Center for American Progress

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Unequal Opportunity Lenders?

Analyzing Racial Disparities in Big Banks' Higher-Priced Lending

Andrew Jakabovics and Jeff Chapman September 2009

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Introduction and summary

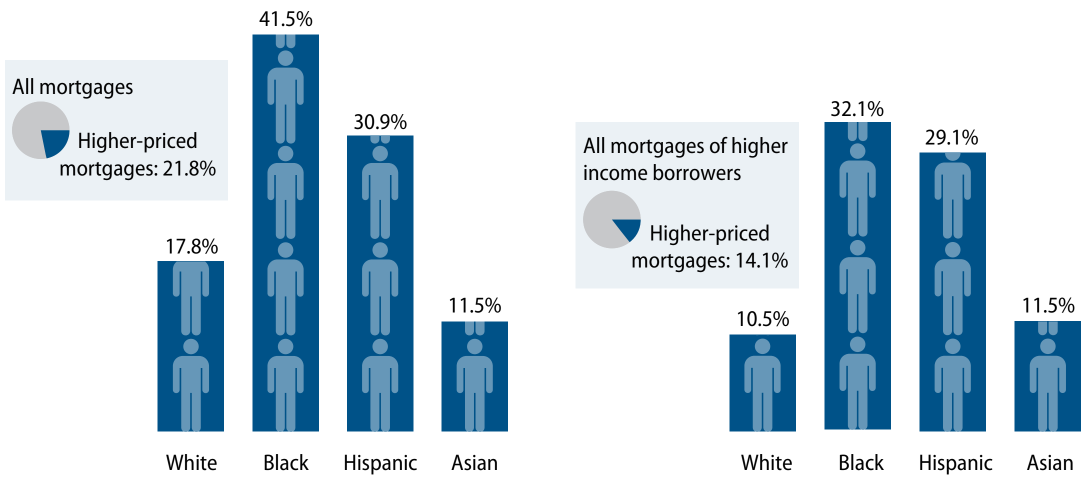
There's a common perception that subprime loans originated solely from now-shuttered mortgage firms, but many of the nation's largest banks and their current subsidiaries were quite active in doling out these higher-priced mortgages. The 14 systemically significant banks and current subsidiaries we analyze in this paper—using data from the Home Mortgage Disclosure Act, which requires extensive loan level disclosures from most mortgage originators—were responsible for originating more than one of every three higher-priced mortgages in the nation at the height of the housing bubble in 2006.[1] These banks and current subsidiaries together originated more than 876,000 higher-priced first mortgages—defined by the Federal Reserve as having an annual percentage rate at least three percentage points higher than a Treasury security of the same maturity—in 2006 alone.

Overall, 17.8 percent of white borrowers were given higher-priced mortgages when borrowing from large banks in 2006, yet 30.9 percent of Hispanics and a staggering 41.5 percent of African Americans got higher-priced mortgages. Only 11.5 percent of Asians got higher-priced mortgages.

Valid underwriting criteria would lead institutions to offer higher interest rates to riskier borrowers. But that leads to the question of whether low-risk borrowers were also driven toward higher-priced mortgages. We found that, in 2006, 14.1 percent of households earning more than twice their area's median income, nearly all of whom reported six-figure incomes, were given higher-priced mortgages. Were there in fact legitimate underwriting reasons that would lead these banks to issue higher-priced loans to nearly one in seven high-income applicants?

This question is sharpened when asked in the context of disparate mortgage pricing across racial and ethnic lines. Among high-income borrowers in 2006, African Americans were three times as likely as whites to pay higher prices for mortgages—32.1 percent compared to 10.5 percent. Hispanics were nearly as likely as African Americans to pay higher prices for their mortgages at 29.1 percent. We would welcome explanations based solely on legitimate underwriting criteria to clarify why the incidence of higher-priced mortgages among high-income minority borrowers was three times that for white borrowers with similar incomes.

Share of mortgages lent in 2006 by 14 major banks and current subsidiaries that were higher-priced, by race/ethnicity



	All borrowers					High-income borrowers only				
	All	White	Black	Hispanic	Asian	All	White	Black	Hispanic	Asian
All	21.8%	17.8%	41.5%	30.9%	11.5%	14.1%	10.5%	32.1%	29.1%	11.5%
Bank of America	15.1%	11.4%	28.1%	21.6%	8.5%	11.1%	8.2%	21.8%	21.2%	9.4%
Wells Fargo	15.5%	13.8%	33.2%	16.4%	5.4%	6.6%	5.6%	17.2%	10.5%	3.8%
JPMorgan Chase	22.0%	16.4%	47.5%	36.6%	12.0%	15.8%	11.0%	44.1%	37.6%	12.1%
Citigroup	55.6%	51.2%	76.6%	71.3%	23.9%	35.7%	27.6%	70.3%	73.5%	22.2%
PNC Financial Services	50.2%	42.6%	67.8%	69.8%	44.7%	45.5%	35.3%	71.9%	74.5%	48.4%
GMAC/Ally Bank	16.1%	13.8%	31.0%	20.5%	9.1%	10.3%	8.2%	18.5%	18.4%	7.8%
SunTrust	6.5%	5.8%	11.4%	9.0%	5.4%	3.8%	3.0%	8.9%	8.3%	4.0%
MetLife (First Tennessee)	9.1%	7.8%	19.0%	13.2%	7.1%	5.9%	5.0%		8.7%	12.4%
Capital One Financial Corp.	20.5%	19.0%	27.0%	21.9%	16.3%	18.0%	15.9%	25.3%	21.3%	16.3%
U.S. Bancorp	15.2%	15.5%	22.4%	13.9%	8.0%	10.3%	10.1%	17.8%	12.6%	8.2%
Regions Financial Corp.	67.7%	59.1%	81.9%	86.3%	77.5%	56.1%	47.0%	73.5%	84.1%	
BB&T	10.8%	10.0%	18.0%	12.3%	3.4%	7.8%	7.5%			
Fifth Third Bancorp	4.6%	4.1%	8.7%	13.7%	2.3%	2.5%	2.4%			
KeyCorp	47.8%	26.2%	45.6%			21.7%	10.3%			

Solid underwriting takes into account more than just a household's income. Credit scores, assets, loan-to-value ratios, and other indebtedness all influence a borrower's ability to repay the mortgage, and riskier borrowers are reasonably offered more costly loans to offset the risk. Some portion of the racial gap is likely the result of differing household incomes, credit scores, loan-to-value ratios, and other underwriting criteria. Nevertheless, we are skeptical that these factors fully explain gaps of these magnitudes, particularly because the gap persists across the income scale.

These data raise important questions about these banks' lending practices. We cannot say based on the HMDA data at what level the seemingly discriminatory practices originated—whether brokers located in predominantly minority communities steered clients into higher-priced mortgages, if banks' subprime lending units actively targeted minorities, or if it is rooted in other practices. While fair lending laws and the Fair Housing Act have outlawed explicitly discriminatory lending practices, we have identified a clear pattern of disparate outcomes based on race for which large financial institutions should shoulder some responsibility.

These banks all have been recipients of massive government assistance over the past year, and the largest of them have all committed to participate in government-backed foreclosure prevention programs. They are all crucial to restoring the mortgage market to get the housing market back on its feet.

It is essential that the patterns described in this report be investigated by the special inspector general for TARP to ensure that these taxpayer-supported benefits are not subsidizing discriminatory practices. It is also necessary that as these critical institutions move out from government support, they and the rest of the mortgage finance industry do not behave in unfair ways. Systemic problems in the industry—namely unfair lending practices—should be addressed immediately.

Our key recommendations in this paper are:

- No further repayments should be allowed to TARP recipients until the special inspector general for TARP gives a passing grade on fair lending practices.

- Establish an independent regulator focused on consumer protections such as the independent Consumer Financial Protection Agency the Obama administration has recommended to prevent recurrence of banking regulators' failures to protect consumers from unfair lending practices.

Key issues for financial regulation

Through our analysis of major banks' mortgage practices we identified two issues that policymakers and regulators should focus on going forward. We will briefly explain these before proceeding to the analysis of past lending patterns.

Ensuring consumer protection

The racial disparities we identified call into question the adequacy of the current regulatory system to actively police civil rights laws, and they highlight the need for a strong, independent regulator specifically tasked with consumer protection. The Obama administration has proposed an independent Consumer Financial Protection Agency to fill this role.

Simply put, consumer protection has always taken a back seat to safety and soundness among financial regulators. Indeed, it took over 14 years for the Federal Reserve to follow a congressional mandate to issue guidance on unfair lending practices.[2] And if in the run-up to the greatest financial crisis in 75 years regulators were slow to use their authority for safety and soundness purposes, it should come as little surprise that racial disparities in higher-priced lending have persisted.

Congress will begin debating financial regulatory reform over the coming months, likely working off the framework developed by the Obama administration in its June white paper, "Financial Regulatory Reform: A New Framework." One of the central tenets of the framework is protecting consumers and investors from financial abuse. Indeed, the administration argues, "Consumer protection is a critical foundation for our financial system."[3]

To see how bank regulators view consumer protection issues, consider Federal Reserve Bank Chair Ben Bernanke's recent letter in support of keeping consumer protection under the Federal Reserve's umbrella: "Clearly, a bank that errs in its dealings with consumers, either legally or with respect to good judgment, carries the risk of reputational damage, a matter of concern to prudential supervisors."[4]

In our opinion, spillovers from reputational damage are too weak of a motivation for addressing the enforcement of basic rights.

Fair lending with taxpayer money

While stronger consumer protection can help prevent violations of fair lending laws in the future, we must also focus on banks' current lending practices, particularly given the fact that taxpayer funds have been used to shore up these institutions and are directly and indirectly the source of liquidity for new lending activities.

The collapse of nonbank mortgage lending has led to a greater concentration of lending activity among a smaller number of banks. Moving forward, it will be important for the public to know whether these banks will continue the trend of loaning at higher prices to minorities across the income scale—particularly now that they are responsible for a significantly larger market share of new mortgages.

The top four banks—Bank of America (including Countrywide), Wells Fargo (including Wachovia), JP Morgan Chase (including Washington Mutual), and Citibank—collectively held a 54-percent market share of the estimated $1.75 trillion in new home loans in 2008.[5] This marks a significant increase over 2006, when the same institutions—again including their current subsidiaries and acquisitions—held less than a 30-percent market share.

Collectively, the systemically significant institutions in this report were the recipients of 43 percent of the bailout funds disbursed through the Troubled Asset Relief Program, or TARP.[6] As these banks seek to repay the TARP money, we should look critically at their lending behaviors and investigate whether they have been good stewards of public funds.

Twenty-one banks have fully repaid their TARP funds to date.[7] The federal government should not give any additional banks the green light to repay their public debts without a passing grade from the special inspector general for TARP. Recent Federal Financial Institutions Examination Council guidance on fair lending examinations lists "disparities in the incidence or rate spreads of higher-priced lending by prohibited basis characteristics [such as race or ethnicity] [8] as reported in the HMDA data"[9] as an indicator of potential discrimination and should be the basis for evaluation by TARP's inspector general.

Institutions have a strong incentive to receive a passing grade because the bulk of the existing public investment in these institutions is in the form of senior-preferred stock that pays a 5-percent dividend annually. That dividend rises to 9 percent after five years. Banks with failing grades would need to modify or redo their unfair higher-priced mortgages before being allowed to eliminate their dividend payments.

TARP as a whole has already been criticized for privatizing profits and socializing losses. If we allow public money to go toward steering people into high-cost mortgages and other violations of fair lending laws, we will allow the large banks to reap the profits of those activities while leaving taxpayers to suffer the costs as those loans fail and more homes flood the market.

Examining mortgage pricing by major banks

We analyzed mortgage pricing by race and ethnicity at the nation's 14-largest mortgage-lending banks.[10] Each of these banks is a significant part of the national economy and each was subject to the federal government's "stress test" earlier this year. These banks—including their current subsidiaries—originated 43.9 percent of all mortgages and 35 percent of higher-priced mortgages in 2006 (See Table 1). We further analyzed the five banks with the most mortgage originations. These five account for 34.8 percent of all mortgages and 29 percent of all higher-priced mortgages originating in 2006.

Some major banks, such as Wells Fargo, were active in the higher-priced mortgage market in 2006. Others, such as Bank of America and PNC, were less active in 2006, but have acquired major subprime lenders in the interim. Acquisitions have been included in the totals for lending activity in 2006, but they remain broken out separately in our bank-by-bank analysis below.

Number and percent of loans and higher-priced loans by 14 major banks

In 2006 these banks, including current subsidiaries, originated 43.9 percent of all mortgages and 35 percent of higher-priced mortgages.

	Number of loans	Number of higher cost loans	Percent of loans	Percent of higher cost loans
All	4,016,934	876,151	43.9%	35.0%
Bank of America	1,178,538	178,529	12.9%	7.1%
Wells Fargo	898,261	139,073	9.8%	5.6%
JPMorgan Chase	571,274	125,918	6.2%	5.0%
Citigroup	277,552	154,357	3.0%	6.2%
PNC Financial Services	253,995	127,563	2.8%	5.1%
GMAC/Ally Bank	211,771	34,193	2.3%	1.4%
SunTrust	153,658	10,050	1.7%	0.4%
MetLife (First Tennessee)	102,647	9,363	1.1%	0.4%
Capital One Financial Corp.	97,677	20,025	1.1%	0.8%
U.S. Bancorp	84,941	12,901	0.9%	0.5%
Regions Financial Corp.	74,625	50,556	0.8%	2.0%
BB&T	48,509	5,249	0.5%	0.2%
Fifth Third Bancorp	50,885	2,354	0.6%	0.1%
KeyCorp	12,601	6,020	0.1%	0.2%

To analyze the lending practices of the nation's largest mortgage-lending banks, we used data mandated by the federal Home Mortgage Disclosure Act, or HMDA, which requires extensive annual disclosures from most mortgage lending institutions. The resulting data is made available to the public and includes information about the loan, property, and borrower.[11]

The HMDA data also identifies higher-priced loans. The Federal Reserve classifies a mortgage as "higher priced" when the difference between the loan's annual percentage rate and a Treasury security of comparable maturity is above three percentage points for a first-lien mortgage. (The APR used in this calculation estimates the total cost of the loan over the contract term of the mortgage, as opposed to simply the initial contract interest rate. However, it likely understates the impact of upfront fees on the cost of subprime loans since the average life of such loans is far shorter than the contract term.)

Lenders are able to use variations in mortgage pricing to account for the different levels of risk associated with various borrower characteristics. However, the mortgage market in recent years has been marked by misleading, abusive lending practices that have included unfair pricing.

One of the most pervasive practices highly correlated with subprime lending was prepayment penalties that effectively locked borrowers into high-cost loans by making it prohibitively expensive to refinance into lower-cost mortgages. Incentive payments from lenders to get borrowers into higher-cost mortgages often meant that borrowers were never even offered lower-cost mortgages when they applied for loans.

As an example, *The New York Times* reported, "Countrywide's entire operation, from its computer system to its incentive pay structure and financing arrangements, is intended to wring maximum profits out of the mortgage lending boom no matter what it costs borrowers, according to interviews with former employees and brokers who worked in different units of the company and internal documents they provided."[12]

Overall, 21.8 percent of the mortgages originating with the 14 banks considered here (including their current subsidiaries) were higher priced. An analysis of mortgage pricing by the major banks and their subsidiaries shows a staggering gap in most cases between the prices paid by white and Asian borrowers and those paid by African-American and Hispanic borrowers. Only 17.8 percent of white borrowers and 11.5 percent of Asians paid higher prices, yet over 40 percent of African Americans and more than 30 percent of Hispanics paid higher prices.

The HMDA data is limited in that it doesn't include key variables that bear on loan pricing such as credit scores and loan-to-value ratios, or the percentage of the home's value borrowed from the bank. These variables certainly play a role, but the size of this gap may not be explainable by factors that should appropriately be considered in mortgage pricing. This is consistent with previous research that controlled for such objective determinants and found persistent disparities.[13]

White households in the aggregate have higher incomes than either African-American or Hispanic households, and we have attempted to account for these differences by analyzing higher-income borrowers separately. Again, we do not have detailed information on borrowers' credit histories, so we are using high income as a proxy for the ability to repay the mortgage. We identified high-income borrowers as those households earning at least twice the median income for the metropolitan area where they purchased property. For properties outside of a metropolitan area, the statewide median income for nonmetropolitan areas was used.[14] These high-income households' median incomes were in excess of $100,000 in each state.

Distressingly, the gap in higher-priced lending by race and ethnicity persists across the income scale. And the racial disparities were drastic even among high-income borrowers. Over 30 percent of high-income African Americans and 29.1 percent of high-income Hispanics paid higher prices, compared to 14.1 percent of whites and 11.5 percent of Asians with incomes at least twice the area median.

The fact that such gaps existed even among borrowers with six-figure incomes raises a red flag and should clearly put the onus on lenders to provide a detailed explanation of this pervasive phenomenon if they were not engaging in unfair lending practices.

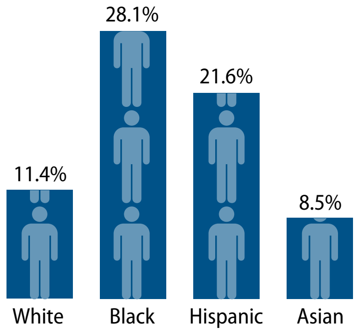
The following is a more detailed look at the five banks with the most mortgage originations in 2006. These five institutions and their subsidiaries made up 34.8 percent of all mortgages and 29 percent of all higher-priced mortgages originating in 2006. Closer scrutiny of these banks reveals African-American and Hispanic borrowers tended to receive higher-priced loans more often than whites or Asians.

Bank of America

Bank of America essentially stopped originating subprime loans in 2001. Less than 3 percent of loans originating through Bank of America—as it was structured at the time—were higher priced in 2006. Among high-income borrowers, fewer than 1 percent were issued higher-priced mortgages. Among high-income African Americans and Hispanics, 1.9 percent and 1.5 percent, respectively, had higher-priced mortgages in 2006.

In 2007, Bank of America acquired LaSalle Bank,[15] which also had a low share of higher-priced loans. Then, in 2008, it purchased Countrywide,[16] the largest mortgage originator in the country in 2006 and the largest originator of higher-priced loans. This consolidation of the third-largest originator and the largest originator (along with other acquisitions by both companies) resulted in a lender that accounted for nearly 12 percent of first mortgages originating in 2006.

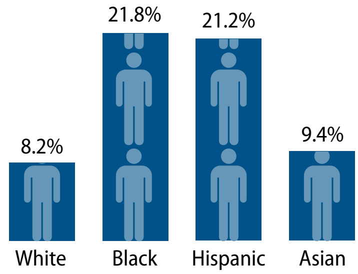
Share of mortgages lent by Bank of America and current subsidiaries in 2006 that were higher-priced, by race/ethnicity



	All	White	Black	Hispanic	Asian
All	15.1%	11.4%	28.1%	21.6%	8.5%
Bank of America	2.2%	2.2%	3.3%	2.6%	0.9%
LaSalle	1.3%	1.1%	6.9%	2.1%	0.2%
Countrywide	22.6%	17.5%	39.6%	30.5%	13.7%
Homebanc	7.3%	5.2%	14.0%	12.3%	

Authors' analysis of HMDA data.

Share of mortgages lent by Bank of America and current subsidiaries in 2006 that were higher-priced, by race/ethnicity, higher income borrowers only



	All	White	Black	Hispanic	Asian
All	11.1%	8.2%	21.8%	21.2%	9.4%
Bank of America	0.8%	0.7%	1.9%	1.5%	0.9%
LaSalle	0.3%				
Countrywide	17.4%	13.6%	29.6%	27.1%	14.5%
Homebanc	4.7%				

Authors' analysis of HMDA data.

Countrywide mortgages showed stark pricing distinctions by race and ethnicity. Even among high-income borrowers, African Americans were more than twice as likely as whites to pay higher prices (29.6 percent compared to 13.6 percent). The gap between Hispanics and whites was nearly as wide, with 27.1 percent of Hispanics paying higher prices.

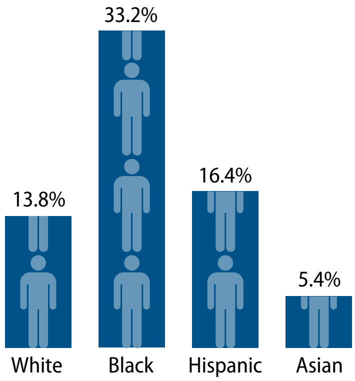
Countrywide now does business as Bank of America Home Loans. It's unclear whether the culture of Countrywide pervades the reconstituted business.

Wells Fargo

The gap in mortgage pricing between white and African-American borrowers originating loans through Wells Fargo (not including the since-acquired Wachovia) was among the largest in 2006.

Wells Fargo Financial is the subprime lending arm of Wells Fargo. Wells Fargo Financial only accounted for 8.4 percent of all Wells Fargo loans, but it issued one-third of Wells Fargo's higher-priced loans. African-American and Hispanic borrowers were more likely to receive loans through Wells Fargo Financial than whites and Asians. Across Wells Fargo, African-American borrowers were particularly likely to pay higher prices—47.3 percent compared to 16.7 percent of white borrowers.

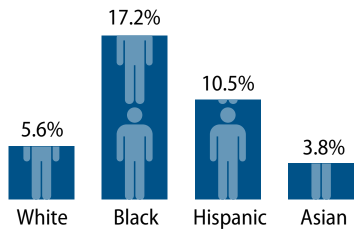
Share of mortgages lent by Wells Fargo and current subsidiaries in 2006 that were higher-priced, by race/ethnicity



	All	White	Black	Hispanic	Asian
All	15.5%	13.8%	33.2%	16.4%	5.4%
Wells Fargo	19.8%	16.7%	47.3%	26.0%	6.0%
Wachovia	6.4%	6.2%	10.1%	6.4%	3.9%

Authors' analysis of HMDA data.

Share of mortgages lent by Wells Fargo and current subsidiaries in 2006 that were higher-priced, by race/ethnicityhigher income borrowers only



	All	White	Black	Hispanic	Asian
All	6.6%	5.6%	17.2%	10.5%	3.8%
Wells Fargo	7.9%	6.4%	26.2%	16.3%	4.0%
Wachovia	3.8%	3.3%	6.3%	5.1%	3.3%

Authors' analysis of HMDA data.

The racial/ethnic disparity in higher-priced mortgages is even more pronounced among high-income borrowers. Twenty-six percent of high-income, African-American borrowers received higher-priced mortgages from Wells Fargo, a rate more than four times that of high-income whites. High-income Hispanics were nearly three times as likely to receive higher-priced mortgages.

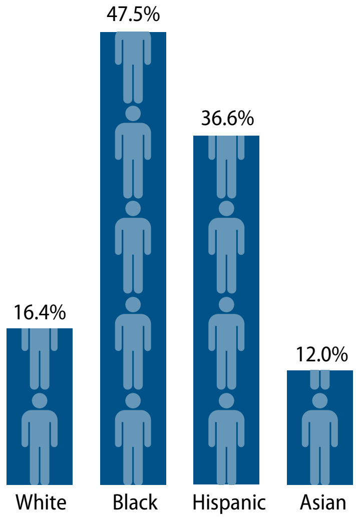
Wells Fargo—the second-largest originator in 2006—purchased Wachovia—the fourth-largest originator in 2006—in December 2008.[17] Wachovia was much less involved in the higher-priced market in 2006 than Wells Fargo. Racial/ethnic differences existed at Wachovia, but they were less pronounced.[18]

JP Morgan Chase

JP Morgan Chase, like other major banks in 2006, was much more likely to charge higher prices to African-American and Hispanic borrowers than whites and Asians, even among high-income borrowers. Over two-thirds of JP Morgan Chase's higher-priced lending was done through a subprime arm—Chase Manhattan Bank.

Washington Mutual was seized in September 2008 and placed into the receivership of the Federal Deposit Insurance Corporation, making it the largest bank failure in the nation's history.[19] It reopened the next day as a subsidiary of JPMorgan Chase and is currently in the process of being converted fully to the Chase brand.

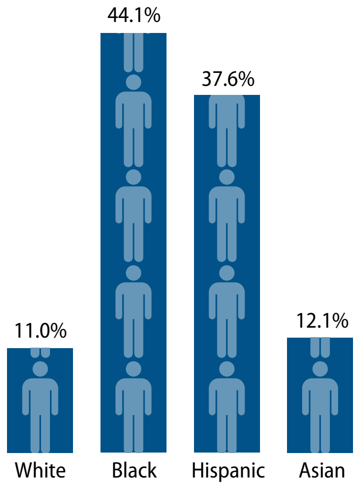
Share of mortgages lent by JP Morgan Chase and current subsidiaries in 2006 that were higher-priced, by race/ethnicity



	All	White	Black	Hispanic	Asian
All	22.0%	16.4%	47.5%	36.6%	12.0%
JPMorgan Chase	19.6%	15.7%	39.2%	28.5%	8.0%
Washington Mutual	24.1%	16.9%	56.9%	42.3%	13.7%
Bear Stearns	36.9%	32.0%	42.5%	41.5%	36.7%

Authors' analysis of HMDA data.

Share of mortgages lent by JP Morgan Chase and current subsidiaries in 2006 that were higher-priced, by race/ethnicity, higher income borrowers only



	All	White	Black	Hispanic	Asian
All	15.8%	11.0%	44.1%	37.6%	12.1%
JPMorgan Chase	9.8%	7.6%	26.5%	22.0%	4.3%
Washington Mutual	19.4%	13.2%	55.2%	46.1%	15.5%
Bear Stearns	31.9%				

Authors' analysis of HMDA data.

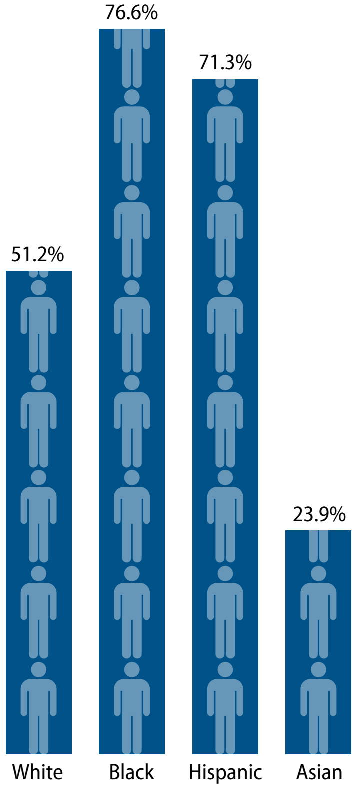
Washington Mutual was heavily involved in higher-priced lending, in particular through its subsidiary Long Beach Mortgage. Eighty-seven percent of WaMu's higher-priced loans were originated through Long Beach. Among the banks considered in this analysis, the racial/ethnic gap was largest at Washington Mutual, with fully 56.9 percent of African Americans and 42.3 percent of Hispanics paying higher prices, compared to 16.9 percent of whites. The gap was even wider among high-income borrowers, with African Americans paying high prices 55.2 percent of the time and Hispanics 46.1 percent of the time, compared to 13.2 percent for white borrowers.

JP Morgan Chase was the fifth-largest originator in 2006. WaMu was the sixth.

Citigroup

Sixty-seven percent of African Americans paid higher prices for loans originating through Citigroup in 2006, compared to 38.7 percent of whites, 43.8 percent of Hispanics, and only 8.2 percent of Asians. Higher-priced loans were concentrated within certain divisions

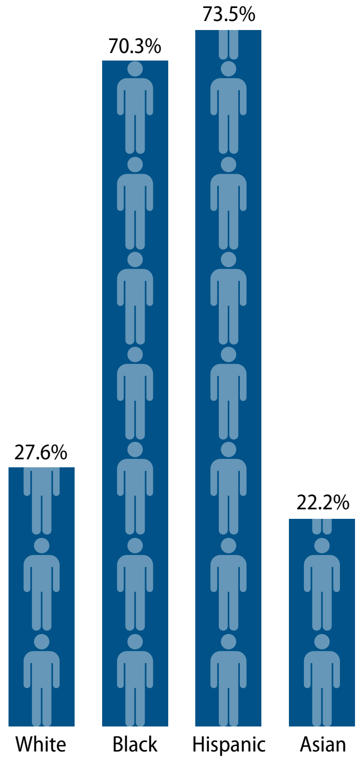
Share of mortgages lent by Citigroup and current subsidiaries in 2006 that were higher-priced, by race/ethnicity



	All	White	Black	Hispanic	Asian
All	55.6%	51.2%	76.6%	71.3%	23.9%
Citigroup	40.3%	38.7%	67.3%	43.8%	8.2%
Argent/AMC	89.5%	88.8%	91.5%	90.9%	86.7%

Authors' analysis of HMDA data.

Share of mortgages lent by Citigroup and current subsidiaries in 2006 that were higher-priced, by race/ethnicity, higher income borrowers only



	All	White	Black	Hispanic	Asian
All	35.7%	27.6%	70.3%	73.5%	22.2%
Citigroup	7.6%	7.1%	32.9%	16.2%	2.1%
Argent/AMC	89.4%	87.8%	92.4%	91.1%	89.3%

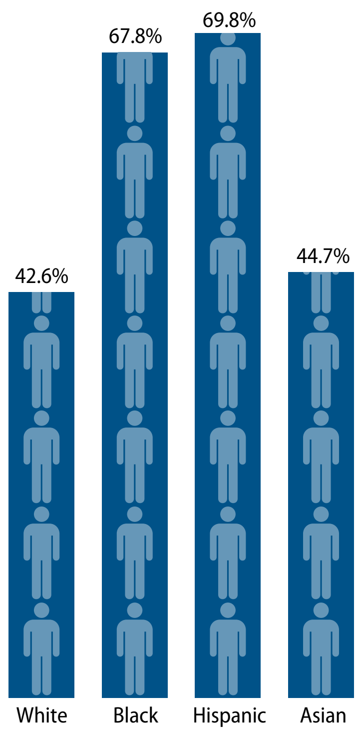
Authors' analysis of HMDA data.

of the bank, with 91.1 percent originating through CitiFinancial, CitiCorp Trust Bank, and CitiCorp Home Equity.

Among high-income Citigroup borrowers, 7.1percent of whites paid higher prices for loans in 2006, compared to 32.9 percent of African Americans and 16.2 percent of Hispanics.

Citigroup purchased Argent and AMC in 2007, two subsidiaries of ACC Capital Holdings.[20] Ameriquest, another subsidiary of ACC, was closed down. Nearly 90 percent of Argent/AMC loans were higher priced, with little difference across races. Even high-income borrowers with Argent/AMC were issued higher-priced mortgages.

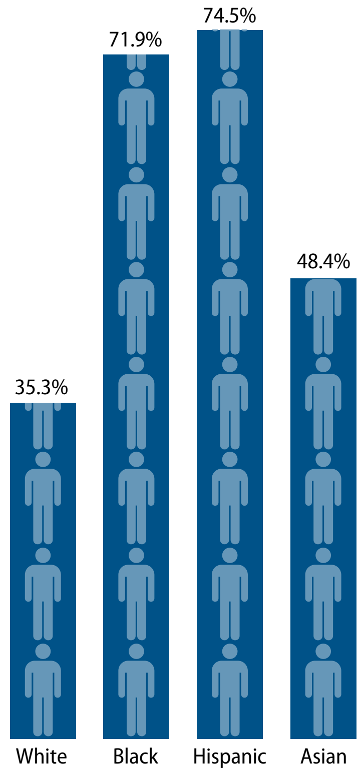
Share of mortgages lent by PNC and current subsidiaries in 2006 that were higher-priced, by race/ethnicity



	All	White	Black	Hispanic	Asian
All	50.2%	42.6%	67.8%	69.8%	44.7%
PNC Financial Services	6.8%				
National City	51.0%	43.4%	68.6%	70.1%	45.1%

Authors' analysis of HMDA data.

Share of mortgages lent by PNC and current subsidiaries in 2006 that were higher-priced, by race/ethnicity, higher income borrowers only



	All	White	Black	Hispanic	Asian
All	45.5%	35.3%	71.9%	74.5%	48.4%
PNC Financial Services	2.1%				
National City	46.0%	35.8%	72.1%	74.6%	48.7%

Authors' analysis of HMDA data.

PNC

PNC was a minor player in the national mortgage market in 2006. But PNC purchased Midwestern regional bank National City in 2008, which was the seventh-largest mortgage originator in 2006 and the third-largest originator of higher-priced loans. The purchase of National City makes PNC one of the largest banks in the nation.[21]

Mortgage pricing at National City was lopsided by race and ethnicity. Among all borrowers, 43.4 percent of whites paid higher prices compared to 68.6 percent of African Americans and 70.1 percent of Hispanics. The share of whites paying higher prices falls to 35.8 percent when looking specifically at high-income borrowers, while the share of African Americans and Hispanics was over 70 percent (72.1 percent and 74.6 percent respectively).

Conclusion

This analysis of lending patterns by bank and race indicates that significant disparities exist in the prevalence of high-cost lending between minorities and whites. These differences persist even when focusing solely on high-income borrowers. Our findings lead us to argue in favor of close federal scrutiny of current lending practices to ensure that no violations of fair lending laws are taking place.

Discriminatory practices are inherently illegal and immoral, and the affront is compounded when public funds are used for those purposes. Therefore, no further repayments should be allowed to TARP recipients, with dividend obligations accruing, until the special inspector general for TARP gives a passing grade on fair lending practices.

Opponents of an independent Consumer Financial Protection Agency argue that existing regulators have the authority needed to rein in abuses of consumers. But the disparities in lending that persist along racial lines, particularly among high-income borrowers, are an indication that the current system is failing consumers. Irrespective of whether this reflects regulators' unwillingness to use existing authorities or wrongly conceiving of consumer protection as simply a subset of a greater safety and soundness mission, the past failures of banking regulators to protect consumers from unfair lending make a solid case for an independent regulator focused on consumer protections.

Endnotes

1 Authors' calculations based on Home Mortgage Disclosure Act data for 2006. We include only first-lien mortgages on owner-occupied properties and exclude mortgages not subject to higher-rate reporting.

2 Center for Responsible Lending, "An Analysis of Federal Banking Regulators' Failure to Enforce Consumer Protections," available at http://www.responsiblelending.org/mortgage-lending/policy-legislation/regulators/regulators-failure-to-enforce-consumer-protections.html.

3 *Financial Regulatory Reform: A New Framework*, (U.S. Treasury Department, 2009), p. 56.

4 Letter from the Federal Reserve Bank to House Financial Services Committee Ranking Member Spencer Bachus responding to questions on the CFPA, July 28, 2009.

5 "Top Residential Originators," *American Banker*, July 2, 2009, available at http://www.americanbanker.com/rankings/-901377.html.

6 Some institutions have repaid their TARP money. This figure does not include any funds set aside as incentive payments for modifications under the Home Affordable Modification Program.

7 Another 13 have repaid all the capital invested but still have warrants outstanding. See Office of Financial Responsibility, *Troubled Asset Relief Program: Transaction Report* (U.S. Treasury Department, 2009), available at http://www.financialstability.gov/docs/transaction-reports/transactions-report_08252009.pdf.

8 See http://www.federalreserve.gov/boarddocs/supmanual/cch/200601/fair_lend_over.pdf.

9 Federal Reserve Board, "Interagency Fair Lending Examination Procedures," available at http://www.federalreserve.gov/boarddocs/caletters/2009/0906/09-06_attachment.pdf.

10 We exclude the Bank of New York Mellon, which was also subject to the stress tests, because they only originated a small number of loans in 2006.

11 See Federal Financial Institutions Examination Council, "Home Mortgage Disclosure Act," available at http://www.ffiec.gov/hmda/default.htm.

12 Gretchen Morgenson, "Inside the Countrywide Lending Spree," *The New York Times.* August 26, 2007, available at http://www.nytimes.com/2007/08/26/business/yourmoney/26country.html?ex=1345780800&en=a3245b14209bf8a3&ei=5124?ner=permalink&exprod=permalink.

13 See Debbie Gruenstein Bocian, Keith S. Ernst, and Wei Li, "Race, Ethnicity, and Subprime Home Loan Pricing," *Journal of Economics and Business*, 60 (1-2) (2008): 110-124.

14 Area medians ranged from a low of $30,800 in McAllen, Texas, to as high as $98,400 in Bethesda, Maryland, which translates into requiring an income of at least $61,600 to be classified as high income in McAllen and nearly $200,000 for suburban Washington, D.C.

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16 Bank of America, "Bank of America Completes Countrywide Financial Purchase," Press Release, July 1, 2008, available at http://newsroom.bankofamerica.com/index.php?s=43&item=8202; In 2007, Countrywide acquired Homebanc, whose 2006 lending activity is broken out separately in the chart. See Elizabeth Hester, "Countrywide Buys Assets as Homebanc, Impac Halt Loans," Bloomberg News, August 7, 2007, available at http://www.bloomberg.com/apps/news?pid=20601087&sid=adXhLbc2sRyE&refer=home.

17 Wells Fargo, "Wells Fargo and Wachovia Merger Completed," Press Release, January 1, 2009, available at https://www.wellsfargo.com/press/2009/20090101_Wachovia_Merger.

18 World Savings was part of Wachovia in 2006 and made up over one-third of their loans. Less than 5 percent of World Savings loans were higher priced.

19 FDIC, "Bank Acquisition Information," available at http://www.fdic.gov/bank/individual/failed/wamu.html.

20 Paul Jackson, "Ameriquest to Close; Citigroup Exercises Purchase Option on ACC Capital," Housing Wire, August 31, 2007, available at http://www.housingwire.com/2007/08/31/ameriquest-to-exit-retail-citigroup-exercises-purchase-option/.

21 "PNC Acquires National City; Creates A Leading Deposit Banking Franchise," PR Newswire, October 24, 2008, available at http://www.prnewswire.com/cgi-bin/stories.pl?ACCT=104&STORY=/www/story/10-24-2008/0004910969&EDATE=.

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