will investigate the allegation and work to resolve the complaint expeditiously. Any complaints alleging illegal discrimination or any possible violation of fair lending laws must also be referred to Senior Management and the Company's outside compliance counsel to be



addressed immediately. Responses to complaints shall be handled in an efficient manner so as to prevent any undue burden on the consumer.

#### **H. TRAINING & ANNUAL CERTIFICATION**

The Company conducts on-going fair lending training for all new and current. Training for new hires shall be initiated within thirty (30) days of hire and all employees shall receive fair lending training at least annually. Training will be supplemented by any changes, or additions to any regulation or company policy. Additional training commensurate with position will be provided as needed or included as part of the annual program. Training may consist of a combination of classroom instruction, computer based instruction and/or memorandum. Testing may be provided as part of an employee's training. An acceptable passing score of 80% will be required in such event. Failure to achieve the required passing score will require continued instruction (either face to face or by computer) until a passing score is achieved. If an employee is unable to achieve a passing score after two attempts, disciplinary action up to and including termination may be necessary.

#### **VI. CONCLUSION & ADOPTION**

All employees from the Executive Committee and Senior Management down and all third-party service providers must abide by fair lending principles and this Policy. All employees must also certify at the end of their initial training and at least annually that they understand and commit to uphold the principles of fair lending and this Policy.

This Policy was last reviewed by James Minghini, the Company's Compliance Officer, on: June 1, 2015.