

United States Senate
WASHINGTON, DC 20510

August 13, 2020

Richard K. Delmar
Acting Inspector General
U.S. Department of Treasury
Office of Inspector General
1500 Pennsylvania Avenue, N.W.
Washington, DC 20220

Dear Acting Inspector General Delmar:

I write regarding recent reports that senior Office of the Comptroller of the Currency (OCC) officials “quietly shelved at least six investigations of discrimination and redlining” in spite of staff recommendations that the agency impose fines and penalties.¹ I urge you to launch an investigation of these extremely concerning reports and of OCC’s enforcement of the Equal Credit Opportunity Act (ECOA), the Fair Housing Act (FHA), and other fair lending laws.

The OCC is one of the agencies responsible for ensuring that banks comply with important fair lending laws and regulations – including ECOA and FHA – created to safeguard equitable access to credit and housing. In accordance with this responsibility, the agency has the authority to perform fair lending examinations and bring public enforcement actions, seek civil money penalties, and require that banks provide relief to victims when they violate those laws and regulations.²

However, recent reports indicate that senior OCC officials have abdicated their responsibilities – allowing banks to continue business as usual despite alleged violations of ECOA and FHA. In fact, a former OCC employee described the agency’s recent approach as “outright hostile” to consumers’ interests – suggesting a pattern of neglect on the part of the agency’s leadership.³ This conduct stands in stark contrast to the OCC’s requirement to enforce the law, its finding that lending discrimination is “destructive, morally repugnant, and against the law,” and its commitment to not “tolerate lending discrimination in any form.”⁴

According to the *ProPublica* report, over the last three years, OCC staff discovered at least six banks were allegedly engaging in discriminatory lending practices, but none were penalized or

¹ ProPublica, “Trump Financial Regulator Quietly Shelved Discrimination Probes Into Bank of America and Other Lenders,” Patrick Rucker, July 13, 2020, <https://www.propublica.org/article/trump-financial-regulator-quietly-shelved-discrimination-probes-into-bank-of-america-and-other-lenders>.

² 12 U.S.C. § 1818

³ ProPublica, “Trump Financial Regulator Quietly Shelved Discrimination Probes Into Bank of America and Other Lenders,” Patrick Rucker, July 13, 2020, <https://www.propublica.org/article/trump-financial-regulator-quietly-shelved-discrimination-probes-into-bank-of-america-and-other-lenders>.

⁴ Federal Deposit Insurance Corporation, “Policy statement on discrimination in lending,” accessed on July 22, 2020, <https://www.fdic.gov/regulations/laws/rules/5000-3860.html>.

even publicly reprimanded. In 2018, examiners discovered that Bank of America was “offering fewer loans to minority homebuyers in Philadelphia than to white people.” However, the investigation stalled and was ultimately shelved after OCC officials failed to involve “the expert economists, statisticians and other specialists of the agency’s Risk Analysis Division who are trained to spot patterns of abuse” and brought in new lawyers to the case, an “unusual step” that can “chill” investigations.⁵ That same year, examiners found that Cadence Bancorp, a regional bank operating in several southern states, was “making minority borrowers pass a wealth threshold that white customers did not have to meet when they borrowed against the equity in their home.” This investigation was verified by the Risk Analysis Division and the agency’s independent ombudsman. However, the OCC appears to have taken no enforcement action against the bank – and looks to have simply forwarded its findings to the Department of Justice (DOJ). A spokesman for the DOJ said, “the department, to date, has taken no action” and that “[i]t is not unusual that [the DOJ] defer to the financial regulators.”⁶ It remains unclear if the OCC or DOJ plan to impose any penalties or take any other enforcement actions.

While the OCC can refer cases to the DOJ and the Department of Housing and Urban Development, even if these agencies won’t act, the OCC also wields important enforcement authorities that help deter future violations, and ultimately ensure compliance with fair lending laws and regulations. The agency’s failure to engage with its authority puts millions of consumers at unnecessary and increased risk.

Your office has a mandate to “conduct, supervise, and coordinate audits and investigations relating to the programs and operations of such establishment.”⁷ Given the recent revelations that the OCC has failed to fulfill its responsibility to protect consumers from lending discrimination, I urge you to conduct a thorough investigation into these allegations – and further ask that your investigation include an analysis of the following:

1. The processes and procedures in place for OCC staff and officials to launch, conduct, and complete fair lending investigations – and how, if at all, these processes and procedures have changed in the last four years.
2. The extent to which OCC staff and officials are following these processes and procedures.
3. Whether OCC staff and officials are consistently applying agency protocols and policies, free of political interference from individuals inside or outside the Administration.
4. The extent to which OCC leadership is appropriately engaging with and considering the recommendations of staff economists, statisticians, and other specialists who have been trained to analyze data to detect fair lending violations.

⁵ ProPublica, “Trump Financial Regulator Quietly Shelved Discrimination Probes Into Bank of America and Other Lenders,” Patrick Rucker, July 13, 2020, <https://www.propublica.org/article/trump-financial-regulator-quietly-shelved-discrimination-probes-into-bank-of-america-and-other-lenders>.

⁶ *Id.*

⁷ Pub. L. 95–452, § 4

5. Whether OCC is appropriately utilizing its enforcement authorities to bring public enforcement actions by imposing civil money penalties or requiring responsible parties provide relief to victims when they violate fair lending laws and regulations, including in cases which were referred but not taken up by DOJ for a pattern or practice of violations.

Thank you for your attention to this matter.

Sincerely,



Elizabeth Warren
United States Senator



Sherrod Brown
United States Senator



Catherine Cortez Masto
United States Senator