Credit discrimination permeates American society. Protected class members face difficulties obtaining market-rate first and second mortgages. Many banks do not maintain branches in communities of color. The disparity in mortgage approval rates between White applicants and applicants of color, as well as disparities in the terms on which mortgage credit is offered, are evidence that discrimination in the marketplace persists.¹

Credit discrimination is not limited to home mortgages. Car dealers, finance companies, and credit card companies have all engaged in credit discrimination. The practice is not limited to racial discrimination. Creditors may discriminate on the basis of an applicant’s national origin, sex, marital status, familial status, sexual orientation, disability, age, religion, or the fact that an applicant receives public assistance.

Creditors may discriminate at every stage of the credit transaction, including which customers they solicit for business, to whom they grant credit, the terms and conditions on which credit is extended, and how customers are treated in subsequent stages of the credit transaction, such as loan servicing and debt collection.

One direct consequence of credit discrimination is lost opportunity—lost opportunity for home ownership, a college education, and denial of access to medical care and other essential services. Another consequence of credit discrimination is the emergence of predatory lending in communities underserved by traditional lenders.

Predatory lending is a direct and measurable cost of credit discrimination. Subprime, high-interest-rate first and second mortgage lenders target the very groups discriminated against by traditional lenders. These lenders often offer loans with high interest rates, outrageous fees, and onerous terms. This type of predatory lending, targeting protected class members, itself constitutes a form of credit discrimination.²

Credit discrimination starts many families into a downward spiral. Deprived of market-rate unsecured credit, the family may turn to a high-interest finance company which may flip the loan continuously until a small, unsecured loan becomes a large, unaffordable obligation secured by the family home, leading to foreclosure. Another consequence for consumers of being forced to borrow from high-rate creditors is that these creditors are quicker to call in loans when the borrower is delinquent and more likely to engage in aggressive collection tactics and seizure of property.

Those discriminated against and others in their communities often resort to fringe lenders as their only alternative. These consumers end up paying interest rates of several hundred percent for payday loans, rent-to-own goods, tax refund anticipation loans and, in some states, auto title pawns.³ Pawnbrokers, loan brokers charging unconscionable commissions, and car dealers selling overpriced used cars on credit with astronomical interest rates, flourish where market-rate lenders refuse to tread.

The adverse impact of credit discrimination on individuals, families, and entire communities cannot be overstated. Advocates who fight against such discriminatory practices play an important role in ensuring equal credit opportunities for all.

Footnotes

1 For example, in 2007 Black applicants were 3.2 times more likely than White applicants to receive a high-cost conventional loan and 2.6 times more likely to be denied a loan. Robert B. Avery, Kenneth P. Brevort & Glenn B. Canner, Fed. Reserve Bd., Div. of Rsch. & Statistics, The 2007 HMDA Data, 94 Fed. Reserve Bull. A107 (Dec. 2008).

Hispanic applicants were 2.6 times more likely to receive a high-cost conventional loan and 2.3 times more likely to be denied a loan. Id. See also Andrew Jakabovics & Jeff Chapman, Ctr. for Am. Progress, Unequal Opportunity Lenders? Analyzing Racial Disparities in Big Banks’ Higher Priced Lending [1] (Sept. 2009), available at www.americanprogress.org; Ass’n of Cmty. Orgs. for Reform Now (ACORN), The Great Divide: Home Purchase Mortgage Lending Nationally and in 120 Metropolitan Areas 1 (Oct. 2004); Calvin Bradford, Ctr. for Cmty. Change, Risk or Race: Racial Disparities and the Subprime Refinance Market (May 2002); Daniel Immergluck & Marti Wiles, Woodstock Inst., Two Steps Back: The Dual Mortgage Market, Predatory Lending, and the Undoing of Community Development (1999); Nat’l Cmty. Reinvestment Coal., The Broken Credit System: Discrimination and Unequal Access to Affordable Loans by Race and Age (2003); Office of Pol’y Dev. & Rsch., U.S. Dep’t of Hous. & Urban Dev., Final Report, All Other Things Being Equal: A Paired Testing Study of Mortgage Lending Institutions (Apr.
2 See Ch. 8 [2], infra (discussing this form of credit discrimination, called reverse redlining).