

FEDERAL RESERVE BANK  
OF NEW YORK

[Circular No. 7793]  
January 9, 1976

EQUAL CREDIT OPPORTUNITY

Proposed Technical Amendments to Regulation B

To All Member Banks, and Others Concerned,  
in the Second Federal Reserve District:

The Board of Governors of the Federal Reserve System has invited public comment on seven proposed technical amendments to its new Regulation B, "Equal Credit Opportunity," that are designed to clarify certain technical questions that have arisen since the regulation went into effect on October 28, 1975.

Printed below is the text of the Board of Governors' notice in this matter. Comments thereon should be submitted by February 2 and may be sent to our Bank Regulations Department. Additional copies of this circular will be furnished upon request.

PAUL A. VOLCKER,  
President.

[Reg. B]

EQUAL CREDIT OPPORTUNITY

Miscellaneous Amendments

On April 25, 1975, the Board of Governors of the Federal Reserve System published for comment (40 FR 18183) a proposed regulation to implement the Equal Credit Opportunity Act (Title V of Pub. L. 93-495). Section 703 directs the Board to prescribe regulations to carry out the purposes of the Act, which prohibits discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction. Numerous comments were received and public hearings were held on May 28 and 29, 1975. In response to comments received and views expressed at the public hearings, the Board published a revised proposal on September 10, 1975 (40 FR 42030). On October 22, 1975, the Board published the new regulation as adopted (40 FR 49298). In response to comments made both before and after the final adoption of Regulation B, the Board is proposing the following revisions to the regulation:

1. The word "each" has been deleted and the word "the" substituted in section 202.4(d)(1), which requires that applicants be furnished with a notice regarding the Act, in order to clarify that a creditor need furnish only one notice in connection with each application, and that where two or more applicants have applied jointly for a single extension of credit, the notice need be furnished to only one of them. In determining which customer shall receive disclosures, however, a creditor may not select a customer who is secondarily liable, such as an

endorser, co-maker (when designated as a surety), guarantor, or a similar party (this does not prohibit the creditor from also furnishing disclosures to such persons who are secondarily liable).

2. In section 202.5(d)(2), the words "under section 202.4(c)(3)" have been deleted as superfluous and possibly confusing.

3. Language has been added to subsection 202.6(a)(2)(ii) to make it clear that in furnishing information under section 202.6 a creditor need furnish information only as to the spouse about whom the information is requested. A creditor may, however, report the fact that an account held by a spouse about whom information is requested is a joint account or is an account used by more than one spouse.

4. The requirement in section 202.9(a) that records be retained for 15 months after the date a creditor gives the applicant notice of action upon an application has been clarified to include an explicit requirement that such records shall include a copy of the notification of action taken on the application and, if applicable, a copy of the reasons for denial provided the applicant. Such a copy of the reasons for denial would include a copy of any written statement of reasons furnished to the applicant or of a notation or memorandum made by

the creditor, if any, in connection with the oral furnishing of reasons.

5. Section 202.9(b) has been clarified to make it plain that an adverse change in the terms or conditions of an account includes a termination of the account; and to provide that records need not be retained under this section in the case of such events as (1) the applicant's (customer's) missing a certain number of payments as a result of which the computer automatically limits the applicant's credit line to zero, or (2) a change in the terms or conditions of all or a substantial portion of the accounts of a creditor resulting, for example, from changes in State law or in the creditor's business circumstances.

6. In paragraph 202.10(c), the requirement in sections 202.5(m)(2) and 202.5(m)(3) that reasons for denial or termination of credit be furnished to the applicant upon request has been eliminated in the case of credit in amounts over \$100,000 because the burden and expense imposed by such a requirement is unlikely to be offset by a commensurate benefit. Additionally, the specific requirement that a creditor shall not, on the basis of sex or marital status, fail to act upon or unreasonably delay a decision on an application for business credit has been deleted because it is unnecessary in view of the applicability of section 202.5(m)(1) to such credit. A provision has been added that credit extended to a business in the firm's name is not subject to the requirements of section 202.4(e) because that section would be superfluous, or to section 202.5(g) because it may be a relevant consideration in extending credit that the firm has a telephone listed in its own name and such listing would not be related to marital status.

7. A new paragraph (f) has been added to section 10 to provide relief in the case of applicants for credit under student loan programs administered by the Department of Health, Education and Welfare. Under applicable statutes and regulations, such credit may not be granted without determination being made of the applicant's need, based in part upon inquiries into the resources of the parents and spouse (if any) of the applicant. The inquiries and verification necessary for making such determination do not appear to the Board to involve the sort of discrimination in connection with a credit transaction that the Equal Credit Opportunity Act was intended to prevent. The Board solicits comments from interested persons as to whether any other loan programs exist where credit is extended on the basis of need and which might appropriately be entitled to similar relief.

8. The reference to section 202.5(d) has been deleted from subsection 202.14(b) and added to subsection 202.14(d) to change its effective date from November 30, 1975 to June 30, 1976 in order to correct an inadvertent inconsistency with the effective date of 202.4(c)(3).

Pursuant to the authority of section 703 of the Equal Credit Opportunity Act (Pub. L. 93-495), 15 U.S.C. § 1691 *et seq.*, the Board hereby proposes that Regulation B, 12 CFR Part 202, be amended as follows:

#### SECTION 202.4—APPLICATIONS

\* \* \*

(d) **Equal Credit Opportunity Act notice.** (1) Except where application is made by telephone, or orally

for an amount of credit to exceed an existing limit on an applicant's open end account, the creditor shall provide the applicant with the following notice in writing:

\* \* \*

#### SECTION 202.5—EVALUATION OF APPLICATIONS

\* \* \*

(d) **Alimony, child support and maintenance income.** \*\*\*

(2) Where an applicant chooses to disclose alimony, child support or maintenance payments, a creditor shall consider such payment as income \*\*\*

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#### SECTION 202.6—FURNISHING OF CREDIT INFORMATION

(a) **Accounts established on or after November 1, 1976.** \*\*\*

\* \* \*

(2) When furnishing information to consumer reporting agencies or others concerning an account designated under this section, a creditor shall report the designation and furnish any information concerning the account:

\* \* \*

(ii) to recipients other than such agencies, in the name of each spouse about whom such information is requested.

\* \* \*

#### SECTION 202.9—PRESERVATION OF RECORDS

(a) \*\*\*

(1) any application form and all other written or recorded information used in evaluating an application; and

(2) a copy of the following if furnished to the applicant in written form (or if furnished orally, a notation or memorandum with respect thereto, if any, made by the creditor):

(i) the notification of action taken, and;

(ii) if applicable, the reasons for denial provided to an applicant in accordance with section 202.5(m); and

(3) any written statement submitted by the applicant alleging discrimination prohibited by the Act or this Part.

(b)(1) For a period ending 15 months after the date a creditor adversely changes the terms or conditions of credit for an account or terminates an account, the creditor shall retain as to each account, in original form or a copy thereof:

(i) any written or recorded information concerning such change or termination; and

(ii) any written statement submitted by the applicant alleging discrimination prohibited by the Act or this Part.

(2) For purposes of paragraph (1), an adverse change in the terms or conditions of credit for an account does not include:

(i) a reduction of the credit limit on an account taken after the applicant has failed to make payment as provided in the credit agreement; or

(ii) a change in the terms or conditions of credit affecting all or a substantial portion of the creditor's accounts.

\* \* \*

#### SECTION 202.10—CERTAIN SPECIALIZED CREDIT

\* \* \*

(c) **Business credit.** Business credit shall be subject to the provisions specified in sections 202.10(a), 202.5, 202.7 and 202.9, except that sections 202.5(m)(2), 202.5(m)(3) and 202.9 shall only apply in those transactions involving an application for credit in the amount of \$100,000 or less where the applicant requests in writing that the creditor provide such reasons or retain such records and sections 202.4(e) and 202.5(g) shall not apply to business credit extended in the name of a business firm. As used in this Part, business credit is credit granted for business, commercial or agricultural purposes.

\* \* \*

(f) **Credit in connection with certain student loan programs.** Credit in connection with student loan programs administered by the Department of Health, Education and Welfare shall be subject to all the provisions of this Part except that to the extent necessary or

appropriate to ascertain and/or verify the applicant's marital status and the financial resources of the applicant and the applicant's spouse, if the applicant is married, sections 202.4(c), 202.5(b), and 202.7(a) shall not apply.

\* \* \*

#### SECTION 202.14—TRANSITION PERIODS

Except as provided in section 202.6 with respect to that section, the provisions of this Part shall take effect as follows:

(a) \* \* \*

(b) Sections 202.4(b), 202.4(e), 202.5(e), 202.5(f), 202.5(g), 202.9(a) and 202.9(b) shall take effect on November 30, 1975.

(c) \* \* \*

(d) Sections 202.4(c), 202.4(d), 202.5(b) and 202.5(d) shall take effect on June 30, 1976.

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Interested persons are invited to submit relevant written data, views, and arguments concerning these proposals to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than February 2, 1976. Such material will be made available for public inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information.

This notice is published pursuant to section 553(b) of Title 5, United States Code, and section 262.2(a) of the Rules of Procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.2(a)).