

Equal Credit Opportunity Act – Regulation B

Regulation B was issued by the Board of Governors of the Federal Reserve System to implement the provisions of the Equal Credit Opportunity Act (ECOA). The law was enacted in 1974 to make it unlawful for creditors to discriminate in any aspect of a credit transaction on the basis of sex or marital status. In 1976, through amendments to the Act, it became unlawful to also discriminate on the basis of race, color, religion, national origin, age, receipt of public assistance and the good faith exercise of rights under the Consumer Credit Protection Act.

The primary purpose of the ECOA is to prevent discrimination in the granting of credit by requiring banks and other creditors to make extensions of credit equally available to all creditworthy applicants with fairness, impartiality and without discrimination on any prohibited basis. The regulation applies to consumer and other types of credit transactions. This discussion will be limited to those provisions of ECOA that relate specifically to the mortgage lending process, including:

- **Rules Concerning Taking of Applications**
- **Rules Concerning the Evaluation of Applications**
- **Rules Concerning Extension of Credit**
- **Consumer Notifications**
- **Consumer Information for Monitoring Purposes**

Rules Concerning Taking of Applications:

Oral or Written Statements:

The regulation specifically prohibits a lender from making any oral or written statement, in advertising or otherwise, to applicants or prospective applicants that would discourage on a prohibited basis a responsible person from making or pursuing an application.

Collection of Information:

With regards to collection of information, a lender may request any information in connection with an application, with certain exceptions discussed below:

- **Required collection of information:** The lender is required to request information for monitoring purposes for credit transactions secured by the applicant's dwelling.
- **Information about a spouse or former spouse:** The lender is permitted under the regulation to request any information concerning an applicant's spouse that is requested about the applicant, if the applicant resides in a community property state, like California, or property on which the applicant is relying as a basis for repayment of the credit requested is located in a community property state. Information regarding a former spouse may be requested if the request can also be made to the applicant, if the applicant is relying upon alimony, child support or separate maintenance payments from a spouse (no longer residing with the applicant) or former spouse as a basis for repayment of the credit requested.
- **Other accounts of the applicant:** A lender may request an applicant to list any account upon which the applicant is liable and to provide the name and address in which the account is carried. A lender may also ask the names in which an applicant has previously received credit.
- **Marital status:** In California, a lender may inquire about an applicant's marital status, due to the fact that California is a community property state. A lender may only use the terms "married", "unmarried" and "separated".
- **Disclosure about income from alimony, child support or separate maintenance:** Under the regulation, a lender may inquire whether an applicant's income is derived in whole or part from alimony, child support or separate maintenance only if the lender first discloses to the applicant that the income from these sources need not be revealed unless the applicant wishes to rely on it to establish creditworthiness. This disclosure must be given to any co-applicant as well.
- **Sex:** Lender is prohibited from inquiring about the sex of an applicant. An applicant may be requested to designate a title in an application form (such as Ms., Mr., Mrs. or Miss) if the form discloses that the title designation is optional. Otherwise, the application form must use terms that are neutral to sex.
- **Childbearing, childrearing:** The lender is prohibited from requesting or considering information concerning the applicant's plan or expectations of having children, their childbearing capabilities or birth-control practices. The lender is permitted to inquire about the number and ages of an applicant's dependents or about dependent-related financial obligations or expenditures, provided such information is requested without regard to any prohibited basis.
- **Race, color, religion, national origin:** A lender may not inquire about the race, color, religion or national origin of any applicant or any other person in connection with a credit transaction. A lender may inquire about an applicant's permanent residence and immigration status.

Rules Concerning Evaluation of Applications:

Evaluation of Information:

The regulation allows a lender to consider any information properly obtained, so long as the information is not used to discriminate against an applicant on a prohibited basis.

Specific Rules Concerning the Use of Information:

- A lender may not take a prohibited basis into account in any system of evaluating the creditworthiness of applicants.
- Age and/or receipt of public assistance may only be used for the purpose of determining a pertinent element of creditworthiness. Furthermore, age may be considered when such age is used to favor the elderly applicant in extending credit.
- Childbearing, childrearing assumptions or aggregate statistics relating to the likelihood that any group of persons will bear or rear children or will, for that reason, receive diminished or interrupted income in the future, may not be used by the lender.
- A lender may not take into account whether there is a telephone listing in the name of the applicant for the consumer credit, but may take into account whether there is a telephone in the applicant's residence.
- A lender may not discount or exclude from consideration the income of an applicant or the spouse of an applicant on a prohibited basis or because the income is derived from part-time employment or is an annuity, pension or other retirement benefit. A lender may consider that amount and the probable continuance of any such income in evaluating an applicant's creditworthiness.
- To the extent that a lender considers credit history in evaluating the creditworthiness of similarly qualified applicants for a similar type and amount of credit in evaluating an applicant's creditworthiness, a lender may consider:
 - The credit history, when available, of accounts designated as accounts that the applicant and that applicant's spouse are permitted to use or for which both are contractually liable;
 - On the applicant's request, any information the applicant may present that tends to indicate that the credit does not accurately reflect the applicant's creditworthiness; and
 - On the applicant's request, the credit history, when available, of any account reported in the name of the applicant's spouse or former spouse that the applicant can demonstrate accurately reflects the applicant's creditworthiness.

Rules Concerning Extension of Credit:

Extension of Credit:

A lender may not refuse to grant an individual account to a creditworthy applicant on the basis of sex, marital status or any other prohibited basis.

Applicant's Name(s):

A lender may not refuse to allow an applicant to open or maintain an account in a birth-given first name and surname that is the applicant's birth-given surname, the spouse's surname or a combined surname.

Signature of Applicant's Spouse or Other Person:

In general, a lender may not require the signature of an applicant's spouse or other person, other than a joint applicant, on any credit instrument if the applicant qualifies under the lender's standards of creditworthiness for the amount and terms of the credit requested. If an individual applicant requests credit to be secured, the lender may require the signature of the applicant's spouse or other joint owner of the collateral on any instrument necessary or reasonably believed to be necessary under state law to make the property being offered as security available to satisfy the debt in the event of a default. In California, applicable state law requires all owners of personal property to sign in order to encumber the property. Therefore, the lender may request the non-applicant spouse or other parties to sign a security agreement or other instrument to secure a lien on the property, but not the promissory note. With transactions involving community real property, both spouses must sign the deed of trust in order for the lien to be perfected for the lender. Non-applicant spouse's signature should never be requested on the application or the promissory note.

Consumer Notifications:

Appraisal Notification:

Effective December 14, 1993, the Federal Reserve Board issued amendments to Regulation B, Equal Credit Opportunity Act. These amendments require the lender to notify the applicant of their right to receive a copy of their appraisal on loans secured by one-to-four family dwellings.

Action Taken:

A lender must notify an applicant of action taken generally within 30 days after receiving a completed application. A notification given to an applicant when adverse action is taken is required to be in writing and must contain: a statement of action taken; the name and address of the lender; a statement of the provisions known commonly as the ECOA Notice; the name and address of the federal agency that administers compliance with respect to the lender; and either a statement of specific reasons for the action taken or a disclosure of the applicant's right to a statement of specific reasons within 30 a specified period of time.

Information for Monitoring Purposes:

A lender that receives an application for credit primarily for the purchase or refinancing of a dwelling occupied or to be occupied by the applicant as a principal residence, where the extension of credit will be secured by the dwelling, is required to request as part of the application the following information regarding the applicant: race or national origin (using the categories American

Indian or Alaskan Native; Asian or Pacific Islander; Black; White; Hispanic; Other (specify)); sex; marital Status (using the categories Married, Unmarried, and Separated); and age.

The applicant(s) are not required to supply the requested information. If the applicant(s) chooses not to provide the requested information or any part of it, that fact will be noted on the form. The lender then is required to note on the form, to the extent possible, the race and national origin and sex of the applicant(s) on the basis of visual observation or surname.

The lender is required to inform the applicant(s) that the governmental information is being requested by the federal government for the purpose of monitoring compliance with the federal statutes that prohibit lender from discriminating against applicants on the basis of race or national origin, sex, martial status and age. The lender should also inform the applicant(s) that if the applicant chooses not to provide the information, the lender is required to note the race or national origin and sex on the basis of visual observation.

