10. Farm Credit Administration (FCA)

Administrative enforcement of Regulation B and the ECOA is accomplished by the FCA through its examination of federal land banks, federal land bank associations, federal intermediate credit banks, and production credit associations.

The FCA reports few instances of noncompliance and no significant problems in administering its responsibilities under the act. In 1979, the FCA received 11 complaints alleging illegal discrimination in credit. All except two have been withdrawn or resolved to the satisfaction of the complainants. Of the complaints received in 1979, two alleged discrimination based on race; one, on age and religion; one, on national origin; five, on sex and/or marital status; one, on marital status; and two, on an unspecified basis.

11. U.S.Department of Agriculture (USDA)

The ECOA gives the USDA enforcement authority over activities subject to the Packers and Stockyards Act of 1921. The USDA reports no significant problems associated with the limited program under this act.

The USDA also administers a large number of credit programs through the Farmers Home Administration. Although enforcement authority for those credit programs rests with the FTC, the USDA's Office of Equal Opportunity processes complaints and, along with the Farmers Home Administration staff, conducts compliance reviews of the credit programs.

II. CONSUMER ADVISORY COUNCIL

Established in 1976 to advise the Board on consumer-related matters, the Consumer Advisory Council includes consumer, creditor, and academic representatives. At its three meetings in 1979, the Council discussed how the

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anti-discrimination rules of Regulation B should be applied to certain practices of creditors who use credit-scoring systems. The practices considered included the following: (1) assigning a score to the number of jobs the applicant has or the number of sources of income; (2) not assigning a score to the amount of the applicant's income from part-time employment, pension, or alimony; (3) giving judgmental reasons for adverse action on a credit application rather than those arising from the creditor's scoring system; and (4) selecting reasons for adverse action from among the 20 reasons in a model statement included in Regulation B, even though the creditor uses a credit-scoring system with attributes that are not reflected in the model statement.

With respect to the first practice, the Council recommended, by a vote of 13 - 3, that the Board not prohibit the practice as such, but instead allow the agencies charged with enforcement of Regulation B to determine on a case-by-case basis whether scoring the number of jobs or sources of income of an applicant has the effect of unlawfully discriminating against an applicant on a prohibited basis. With respect to the third practice, the Council voted 11 - 0 to recommend that creditors using a credit-scoring system be allowed to give rejected applicants either judgmental reasons or reasons based on the arithmetic of the credit-scoring system. The Council discussed the other two practices but reached no consensus.

III. UNIFORM ENFORCEMENT GUIDELINES

The five federal agencies that are represented on the Federal Financial Institutions Examination Council--the Board of Governors, the FDIC,

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LEGISLATIVE RECOMMENDATIONS

The Board received one legislative recommendation from the Small Business Administration (SBA). With regard to the SBA and its recipients who engage in credit activity, the Equal Credit Opportunity Act is enforced by the Civil Rights Compliance Division of the SBA through a letter of understanding with the Federal Trade Commission. The SBA has expressed the belief that the act should assign this enforcement responsibility directly to the SBA.

THE CONSUMER ADVISORY COUNCIL

The Consumer Advisory Council was established in 1976 to advise the Board on its responsibilities under the Consumer Credit Protection Act and other consumer-related activities. The Council has thirty members who represent the interests of consumers and creditors and come from different regions of the country.

The Council met four times in 1980. Regarding equal opportunity in credit, the Council discussed credit scoring systems; in particular, the advantages and disadvantages of judgmental and credit scoring systems to consumers and creditors, the use of ZIP codes in scoring systems, and the importance of creditors giving consumers adequate adverse action notices. Some Council members suggested that the federal government monitor credit scoring practices that use ZIP codes; the members were concerned that the use of ZIP codes may have the effect of discriminating against applicants in certain racially or ethnically concentrated neighborhoods. Other members cautioned against federal attempts to tinker with credit scoring systems because removing a particular factor from a credit scoring system can have an undesirable effect on the classes of borrowers that the law seeks to protect. With regard to reasons for denial of

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credit, many Council members were firm in expressing the view that reasons should be explained as fully as possible so that consumers have the opportunity to refute any inaccurate or unusual factor used in the credit assessment.

The Council also discussed the enforcement of the Community Reinvestment Act and the need for uniformity in the enforcement of consumer credit protection and related civil rights laws.

INTERAGENCY ACTIVITIES

The member agencies of the Federal Financial Institutions Examination Council have jointly proposed uniform guidelines for the enforcement of the ECOA, Regulation B, and the Fair Housing Act. Field tests to determine the operational feasibility and general effectiveness of the guidelines were completed in early 1980. After the field tests, the guidelines were redrafted by an interagency work group and sent to the Examination Council's Task Force on Consumer Compliance.

The Examination Council conducted five Consumer Compliance Schools in 1980 to refine its educational program before giving formal approval. More than 195 consumer examiners from the Federal Reserve System and the offices of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration (all members of the Examination Council) were trained at these schools. About 16 percent of the classroom time at each of the schools was devoted to the ECOA, Regulation B, and the Fair Housing Act; about 27 percent, to civil rights in general. The development of the lesson plans, the teaching, and the other responsibilities associated with the school were shared by the agencies represented on the Examination Council.

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have the effect of illegal discrimination against divorced or separated women, elderly persons, and recipients of public assistance.

The Interstate Commerce Commission (ICC) explained in its report that of the regulated carriers, those that transport household goods, and thus deal with individuals rather than business firms, would be most likely to violate the ECOA. Nonetheless, that agency said that it has never received a complaint from a shipper involving the discriminatory denial of credit by such a carrier.

The Securities and Exchange Commission (SEC) reported substantial compliance with the ECOA. It brought no enforcement actions and received no formal complaints.

The Small Business Administration (SBA) reported no enforcement problems and good compliance. The SBA's monitoring efforts were expanded in 1981 to include service-oriented borrowers, such as doctors and attorneys.

The U.S. Department of Agriculture reported substantial compliance by creditors subject to the Packers and Stockyards Act. No complaints were received and no enforcement actions were initiated.

None of the agencies, including the Board, has legislative recommendations.

THE CONSUMER ADVISORY COUNCIL

The Consumer Advisory Council was established in 1976 to advise the Board in carrying out its responsibilities under the Consumer Credit Protection Act and in other consumer-related activities. The council has 30 members who represent the interests of consumers and creditors from different regions of the country.

With regard to equal credit legislation, council members discussed ways to improve the detection of ECOA violations, including the development and use by creditors of written loan policies. The council also discussed

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the extent to which past violations of the act should be considered under the enforcement policy developed by the Examination Council, and the ways creditors should be required to remedy the violations; and the advantages and disadvantages to consumers and creditors of judgmental and numerical credit-scoring systems.

RULEWRITING

In 1981, the Board continued to analyze various issues related to two proposed regulatory interpretations (45 F.R. 56818) and two proposed amendments to Regulation B (43 F.R. 49987). The Board expects to take final action on the proposals in early 1982.

One proposed interpretation concerns the consideration of income by creditors. The second is related to the way a creditor that uses a credit-scoring system should select and disclose the principal reasons for denying credit.

The first proposed amendment relates to the business credit exemption from recordkeeping and notification requirements and would modify the rules for business loans under $100,000. The other proposed amendment would have the effect of making all business credit transactions subject to the prohibition against requesting information on marital status. Under the current regulation, such transactions are exempt from that prohibition.

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