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**To:** Clients and Friends

**From:** David F. Dulock

**Subject:** Fair Lending Risks for Lenders Using Targeted Internet Marketing

The current issue of the Federal Reserve Board’s *Consumer Compliance Outlook* (Third Issue 2019) includes an article entitled “From Catalogs to Clicks: The Fair Lending Implications of Targeted, Internet Marketing,” which discusses the risks to lenders using targeted Internet-based marketing of consumer credit products designed to reach specific categories of consumers. The article focuses on the increased use of Internet-based marketing practices to target audiences by personal characteristics, location and other personal information that may classify consumers by prohibited characteristics protected under fair lending laws.

The article discusses the targeted Internet-based marketing practices of cross-site tracking, lead generators and e-scores and the fair lending risks they pose. The article also gives a brief overview of the fair lending basics of ECOA and the Fair Housing Act and how these targeted marketing practices may raise fair lending concerns, principally the prohibited practices of redlining and steering. The article defines redlining as “a form of illegal discrimination in which an institution provides unequal access to credit, or unequal terms of credit, based on the race, color, or national origin of [the majority of the inhabitants of] a neighborhood.” And, it defines steering as “a form of illegal discrimination in which applicants or prospective applicants for credit are guided toward or away from a specific loan product or feature because of their race, sex, or other prohibited characteristic, rather than based on the applicant’s needs or other legitimate factors.”

The article states, “[b]y enabling advertisers (or the technology companies they rely on) to curate [sort or select] information for consumers based on detailed data about them, including habits, preferences, financial patterns, and where they live, there is a risk that this curation [selection of online information] may result in digital redlining or steering[;]” and that “when Internet-based marketing relies on artificial intelligence (AI) and machine learning (ML) technologies, the potential for discrimination may increase.”

Due to the potential that targeted Internet-based marketing practices used to advertise credit products have to discriminate on a prohibited basis, we advise our clients to read the article and heed its recommendations for mitigating fair lending risks.

To access this article, click on: <https://consumercomplianceoutlook.org/>

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