



FEDERAL RESERVE BANK
OF DALLAS

WILLIAM H. WALLACE
FIRST VICE PRESIDENT
AND CHIEF OPERATING OFFICER

April 23, 1990

DALLAS, TEXAS 75222

Circular 90-22

TO: The Chief Executive Officer of all
member banks and others concerned in
the Eleventh Federal Reserve District

SUBJECT

**Final Revisions to Staff Commentaries
to Regulation B and Regulation E**

DETAILS

The Federal Reserve Board has published in final form the revisions to the official staff commentaries to Regulation B, Equal Credit Opportunity, and Regulation E, Electronic Fund Transfers. The majority of the revisions to Regulation B implement the Equal Credit Opportunity Act amendments on business credit that were part of the Women's Business Act of 1988. The remaining revisions pertain to data collection. The Regulation E revisions address questions that have arisen regarding the revocation of authority for preauthorized transfers.

The final rules will be published in the Federal Register, however, copies of the Board's final staff commentaries may be obtained by contacting the Public Affairs Department at (214) 651-6289.

MORE INFORMATION

For more information, please contact Jane Anne Schmoker at (214) 651-6228. For additional copies of this circular, please contact the Public Affairs Department at (214) 651-6289.

Sincerely yours,

A handwritten signature in cursive script that reads "William H. Wallace".

FEDERAL RESERVE press release



For immediate release

March 29, 1990

The Federal Reserve Board today published in final form an official staff commentary to Regulation E, Electronic Fund Transfers. The revisions address questions that have arisen about the revocation of authority for preauthorized transfers.

These revisions become effective April 1.

A copy of the Board's notice is attached.

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Attachment

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FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; EFT-2]

ELECTRONIC FUND TRANSFERS

Update to Official Staff Commentary

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official staff interpretation.

SUMMARY: The Board is publishing in final form changes to the official staff commentary to Regulation E (Electronic Fund Transfers). The commentary applies and interprets the requirements of Regulation E and is a substitute for individual staff interpretations of the regulation. The revision addresses questions that have arisen about the requirements of the regulation relating to the revocation of authority for preauthorized transfers.

EFFECTIVE DATE: April 1, 1990.

FOR FURTHER INFORMATION: Contact Mary Jane Seebach or Kurt Schumacher, Staff Attorneys, Division of Consumer Affairs, at (202) 452-3667 or (202) 452-2412. For the hearing-impaired only, contact Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: (1) General. The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) governs any transfer of funds that is electronically initiated and that debits or credits

a consumer's account. This statute is implemented by the Board's Regulation E (12 CFR Part 205.)

The Board has published an official staff commentary (Sup. II to 12 CFR Part 205) to interpret the regulation. The commentary is designed to provide guidance to financial institutions and others in applying the regulation to specific situations. The commentary is updated periodically to address significant questions that arise. This notice contains the eighth update, which was proposed for comment on November 15, 1989. The revisions are effective April 1, 1990.

(2) Description of revisions. Following is a brief description of the revision to the commentary.

SECTION 205.10 -- Preauthorized Transfers

Question 10-19.5

Question 10-19.5 addresses the situation where a consumer revokes authorization for preauthorized debits initiated by a designated payee-originator. The question clarifies that when an account-holding financial institution is instructed by the consumer that an earlier authorization is no longer valid, it must block future payments to the payee-originator in keeping with the consumer's instructions.

The title has been revised to make clear that this pertains only to the revocation of authorization for all subsequent debits by a given payee-originator, and not to a consumer's order to stop payment of a particular debit, which is described in Question 10-19.

List of Subjects in 12 CFR Part 205

Banks, banking; Consumer protection; Electronic fund transfers; Federal Reserve System; Penalties.

Certain conventions have been used to highlight the revisions. New language is shown inside bold-faced arrows, and underlined, while language to be removed is set off with brackets.

(3) Text of revisions. Pursuant to authority granted in section 904 of the Electronic Fund Transfer Act, 15 U.S.C. 1693b, the Board amends the official staff commentary to Regulation E (12 CFR Part 205, Supp. II) as follows:

1. The authority citation for Part 205 continues to read:
AUTHORITY: Pub. L. 95-630, 92 Stat. 3730 (15 U.S.C. 1693b).

2. Comment Q10-19.5 is added to read as follows:
>Q10-19.5: Preauthorized debits -- revocation of authorization.
A consumer authorizes a designated payee to originate electronic fund transfers from the consumer's account. The consumer later revokes that authorization, and instructs the account-holding financial institution to block all subsequent debits initiated by that payee-originator. Must the financial institution comply with the consumer's instructions, or may it wait for the originator to cease the initiation of automatic debits?

A: Since the financial institution has been notified that the consumer's authorization is no longer valid, the institution must block all future debits transmitted by that payee-originator.

The financial institution may confirm that the consumer has informed the payee-originator of the revocation. The institution may also require a copy of the consumer's revocation.<

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Board of Governors of the Federal Reserve System,
March 29, 1990.

(signed) William W. Wiles

William W. Wiles.
Secretary of the Board

TO: Helen Holcomb

FROM: Secretary's Office

DATE RECEIVED: 3-30-90

SUBJECT: Final rule of an official staff commentary to Regulation B, Equal

Credit Opportunity

Press release

Federal Register

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Final rule of an official staff commentary to Regulation B, Equal Credit Opportunity

Press release

Federal Register

3/29/90

FEDERAL RESERVE press release



For immediate release

March 29, 1990

The Federal Reserve Board today published in final form an official staff commentary to Regulation B, Equal Credit Opportunity. The majority of the revisions implement the Equal Credit Opportunity Act amendments on business credit that were part of the Women's Business Ownership Act of 1988. The remaining revisions pertain to data collection.

These revisions become effective April 1.

A copy of the Board's notice is attached.

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Attachment

FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Reg. B; EC-1]

EQUAL CREDIT OPPORTUNITY

Update to Official Staff Commentary

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final official staff interpretation.

SUMMARY: The Board is publishing in final form revisions to the official staff commentary to Regulation B (Equal Credit Opportunity). The commentary applies and interprets the requirements of Regulation B and is a substitute for individual staff interpretations of the regulation. The revisions include interpretations of the final rule amending Regulation B to implement Equal Credit Opportunity Act amendments on business credit as well as interpretations about data collection.

EFFECTIVE DATE: April 1, 1990.

FOR FURTHER INFORMATION CONTACT: In the Division of Consumer and Community Affairs, Adrienne D. Hurt, Senior Attorney, or Jane Ahrens, Staff Attorney, at (202) 452-2412; for the hearing impaired only, contact Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf (TDD), at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington DC 20551.

SUPPLEMENTARY INFORMATION:

(1) General

The Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1691-1691f, makes it unlawful for creditors to discriminate in any aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, age, receipt of public assistance, or the exercise of rights under the Consumer Credit Protection Act. This statute is implemented by the Board's Regulation B (12 CFR Part 202).

The Board has published an official staff commentary (12 CFR Part 202 (Supp. I)) to interpret the regulation. The commentary provides guidance to creditors in applying the regulation to specific transactions, and is updated periodically to address significant questions that arise. This notice contains the fourth update.

(2) Revisions

Most of the revisions to the commentary interpret provisions of Regulation B implementing amendments to the ECOA contained in the Women's Business Ownership Act of 1988, Pub. L. No. 100-533, 102 Stat. 2689. (The regulatory amendments, effective April 1, 1990, were published on December 7, 1989 at 54 FR 50482.) The other revisions to the commentary address questions that have arisen about data collection, including one related to amendments to the Home Mortgage Disclosure Act and Regulation C.

Section 202.1 - Authority, Scope, and Purpose

1(a) Authority and Scope

The definition of "Board," previously contained in section 202.2(g), is now in the commentary to section 202.1.

Section 202.2 - Definitions

2(g) Business Credit

In the December 1989 amendments to the regulation, the definition of business credit was moved from section 202.3(d)(1) to section 202.2(g). Accordingly, comment 3(d)-1 has been redesignated comment 2(g)-1.

Section 202.3 - Limited Exceptions for Certain Classes of Transactions

3(d) Government Credit

In the December 1989 amendments to the regulation, section 202.3(e) was redesignated section 202.3(d). Accordingly, comment 3(e)-1 on governmental credit has been redesignated comment 3(d)-1.

SECTION 202.5 - Rules Concerning Taking of Applications

5(b) General Rules Concerning Requests for Information

Paragraph 5(b)(2)

Comment 5(b)(2)-1 is added to clarify that the term "state law," as used in section 202.5(b)(2), includes the requirements of any political subdivision thereof. For example, a creditor may request, pursuant to a local ordinance, information required for monitoring purposes that is otherwise prohibited by section 202.5(c) and (d). Comment 5(b)(2)-2 is added to clarify that a

lender subject to the Home Mortgage Disclosure Act (HMDA), but exempt (because of its asset size) from reporting data about applicant characteristics, may voluntarily collect and report the information in accordance with the requirements of HMDA and Regulation C without violating the ECOA.

SECTION 202.9 - Notifications

9(a) Notification of Action Taken, ECOA Notice, and Statement of Specific Reasons

Paragraph 9(a)(3)

Section 202.9(a)(3), added by the December 1989 amendments to the regulation, contains the rules for providing notifications on business credit applications. Comments 9(a)(3)-1 through -5 give creditors guidance in complying with this paragraph.

SECTION 202.10 - Furnishing of Credit Information

Comment 10-1 is revised to clarify that the section applies only to consumer credit. (The rule in this section was adopted to ensure that married women are not left without credit histories if they become divorced or widowed. In the past, credit histories on joint accounts held by spouses were typically reported only in the husband's name.) The section does not apply to sole proprietors or any other business credit applicants.

SECTION 202.13 - Information for Monitoring Purposes

13(a) Information to Be Requested

A cross reference to the commentary to section 202.5(b)(2) is added as comment 13(a)-7.

List of Subjects in 12 CFR Part 202

Banks; Banking; Civil rights; Consumer protection; Credit; Federal Reserve System; Marital status discrimination; Minority groups; Penalties; Religious discrimination; Sex discrimination; Women.

(3) Text of revisions

Pursuant to authority granted in section 703 of the Equal Credit Opportunity Act (15 U.S.C. 1691b), the Board amends the official staff commentary to Regulation B (12 CFR 202 Supp. I) as follows:

1. The authority citation for Part 202 continues to read as follows:

AUTHORITY: 15 U.S.C. 1691-1691f

2. In section 202.1, comment 1(a)-3 is added to read as follows:

Section 202.1 - Authority, Scope, and Purpose

* * * * *

1(a) Authority and Scope.

* * * * *

3. Board. The term "Board," as used in this regulation, means the Board of Governors of the Federal Reserve System.

3. In section 202.2, comment 2(g)-1 and a heading are added to read as follows:

Section 202.2 - Definitions

* * * * *

2(g) Business credit.

1. Definition. The test for deciding whether a transaction qualifies as business credit is one of primary purpose. For example, an open-end credit account used for both personal and business purposes is not business credit unless the primary purpose of the account is business-related. A creditor may rely on an applicant's statement of the purpose for the credit requested.

* * * * *

4. In section 202.3, comment 3(e)-1 and the heading and comment 3(d)(3)-1 are removed; comment 3(d)-1 and the heading are revised to read as follows:

Section 202.3 - Limited Exceptions for Certain Classes of Transactions

* * * * *

3(d) Government credit.

1. Credit to governments. The exception relates to credit extended to (not by) governmental entities. For example, credit extended to a local government by a creditor in the private sector is covered by this exception, but credit extended to consumers by a federal or state housing agency does not qualify for special treatment under this category.

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5. In section 202.5, comments 5(b)(2)-1 and -2 and a heading are added to read as follows:

Section 202.5 - Rules Concerning Taking of Applications

* * * * *

5(b) General rules concerning requests for information.

* * * * *

Paragraph 5(b)(2)

1. Local laws. Information that a creditor is allowed to collect pursuant to a "state" statute or regulation includes information required by a local statute, regulation, or ordinance.

2. Information required by Regulation C. Regulation C generally requires creditors covered by the Home Mortgage Disclosure Act (HMDA) to collect and report information about the race or national origin and sex of applicants for home improvement loans and home purchase loans, including some types of loans not covered by section 202.13. Certain creditors with assets under \$30 million, though covered by HMDA, are not required to collect and report these data; but they may do so at their option under HMDA, without violating the ECOA or Regulation B.

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6. In section 202.9, comments 9(a)(3)-1 through -5 and a heading are added to read as follows:

Section 202.9 - Notifications

* * * * *

9(a) Notification of action taken, ECOA notice, and statement of specific reasons.

* * * * *

Paragraph 9(a)(3)

1. Coverage. In determining the rules in this paragraph that apply to a given business credit application, a creditor may rely

on the applicant's assertion about the revenue size of the business. (Applications to start a business are governed by the rules in section 202.9(a)(3)(i).) If an applicant applies for credit as a sole proprietor, the revenues of the sole proprietorship will determine which rules in the paragraph govern the application. However, if an applicant applies for business purpose credit as an individual, the rules in paragraph 9(a)(3)(i) apply unless the application is for trade or similar credit.

2. Trade credit. The term "trade credit" generally is limited to a financing arrangement that involves a buyer and a seller--such as a supplier who finances the sale of equipment, supplies, or inventory; it does not apply to an extension of credit by a bank or other financial institution for the financing of such items.

3. Factoring. Factoring refers to a purchase of accounts receivable, and thus is not subject to the act or regulation. If there is a credit extension incident to the factoring arrangement, the notification rules in section 202.9(a)(3)(ii) apply as do other relevant sections of the act and regulation.

4. Manner of compliance. In complying with the notice provisions of the act and regulation, creditors offering business credit may follow the rules governing consumer credit. Similarly, creditors may elect to treat all business credit the same (irrespective of revenue size) by providing notice and keeping records in accordance with section 202.9(a)(3)(i).

5. Timing of notification. A creditor subject to section 202.9(a)(3)(ii)(A) is required to notify a business credit applicant, orally or in writing, of action taken on an application within a reasonable time of receiving a completed application. Notice provided in accordance with the timing requirements of section 202.9(a)(1) is deemed reasonable in all instances.

* * * * *

7. In section 202.10, comment 10-1 is revised to read as follows:

Section 202.10 - Furnishing of Credit Information

1. Scope. The requirements of section 202.10 for designating and reporting credit information apply only to consumer credit transactions. Moreover, they apply only to creditors that opt to furnish credit information to credit bureaus or to other creditors; there is no requirement that a creditor furnish credit information on its accounts.

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8. In section 202.13, comment 13(a)-7 is added to read as follows:

Section 202.13--Information for Monitoring Purposes

13(a) Information to be requested.

* * * * *

7. Data collection under Regulation C. See comment 5(b)(2)-2.

Board of Governors of the Federal Reserve System, March 29,
1990.

(signed) William W. Wiles

William W. Wiles
Secretary of the Board