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DIGITAL MARKETING AND BIG DATA — MANAGING FAIR LENDING RISK

The advantages of digital marketing and “Big Data” have led banks and consumer finance companies, in recent years, to focus marketing efforts on internet and digital channels. While these tools are efficient, their use may create fair lending violations when model variables are correlated with prohibited factors. The authors discuss the issues and conclude with suggested best practices to mitigate fair lending risks.

By Darren M. Welch and Anand S. Raman *

As consumer banking preferences have shifted increasingly to online and mobile engagement in recent years, so too have banks and consumer finance companies focused marketing efforts on internet and digital channels. Digital marketing offers a number of advantages over more traditional approaches, including expanded data sources, social media tools to identify in-market consumers who resemble a company’s most preferred customers, and cost savings that cannot be matched in print and broadcast channels. However, digital marketing and the use of so-called “Big Data” in consumer financial services presents fair lending risks as well. For example, some populations may have (or be perceived to have) differential access to, or preferences for, using online and mobile services, resulting in a so-called “digital divide” or “digital deserts.” And marketing tools that leverage online data to target customer segments may result in the exclusion of customers on a prohibited basis.

As is often the case, regulatory expectations and the law have to some degree lagged innovations in technology, increasing uncertainty for the consumer financial services industry. Moreover, the prevalence of third-party providers and lack of transparency regarding how Big Data is used can complicate efforts by lenders to mitigate fair lending risk.

Digital marketing consists of communications to consumers through the internet, to consumer’s mobile devices, or through other online engagement, such as social media platforms for purposes of marketing products and services. Digital marketing may take many forms, including targeted solicitations to apply for products and services delivered through social media platforms, identifying consumers for solicitations based on data about them derived from information maintained by social media platforms, banner ads on websites, and marketing to consumers through e-mails or apps. In addition, this article considers uses of sophisticated data

**DARREN M. WELCH is Counsel in the Consumer Financial Services practice at Skadden, Arps, Slate, Meagher & Flom LLP & Affiliates in Washington, D.C. ANAND S. RAMAN is a Partner in Skadden’s Consumer Financial Services practice in the Washington, D.C. Their e-mail addresses are darren.welch@skadden.com and anand.raman@skadden.com, and hallinanl@pepperlaw.com, respectively.*
