

FEDERAL RESERVE BANK  
OF NEW YORK

[ Circular No. 8146 ]  
July 13, 1977

INTERPRETATION OF REGULATION B

State Laws Setting a Different Age of Majority for Married and Unmarried Persons

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

Following is the text of a statement issued July 11 by the Board of Governors of the Federal Reserve System:

The Board of Governors of the Federal Reserve System has ruled that State laws making contracts enforceable against married people at a younger age than against those who are not married do not conflict with the Equal Credit Opportunity Act.

Creditors may, therefore, act according to such laws in making credit decisions without violating the Equal Credit Opportunity Act or the Board's Regulation B.

The Board made its ruling in response to enquiries whether sections of Alabama and Nevada laws (Alabama Code 34, Sections 76 and 76(1) and Nevada Revised Statute 38, Section 101) are inconsistent with—and are therefore preempted by—the Federal law.

Both of the State laws establish a younger age of majority for persons who are married than for unmarried persons. The Board determined that this does not conflict with provisions of the Equal Credit Opportunity Act and Regulation B making it illegal to discriminate in granting credit on the basis of age or marital status.

Enclosed is a copy of the interpretation of Regulation B. Inquiries regarding the interpretation may be directed to our Consumer Affairs Division (Tel. No. 212-791-5919).

PAUL A. VOLCKER,  
*President.*

# Board of Governors of the Federal Reserve System

## EQUAL CREDIT OPPORTUNITY

### INTERPRETATION OF REGULATION B

(Docket No. R-0107)

*AGENCY:* Board of Governors of the Federal Reserve System.

*ACTION:* Interpretation.

*SUMMARY:* In response to a request to determine whether an Alabama and a Nevada law are inconsistent with the Equal Credit Opportunity Act and Regulation B, and therefore preempted, the Board has issued an interpretation of its Regulation B, Equal Credit Opportunity. The Board has determined that laws that set a different age of majority for married and unmarried persons are not inconsistent with the Act and regulation.

*EFFECTIVE DATE:* July 8, 1977.

*FOR FURTHER INFORMATION CONTACT:* Anne Geary, Chief, Equal Credit Opportunity Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3946).

*SUPPLEMENTARY INFORMATION:* Pursuant to its authority under § 705(f) of the Equal Credit Opportunity Act to determine whether State laws are inconsistent with the Act and Regulation B, the Board has issued the following interpretation of Regulation B, which implements the Act.

The Board has been asked whether State laws that set a different age of majority for married and unmarried persons are inconsistent with the Equal Credit Opportunity Act and are therefore preempted. These laws, combined with other State laws making contracts unenforceable against persons who have not reached the age of majority, result in different treatment of persons who are the same age, depending upon their marital status. Specifically, the Board has been asked to determine whether Nevada Rev. Stat. 38 § 101 and Alabama Code 34 §§ 76 and 76(1), which establish a younger age of majority for married persons than for unmarried persons, are inconsistent with the Equal Credit Opportunity Act. For the reasons set forth below, the Board has determined that these statutes are not inconsistent with the ECOA.

The Equal Credit Opportunity Act prohibits

discrimination in the granting of credit on several bases, including age and marital status, and authorizes the Board to determine whether any State laws are inconsistent with this mandate. The Board believes that the ECOA was not intended to preempt laws that provide rights and remedies in the event of default. Section 701(a)(1) of the Act prohibits discrimination on the basis of age, but specifically allows creditors to consider whether an applicant is old enough to execute an enforceable contract. In other words, a creditor may decline a credit application from a minor because, in the event of default, State contract law does not provide a means to enforce the contract. In addition, § 701(b)(1) allows creditors to ask marital status in order to ascertain "... the creditor's rights and remedies applicable to the particular extension of credit . . . ."

Accordingly, Regulation B, which in general prohibits the consideration of age or marital status, permits creditors to determine whether the applicant's age<sup>1</sup> or marital status<sup>2</sup> will affect the enforceability of the contract. Credit, therefore, may be denied if the creditor reasonably believes that, because of the age or marital status of the applicant, the credit contract would be unenforceable.

Based upon this analysis, the Board has determined that Nevada Rev. Stat. 38 § 101 and Alabama Code 34 §§ 76 and 76(1) are not inconsistent with the Equal Credit Opportunity Act and Regulation B. Creditors may, therefore, consider the effect of these laws without violating the Equal Credit Opportunity Act or Regulation B.

By order of the Board of Governors, effective July 8, 1977.

<sup>1</sup> § 202.6(b)(2)(i) :

... a creditor shall not take into account an applicant's age (provided the applicant has the capacity to enter into a binding contract) . . . .

<sup>2</sup> § 202.6(b)(1), footnote 8 :

This provision does not prevent a creditor from considering the marital status of an applicant . . . for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit . . . .