

These discriminatory policies and the dual credit market have created distinct advantages for White families, leading to massive homeownership, wealth, and credit gaps that persist today. In particular, because home value has been the cornerstone of intergenerational wealth in the U.S., the historical housing practices have had long term effects in creating some of the current wealth inequalities where White wealth has soared while Black wealth has remained stagnant. In [2019](#), White family wealth sat at \$188,200 (median) and \$983,400 (mean). In contrast, Black families' median and mean net worth were \$24,100 and \$142,500, respectively. These wealth disparities, in turn, reflect [intergenerational transfer disparities](#): 29.9 percent of White families have received an inheritance, compared with only 10.1 percent of Black families. Ultimately, these disparities harm the economy as a whole. For example, researchers from the Federal Reserve Bank of San Francisco have [identified redlining](#) as one of the key structural barriers that caused a staggering \$22.9 trillion in losses to U.S. economic output over the past 30 years.

This bevy of laws, regulations, and policies created structural inequities and systemic bias that are still being manifest in our society. Residential and school segregation, the inextricable link between place and opportunity, the dual credit market, the inequitable health ecosystem, the patchwork of exclusive and restrictive zoning systems, and additional structurally unfair systems all stem from a long stream of laws that were either explicitly racist, implemented with racialized policies, or produced disparate impacts on communities of color. The effect of these policies was to widen the racial homeownership, income, and wealth gaps.

## **Legal Framework: Redlining Violates the Fair Housing Act and the Equal Credit Opportunity Act**

The fair lending laws were designed to remedy credit discrimination, including redlining. The federal financial regulators have long recognized that redlining violates the fair lending laws, including in the following policy documents:

[1994 Interagency Policy Statement on Discrimination in Lending](#): Redlining refers to the illegal practice of refusing to make residential loans or imposing more onerous terms on any loans made because of the predominant race, national origin, etc., of the residents of the neighborhood in which the property is located. Redlining violates both the Fair Housing Act and the Equal Credit Opportunity Act.

[2009 Interagency Fair Lending Examination Procedures](#): Redlining is a form of illegal disparate treatment in which a lender 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 credit seeker resides or will reside or in which the residential property to be mortgaged is located.

Similarly, courts have repeatedly recognized that redlining is a violation of the Fair Housing Act and the Equal Credit Opportunity Act. See, e.g., *Ring v. First Interstate Mortgage, Inc.*, 984 F. 2d 924 (8th Cir. 1993); *Hirschfeld v. Metlife Bank, N.A.*, 2012 WL 3240669 (E.D.N.Y. July 31, 2012); *JAT, Inc. v. Nat'l City Bank of Midwest*, 460 F. Supp. 2d 812, 819-20 (E.D. Mich. 2006); *Hargraves v. Capital City Mortg. Corp.*, 140 F. Supp. 2d 7, 21 (D.D.C. 2000); *Milton v. Bancplus Mortgage Corp.*, 1996 WL 197532 (N.D. Ill. Apr. 19, 1996); *Old West End Ass'n v. Buckeye Federal Sav. &*

*Loan*, 675 F. Supp. 1100 (N.D. Ohio 1987); *Harrison v. Otto G. Heinzeroth Mortg. Co.*, 430 F. Supp. 893 (N.D. Ohio 1977); *Laufman v. Oakley Bldg. & Loan Co.*, 408 F. Supp. 489 (S.D. Ohio 1976).

Finally, since the 1990s, the DOJ has litigated multiple court-approved settlements alleging redlining as a violation of the Fair Housing Act and the Equal Credit Opportunity Act. See [DOJ Case List](#).

### ***Redlining Violates the Fair Housing Act***

The Fair Housing Act, 42 U.S.C. § 3601, *et seq.*, prohibits discrimination in housing and “residential real estate-related transactions” on the basis of race, color, national origin, sex, religion, familial status, or disability. A “residential real estate-related transaction” includes making loans or providing other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling. 42 U.S.C. § 3605(b)(1)(A). In addition, the U.S. Department of Housing and Urban Development (“HUD”) has the authority to promulgate regulations to implement the Fair Housing Act, which can be found at 24 C.F.R. Part 100.

Redlining is prohibited under the following provisions of the Fair Housing Act (in relevant part) and its implementing regulation:

- It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, or national origin.  
Fair Housing Act: 42 U.S.C. § 3605(a).  
Regulations: 24 C.F.R. §§ 100.110(b), 100.120(a)-(b).
- It shall be unlawful to discriminate against any person in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, or national origin.  
Fair Housing Act: 42 U.S.C. § 3604(b).  
Regulations: 24 C.F.R. §§ 100.50(b)(2), 100.65.
- It shall be unlawful to refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, or national origin.  
Fair Housing Act: 42 U.S.C. § 3604(a).  
Regulation: 24 C.F.R. § 100.50(b)(3).
- It shall be unlawful to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, or national origin, or an intention to make any such preference, limitation, or discrimination.  
Fair Housing Act: 42 U.S.C. § 3604(c).  
Regulation: 24 C.F.R. § 100.50(b)(4).

## **Redlining Violates the Equal Credit Opportunity Act**

The Equal Credit Opportunity Act (“ECOA”), 15 U.S.C. § 1691, *et seq.*, prohibits a creditor from discriminating in any aspect of a credit transaction on the basis of race, color, national origin, sex, religion, marital status, age, because all or part of the applicant’s income derives from any public assistance program, or because of the applicant’s exercise in good faith of any right under the Consumer Credit Protection Act. ECOA applies to any extension of credit, including mortgage loans and small business loans. 15 U.S.C. § 1691a(d). In addition, the Consumer Financial Protection Bureau (“CFPB”) has the authority to promulgate regulations to implement the ECOA, which is known as “Regulation B” and can be found at 12 C.F.R. Part 1002.

Redlining is prohibited under the following provisions of the ECOA and its implementing regulation:

- It shall be unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction, on the basis of race, color, or national origin. Equal Credit Opportunity Act, 15 U.S.C. § 1691(a)(1). Regulation: 12 C.F.R. § 1002.4(a).
- A creditor shall not make any oral or written statement, in advertising or otherwise, to applicants or prospective applicants that would discourage, on the basis of race, color, or national origin, a reasonable person from making or pursuing an application. Regulation: 12 C.F.R. § 1002.4(b). (See *also* Equal Credit Opportunity Act, 15 U.S.C. § 1691(a)(1)).

ECOA and Regulation B prohibit discrimination on a “prohibited basis,” which includes on the basis of race, color, and national origin. 12 C.F.R. § 1002.2(z). The commentary to Regulation B clarifies that a creditor may not discriminate against persons associated with the applicant on a prohibited basis, including, for example, “because of the race of other residents in the neighborhood where the property offered as collateral is located.” 12 C.F.R. Part 1002, Supp. I, ¶ 2(z)-1.

## **Regulatory Framework: Bank Supervision and Enforcement Has Been on The Decline**

Each of the federal financial regulators has the authority to examine and supervise the regulated financial institutions within its jurisdiction for compliance with the fair lending laws: the Fair Housing Act and ECOA. The federal financial regulators are: the CFPB, the Board of Governors of the Federal Reserve (“Board”), the Federal Deposit Insurance Corporation (“FDIC”), the National Credit Union Administration (“NCUA”), and the Office of the Comptroller of the Currency (“OCC”). This means that the federal financial regulators can routinely access the internal data, policies, and procedures of financial institutions to determine whether there is fair lending risk and/or a violation.

Under ECOA, the federal financial regulators are required to refer matters to the DOJ when they have reason to believe a creditor has engaged in a pattern or practice of discrimination. The