



February 28, 2024

The Honorable Marcia Fudge
Secretary
U.S. Department of Housing and Urban Development
451 7th St. SW
Washington, D.C. 20410

The Honorable Denis McDonough
Secretary
U.S. Department of Veterans' Affairs
810 Vermont Ave. NW
Washington, DC 20420

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530

The Honorable Sandra Thompson
Director
Federal Housing Finance Agency
400 7th St. SW
Washington, D.C. 20024

The Honorable Todd Harper
Chair
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G St. NW
Washington, DC 20552

Dear Secretary Fudge, Secretary McDonough, Attorney General Garland, Director Thompson, Chair Harper, and Director Chopra:

As Members of the New Democrat Coalition and Congressional Hispanic Caucus, we are committed to ensuring all borrowers have access to opportunity as a basic moral and legal principle of fairness. We are encouraged by your efforts to enforce federal fair housing and fair lending laws, and heartened by how your agencies have prioritized this work over the last few years.¹ As you may be aware, a recent [CNN report](#) has raised concerns that Navy Federal Credit Union has the widest racial disparity in conventional mortgage approval rates of any of the nation's top lenders, as well as the second-largest racial disparity in approval rates for mortgage loans that are guaranteed by the Department of Veterans Affairs (VA). We urge you as regulators and enforcers of our nation's fair housing and fair lending laws to conduct a thorough fair lending examination and investigation of these alleged disparities, determine whether

¹ For example, the CFPB increased fair lending examinations and targeted reviews by 146%, and Federal banking regulators collectively increased ECOA discrimination referrals by 91% compared to 2020. See CFPB, Fair Lending Report of the Consumer Financial Protection Bureau (June 2023).

discrimination has occurred, ensure any harmed consumers are made whole. We also ask that you provide the signatories to this letter a briefing to discuss these matters further.

According to its [corporate fact sheet](#), Navy Federal Credit Union (Navy FCU) is a military-focused, nonprofit financial institution with over \$168 billion in assets and 354 branches worldwide. Navy FCU states that “Our Members Are The Mission[®]” and membership consists of over 13 million current and former members of the Navy, Army, Marine Corps, Air Force, Space Force, Coast Guard, and Department of Defense (DoD) and their families. Navy FCU is the largest credit union in the United States.

The CNN analysis raises concerns that Navy FCU has discriminated against current and former members of the military and DoD on the basis of race and national origin, which is prohibited by the Equal Credit Opportunity Act (ECOA) and the Fair Housing Act (FHAct). Based on Home Mortgage Disclosure Act data from 2022 and prior years, CNN’s analysis showed that Navy FCU had large, statistically significant underwriting disparities in home purchase mortgage applications, even after controlling for legitimate underwriting factors, such as debt-to-income ratio and loan-to-value ratio. The analysis found unexplained, statistically significant disparities in both conventional and VA loans and in the approval rates for both Black and Latino mortgage applicants when compared to similarly-situated White mortgage applicants. In the CNN report, a Navy FCU spokesperson stated that CNN’s analysis did not account for major underwriting criteria, such as credit score, available cash deposits, and relationship history with the lender. However, the data showed that less than a quarter of the Black applicants were denied for “credit history.” While CNN’s analysis does not prove that Navy FCU discriminated on the basis of race and national origin, it shows a potential pattern of disparate treatment that warrants further questioning and investigation, especially in light of Navy FCU’s history of [disparities](#) and [complaints](#).

There are a variety of statutes and authorities implicated by this situation. For example, mortgage lending discrimination is prohibited by the ECOA and the FHAct. Regulators have long provided guidance to lenders regarding how to identify and prevent lending discrimination (see [1994 Policy Statement on Discrimination in Lending](#), [2009 Interagency Fair Lending Examination Procedures](#)). As explained in these documents, caselaw, and [U.S. Department of Justice \(DOJ\) fair lending settlements](#), discrimination can be proven under the theory of disparate treatment or disparate impact. Given the size of Navy FCU, the Consumer Financial Protection Bureau (CFPB) has supervisory obligations to ensure the credit union’s compliance with Federal consumer financial protection laws, including fair lending laws, such as ECOA. The National Credit Union Administration (NCUA) also has supervisory responsibilities with respect to the credit union. As the agency with primary enforcement of the FHAct, the Department of Housing and Urban Development (HUD) “[h]andles complaints about unfair lending against all lenders and others involved in the mortgage process,” including through Secretary-initiated complaints.² Agencies may also make referrals to the DOJ if they have reason to believe the credit union may have engaged in a pattern or practice of discrimination in violation of ECOA or the FHAct. The Federal Housing Finance Agency’s (FHFA) Office of Fair Lending Oversight also helps to ensure that Fannie Mae and Freddie Mac, which

² HUD, [Fair Lending: Learning the Facts](#) (accessed Jan. 12, 2024).

purchase conventional mortgage loans from lenders like Navy FCU, operate in a way that is consistent with federal fair housing and fair lending laws. Additionally, the VA also handles fair lending complaints related to VA mortgage loans, which are implicated in CNN's investigation of Navy FCU's lending practices. In addition, under the FHAct (42 U.S.C. § 3608(d)), the federal financial regulators have a duty to "affirmatively further fair housing," which means they must take meaningful actions that overcome and do not further entrench patterns of segregation and systemic disinvestment, such as through redlining, based on protected classes under the law.

Considering these and other obligations that may be implicated by this case, we ask that each agency investigate this matter and use any relevant authority, as appropriate, to promote fair housing and fair lending. Moreover, we ask that you report to us with responses to the following questions, as applicable:

1. How do your respective agencies use statistical analysis and other tools to identify fair lending risk and/or potential illegal discrimination in underwriting at credit unions? How often has the agency conducted such an analysis at a credit union?
2. When a fair lending risk is identified, how does the agency ensure that a lender remedies such risk, including by searching for a less discriminatory alternative in the underwriting context?
3. Do CFPB, NCUA, HUD, or the VA have reason to believe that Navy FCU has engaged in discrimination in mortgage underwriting on the basis of race or ethnicity in conventional or VA loans? Why or why not?
4. Over the past 10 years, how many times have your respective agencies referred a credit union to the DOJ for potential violations under the ECOA of the FHAct?
5. How does the Compliance Management System of Navy FCU, in your evaluation, control the risk of discrimination in underwriting?
6. In the past 10 years, has the agency provided supervisory guidance to Navy FCU with respect to fair lending?
7. How do your respective agencies view underwriting discrimination in the context of the [Uniform Interagency Consumer Compliance Rating System](#)?
8. In the past 10 years, how many times have fair lending findings impacted the CFPB or NCUA's ratings for a credit union?
9. In the past 10 years, how have any fair lending findings impacted the agency's ratings for Navy FCU?
10. How do your respective agencies carry out its obligation to affirmatively further fair housing, especially as it relates to underwriting and lending?
11. Since the CNN report was released, what have you done to ensure accountability with Navy Federal Credit Union?
12. What actions will you take to help the families that may have been unjustly denied by Navy Federal Credit Union?

Thank you for your attention to this matter. We look forward to your continued engagement on this and other issues.

Sincerely,



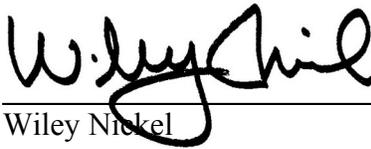
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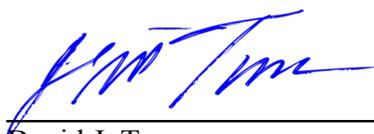
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