

### **Compliance Essentials of Indirect Lending**

Indirect lending, like all other consumer lending, is covered by fair lending regulations. These regulations apply to both the dealer and the lender to ensure that all applicants have equal access to credit. As part of the Peoples Bank® Indirect Lending Program, you are tasked with providing equal treatment during the entire sales and application process.

As part of the Dealer Agreement you signed, you agreed to comply with all laws and regulations that prohibit discrimination when referring a potential applicant to Peoples for financing including the following:

1. Regulation B, which implements the ECOA and promotes availability of credit to ALL credit-worthy applicants by making it unlawful for any dealer or lender to discriminate against any applicant based on the following nine characteristics:
  - Race
  - Color
  - Religion
  - National Origin
  - Sex (**inclusive of sexual orientation and gender identity**)
  - Marital Status
  - Age (provided applicant can legally enter into a contract)
  - The fact that all or part of the applicant's income comes from a public assistance program
  - The fact that the applicant has in good faith exercised any right under the Consumer Protection Act
2. Unfair, Deceptive, or Abusive Acts or Practices (UDAAP) that ensures those who offer financial products or services avoid any of the following:
  - Unfair Acts or Practices: An act or practice is unfair if it causes, or is likely to cause, substantial injury to consumers; cannot be reasonably avoided by consumers; and is not outweighed by countervailing benefits to consumers or to competition.
  - Deceptive Acts or Practices: An act or practice is deceptive if it misleads, or is likely to mislead, the consumer; the consumer's interpretation of the representation, omission, or practice is considered reasonable under the circumstances, and the misleading representation, omission, or practice is material.
  - Abusive Acts or Practices: An act or practice is abusive if it materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service; or takes unreasonable advantage of a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the consumer financial product or service; or a consumer is unable to protect his or her interests in selecting or using a consumer financial product or service; or the reasonable reliance by the consumer on the Bank to act in the interests of the consumer.
3. Safeguard Rule that lays out the rules and expectations for safeguarding and securing all customer information.
4. Fair Pricing Practices is the obligation to have policies and procedures in place to ensure that retail installment contracts are priced in a nondiscriminatory manner since pricing discretion is allowed.

5. Complaint Management Program with procedures designed to receive, handle and document all complaints received. Dealer process should include when appropriate steps for escalation to the lender for resolution.
6. Ancillary Products Sales Practices is the dealer's obligation to ensure that add-on products are always presented in a manner that ensures that the consumer understands that the purchase of add-on products is optional.

### Lending Risks

Problems arise when discretion is not evenly applied or when it is not apparent why differences in discretionary practices exist. If a dealer makes favorable exceptions for borrowers only in certain protected classes, it would be indicative of a fair lending problem.

The Federal agencies adopted a Policy on Discrimination in Lending defining three key areas of discrimination:

1. Overt discrimination
  - a. Dealer blatantly discriminates on a prohibited basis or expresses a discriminatory preference.
2. Disparate treatment
  - a. Treating applicants differently on one of the prohibited factors
  - b. Providing different levels of assistance to applicants
  - c. Most likely to affect marginal applicants
  - d. Includes Redlining
  - e. Does not require intent
  - f. No credible explanation explains the difference in treatment
  - g. May be established through valid statistical analysis of loan data
3. Disparate impact
  - a. Practice is uniform but has a discriminatory effect on a prohibited basis
  - b. Evidence must be established by the facts

### Lender Corrective Action

Potential steps in response to a dealer's pattern of noncompliance with regulations could include the following:

- Restricting or eliminating the option of dealer markup
- Changing the dealer compensation structure to a flat fee
- Removal of the dealer from the Indirect Program