

St-Cir. no. 10339 (b)

March 22, 1990

To the Addressee:

Enclosed for those who maintain sets of the Board of Governors' regulations are the following documents:

1. Regulation B, "Equal Credit Opportunity," revised effective December 8, 1989. (This pamphlet supersedes the previous revision of the regulation and all subsequent amendments thereto.)
2. Regulation C, "Home Mortgage Disclosure," as amended effective January 1, 1990. (This pamphlet supersedes the previous revision of the regulation.)
3. Amendments to Regulation Y, "Bank Holding Companies and Change in Bank Control," effective February 13, 1990. (These amendments, which were originally sent to you with Circular No. 10339, have been reprinted because the hole punching on the earlier printing was not aligned correctly.)

Questions regarding Regulation B or C may be directed to our Compliance Examinations Department (Tel. No. 212-720-5914).

Circulars Division
FEDERAL RESERVE BANK OF NEW YORK

At-Cir. No. 10339 (f)

Regulation B Equal Credit Opportunity

12 CFR 202; as revised effective December 8, 1989



Regulation B
Equal Credit Opportunity Act



Any inquiry relating to this regulation should be addressed to the Federal Reserve Bank of the District in which the inquiry arises.

February 1990

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Regulation B

Equal Credit Opportunity

12 CFR 202; effective March 23, 1977; as amended effective December 8, 1989*

Section

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SECTION 202.1—Authority, Scope, and Purpose

(a) *Authority and scope.* This regulation is issued by the Board of Governors of the Federal Reserve System pursuant to title VII (Equal Credit Opportunity Act) of the Consumer Credit Protection Act, as amended (15 USC 1601 et seq.). Except as otherwise provided herein, the regulation applies to all persons who are creditors, as defined in section 202.2(I). Information-collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of 44 USC 3501 et seq. and have been assigned OMB No. 7100-0201.

* Creditors have the option of continuing to comply with the previous version of the regulation until April 1, 1990, when compliance with this amended version becomes mandatory.

(b) *Purpose.* The purpose of this regulation is to promote the availability of credit to all creditworthy applicants without regard to race, color, religion, national origin, sex, marital status, or age (provided the applicant has the capacity to contract); to the fact that all or part of the applicant's income derives from a public assistance program; or to the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The regulation prohibits creditor practices that discriminate on the basis of any of these factors. The regulation also requires creditors to notify applicants of action taken on their applications; to report credit history in the names of both spouses on an account; to retain records of credit applications; and to collect information about the applicant's race and other personal characteristics in applications for certain dwelling-related loans.

SECTION 202.2—Definitions

For the purposes of this regulation, unless the context indicates otherwise, the following definitions apply.

(a) *Account* means an extension of credit. When employed in relation to an account, the word *use* refers only to open-end credit.

(b) *Act* means the Equal Credit Opportunity Act (title VII of the Consumer Credit Protection Act).

(c) *Adverse action.* (1) The term means—
(i) a refusal to grant credit in substantially the amount or on substantially the terms requested in an application unless the creditor makes a counteroffer (to grant credit in a different amount or on other terms) and the applicant uses or expressly accepts the credit offered;
(ii) a termination of an account or an unfavorable change in the terms of an account that does not affect all or a substantial portion of a class of the creditor's accounts; or

(iii) a refusal to increase the amount of credit available to an applicant who has made an application for an increase.

(2) The term does not include—

(i) a change in the terms of an account expressly agreed to by an applicant;

(ii) any action or forbearance relating to an account taken in connection with inactivity, default, or delinquency as to that account;

(iii) a refusal or failure to authorize an account transaction at a point of sale or loan, except when the refusal is a termination or an unfavorable change in the terms of an account that does not affect all or a substantial portion of a class of the creditor's accounts, or when the refusal is a denial of an application for an increase in the amount of credit available under the account;

(iv) a refusal to extend credit because applicable law prohibits the creditor from extending the credit requested; or

(v) a refusal to extend credit because the creditor does not offer the type of credit or credit plan requested.

(3) An action that falls within the definition of both paragraphs (c)(1) and (c)(2) of this section is governed by paragraph (c)(2).

(d) *Age* refers only to the age of natural persons and means the number of fully elapsed years from the date of an applicant's birth.

(e) *Applicant* means any person who requests or who has received an extension of credit from a creditor, and includes any person who is or may become contractually liable regarding an extension of credit. For purposes of section 202.7(d), the term includes guarantors, sureties, endorsers and similar parties.

(f) *Application* means an oral or written request for an extension of credit that is made in accordance with procedures established by a creditor for the type of credit requested. The term does not include the use of an account or line of credit to obtain an amount of credit that is within a previously established credit limit. A *completed application* means an application in connection with which a creditor has received all the information that the creditor

regularly obtains and considers in evaluating applications for the amount and type of credit requested (including, but not limited to, credit reports, any additional information requested from the applicant, and any approvals or reports by governmental agencies or other persons that are necessary to guarantee, insure, or provide security for the credit or collateral). The creditor shall exercise reasonable diligence in obtaining such information.

(g) *Business credit* refers to extensions of credit primarily for business or commercial (including agricultural) purposes, but excluding extensions of credit of the types described in section 202.3(a), (b), and (d).

(h) *Consumer credit* means credit extended to a natural person primarily for personal, family, or household purposes.

(i) *Contractually liable* means expressly obligated to repay all debts arising on an account by reason of an agreement to that effect.

(j) *Credit* means the right granted by a creditor to an applicant to defer payment of a debt, incur debt and defer its payment, or purchase property or services and defer payment therefor.

(k) *Credit card* means any card, plate, coupon book, or other single credit device that may be used from time to time to obtain money, property, or services on credit.

(l) *Creditor* means a person who, in the ordinary course of business, regularly participates in the decision of whether or not to extend credit. The term includes a creditor's assignee, transferee, or subrogee who so participates. For purposes of sections 202.4 and 202.5(a), the term also includes a person who, in the ordinary course of business, regularly refers applicants or prospective applicants to creditors, or selects or offers to select creditors to whom requests for credit may be made. A person is not a creditor regarding any violation of the act or this regulation committed by another creditor unless the person knew or had reasonable notice of the act, policy, or practice that constituted the violation before becoming involved in the credit transaction. The term does not include a person whose only partici-

pation in a credit transaction involves honoring a credit card.

(m) *Credit transaction* means every aspect of an applicant's dealings with a creditor regarding an application for credit or an existing extension of credit (including, but not limited to, information requirements; investigation procedures; standards of creditworthiness; terms of credit; furnishing of credit information; revocation, alteration, or termination of credit; and collection procedures).

(n) *Discriminate against an applicant* means to treat an applicant less favorably than other applicants.

(o) *Elderly* means age 62 or older.

(p) *Empirically derived and other credit scoring systems.*

(1) A *credit scoring system* is a system that evaluates an applicant's creditworthiness mechanically, based on key attributes of the applicant and aspects of the transaction, and that determines, alone or in conjunction with an evaluation of additional information about the applicant, whether an applicant is deemed creditworthy. To qualify as an *empirically derived, demonstrably and statistically sound, credit scoring system*, the system must be—

(i) based on data that are derived from an empirical comparison of sample groups or the population of creditworthy and noncreditworthy applicants who applied for credit within a reasonable preceding period of time;

(ii) developed for the purpose of evaluating the creditworthiness of applicants with respect to the legitimate business interests of the creditor utilizing the system (including, but not limited to, minimizing bad debt losses and operating expenses in accordance with the creditor's business judgment);

(iii) developed and validated using accepted statistical principles and methodology; and

(iv) periodically revalidated by the use of appropriate statistical principles and methodology and adjusted as necessary to maintain predictive ability.

(2) A creditor may use an empirically de-

rived, demonstrably and statistically sound, credit scoring system obtained from another person or may obtain credit experience from which to develop such a system. Any such system must satisfy the criteria set forth in paragraph (p)(1)(i) through (iv) of this section; if the creditor is unable during the development process to validate the system based on its own credit experience in accordance with paragraph (p)(1) of this section, the system must be validated when sufficient credit experience becomes available.

A system that fails this validity test is no longer an empirically derived, demonstrably and statistically sound, credit scoring system for that creditor.

(q) *Extend credit* and *extension of credit* mean the granting of credit in any form (including, but not limited to, credit granted in addition to any existing credit or credit limit; credit granted pursuant to an open-end credit plan; the refinancing or other renewal of credit, including the issuance of a new credit card in place of an expiring credit card or in substitution for an existing credit card; the consolidation of two or more obligations; or the continuance of existing credit without any special effort to collect at or after maturity).

(r) *Good faith* means honesty in fact in the conduct or transaction.

(s) *Inadvertent error* means a mechanical, electronic, or clerical error that a creditor demonstrates was not intentional and occurred notwithstanding the maintenance of procedures reasonably adapted to avoid such errors.

(t) *Judgmental system of evaluating applicants* means any system for evaluating the creditworthiness of an applicant other than an empirically derived, demonstrably and statistically sound, credit scoring system.

(u) *Marital status* means the state of being unmarried, married, or separated, as defined by applicable state law. The term "unmarried" includes persons who are single, divorced, or widowed.

(v) *Negative factor or value*, in relation to the age of elderly applicants, means utilizing a

factor, value, or weight that is less favorable regarding elderly applicants than the creditor's experience warrants or is less favorable than the factor, value, or weight assigned to the class of applicants that are not classified as elderly and are most favored by a creditor on the basis of age.

(w) *Open-end credit* means credit extended under a plan under which a creditor may permit an applicant to make purchases or obtain loans from time to time directly from the creditor or indirectly by use of a credit card, check, or other device.

(x) *Person* means a natural person, corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

(y) *Pertinent element of creditworthiness*, in relation to a judgmental system of evaluating applicants, means any information about applicants that a creditor obtains and considers and that has a demonstrable relationship to a determination of creditworthiness.

(z) *Prohibited basis* means race, color, religion, national origin, sex, marital status, or age (provided that the applicant has the capacity to enter into a binding contract); the fact that all or part of the applicant's income derives from any public assistance program; or the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act or any state law upon which an exemption has been granted by the Board.

(aa) *State* means any state, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

SECTION 202.3—Limited Exceptions for Certain Classes of Transactions

(a) *Public-utilities credit*. (1) *Definition*. Public-utilities credit refers to extensions of credit that involve public-utility services provided through pipe, wire, or other connected facilities, or radio or similar transmission (including extensions of such facilities), if the charges for service, delayed

payment, and any discount for prompt payment are filed with or regulated by a government unit.

(2) *Exceptions*. The following provisions of this regulation do not apply to public-utilities credit:

- (i) section 202.5(d)(1) concerning information about marital status;
- (ii) section 202.10 relating to furnishing of credit information; and
- (iii) section 202.12(b) relating to record retention.

(b) *Securities credit*. (1) *Definition*. Securities credit refers to extensions of credit subject to regulation under section 7 of the Securities Exchange Act of 1934 or extensions of credit by a broker or dealer subject to regulation as a broker or dealer under the Securities Exchange Act of 1934.

(2) *Exceptions*. The following provisions of this regulation do not apply to securities credit:

- (i) section 202.5(c) concerning information about a spouse or former spouse;
- (ii) section 202.5(d)(1) concerning information about marital status;
- (iii) section 202.5(d)(3) concerning information about the sex of an applicant;
- (iv) section 202.7(b) relating to designation of name, but only to the extent necessary to prevent violation of rules regarding an account in which a broker or dealer has an interest, or rules necessitating the aggregation of accounts of spouses for the purpose of determining controlling interests, beneficial interests, beneficial ownership, or purchase limitations and restrictions;
- (v) section 202.7(c) relating to action concerning open-end accounts, but only to the extent the action taken is on the basis of a change of name or marital status;
- (vi) section 202.7(d) relating to the signature of a spouse or other person;
- (vii) section 202.10 relating to furnishing of credit information; and
- (viii) section 202.12(b) relating to record retention.

(c) *Incidental credit*. (1) *Definition*. Incidental credit refers to extensions of consumer

credit other than credit of the types described in paragraphs (a) and (b) of this section—

- (i) that are not made pursuant to the terms of a credit card account;
- (ii) that are not subject to a finance charge (as defined in Regulation Z, 12 CFR 226.4); and
- (iii) that are not payable by agreement in more than four installments.

(2) *Exceptions.* The following provisions of this regulation do not apply to incidental credit:

- (i) section 202.5(c) concerning information about a spouse or former spouse;
- (ii) section 202.5(d)(1) concerning information about marital status;
- (iii) section 202.5(d)(2) concerning information about income derived from alimony, child support, or separate maintenance payments;
- (iv) section 202.5(d)(3) concerning information about the sex of an applicant, but only to the extent necessary for medical records or similar purposes;
- (v) section 202.7(d) relating to the signature of a spouse or other person;
- (vi) section 202.9 relating to notifications;
- (vii) section 202.10 relating to furnishing of credit information; and
- (viii) section 202.12(b) relating to record retention.

(d) *Government credit.* (1) *Definition.* Government credit refers to extensions of credit made to governments or governmental subdivisions, agencies, or instrumentalities.

(2) *Applicability of regulation.* Except for section 202.4, the general rule prohibiting discrimination on a prohibited basis, the requirements of this regulation do not apply to government credit.

SECTION 202.4—General Rule Prohibiting Discrimination

A creditor shall not discriminate against an applicant on a prohibited basis regarding any aspect of a credit transaction.

SECTION 202.5—Rules Concerning Taking of Applications

(a) *Discouraging applications.* A creditor shall not make any oral or written statement, in advertising or otherwise, to applicants or prospective applicants that would discourage on a prohibited basis a reasonable person from making or pursuing an application.

(b) *General rules concerning requests for information.* (1) Except as provided in paragraphs (c) and (d) of this section, a creditor may request any information in connection with an application.¹

(2) *Required collection of information.* Notwithstanding paragraphs (c) and (d) of this section, a creditor shall request information for monitoring purposes as required by section 202.13 for credit secured by the applicant's dwelling. In addition, a creditor may obtain information required by a regulation, order, or agreement issued by, or entered into with, a court or an enforcement agency (including the attorney general of the United States or a similar state official) to monitor or enforce compliance with the act, this regulation, or other federal or state statute or regulation.

(3) *Special-purpose credit.* A creditor may obtain information that is otherwise restricted to determine eligibility for a special-purpose credit program, as provided in section 202.8(c) and (d).

(c) *Information about a spouse or former spouse.* (1) Except as permitted in this paragraph, a creditor may not request any information concerning the spouse or former spouse of an applicant.

(2) *Permissible inquiries.* A creditor may request any information concerning an applicant's spouse (or former spouse under paragraph (c)(2)(v)) that may be requested about the applicant if—

- (i) the spouse will be permitted to use the account;
- (ii) the spouse will be contractually liable on the account;

¹ This paragraph does not limit or abrogate any federal or state law regarding privacy, privileged information, credit reporting limitations, or similar restrictions on obtainable information.

- (iii) the applicant is relying on the spouse's income as a basis for repayment of the credit requested;
- (iv) the applicant resides in a community property state or property on which the applicant is relying as a basis for repayment of the credit requested is located in such a state; or
- (v) the applicant is relying on alimony, child support, or separate maintenance payments from a spouse or former spouse as a basis for repayment of the credit requested.
- (3) *Other accounts of the applicant.* A creditor 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 creditor may also ask the names in which an applicant has previously received credit.
- (d) *Other limitations on information requests.*
- (1) *Marital status.* If an applicant applies for individual unsecured credit, a creditor shall not inquire about the applicant's marital status unless the applicant resides in a community property state or is relying on property located in such a state as a basis for repayment of the credit requested. If an application is for other than individual unsecured credit, a creditor may inquire about the applicant's marital status, but shall use only the terms "married," "unmarried," and "separated." A creditor may explain that the category "unmarried" includes single, divorced, and widowed persons.
- (2) *Disclosure about income from alimony, child support, or separate maintenance.* A creditor shall not inquire whether income stated in an application is derived from alimony, child support, or separate maintenance payments unless the creditor discloses to the applicant that such income need not be revealed if the applicant does not want the creditor to consider it in determining the applicant's creditworthiness.
- (3) *Sex.* A creditor shall not inquire about the sex of an applicant. An applicant may be requested to designate a title on an application form (such as Ms., Miss, Mr., or Mrs.) if the form discloses that the designation of a title is optional. An application

form shall otherwise use only terms that are neutral as to sex.

(4) *Childbearing, childrearing.* A creditor shall not inquire about birth control practices, intentions concerning the bearing or rearing of children, or capability to bear children. A creditor may 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 sex, marital status, or any other prohibited basis.

(5) *Race, color, religion, national origin.* A creditor shall not inquire about the race, color, religion, or national origin of an applicant or any other person in connection with a credit transaction. A creditor may inquire about an applicant's permanent residence and immigration status.

(e) *Written applications.* A creditor shall take written applications for the types of credit covered by section 202.13(a) but need not take written applications for other types of credit.

SECTION 202.6—Rules Concerning Evaluation of Applications

(a) *General rule concerning use of information.* Except as otherwise provided in the act and this regulation, a creditor may consider any information obtained, so long as the information is not used to discriminate against an applicant on a prohibited basis.²

(b) *Specific rules concerning use of information.* (1) Except as provided in the act and this regulation, a creditor shall not take a prohibited basis into account in any system of evaluating the creditworthiness of applicants.

(2) *Age, receipt of public assistance.* (i) Except as permitted in this paragraph, a creditor shall not take into account an applicant's age (provided that the appli-

² The legislative history of the act indicates that the Congress intended an "effects test" concept, as outlined in the employment field by the Supreme Court in the cases of *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971), and *Albermarle Paper Co. v. Moody*, 422 U.S. 405 (1975), to be applicable to a creditor's determination of creditworthiness.

cant has the capacity to enter into a binding contract) or whether an applicant's income derives from any public assistance program.

(ii) In an empirically derived, demonstrably and statistically sound, credit scoring system, a creditor may use an applicant's age as a predictive variable, provided that the age of an elderly applicant is not assigned a negative factor or value.

(iii) In a judgmental system of evaluating creditworthiness, a creditor may consider an applicant's age or whether an applicant's income derives from any public assistance program only for the purpose of determining a pertinent element of creditworthiness.

(iv) In any system of evaluating creditworthiness, a creditor may consider the age of an elderly applicant when such age is used to favor the elderly applicant in extending credit.

(3) *Childbearing, childrearing.* In evaluating creditworthiness, a creditor shall not use 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.

(4) *Telephone listing.* A creditor shall not take into account whether there is a telephone listing in the name of an applicant for consumer credit but may take into account whether there is a telephone in the applicant's residence.

(5) *Income.* A creditor shall not discount or exclude from consideration the income of an applicant or the spouse of an applicant because of a prohibited basis or because the income is derived from part-time employment or is an annuity, pension, or other retirement benefit; a creditor may consider the amount and probable continuance of any income in evaluating an applicant's creditworthiness. When an applicant relies on alimony, child support, or separate maintenance payments in applying for credit, the creditor shall consider such payments as income to the extent that they are likely to be consistently made.

(6) *Credit history.* To the extent that a creditor considers credit history in evaluat-

ing the creditworthiness of similarly qualified applicants for a similar type and amount of credit, in evaluating an applicant's creditworthiness a creditor shall consider—

(i) the credit history, when available, of accounts designated as accounts that the applicant and the applicant's spouse are permitted to use or for which both are contractually liable;

(ii) on the applicant's request, any information the applicant may present that tends to indicate that the credit history being considered by the creditor does not accurately reflect the applicant's creditworthiness; and

(iii) 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.

(7) *Immigration status.* A creditor may consider whether an applicant is a permanent resident of the United States, the applicant's immigration status, and any additional information that may be necessary to ascertain the creditor's rights and remedies regarding repayment.

(c) *State property laws.* A creditor's consideration or application of state property laws directly or indirectly affecting creditworthiness does not constitute unlawful discrimination for the purposes of the act or this regulation.

SECTION 202.7—Rules Concerning Extensions of Credit

(a) *Individual accounts.* A creditor shall not refuse to grant an individual account to a creditworthy applicant on the basis of sex, marital status, or any other prohibited basis.

(b) *Designation of name.* A creditor shall not refuse to allow an applicant to open or maintain an account in a birth-given first name and a surname that is the applicant's birth-given surname, the spouse's surname, or a combined surname.

(c) *Action concerning existing open-end accounts.* (1) *Limitations.* In the absence of evi-

dence of the applicant's inability or unwillingness to repay, a creditor shall not take any of the following actions regarding an applicant who is contractually liable on an existing open-end account on the basis of the applicant's reaching a certain age or retiring or on the basis of a change in the applicant's name or marital status:

- (i) require a reapplication, except as provided in paragraph (c)(2) of this section;
 - (ii) change the terms of the account; or
 - (iii) terminate the account.
- (2) *Requiring reapplication.* A creditor may require a reapplication for an open-end account on the basis of a change in the marital status of an applicant who is contractually liable if the credit granted was based in whole or in part on income of the applicant's spouse and if information available to the creditor indicates that the applicant's income may not support the amount of credit currently available.

(d) *Signature of spouse or other person.* (1)

Rule for qualified applicant. Except as provided in this paragraph, a creditor shall 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 creditor's standards of creditworthiness for the amount and terms of the credit requested.

(2) *Unsecured credit.* If an applicant requests unsecured credit and relies in part upon property that the applicant owns jointly with another person to satisfy the creditor's standards of creditworthiness, the creditor may require the signature of the other person only on the instrument(s) necessary, or reasonably believed by the creditor to be necessary, under the law of the state in which the property is located, to enable the creditor to reach the property being relied upon in the event of the death or default of the applicant.

(3) *Unsecured credit—community property states.* If a married applicant requests unsecured credit and resides in a community property state, or if the property upon which the applicant is relying is located in such a state, a creditor may require the sig-

nature of the spouse on any instrument necessary, or reasonably believed by the creditor to be necessary, under applicable state law to make the community property available to satisfy the debt in the event of default if—

(i) applicable state law denies the applicant power to manage or control sufficient community property to qualify for the amount of credit requested under the creditor's standards of creditworthiness; and

(ii) the applicant does not have sufficient separate property to qualify for the amount of credit requested without regard to community property.

(4) *Secured credit.* If an applicant requests secured credit, a creditor may require the signature of the applicant's spouse or other person on any instrument necessary, or reasonably believed by the creditor to be necessary, under applicable state law to make the property being offered as security available to satisfy the debt in the event of default, for example, an instrument to create a valid lien, pass clear title, waive inchoate rights, or assign earnings.

(5) *Additional parties.* If, under a creditor's standards of creditworthiness, the personal liability of an additional party is necessary to support the extension of the credit requested, a creditor may request a cosigner, guarantor, or the like. The applicant's spouse may serve as an additional party, but the creditor shall not require that the spouse be the additional party.

(6) *Rights of additional parties.* A creditor shall not impose requirements upon an additional party that the creditor is prohibited from imposing upon an applicant under this section.

(e) *Insurance.* A creditor shall not refuse to extend credit and shall not terminate an account because credit life, health, accident, disability, or other credit-related insurance is not available on the basis of the applicant's age.

SECTION 202.8—Special-Purpose Credit Programs

(a) *Standards for programs.* Subject to the

provisions of paragraph (b) of this section, the act and this regulation permit a creditor to extend special-purpose credit to applicants who meet eligibility requirements under the following types of credit programs:

(1) any credit assistance program expressly authorized by federal or state law for the benefit of an economically disadvantaged class of persons;

(2) any credit assistance program offered by a not-for-profit organization, as defined under section 501(c) of the Internal Revenue Code of 1954, as amended, for the benefit of its members or for the benefit of an economically disadvantaged class of persons; or

(3) any special-purpose credit program offered by a for-profit organization or in which such an organization participates to meet special social needs, if—

(i) the program is established and administered pursuant to a written plan that identifies the class of persons that the program is designed to benefit and sets forth the procedures and standards for extending credit pursuant to the program; and

(ii) the program is established and administered to extend credit to a class of persons who, under the organization's customary standards of creditworthiness, probably would not receive such credit or would receive it on less favorable terms than are ordinarily available to other applicants applying to the organization for a similar type and amount of credit.

(b) *Rules in other sections.* (1) *General applicability.* All of the provisions of this regulation apply to each of the special-purpose credit programs described in paragraph (a) of this section unless modified by this section.

(2) *Common characteristics.* A program described in paragraph (a)(2) or (a)(3) of this section qualifies as a special-purpose credit program only if it was established and is administered so as not to discriminate against an applicant on any prohibited basis; however, all program participants may be required to share one or more common characteristics (for example, race, na-

tional origin, or sex) so long as the program was not established and is not administered with the purpose of evading the requirements of the act or this regulation.

(c) *Special rule concerning requests and use of information.* If participants in a special-purpose credit program described in paragraph (a) of this section are required to possess one or more common characteristics (for example, race, national origin, or sex) and if the program otherwise satisfies the requirements of paragraph (a), a creditor may request and consider information regarding the common characteristic(s) in determining the applicant's eligibility for the program.

(d) *Special rule in the case of financial need.* If financial need is one of the criteria under a special-purpose program described in paragraph (a) of this section, the creditor may request and consider, in determining an applicant's eligibility for the program, information regarding the applicant's marital status; alimony, child support, and separate maintenance income; and the spouse's financial resources. In addition, a creditor may obtain the signature of an applicant's spouse or other person on an application or credit instrument relating to a special-purpose program if the signature is required by federal or state law.

SECTION 202.9—Notifications

(a) *Notification of action taken, ECOA notice, and statement of specific reasons.* (1) *When notification is required.* A creditor shall notify an applicant of action taken within—

(i) 30 days after receiving a completed application concerning the creditor's approval of, counteroffer to, or adverse action on the application;

(ii) 30 days after taking adverse action on an incomplete application, unless notice is provided in accordance with paragraph (c) of this section;

(iii) 30 days after taking adverse action of an existing account; or

(iv) 90 days after notifying the applicant of a counteroffer if the applicant does not expressly accept or use the credit offered.

(2) *Content of notification when adverse action is taken.* A notification given to an applicant when adverse action is taken shall be in writing and shall contain: a statement of the action taken; the name and address of the creditor; a statement of the provisions of section 701(a) of the act; the name and address of the federal agency that administers compliance with respect to the creditor; and either—

(i) a statement of specific reasons for the action taken; or

(ii) a disclosure of the applicant's right to a statement of specific reasons within 30 days, if the statement is requested within 60 days of the creditor's notification. The disclosure shall include the name, address, and telephone number of the person or office from which the statement of reasons can be obtained. If the creditor chooses to provide the reasons orally, the creditor shall also disclose the applicant's right to have them confirmed in writing within 30 days of receiving a written request for confirmation from the applicant.

(3) *Notification to business credit applicants.* For business credit, a creditor shall comply with the requirements of this paragraph in the following manner:

(i) With regard to a business that had gross revenues of \$1,000,000 or less in its preceding fiscal year (other than an extension of trade credit, credit incident to a factoring agreement, or other similar types of business credit), a creditor shall comply with paragraphs (a)(1) and (2), except that—

(A) The statement of the action taken may be given orally or in writing, when adverse action is taken;

(B) Disclosure of an applicant's right to a statement of reasons may be given at the time of application, instead of when adverse action is taken, provided the disclosure is in a form the applicant may retain and contains the information required by paragraph (a)(2)(ii) and the ECOA notice specified in paragraph (b)(1) of this section;

(C) For an application made solely by

telephone, a creditor satisfies the requirements of this paragraph by an oral statement of the action taken and of the applicant's right to a statement of reasons for adverse action.

(ii) With regard to a business that had gross revenues in excess of \$1,000,000 in its preceding fiscal year or an extension of trade credit, credit incident to a factoring agreement, or other similar types of business credit, a creditor shall—

(A) Notify the applicant, orally or in writing, within a reasonable time of the action taken; and

(B) Provide a written statement of the reasons for adverse action and the ECOA notice specified in paragraph (b)(1) of this section if the applicant makes a written request for the reasons within 60 days of being notified of the adverse action.

(b) *Form of ECOA notice and statement of specific reasons.*

(1) *ECOA notice.* To satisfy the disclosure requirements of paragraph (a)(2) of this section regarding section 701(a) of the act, the creditor shall provide a notice that is substantially similar to the following:

The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is (name and address as specified by the appropriate agency listed in appendix A of this regulation).

(2) *Statement of specific reasons.* The statement of reasons for adverse action required by paragraph (a)(2)(i) of this section must be specific and indicate the principal reason(s) for the adverse action. Statements that the adverse action was based on the creditor's internal standards or policies or that the applicant failed to achieve the qualifying score on the creditor's credit scoring system are insufficient.

(c) *Incomplete applications.* (1) *Notice alternatives.* Within 30 days after receiving an application that is incomplete regarding matters that an applicant can complete, the creditor shall notify the applicant either—

- (i) of action taken, in accordance with paragraph (a) of this section; or
- (ii) of the incompleteness, in accordance with paragraph (c)(2) of this section.

(2) *Notice of incompleteness.* If additional information is needed from an applicant, the creditor shall send a written notice to the applicant specifying the information needed, designating a reasonable period of time for the applicant to provide the information, and informing the applicant that failure to provide the information requested will result in no further consideration being given to the application. The creditor shall have no further obligation under this section if the applicant fails to respond within the designated time period. If the applicant supplies the requested information within the designated time period, the creditor shall take action on the application and notify the applicant in accordance with paragraph (a) of this section.

(3) *Oral request for information.* At its option, a creditor may inform the applicant orally of the need for additional information; but if the application remains incomplete the creditor shall send a notice in accordance with paragraph (c)(1) of this section.

(d) *Oral notifications by small-volume creditors.* The requirements of this section (including statements of specific reasons) are satisfied by oral notifications in the case of any creditor that did not receive more than 150 applications during the preceding calendar year.

(e) *Withdrawal of approved application.* When an applicant submits an application and the parties contemplate that the applicant will inquire about its status, if the creditor approves the application and the applicant has not inquired within 30 days after applying, the creditor may treat the application as withdrawn and need not comply with paragraph (a)(1) of this section.

(f) *Multiple applicants.* When an application

involves more than one applicant, notification need only be given to one of them but must be given to the primary applicant where one is readily apparent.

(g) *Applications submitted through a third party.* When an application is made on behalf of an applicant to more than one creditor and the applicant expressly accepts or uses credit offered by one of the creditors, notification of action taken by any of the other creditors is not required. If no credit is offered or if the applicant does not expressly accept or use any credit offered, each creditor taking adverse action must comply with this section, directly or through a third party. A notice given by a third party shall disclose the identity of each creditor on whose behalf the notice is given.

SECTION 202.10—Furnishing of Credit Information

(a) *Designation of accounts.* A creditor that furnishes credit information shall designate—

- (1) any new account to reflect the participation of both spouses if the applicant's spouse is permitted to use or is contractually liable on the account (other than as a guarantor, surety, endorser, or similar party); and
- (2) any existing account to reflect such participation, within 90 days after receiving a written request to do so from one of the spouses.

(b) *Routine reports to consumer reporting agency.* If a creditor furnishes credit information to a consumer reporting agency concerning an account designated to reflect the participation of both spouses, the creditor shall furnish the information in a manner that will enable the agency to provide access to the information in the name of each spouse.

(c) *Reporting in response to inquiry.* If a creditor furnishes credit information in response to an inquiry concerning an account designated to reflect the participation of both spouses, the creditor shall furnish the information in the name of the spouse about whom the information is requested.

SECTION 202.11—Relation to State Law

(a) *Inconsistent state laws.* Except as otherwise provided in this section, this regulation alters, affects, or preempts only those state laws that are inconsistent with the act and this regulation and then only to the extent of the inconsistency. A state law is not inconsistent if it is more protective of an applicant.

(b) *Preempted provisions of state law.* (1) A state law is deemed to be inconsistent with the requirements of the act and this regulation and less protective of an applicant within the meaning of section 705(f) of the act to the extent that the law—

- (i) requires or permits a practice or act prohibited by the act or this regulation;
- (ii) prohibits the individual extension of consumer credit to both parties to a marriage if each spouse individually and voluntarily applies for such credit;
- (iii) prohibits inquiries or collection of data required to comply with the act or this regulation;
- (iv) prohibits asking or considering age in an empirically derived, demonstrably and statistically sound, credit scoring system to determine a pertinent element of creditworthiness, or to favor an elderly applicant; or
- (v) prohibits inquiries necessary to establish or administer a special-purpose credit program as defined by section 202.8.

(2) A creditor, state, or other interested party may request the Board to determine whether a state law is inconsistent with the requirements of the act and this regulation.

(c) *Laws on finance charges, loan ceilings.* If married applicants voluntarily apply for and obtain individual accounts with the same creditor, the accounts shall not be aggregated or otherwise combined for purposes of determining permissible finance charges or loan ceilings under any federal or state law. Permissible loan ceiling laws shall be construed to permit each spouse to become individually liable up to the amount of the loan ceilings, less the amount for which the applicant is jointly liable.

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(d) *State and federal laws not affected.* This section does not alter or annul any provision of state property laws, laws relating to the disposition of decedents' estates, or federal or state banking regulations directed only toward insuring the solvency of financial institutions.

(e) *Exemption for state-regulated transactions.* (1) *Applications.* A state may apply to the Board for an exemption from the requirements of the act and this regulation for any class of credit transactions within the state. The Board will grant such an exemption if the Board determines that—

- (i) the class of credit transactions is subject to state law requirements substantially similar to the act and this regulation or that applicants are afforded greater protection under state law; and
- (ii) there is adequate provision for state enforcement.

(2) *Liability and enforcement.* (i) No exemption will extend to the civil-liability provisions of section 706 or the administrative-enforcement provisions of section 704 of the act.

- (ii) After an exemption has been granted, the requirements of the applicable state law (except for additional requirements not imposed by federal law) will constitute the requirements of the act and this regulation.

SECTION 202.12—Record Retention

(a) *Retention of prohibited information.* A creditor may retain in its files information that is prohibited by the act or this regulation in evaluating applications, without violating the act or this regulation, if the information was obtained—

- (1) from any source prior to March 23, 1977;
- (2) from consumer reporting agencies, an applicant, or others without the specific request of the creditor; or
- (3) As required to monitor compliance with the act and this regulation or other federal or state statutes or regulations.

(b) *Preservation of records.* (1) *Applications.*

For 25 months (12 months for business credit) after the date that a creditor notifies an applicant of action taken on an application or of incompleteness, the creditor shall retain in original form or a copy thereof—

- (i) any application that it receives, any information required to be obtained concerning characteristics of the applicant to monitor compliance with the act and this regulation or other similar law, and any other written or recorded information used in evaluating the application and not returned to the applicant at the applicant's request;
- (ii) a copy of the following documents if furnished to the applicant in written form (or, if furnished orally, any notation or memorandum made by the creditor):
 - (A) the notification of action taken; and
 - (B) the statement of specific reasons for adverse action; and
- (iii) any written statement submitted by the applicant alleging a violation of the act or this regulation.

(2) *Existing accounts.* For 25 months (12 months for business credit) after the date that a creditor notifies an applicant of adverse action regarding an existing account, the creditor shall retain as to that account, in original form or a copy thereof—

- (i) any written or recorded information concerning the adverse action; and
- (ii) any written statement submitted by the applicant alleging a violation of the act or this regulation.

(3) *Other applications.* For 25 months (12 months for business credit) after the date that a creditor receives an application for which the creditor is not required to comply with the notification requirements of section 202.9, the creditor shall retain all written or recorded information in its possession concerning the applicant, including any notation of action taken.

(4) *Enforcement proceedings and investigations.* A creditor shall retain the information specified in this section beyond 25 months (12 months for business credit) if it has actual notice that it is under investigation or is subject to an enforcement proceeding for an alleged violation of the act or

this regulation by the attorney general of the United States or by an enforcement agency charged with monitoring that creditor's compliance with the act and this regulation, or if it has been served with notice of an action filed pursuant to section 706 of the act and section 202.14 of this regulation. The creditor shall retain the information until final disposition of the matter, unless an earlier time is allowed by order of the agency or court.

(5) *Special rule for certain business-credit applications.* With regard to a business with gross revenues in excess of \$1,000,000 in its preceding fiscal year, or an extension of trade credit, credit incident to a factoring agreement or other similar types of business credit, the creditor shall retain records for at least 60 days after notifying the applicant of the action taken. If within that time period the applicant requests in writing the reasons for adverse action or that records be retained, the creditor shall retain records for 12 months.

SECTION 202.13—Information for Monitoring Purposes

(a) *Information to be requested.* A creditor 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, shall request as part of the application the following information regarding the applicant(s):

- (1) race or national origin, using the categories American Indian or Alaskan Native; Asian or Pacific Islander; Black; White; Hispanic; Other (Specify);
- (2) sex;
- (3) marital status, using the categories Married, Unmarried, and Separated; and
- (4) age.

"Dwelling" means a residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes, but is not limited to, an individual condominium or cooperative unit, and a mobile or other manufactured home.

(b) *Obtaining of information.* Questions regarding race or national origin, sex, marital status, and age may be listed, at the creditor's option, on the application form or on a separate form that refers to the application. The applicant(s) shall be asked but not required to supply the requested information. If the applicant(s) chooses not to provide the information or any part of it, that fact shall be noted on the form. The creditor shall then also note on the form, to the extent possible, the race or national origin and sex of the applicant(s) on the basis of visual observation or surname.

(c) *Disclosure to applicant(s).* The creditor shall inform the applicant(s) that the information regarding race or national origin, sex, marital status, and age is being requested by the federal government for the purpose of monitoring compliance with federal statutes that prohibit creditors from discriminating against applicants on those bases. The creditor shall also inform the applicant(s) that if the applicant(s) chooses not to provide the information, the creditor is required to note the race or national origin and sex on the basis of visual observation or surname.

(d) *Substitute monitoring program.* A monitoring program required by an agency charged with administrative enforcement under section 704 of the act may be substituted for the requirements contained in paragraphs (a), (b), and (c).

SECTION 202.14—Enforcement, Penalties, and Liabilities

(a) *Administrative enforcement.* (1) As set forth more fully in section 704 of the act, administrative enforcement of the act and this regulation regarding certain creditors is assigned to the Comptroller of the Currency, Board of Governors of the Federal Reserve System, board of directors of the Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, Interstate Commerce Commission, secretary of agriculture, Farm Credit Administration, Securities and Exchange Commission, Small Business

Administration, and secretary of transportation.

(2) Except to the extent that administrative enforcement is specifically assigned to other authorities, compliance with the requirements imposed under the act and this regulation is enforced by the Federal Trade Commission.

(b) *Penalties and liabilities.* (1) Sections 706(a) and (b) and 702(g) of the act provide that any creditor that fails to comply with a requirement imposed by the act or this regulation is subject to civil liability for actual and punitive damages in individual or class actions. Pursuant to sections 704(b), (c), and (d) and 702(g) of the act, violations of the act or regulation also constitute violations of other federal laws. Liability for punitive damages is restricted to nongovernmental entities and is limited to \$10,000 in individual actions and the lesser of \$500,000 or 1 percent of the creditor's net worth in class actions. Section 706(c) provides for equitable and declaratory relief and section 706(d) authorizes the awarding of costs and reasonable attorney's fees to an aggrieved applicant in a successful action.

(2) As provided in section 706(f), a civil action under the act or this regulation may be brought in the appropriate United States district court without regard to the amount in controversy or in any other court of competent jurisdiction within two years after the date of the occurrence of the violation, or within one year after the commencement of an administrative enforcement proceeding or of a civil action brought by the attorney general of the United States within two years after the alleged violation.

(3) Sections 706(g) and (h) provide that, if an agency responsible for administrative enforcement is unable to obtain compliance with the act or this regulation, it may refer the matter to the attorney general of the United States. On referral, or whenever the Attorney General has reason to believe that one or more creditors are engaged in a pattern or practice in violation of the act or this regulation, the attorney general may bring a civil action.

(c) *Failure of compliance.* A creditor's failure

to comply with sections 202.6(b)(6), 202.9, 202.10, 202.12 or 202.13 is not a violation if it results from an inadvertent error. On discovering an error under sections 202.9 and 202.10, the creditor shall correct it as soon as possible. If a creditor inadvertently obtains the monitoring information regarding the race or national origin and sex of the applicant in a dwelling-related transaction not covered by section 202.13, the creditor may act on and retain the application without violating the regulation.

APPENDIX A—Federal Enforcement Agencies

The following list indicates the federal agencies that enforce Regulation B for particular classes of creditors. Any questions concerning a particular creditor should be directed to its enforcement agency.

National Banks

Comptroller of the Currency
Consumer Examinations Division
Washington, D.C. 20219

State Member Banks

Federal Reserve Bank serving the District in which the state member bank is located.

Nonmember Insured Banks

Federal Deposit Insurance Corporation Regional Director for the region in which the nonmember insured bank is located.

Savings institutions under the Savings Association Insurance Fund of the FDIC and federally chartered savings banks insured under the Bank Insurance Fund of the FDIC (but not including state-chartered savings banks insured under the Bank Insurance Fund)

The district director of the Office of Thrift Supervision in the district in which the institution is located.

Federal Credit Unions

Regional office of the National Credit Union Administration serving the area in which the federal credit union is located.

Air Carriers

Assistant General Counsel for Aviation Enforcement and Proceedings
Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590

Creditors Subject to Interstate Commerce Commission

Office of Proceedings
Interstate Commerce Commission
Washington, D.C. 20523

Creditors Subject to Packers and Stockyards Act

Nearest Packers and Stockyards Administration area supervisor.

Small Business Investment Companies

U.S. Small Business Administration
1441 L Street, N.W.
Washington, D.C. 20416

Brokers and Dealers

Securities and Exchange Commission
Washington, D.C. 20549

Federal Land Banks, Federal Land Bank Associations, Federal Intermediate Credit Banks, and Production Credit Associations

Farm Credit Administration
1501 Farm Credit Drive
McLean, Virginia 22102-5090

Retailers, Finance Companies, and All Other Creditors Not Listed Above

FTC regional office for region in which the creditor operates or

Federal Trade Commission
Equal Credit Opportunity
Washington, D.C. 20580

APPENDIX B—Model Application Forms

This appendix contains five model credit application forms, each designed for use in a particular type of consumer credit transaction as indicated by the bracketed caption on each form. The first sample form is intended for use in open-end, unsecured transactions; the sec-

ond for closed-end, secured transactions; the third for closed-end transactions, whether unsecured or secured; the fourth in transactions involving community property or occurring in community property states; and the fifth in residential mortgage transactions. The appendix also contains a model disclosure for use in complying with section 202.13 for certain dwelling-related loans. All forms contained in this appendix are models; their use by creditors is optional.

The use or modification of these forms is governed by the following instructions. A creditor may change the forms by asking for additional information not prohibited by section 202.5; by deleting any information requested; or by rearranging the format without modifying the substance of the inquiries. In any of these three instances, however, the appropriate notices regarding the optional nature of courtesy titles; the option to disclose alimony, child support, or separate maintenance; and the limitation concerning marital status inquiries must be included in the appropriate places if the items to which they relate appear on the creditor's form.

If a creditor uses an appropriate appendix B model form, or modifies a form in accordance with the above instructions, that creditor shall be deemed to be acting in compliance with the provisions of paragraphs (c) and (d) of section 202.5 of this regulation.

[Open-end, unsecured credit]

CREDIT APPLICATION

IMPORTANT: Read these Directions before completing this Application.

- Check Appropriate Box
If you are applying for an individual account in your own name and are relying on your own income or assets and not the income or assets of another person as the basis for repayment of the credit requested, complete only Sections A and D.
If you are applying for a joint account or an account that you and another person will use, complete all Sections, providing information in B about the joint applicant or user.
If you are applying for an individual account, but are relying on income from alimony, child support, or separate maintenance or on the income or assets of another person as the basis for repayment of the credit requested, complete all Sections to the extent possible, providing information in B about the person on whose alimony, support, or maintenance payments or income or assets you are relying.

SECTION A—INFORMATION REGARDING APPLICANT

Full Name (Last, First, Middle): Birthdate: / /
Present Street Address: Years there:
City: State: Zip: Telephone:
Social Security No.: Driver's License No.:
Previous Street Address: Years there:
City: State: Zip:
Present Employer: Years there: Telephone:
Position or title: Name of supervisor:
Employer's Address:
Previous Employer: Years there:
Previous Employer's Address:
Present net salary or commission: \$ per No. Dependents: Ages:

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.

Alimony, child support, separate maintenance received under: court order [] written agreement [] oral understanding []

Other income: \$ per Source(s) of other income:

Is any income listed in this Section likely to be reduced in the next two years?

[] Yes (Explain in detail on a separate sheet.) [] No

Have you ever received credit from us? When? Office:

Checking Account No.: Institution and Branch:

Savings Account No.: Institution and Branch:

Name of nearest relative not living with you: Telephone:

Relationship: Address:

SECTION B—INFORMATION REGARDING JOINT APPLICANT, USER, OR OTHER PARTY (Use separate sheets if necessary.)

Full Name (Last, First, Middle): Birthdate: / /

Relationship to Applicant (if any): Years there:

Present Street Address: Years there:

City: State: Zip: Telephone:

Social Security No.: Driver's License No.:

Present Employer: Years there: Telephone:

Position or title: Name of supervisor:

Employer's Address: Years there:

Previous Employer: Years there:

Previous Employer's Address: Years there:

Present net salary or commission: \$ per No. Dependents: Ages:

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.

Alimony, child support, separate maintenance received under: court order [] written agreement [] oral understanding []

Other income: \$ per Source(s) of other income:

Is any income listed in this Section likely to be reduced in the next two years?

[] Yes (Explain in detail on a separate sheet.) [] No

Checking Account No.: Institution and Branch:

Savings Account No.: Institution and Branch:

Name of nearest relative not living with Joint Applicant, User, or Other Party: Telephone:

Relationship: Address:

SECTION C—MARITAL STATUS (Do not complete if this is an application for an individual account.)

Applicant: [] Married [] Separated [] Unmarried (including single, divorced, and widowed)

Other Party: [] Married [] Separated [] Unmarried (including single, divorced, and widowed)

SECTION D—ASSET AND DEBT INFORMATION (If Section B has been completed, this Section should be completed giving information about both the Applicant and Joint Applicant, User, or Other Person. Please mark Applicant-related information with an "A." If Section B was not completed, only give information about the Applicant in this Section.)

ASSETS OWNED (Use separate sheet if necessary.)

Description of Assets	Value	Subject to Debt? Yes/No	Name(s) of Owner(s)
Cash	\$		
Automobiles (Make, Model, Year)			
Cash Value of Life Insurance (Issuer, Face Value)			
Real Estate (Location, Date Acquired)			
Marketable Securities (Issuer, Type, No. of Shares)			
Other (List)			
Total Assets	\$		

OUTSTANDING DEBTS (Include charge accounts, instalment contracts, credit cards, rent, mortgages, etc. Use separate sheet if necessary.)

Creditor	Type of Debt or Acct. No.	Name in Which Acct. Carried	Original Debt	Present Balance	Monthly Payments	Past Due? Yes/No
1. (Landlord or Mortgage Holder)	<input type="checkbox"/> Rent Payment <input type="checkbox"/> Mortgage		\$ (Omit rent)	\$ (Omit rent)	\$	
2.						
3.						
4.						
5.						
6.						
Total Debts			\$	\$	\$	

(Credit References)

	Date Paid
1.	\$
2.	

Are you a co-maker, endorser, or guarantor on any loan or contract? Yes No If "yes" for whom? _____ To whom? _____

Are there any unsatisfied judgments against you? Yes No Amount \$ _____ If "yes" to whom owed? _____

Have you been declared bankrupt in the last 14 years? Yes No If "yes" where? _____ Year _____

Other Obligations—(E.g., liability to pay alimony, child support, separate maintenance. Use separate sheet if necessary.)

Everything that I have stated in this application is correct to the best of my knowledge. I understand that you will retain this application whether or not it is approved. You are authorized to check my credit and employment history and to answer questions about your credit experience with me.

Applicant's Signature _____ Date _____ Other Signature (Where Applicable) _____ Date _____

[Closed-end, secured credit]

CREDIT APPLICATION

IMPORTANT: Read these Directions before completing this Application.

- Check If you are applying for individual credit in your own name and are relying on your own income or assets
 Appropriate and not the income or assets of another person as the basis for repayment of the credit requested, complete
 Box Sections A, C, D, and E, omitting B and the second part of C.
 If this is an application for joint credit with another person, complete all Sections, providing information
 in B about the joint applicant.
 If you are applying for individual credit, but are relying on income from alimony, child support, or sepa-
 rate maintenance or on the income or assets of another person as the basis for repayment of the credit
 requested, complete all Sections to the extent possible, providing information in B about the person on
 whose alimony, support, or maintenance payments or income or assets you are relying.

Amount Requested _____ Payment Date Desired _____ Proceeds of Credit _____
 \$ _____ To be Used For _____

SECTION A—INFORMATION REGARDING APPLICANT

Full Name (Last, First, Middle): _____ Birthdate: / / _____
 Present Street Address: _____ Years there: _____
 City: _____ State: _____ Zip: _____ Telephone: _____
 Social Security No.: _____ Driver's License No.: _____
 Previous Street Address: _____ Years there: _____
 City: _____ State: _____ Zip: _____
 Present Employer _____ Years there: _____ Telephone: _____
 Position or title: _____ Name of supervisor: _____
 Employer's Address: _____
 Previous Employer: _____ Years there: _____
 Previous Employer's Address: _____
 Present net salary or commission: \$ _____ per _____ No. Dependents: _____ Ages: _____
**Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis
 for repaying this obligation.**
 Alimony, child support, separate maintenance received under: court order written agreement oral understanding
 Other income: \$ _____ per _____ Source(s) of other income: _____

Is any income listed in this Section likely to be reduced before the credit requested is paid off?
 Yes (Explain in detail on a separate sheet.) No
 Have you ever received credit from us? _____ When? _____ Office: _____
 Checking Account No. _____ Institution and Branch: _____
 Savings Account No. _____ Institution and Branch: _____
 Name of nearest relative not living with you: _____ Telephone: _____
 Relationship: _____ Address: _____

SECTION B—INFORMATION REGARDING JOINT APPLICANT OR OTHER PARTY (Use separate sheets if necessary.)

Full Name (Last, First, Middle): _____ Birthdate: / / _____
 Relationship to Applicant (if any): _____
 Present Street Address: _____ Years there: _____
 City: _____ State: _____ Zip: _____ Telephone: _____
 Social Security No.: _____ Driver's License No.: _____
 Present Employer: _____ Years there: _____ Telephone: _____
 Position or title: _____ Name of supervisor: _____
 Employer's Address: _____
 Previous Employer: _____ Years there: _____
 Previous Employer's Address: _____
 Present net salary or commission: \$ _____ per _____ No. Dependents: _____ Ages: _____
**Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis
 for repaying this obligation.**
 Alimony, child support, separate maintenance received under: court order written agreement oral understanding
 Other income: \$ _____ per _____ Source(s) of other income: _____

Is any income listed in this Section likely to be reduced before the credit requested is paid off?
 Yes (Explain in detail on a separate sheet.) No
 Checking Account No.: _____ Institution and Branch: _____
 Savings Account No.: _____ Institution and Branch: _____
 Name of nearest relative not living with Joint Applicant or Other Party: _____
 Relationship: _____ Address: _____

SECTION C—MARITAL STATUS

Applicant: Married Separated Unmarried (including single, divorced, and widowed)
 Other Party: Married Separated Unmarried (including single, divorced, and widowed)

SECTION D—ASSET AND DEBT INFORMATION (If Section B has been completed, this Section should be completed giving information about both the Applicant and Joint Applicant or Other Person. Please mark Applicant-related information with an "A." If Section B was not completed, only give information about the Applicant in this Section.)

ASSETS OWNED (Use separate sheet if necessary.)

Description of Assets	Value	Subject to Debt? Yes/No	Name(s) of Owner(s)
Cash	\$		
Automobiles (Make, Model, Year)			
Cash Value of Life Insurance (Issuer, Face Value)			
Real Estate (Location, Date Acquired)			
Marketable Securities (Issuer, Type, No. of Shares)			
Other (List)			
Total Assets	\$		

OUTSTANDING DEBTS (Include charge accounts, instalment contracts, credit cards, rent, mortgages, etc. Use separate sheet if necessary.)

Creditor	Type of Debt or Acct. No.	Name in Which Acct. Carried	Original Debt	Present Balance	Monthly Payments	Past Due? Yes/No
1. (Landlord or Mortgage Holder)	<input type="checkbox"/> Rent Payment <input type="checkbox"/> Mortgage		\$ (Omit rent)	\$ (Omit rent)	\$	
2.						
3.						
			\$	\$	\$	
Total Debts						

(Credit References)

1. _____ \$ _____ Date Paid _____

2. _____

Are you a co-maker, endorser, or guarantor on any loan or contract? Yes No If "yes" for whom? _____ To whom? _____

Are there any unsatisfied judgments against you? Yes No Amount \$ _____ If "yes" to whom owed? _____

Have you been declared bankrupt in the last 14 years? Yes No If "yes" where? _____ Year _____

Other obligations—(E.g., liability to pay alimony, child support, separate maintenance. Use separate sheet if necessary.)

SECTION E—SECURED CREDIT Briefly describe the property to be given as security:

and list names and addresses of all co-owners of the property:

Name	Address

If the security is real estate, give the full name of your spouse (if any):

Everything that I have stated in this application is correct to the best of my knowledge. I understand that you will retain this application whether or not it is approved. You are authorized to check my credit and employment history and to answer questions about your credit experience with me.

Applicant's Signature _____ Date _____ Other Signature (Where Applicable) _____ Date _____

[Closed-end, unsecured/secured credit]

CREDIT APPLICATION

IMPORTANT: Read these Directions before completing this Application.

Check Appropriate Box

- Three checkboxes with instructions regarding individual credit, joint credit, and credit secured by another person's income/assets.

Amount Requested Payment Date Desired Proceeds of Credit To be Used For

SECTION A—INFORMATION REGARDING APPLICANT

Full Name (Last, First, Middle): Birthdate: / / Present Street Address: Years there: City: State: Zip: Telephone: Social Security No.: Driver's License No.: Previous Street Address: Years there: City: State: Zip: Present Employer: Years there: Telephone: Position or title: Name of supervisor: Employer's Address: Previous Employer: Years there: Previous Employer's Address: Present net salary or commission: \$ per No. Dependents: Ages:

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.

Alimony, child support, separate maintenance received under: court order written agreement oral understanding Other income: \$ per Source(s) of other income:

Is any income listed in this Section likely to be reduced before the credit requested is paid off?

Yes (Explain in detail on separate sheet.) No

Have you ever received credit from us? When? Office

Checking Account No.: Institution and Branch:

Savings Account No.: Institution and Branch:

Name of nearest relative not living with you: Telephone:

Relationship: Address:

SECTION B—INFORMATION REGARDING JOINT APPLICANT OR OTHER PARTY (Use separate sheets if necessary.)

Full Name (Last, First, Middle): Birthdate: / /

Relationship to Applicant (if any):

Present Street Address: Years there:

City: State: Zip: Telephone:

Social Security No.: Driver's License No.:

Present Employer: Years there: Telephone:

Position or title: Name of supervisor:

Employer's Address:

Previous Employer: Years there:

Previous Employer's Address:

Present net salary or commission: \$ per No. Dependents: Ages:

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.

Alimony, child support, separate maintenance received under: court order written agreement oral understanding

Other income: \$ per Source(s) of other income:

Is any income listed in this Section likely to be reduced before the credit requested is paid off?

Yes (Explain in detail on separate sheet.) No

Checking Account No.: Institution and Branch:

Savings Account No.: Institution and Branch:

Name of nearest relative not living with Joint Applicant or Other Party: Telephone:

Relationship: Address:

SECTION C—MARITAL STATUS

(Do not complete if this is an application for individual unsecured credit.)

Applicant: Married Separated Unmarried (including single, divorced, and widowed)
 Other Party: Married Separated Unmarried (including single, divorced, and widowed)

SECTION D—ASSET AND DEBT INFORMATION (If Section B has been completed, this Section should be completed giving information about both the Applicant and Joint Applicant or Other Person. Please mark Applicant-related information with an "A." If Section B was not completed, only give information about the Applicant in this Section.)

ASSETS OWNED (Use separate sheet if necessary.)

Description of Assets	Value	Subject to Debt? Yes/No	Name(s) of Owner(s)
Cash	\$		
Automobiles (Make, Model, Year)			
Cash Value of Life Insurance (Issuer, Face Value)			
Real Estate (Location, Date Acquired)			
Marketable Securities (Issuer, Type, No. of Shares)			
Other (List)			
Total Assets	\$		

OUTSTANDING DEBTS (Include charge accounts, instalment contracts, credit cards, rent, mortgages, etc. Use separate sheet if necessary.)

Creditor	Type of Debt or Acct. No.	Name in Which Acct. Carried	Original Debt	Present Balance	Monthly Payments	Past Due? Yes No
1. (Landlord or Mortgage Holder)	<input type="checkbox"/> Rent Payment <input type="checkbox"/> Mortgage		\$(Omit rent)	\$(Omit rent)	\$	
2.						
3.						
Total Debts			\$	\$	\$	

(Credit References)

	Date Paid
1.	\$
2.	

Are you a co-maker, endorser, or guarantor on any loan or contract? Yes No If "Yes," for whom? To whom?

Are there any unsatisfied judgments against you? Yes No Amount \$ If "Yes," to whom owed?

Have you been declared bankrupt in the last 14 years? Yes No If "Yes," where? Year

Other obligations—(E.g., liability to pay alimony, child support, separate maintenance. Use separate sheet if necessary.)

SECTION E—SECURED CREDIT (Complete only if credit is to be secured.) Briefly describe the property to be given as security:

and list names and addresses of all co-owners of the property:

Name	Address

If the security is real estate, give the full name of your spouse (if any):

Everything that I have stated in this application is correct to the best of my knowledge. I understand that you will retain this application whether or not it is approved. You are authorized to check my credit and employment history and to answer questions about your credit experience with me.

Applicant's Signature _____ Date _____ Other Signature (Where Applicable) _____ Date _____

[Community property]

CREDIT APPLICATION

IMPORTANT: Read these Directions before completing this Application.

- Check Appropriate Box
If you are applying for individual credit in your own name, are not married, and are not relying on alimony, child support, or separate maintenance payments or on the income or assets of another person as the basis for repayment of the credit requested, complete only Sections A and D. If the requested credit is to be secured, also complete Section E.
In all other situations, complete all Sections except E, providing information in B about your spouse, a joint applicant or user, or the person on whose alimony, support, or maintenance payments or income or assets you are relying. If the requested credit is to be secured, also complete Section E.

Amount Requested \$
Payment Date Desired
Proceeds of Credit To be Used For

SECTION A—INFORMATION REGARDING APPLICANT

Full Name (Last, First, Middle): Birthdate: / /
Present Street Address: Years there:
City: State: Zip: Telephone:
Social Security No.: Driver's License No.:
Previous Street Address: Years there:
City: State: Zip:
Present Employer: Years there: Telephone:
Position or title: Name of supervisor:
Employer's Address:
Previous Employer: Years there:
Previous Employer's Address:

Present net salary or commission: \$ per No. Dependents: Ages:
Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.
Alimony, child support, separate maintenance received under: court order written agreement oral understanding

Other income: \$ per Source(s) of other income:
Is any income listed in this Section likely to be reduced in the next two years or before the credit requested is paid off?
Yes (Explain in detail on a separate sheet.) No

Have you ever received credit from us? When? Office:
Checking Account No.: Institution and Branch:
Savings Account No.: Institution and Branch:
Name of nearest relative not living with you Telephone:
Relationship: Address:

SECTION B—INFORMATION REGARDING SPOUSE, JOINT APPLICANT, USER, OR OTHER PARTY (Use separate sheets if necessary.)

Full Name (Last, First, Middle): Birthdate: / /
Relationship to Applicant (if any): Years there:
Present Street Address:
City: State: Zip: Telephone:
Social Security No.: Driver's License No.:
Present Employer: Years there: Telephone:
Position or title: Name of supervisor:
Employer's Address:
Previous Employer: Years there:
Previous Employer's Address:

Present net salary or commission: \$ per No. Dependents: Ages:
Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.
Alimony, child support, separate maintenance received under: court order written agreement oral understanding

Other income: \$ per Source(s) of other income:
Is any income listed in this Section likely to be reduced in the next two years or before the credit requested is paid off?
Yes (Explain in detail on a separate sheet.) No

Checking Account No.: Institution and Branch:
Savings Account No.: Institution and Branch:
Name of nearest relative not living with Spouse, Joint Applicant, User, or other Party Telephone:
Relationship: Address:

SECTION C—MARITAL STATUS

Applicant: Married Separated Unmarried (including single, divorced, and widowed)
 Other Party: Married Separated Unmarried (including single, divorced, widowed)

SECTION D—ASSET AND DEBT INFORMATION (If Section B has been completed, this Section should be completed giving information about both the Applicant and Spouse, Joint Applicant, User, or Other Person. Please mark Applicant-related information with an "A." If Section B was not completed, only give information about the Applicant in this Section.)

ASSETS OWNED (Use separate sheet if necessary.)

Description of Assets	Value	Subject to Debt? Yes/No	Name(s) of Owner(s)
Cash	\$		
Automobiles (Make, Model, Year)			
Cash Value of Life Insurance (Issuer, Face Value)			
Real Estate (Location, Date Acquired)			
Marketable Securities (Issuer, Type, No. of Shares)			
Other (List)			
Total Assets	\$		

OUTSTANDING DEBTS (include charge accounts, instalment contracts, credit cards, rent, mortgages, etc. Use separate sheet if necessary.)

Name of Creditor	Type of Debt or Acct. No.	Name in Which Acct. Carried	Original Debt	Present Balance	Monthly Payments	Past Due? Yes/No
1. (Landlord or Mortgage Holder)	<input type="checkbox"/> Rent Payment <input type="checkbox"/> Mortgage		\$(Omit rent)	\$(Omit rent)	\$	
2.						
3.						
Total Debts			\$	\$	\$	

(Credit References)

Date Paid

1.	\$	
2.		

Are you a co-maker, endorser, or guarantor on any loan or contract? Yes No If "yes," for whom? To whom?

Are there any unsatisfied judgments against you? Yes No Amount \$ If "yes," to whom owed?

Have you been declared bankrupt in the last 14 years? Yes No If "yes," where? Year

Other obligations—(E.g., Liability to pay alimony, child support, separate maintenance. Use separate sheet if necessary.)

SECTION E—SECURED CREDIT (Complete only if credit is to be secured.) Briefly describe the property to be given as security:

and list names and addresses of all co-owners of the property:

Name	Address

Everything that I have stated in this application is correct to the best of my knowledge. I understand that you will retain this application whether or not it is approved. You are authorized to check my credit and employment history and to answer questions about your credit experience with me.

Applicant's Signature _____ Date _____ Other Signature (Where Applicable) _____ Date _____

[Residential real estate mortgage loan]

RESIDENTIAL LOAN APPLICATION

MORTGAGE APPLIED FOR	<input type="checkbox"/> Conventional <input type="checkbox"/> FRIA	Amount \$ _____	Interest Rate % _____	No. of Months _____	Monthly Payment Principal & Interest _____	Escrow/Impounds (to be collected monthly) <input type="checkbox"/> Taxes <input type="checkbox"/> Hazard Ins. <input type="checkbox"/> Mig. Ins. <input type="checkbox"/>		
Prepayment Option _____								
SUBJECT PROPERTY	Property Street Address _____		City _____	County _____	State _____	Zip _____	No. Units _____	
	Legal Description (Attach description if necessary.) _____						Year Built _____	
	Purpose of Loan: <input type="checkbox"/> Purchase <input type="checkbox"/> Construction-Permanent <input type="checkbox"/> Construction <input type="checkbox"/> Refinance <input type="checkbox"/> Other (Explain) _____							
	Complete this line if Construction-Permanent or Construction Loan		Lot Value Data	Original Cost	Present Value (a)	Cost of Improv. (b)	Total (a + b)	ENTER TOTAL AS PURCHASE PRICE IN DETAILS OF THIS PURCHASE
	Year Acquired	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	
Complete this line if a Refinance Loan		Purpose of Refinance		Describe Improvements [] made [] to be made				
Year Acquired	Original Cost	Amt. Existing Liens					Cost: \$ _____	
Title Will Be Held in What Name(s)		Manner in Which Title Will Be Held						
Source of Down Payment and Settlement Charges _____								

This application is designed to be completed by the borrower(s) with the lender's assistance. The Co-Borrower Section and all other Co-Borrower questions must be completed and the appropriate boxes checked if another person will be jointly obligated with the Borrower on the loan, the Borrower is relying on income from alimony, child support, or separate maintenance or on the income or assets of another person as a basis for repayment of the loan, or the Borrower is married and resides, or the property is located, in a community property state.

2. BORROWER

3. CO-BORROWER

<p>Name _____ Age _____ School _____ Yrs. _____</p> <p>Present Address No. Years <input type="checkbox"/> Own <input type="checkbox"/> Rent _____</p> <p>Street _____</p> <p>City/State/Zip _____</p> <p>Former address if less than 2 years at present address</p> <p>Street _____</p> <p>City/State/Zip _____</p> <p>Years at former address <input type="checkbox"/> Own <input type="checkbox"/> Rent _____</p> <p>Marital <input type="checkbox"/> Married <input type="checkbox"/> Separated <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed</p> <p>Status <input type="checkbox"/> Unmarried (incl. single, divorced, widowed)</p> <p>Name and Address of Employer _____</p> <p>Years employed in this line of work or profession? _____ years</p> <p>Years on this job _____</p> <p><input type="checkbox"/> Self Employed</p> <p>Position/Title _____ Type of Business _____</p> <p>Social Security Number _____ Home Phone _____ Business Phone _____</p>	<p>Name _____ Age _____ School _____ Yrs. _____</p> <p>Present Address No. Years <input type="checkbox"/> Own <input type="checkbox"/> Rent _____</p> <p>Street _____</p> <p>City/State/Zip _____</p> <p>Former address if less than 2 years at present address</p> <p>Street _____</p> <p>City/State/Zip _____</p> <p>Years at former address <input type="checkbox"/> Own <input type="checkbox"/> Rent _____</p> <p>Marital <input type="checkbox"/> Married <input type="checkbox"/> Separated <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed</p> <p>Status <input type="checkbox"/> Unmarried (incl. single, divorced, widowed)</p> <p>Name and Address of Employer _____</p> <p>Years employed in this line of work or profession? _____ years</p> <p>Years on this job _____</p> <p><input type="checkbox"/> Self Employed</p> <p>Position/Title _____ Type of Business _____</p> <p>Social Security Number _____ Home Phone _____ Business Phone _____</p>
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4. GROSS MONTHLY INCOME

5. MONTHLY HOUSING EXPENSE

6. DETAILS OF PURCHASE

Item	Borrower	Co-Borrower	Total	Present*		Proposed
				\$	\$	
Base Empl. Income	\$	\$	\$		\$	a. Purchase Price \$
Overtime						b. Total Closing Costs (Est.)
Business						c. Pre-Paid Escrows (Est.)
Commissions						d. Total (a+b+c) \$
Dividends/Interest						e. Amount of Mortgage ()
Net Rental Income						f. Other Financing ()
Other† (Before completing, see notice under Describe Other Income below.)						g. Present Equity in Lot ()
						h. Amount of Cash Deposit ()
						i. Closing Costs Paid by Seller ()
Total	\$	\$	\$	\$	\$	j. Cash Req'd. For Closing (Est.) \$

7. DESCRIBE OTHER INCOME

<input type="checkbox"/> B-Borrower	<input type="checkbox"/> C-Co-Borrower	NOTICE: † Alimony, child support, or separate maintenance income need not be reported if the Borrower or Co-Borrower does not choose to have it considered as a basis for repaying this loan.	Monthly Amount \$ _____
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8. IF EMPLOYED IN CURRENT POSITION FOR LESS THAN TWO YEARS COMPLETE THE FOLLOWING

B/C	Previous Employer/School	City/State	Type of Business	Position/Title	Dates From/To	Monthly Income
						\$ _____

9. THESE QUESTIONS APPLY TO BOTH BORROWERS

<p>If a "yes" answer is given to a question in this column, explain on an attached sheet.</p> <p>Have you any outstanding judgments?</p> <p>In the last 14 years, have you been bankrupt? Have you had property foreclosed upon or given title or a deed in lieu thereof?</p> <p>Are you a co-maker or endorser on a note?</p> <p>Are you a party in a law suit? Are you obligated to pay alimony, child support, or separate maintenance?</p> <p>Is any part of the down payment borrowed?</p>	<p>Borrower Yes/No Co-Borrower Yes/No</p> <p>Do you have health and accident insurance?</p> <p>Do you have major medical coverage?</p> <p>Do you intend to occupy the property?</p> <p>Will this property be your primary residence?</p> <p>Have you previously owned a home?</p> <p>Sale price of previously owned home \$ _____ \$ _____</p>	<p>Borrower Yes/No Co-Borrower Yes/No</p>
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* All Present Monthly Housing Expenses of the Borrower and Co-Borrower should be listed on a combined basis.

APPENDIX C—Sample Notification Forms

This appendix contains eight sample notification forms. Forms C-1 through C-4 are intended for use in notifying an applicant that adverse action has been taken on an application or account under section 202.9(a)(1) and (2)(i) of this regulation. Form C-5 is a notice of disclosure of the right to request specific reasons for adverse action under section 202.9(a)(1) and (2)(ii). Form C-6 is designed for use in notifying an applicant, under section 202.9(c)(2), that an application is incomplete. Forms C-7 and C-8 are intended for use in connection with applications for business credit under section 202.9(a)(3).

Form C-1 contains the Fair Credit Reporting Act disclosure as required by sections 615(a) and (b) of that act. Forms C-2 through C-5 contain only the section 615(a) disclosure (that a creditor obtained information from a consumer reporting agency that played a part in the credit decision). A creditor must provide the section 615(b) disclosure (that a creditor obtained information from an outside source other than a consumer reporting agency that played a part in the credit decision) where appropriate.

The sample forms are illustrative and may not be appropriate for all creditors. They were designed to include some of the factors that creditors most commonly consider. If a creditor chooses to use the checklist of reasons provided in one of the sample forms in this appendix and if reasons commonly used by the creditor are not provided on the form, the creditor should modify the checklist by substituting or adding other reasons. For example, if "inadequate downpayment" or "no deposit relationship with us" are common reasons for taking adverse action on an application, the creditor ought to add or substitute such reasons for those presently contained on the sample forms.

If the reasons listed on the forms are not the factors actually used, a creditor will not satisfy the notice requirement by simply checking the closest identifiable factor listed. For example, some creditors consider only references from banks or other depository institutions and disregard finance company ref-

erences altogether; their statement of reasons should disclose "insufficient bank references," not "insufficient credit references." Similarly, a creditor that considers bank references and other credit references as distinct factors should treat the two factors separately and disclose them as appropriate. The creditor should either add such other factors to the form or check "other" and include the appropriate explanation. The creditor need not, however, describe how or why a factor adversely affected the application. For example, the notice may say "length of residence" rather than "too short a period of residence."

A creditor may design its own notification forms or use all or a portion of the forms contained in this appendix. Proper use of Forms C-1 through C-4 will satisfy the requirement of section 202.9(a)(2)(i). Proper use of Forms C-5 and C-6 constitutes full compliance with sections 202.9(a)(2)(ii) and 202.9(c)(2), respectively. Proper use of Forms C-7 and C-8 will satisfy the requirements of section 202.9(a)(2)(i) and (ii), respectively, for applications for business credit.

Form C-1—Sample Notice of Action Taken and Statement of Reasons

Statement of Credit Denial, Termination,
or Change

Date

Applicant's Name: _____

Applicant's Address: _____

Description of Account, Transaction, or Requested Credit:

Description of Action Taken:

Part I—PRINCIPAL REASON(S) FOR CREDIT DENIAL, TERMINATION, OR OTHER ACTION TAKEN CONCERNING CREDIT. This section must be completed in all instances.

— Credit application incomplete

- Insufficient number of credit references provided
- Unacceptable type of credit references provided
- Unable to verify credit references
- Temporary or irregular employment
- Unable to verify employment
- Length of employment
- Income insufficient for amount of credit requested
- Excessive obligations in relation to income
- Unable to verify income
- Length of residence
- Temporary residence
- Unable to verify residence
- No credit file
- Limited credit experience
- Poor credit performance with us
- Delinquent past or present credit obligations with others
- Garnishment, attachment, foreclosure, repossession, collection action, or judgment
- Bankruptcy
- Value or type of collateral not sufficient
- Other, specify: _____

Part II—DISCLOSURE OF USE OF INFORMATION OBTAINED FROM AN OUTSIDE SOURCE. This section should be completed if the credit decision was based in whole or in part on information that has been obtained from an outside source.

- Our credit decision was based in whole or in part on information obtained in a report from the consumer reporting agency listed below. You have a right under the Fair Credit Reporting Act to know the information contained in your credit file at the consumer reporting agency. The reporting agency played no part in our decision and is unable to supply specific reasons why we have denied credit to you.

Name: _____

Address: _____

Telephone number: _____

- Our credit decision was based in whole or in part on information obtained from an outside source other than a consumer reporting agency. Under the Fair Credit Reporting Act, you have the right to make a written request, no later than 60 days after you receive this notice, for disclosure of the nature of this information.

If you have any questions regarding this notice, you should contact:

Creditor's name: _____

Creditor's address: _____

Creditor's telephone number: _____

NOTICE: The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is (name and address as specified by the appropriate agency listed in appendix A).

Form C-2—Sample Notice of Action Taken and Statement of Reasons

Date

Dear Applicant:

Thank you for your recent application. Your request for [a loan/a credit card/an increase in your credit limit] was carefully considered, and we regret that we are unable to approve your application at this time, for the following reason(s):

Your Income:

is below our minimum requirement.

is insufficient to sustain payments on the amount of credit requested.

could not be verified.

Your Employment:

- is not of sufficient length to qualify.
 could not be verified.

Your Credit History:

- of making payments on time was not satisfactory.
 could not be verified.

Your Application:

- lacks a sufficient number of credit references.
 lacks acceptable types of credit references.
 reveals that current obligations are excessive in relation to income.

Other: _____

The consumer reporting agency contacted that provided information that influenced our decision in whole or in part was [name, address and telephone number of the reporting agency]. The reporting agency is unable to supply specific reasons why we have denied credit to you. You do, however, have a right under the Fair Credit Reporting Act to know the information contained in your credit file. Any questions regarding such information should be directed to [consumer reporting agency].

If you have any questions regarding this letter you should contact us at [creditor's name, address and telephone number].

NOTICE: The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is (name and address as specified by the appropriate agency listed in appendix A).

Form C-3—Sample Notice of Action Taken and Statement of Reasons (Credit Scoring)

Date _____

Dear Applicant:

Thank you for your recent application for _____. We regret that we are unable to approve your request.

Your application was processed by a credit scoring system that assigns a numerical value to the various items of information we consider in evaluating an application. These numerical values are based upon the results of analyses of repayment histories of large numbers of customers.

The information you provided in your application did not score a sufficient number of points for approval of the application. The reasons you did not score well compared with other applicants were:

- Insufficient bank references
- Type of occupation
- Insufficient credit experience

In evaluating your application the consumer reporting agency listed below provided us with information that in whole or in part influenced our decision. The reporting agency played no part in our decision other than providing us with credit information about you. Under the Fair Credit Reporting Act, you have a right to know the information provided to us. It can be obtained by contacting: [name, address, and telephone number of the consumer reporting agency].

If you have any questions regarding this letter, you should contact us at

Creditor's Name: _____

Address: _____

Telephone: _____

Sincerely,

NOTICE: The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (with certain limited exceptions); because all or part of the applicant's

income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is (name and address as specified by the appropriate agency listed in appendix A).

Form C-4—Sample Notice of Action Taken, Statement of Reasons, and Counteroffer

Date _____

Dear Applicant:

Thank you for your application for _____. We are unable to offer you credit on the terms that you requested for the following reason(s): _____

We can, however, offer you credit on the following terms: _____

If this offer is acceptable to you, please notify us within [amount of time] at the following address: _____

Our credit decision on your application was based in whole or in part on information obtained in a report from [name, address and telephone number of the consumer reporting agency]. You have a right under the Fair Credit Reporting Act to know the information contained in your credit file at the consumer reporting agency.

You should know that the federal Equal Credit Opportunity Act prohibits creditors, such as ourselves, from discriminating against credit applicants on the basis of their race, color, religion, national origin, sex, marital status, age because they receive income from a public assistance program, or because they may have exercised their rights under the Consumer Credit Protection Act. If you believe there has been discrimination in handling your application you should contact the [name and address of the appropriate federal enforcement agency listed in appendix A].

Sincerely,

Form C-5—Sample Disclosure of Right to Request Specific Reasons for Credit Denial

Date _____

Dear Applicant:

Thank you for applying to us for _____.

After carefully reviewing your application, we are sorry to advise you that we cannot [open an account for you/grant a loan to you/increase your credit limit] at this time.

If you would like a statement of specific reasons why your application was denied, please contact [our credit service manager] shown below within 60 days of the date of this letter. We will provide you with the statement of reasons within 30 days after receiving your request.

Creditor's Name

Address

Telephone number

If we obtained information from a consumer reporting agency as part of our consideration of your application, its name, address, and telephone number is shown below. You can find out about the information contained in your file (if one was used) by contacting:

Consumer reporting agency's name

Address

Telephone number

Sincerely,

NOTICE: The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is (name and address as specified by the appropriate agency listed in appendix A).

FORM C-6—Sample Notice of Incomplete Application and Request for Additional Information

Creditor's name
Address
Telephone number

Date

Dear Applicant:

Thank you for your application for credit. The following information is needed to make a decision on your application: _____

We need to receive this information by _____ (date). If we do not receive it by that date, we will regrettably be unable to give further consideration to your credit request.

Sincerely,

FORM C-7—Sample Notice of Action Taken and Statement of Reasons (Business Credit)

Creditor's Name
Creditor's address

Date

Dear Applicant:

Thank you for applying to us for credit. We have given your request careful consideration, and regret that we are unable to extend credit to you at this time for the following reasons:

[Insert appropriate reason, such as
Value or type of collateral not sufficient
Lack of established earnings record
Slow or past due in trade or loan payments]

Sincerely,

NOTICE: The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning

this creditor is [name and address as specified by the appropriate agency listed in appendix A].

FORM C-8—Sample Disclosure of Right to Request Specific Reasons for Credit Denial Given at Time of Application (Business Credit)

Creditor's name
Creditor's address

If your application for business credit is denied, you have the right to a written statement of the specific reasons for the denial. To obtain the statement, please contact [name, address and telephone number of the person or office from which the statement of reasons can be obtained] within 60 days from the date you are notified of our decision. We will send you a written statement of reasons for the denial within 30 days of receiving your request for the statement.

NOTICE: The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is [name and address as specified by the appropriate agency listed in appendix A].

APPENDIX D—Issuance of Staff Interpretations

Official Staff Interpretations

Officials in the Board's Division of Consumer and Community Affairs are authorized to issue official staff interpretations of this regulation. These interpretations provide the protection afforded under section 706(e) of the act. Except in unusual circumstances, such interpretations will not be issued separately but

will be incorporated in an official commentary to the regulation, which will be amended periodically.

Requests for Issuance of Official Staff Interpretations

A request for an official staff interpretation should be in writing and addressed to the Director, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

The request should contain a complete statement of all relevant facts concerning the issue, including copies of all pertinent documents.

Scope of Interpretations

No staff interpretations will be issued approving creditors' forms or statements. This restriction does not apply to forms or statements whose use is required or sanctioned by a government agency.

Equal Credit Opportunity Act

15 USC 1691; as added by Pub. L. 93-495, Title V, 88 Stat. 1521 (October 28, 1974)

PUBLIC LAW 93-495, TITLE V

Section

- 502 Findings and purpose
- 503 Amendment to the Consumer Credit Protection Act

- 705 Relation to State laws
- 706 Civil liability
- 707 Annual reports to Congress
- 708 Effective date
- 709 Short title

SECTION 502—Findings and Purpose

The Congress finds that there is a need to insure that the various financial institutions and other firms engaged in the extensions of credit exercise their responsibility to make credit available with fairness, impartiality, and without discrimination on the basis of sex or marital status. Economic stabilization would be enhanced and competition among the various financial institutions and other firms engaged in the extension of credit would be strengthened by an absence of discrimination on the basis of sex or marital status, as well as by the informed use of credit which Congress has heretofore sought to promote. It is the purpose of this Act to require that financial institutions and other firms engaged in the extension of credit make that credit equally available to all creditworthy customers without regard to sex or marital status.

[15 USC 1691 note.]

SECTION 503—Amendment to the Consumer Credit Protection Act

The Consumer Credit Protection Act (Public Law 90-321) is amended by adding at the end thereof a new title VII:

TITLE VII—EQUAL CREDIT OPPORTUNITY

Section

- 701 Prohibited discrimination; reasons for adverse action
- 702 Definitions
- 703 Regulations
- 704 Administrative enforcement

SECTION 701—Prohibited Discrimination; Reasons for Adverse Action*

(a) It shall be unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction—

- (1) on the basis of race, color, religion, national origin, sex or marital status, or age (provided the applicant has the capacity to contract);
- (2) because all or part of the applicant's income derives from any public assistance program; or
- (3) because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

(b) It shall not constitute discrimination for purposes of this title for a creditor—

- (1) to make an inquiry of marital status if such inquiry is for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit and not to discriminate in a determination of creditworthiness;
- (2) to make an inquiry of the applicant's age or of whether the applicant's income derives from any public assistance program if such inquiry is for the purpose of determining the amount and probable continuance of income levels, credit history, or other pertinent element of creditworthiness as provided in regulations of the Board;
- (3) to use any empirically derived credit system which considers age if such system is demonstrably and statistically sound in accordance with regulations of the Board, except that in the operation of such system

* Effective date for amendments to section 701 is March 23, 1977. All other amendments are effective upon enactment.

the age of an elderly applicant may not be assigned a negative factor or value; or

(4) to make an inquiry or to consider the age of an elderly applicant when the age of such applicant is to be used by the creditor in the extension of credit in favor of such applicant.

(c) It is not a violation of this section for a creditor to refuse to extend credit offered pursuant to—

- (1) any credit assistance program expressly authorized by law for an economically disadvantaged class of persons;
- (2) any credit assistance program administered by a nonprofit organization for its members or an economically disadvantaged class of persons; or
- (3) any special purpose credit program offered by a profitmaking organization to meet special social needs which meets standards prescribed in regulations by the Board;

if such refusal is required by or made pursuant to such program.

(d)(1) Within thirty days (or such longer reasonable time as specified in regulations of the Board for any class of credit transaction) after receipt of a completed application for credit, a creditor shall notify the applicant of its action on the application.

(2) Each applicant against whom adverse action is taken shall be entitled to a statement of reasons for such action from the creditor. A creditor satisfies this obligation by—

(A) providing statements of reasons in writing as a matter of course to applicants against whom adverse action is taken; or

(B) giving written notification of adverse action which discloses (i) the applicant's right to a statement of reasons within thirty days after receipt by the creditor of a request made within sixty days after such notification, and (ii) the identity of the person or office from which such statement may be obtained. Such statement may be given orally if the written notification advises the applicant of his right to have the statement of rea-

sons confirmed in writing on written request.

(3) A statement of reasons meets the requirements of this section only if it contains the specific reasons for the adverse action taken.

(4) Where a creditor has been requested by a third party to make a specific extension of credit directly or indirectly to an applicant, the notification and statement of reasons required by this subsection may be made directly by such creditor, or indirectly through the third party, provided in either case that the identity of the creditor is disclosed.

(5) The requirements of paragraph (2), (3), or (4) may be satisfied by verbal statements or notifications in the case of any creditor who did not act on more than 150 applications during the calendar year preceding the calendar year in which the adverse action is taken, as determined under regulations of the Board.

(6) For purposes of this subsection, the term "adverse action" means a denial or revocation of credit, a change in the terms of an existing credit arrangement, or a refusal to grant credit in substantially the amount or on substantially the terms requested. Such term does not include a refusal to extend additional credit under an existing credit arrangement where the applicant is delinquent or otherwise in default, or where such additional credit would exceed a previously established credit limit.

[15 USC 1691. As amended by act of March 23, 1976 (90 Stat. 251).]

SECTION 702—Definitions

(a) The definitions and rules of construction set forth in this section are applicable for the purposes of this title.

(b) The term "applicant" means any person who applies to a creditor directly for an extension, renewal, or continuation of credit, or applies to a creditor indirectly by use of an existing credit plan for an amount exceeding a previously established credit limit.

(c) The term "Board" refers to the Board of Governors of the Federal Reserve System.

(d) The term "credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment or to purchase property or services and defer payment therefor.

(e) The term "creditor" means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit.

(f) The term "person" means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

(g) Any reference to any requirement imposed under this title or any provision thereof includes reference to the regulations of the Board under this title or the provision thereof in question.

[15 USC 1691a.]

SECTION 703—Regulations

(a)(1) The Board shall prescribe regulations to carry out the purposes of this title. These regulations may contain but are not limited to such classifications, differentiation, or other provision, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate or substantiate compliance therewith.

(2) Such regulations may exempt from the provisions of this title any class of transactions that are not primarily for personal, family, or household purposes, or business or commercial loans made available by a financial institution, except that a particular type within a class of such transactions may be exempted if the Board determines, after making an express finding that the applica-

tion of this title or of any provision of this title of such transaction would not contribute substantially to effecting the purposes of this title.

(3) An exemption granted pursuant to paragraph (2) shall be for no longer than five years and shall be extended only if the Board makes a subsequent determination, in the manner described by such paragraph, that such exemption remains appropriate.

(4) Pursuant to Board regulations, entities making business or commercial loans shall maintain such records or other data relating to such loans as may be necessary to evidence compliance with this subsection or enforce any action pursuant to the authority of this Act. In no event shall such records or data be maintained for a period of less than one year. The Board shall promulgate regulations to implement this paragraph in the manner prescribed by chapter 5 of title 5, United States Code.

(5) The Board shall provide in regulations that an applicant for a business or commercial loan shall be provided a written notice of such applicant's right to receive a written statement of the reasons for the denial of such loan.

(b) The Board shall establish a Consumer Advisory Council to advise and consult with it in the exercise of its functions under the Consumer Credit Protection Act and to advise and consult with it concerning other consumer related matters it may place before the Council. In appointing the members of the Council, the Board shall seek to achieve a fair representation of the interests of creditors and consumers. The Council shall meet from time to time at the call of the Board. Members of the Council who are not regular full-time employees of the United States shall, while attending meetings of such Council, be entitled to receive compensation at a rate fixed by the Board, but not exceeding \$100 per day, including travel time. Such members may be allowed travel expenses, including transportation and subsistence, while away from their homes or regular place of business.

[15 USC 1691b. As amended by acts of March 23, 1976 (90 Stat. 252) and Oct. 25, 1988 (102 Stat. 2692).]

SECTION 704—Administrative Enforcement

(a) Compliance with the requirements imposed under this title shall be enforced under:

(1) Section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation.

(2) Section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation.

(3) The Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal Credit Union.

(4) The Acts to regulate commerce, by the Interstate Commerce Commission with respect to any common carrier subject to those Acts.

(5) The Federal Aviation Act of 1958, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that Act.

(6) The Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

(7) The Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, and production credit association.

(8) The Securities Exchange Act of 1934, by the Securities and Exchange Commission with respect to brokers and dealers; and

(9) The Small Business Investment Act of 1958, by the Small Business Administration, with respect to small business investment companies.

(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law. The exercise of the authorities of any of the agencies referred to in subsection (a) for the purpose of enforcing compliance with any requirement imposed under this title shall in no way preclude the exercise of such authorities for the purpose of enforcing compliance with any other provision of law not relating to the prohibition of discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction.

(c) Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act, including the power to enforce any Federal Reserve Board regulation promulgated under this title in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.

(d) The authority of the Board to issue regulations under this title does not impair the authority of any other agency designated in this

section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this title.

[15 USC 1691c. As amended by acts of March 23, 1976 (90 Stat. 253); Oct. 3, 1984 (98 Stat. 1708); and Aug. 9, 1989 (103 Stat. 439).]

SECTION 705—Relation to State Laws

(a) A request for the signature of both parties to a marriage for the purpose of creating a valid lien, passing clear title, waiving inchoate rights to property, or assigning earnings, shall not constitute discrimination under this title. *Provided, however,* That this provision shall not be construed to permit a creditor to take sex or marital status into account in connection with the evaluation of creditworthiness of any applicant.

(b) Consideration or application of State property laws directly or indirectly affecting creditworthiness shall not constitute discrimination for purposes of this title.

(c) Any provision of State law which prohibits the separate extension of consumer credit to each party to a marriage shall not apply in any case where each party to a marriage voluntarily applies for separate credit from the same creditor: *Provided,* That in any case where such a State law is so preempted, each party to the marriage shall be solely responsible for the debt so contracted.

(d) When each party to a marriage separately and voluntarily applies for and obtains separate credit accounts with the same creditor, those accounts shall not be aggregated or otherwise combined for purposes of determining permissible finance charges or permissible loan ceilings under the laws of any State or of the United States.

(e) Where the same act or omission constitutes a violation of this title and of applicable State law, a person aggrieved by such conduct may bring a legal action to recover monetary damages either under this title or under such State law, but not both. This election of remedies shall not apply to court actions in which the relief sought does not include monetary damages or to administrative actions.

(f) This title does not annul, alter, or affect, or exempt any person subject to the provisions of this title from complying with, the laws of any State with respect to credit discrimination, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board may not determine that any State law is inconsistent with any provision of this title if the Board determines that such law gives greater protection to the applicant.

(g) The Board shall by regulation exempt from the requirements of sections 701 and 702 of this title any class of credit transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this title or that such law gives greater protection to the applicant, and that there is adequate provision for enforcement. Failure to comply with any requirement of such State law in any transaction so exempted shall constitute a violation of this title for the purposes of section 706.

[15 USC 1691d. As amended by act of March 23, 1976 (90 Stat. 253).]

SECTION 706—Civil Liability

(a) Any creditor who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant for any actual damages sustained by such applicant acting either in an individual capacity or as a member of a class.

(b) Any creditor, other than a government or governmental subdivision or agency, who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant for punitive damages in an amount not greater than \$10,000, in addition to any actual damages provided in subsection (a), except that in the case of a class action the total recovery under this subsection shall not exceed the lesser of \$500,000 or 1 per centum of the net worth of the creditor. In determining the amount of such damages in any action, the court shall consider, among other relevant

factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.

(c) Upon application by an aggrieved applicant, the appropriate United States district court or any other court of competent jurisdiction may grant such equitable and declaratory relief as is necessary to enforce the requirements imposed under this title.

(d) In the case of any successful action under subsection (a), (b), or (c), the costs of the action, together with a reasonable attorney's fee as determined by the court, shall be added to any damages awarded by the court under such subsection.

(e) No provision of this title imposing any liability shall apply to any act done or omitted in good faith in conformity with any official rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) Any action under this section may be brought in the appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction. No such action shall be brought later than two years from the date of the occurrence of the violation, except that—

(1) whenever any agency having responsibility for administrative enforcement under section 704 commences an enforcement proceeding within two years from the date of the occurrence of the violation,

(2) whenever the Attorney General commences a civil action under this section within two years from the date of occurrence of the violation,

then any applicant who has been a victim of the discrimination which is the subject of such proceeding or civil action may bring an action under this section not later than one year after the commencement of that proceeding or action.

(g) The agencies having responsibility for administrative enforcement under section 704, if unable to obtain compliance with section 701, are authorized to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted.

(h) When a matter is referred to the Attorney General pursuant to subsection (g), or whenever he has reason to believe that one or more creditors are engaged in a pattern or practice in violation of this title, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(i) No person aggrieved by a violation of this title and by a violation of section 805 of the Civil Rights Act of 1968 shall recover under this title and section 812 of the Civil Rights Act of 1968, if such violation is based on the same transaction.

(j) Nothing in this title shall be construed to prohibit the discovery of a creditor's credit granting standards under appropriate discovery procedures in the court or agency in which an action or proceeding is brought.

[15 USC 1691e. As amended by act of March 23, 1976 (90 Stat. 253).]

SECTION 707—Annual Reports to Congress

Each year, the Board and the Attorney General shall, respectively, make reports to the Congress concerning the administration of their functions under this title, including such recommendations as the Board and the Attorney General, respectively, deem necessary or appropriate. In addition, each report of the Board shall include its assessment of the extent to which compliance with the requirements of this title is being achieved, and a summary of the enforcement actions taken by

each of the agencies assigned administrative enforcement responsibilities under section 704.

[15 USC 1691f. As added by act of March 23, 1976 (90 Stat. 255) and amended by act of March 31, 1980 (94 Stat. 174).]

SECTION 708—Effective Date

This title takes effect upon the expiration of one year after the date of its enactment. The amendments made by the Equal Credit Opportunity Act Amendments of 1976 shall take effect on the date of enactment thereof and

shall apply to any violation occurring on or after such date, except that the amendments made to section 701 of the Equal Credit Opportunity Act shall take effect 12 months after the date of enactment.

[15 USC 1691 note.]

SECTION 709—Short Title

This title may be cited as the “Equal Credit Opportunity Act.”

[15 USC 1691 note.]

St. Louis, Mo. 10339 (6)

Regulation C Home Mortgage Disclosure

12 CFR 203; as amended effective January 1, 1990



Any inquiry relating to this regulation should be addressed to the Federal Reserve Bank of the District in which the inquiry arises.

February 1990

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Regulation C

Home Mortgage Disclosure

12 CFR 203*; as revised effective January 1, 1990

Section

- 203.1 Authority, purpose, and scope
- 203.2 Definitions
- 203.3 Exempt institutions
- 203.4 Compilation of loan data
- 203.5 Disclosure and reporting
- 203.6 Enforcement

Appendix A—Form and instructions for loan/application register

Appendix B—Form and instructions for data collection on race or national origin and sex

SECTION 203.1—Authority, Purpose, and Scope

(a) *Authority.* This regulation is issued by the Board of Governors of the Federal Reserve System ("Board") pursuant to the Home Mortgage Disclosure Act (12 USC 2801 et seq.), as amended. The information-collection requirements have been approved by the U.S. Office of Management and Budget under 44 USC 3501 et seq. and have been assigned OMB No. 7100-0247.

(b) *Purpose.* (1) This regulation implements the Home Mortgage Disclosure Act, which is intended to provide the public with loan data that can be used—

- (i) to help determine whether financial institutions are serving the housing needs of their communities;
- (ii) to assist public officials in distributing public-sector investments so as to attract private investment to areas where it is needed; and
- (iii) to assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.

(2) Neither the act nor this regulation is intended to encourage unsound lending practices or the allocation of credit.

(c) *Scope.* This regulation applies to certain financial institutions, including banks, saving

associations, credit unions, and other mortgage lending institutions, as defined in section 203.2(e). It requires an institution to report data to its supervisory agency about home-purchase and home-improvement loans it originates or purchases, or for which it receives applications; and to disclose certain data to the public.

(d) *Loan aggregation and central data depositories.* Using the loan data made available by financial institutions, the Federal Financial Institutions Examination Council will prepare disclosure statements and will produce various reports for individual institutions for each metropolitan statistical area (MSA), showing lending patterns by location, age of housing stock, income level, sex, and racial characteristics. The disclosure statements and reports will be available to the public at central data depositories located in each MSA. A listing of central data depositories can be obtained from the Federal Financial Institutions Examination Council, Washington, D.C. 20006.

SECTION 203.2—Definitions

In this regulation—

(a) *Act* means the Home Mortgage Disclosure Act (12 USC 2801 et seq.), as amended.

(b) *Application* means an oral or written request for a home-purchase or home-improvement loan that is made in accordance with procedures established by a financial institution for the type of credit requested.

(c) *Branch office* means—

- (1) any office of a bank, savings association, or credit union that is approved as a branch by a federal or state supervisory agency, but excludes free-standing electronic terminals such as automated teller machines;
- (2) any office of a mortgage-lending institution (other than a bank, savings associa-

* Code of Federal Regulations, title 12, chapter II, part 203.

tion, or credit union) that takes applications from the public for home-purchase or home-improvement loans. A mortgage-lending institution is also deemed to have a branch office in an MSA if, in the preceding calendar year, it received applications for, originated, or purchased five or more home-purchase or home-improvement loans on property located in that MSA.

(d) *Dwelling* means a residential structure (whether or not it is attached to real property) located in a state of the United States of America, the District of Columbia, or the Commonwealth of Puerto Rico. The term includes an individual condominium unit, cooperative unit, or mobile or manufactured home.

(e) *Financial institution* means—

(1) a bank, savings association, or credit union that originated in the preceding calendar year a home-purchase loan (other than temporary financing such as a construction loan) secured by a first lien on a one- to four-family dwelling if—

(i) the institution is federally insured or regulated; or

(ii) the loan is insured, guaranteed, or supplemented by any federal agency; or

(iii) the institution intended to sell the loan to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation;

(2) a for-profit mortgage-lending institution (other than a bank, savings association, or credit union) whose home-purchase loan originations equaled or exceeded 10 percent of its loan volume, measured in dollars, in the preceding calendar year.

(f) *Home-improvement loan* means any loan that—

(1) is stated by the borrower (at the time of the loan application) to be for the purpose of repairing, rehabilitating, or remodeling a dwelling; and

(2) is classified by the financial institution as a home-improvement loan.

(g) *Home-purchase loan* means any loan secured by and made for the purpose of purchasing a dwelling.

(h) *Metropolitan statistical area or MSA*

means a metropolitan statistical area or a primary metropolitan statistical area, as defined by the U.S. Office of Management and Budget.

SECTION 203.3—Exempt Institutions

(a) *Exemption based on asset size or location.*

A financial institution is exempt from the requirements of this regulation for a given calendar year if on the preceding December 31—

(1) the institution had neither a home office nor a branch office in an MSA; or

(2) in the case of a bank, savings association, or credit union, the institution's total assets were \$10 million or less; or

(3) in the case of a for-profit mortgage-lending institution (other than a bank, savings association, or credit union), the total assets of the institution combined with those of any parent corporation were \$10 million or less.

(b) *Exemption based on state law.* (1) A state-chartered or state-licensed financial institution is exempt from the requirements of this regulation if the Board determines that the institution is subject to a state disclosure law that contains requirements substantially similar to those imposed by this regulation and contains adequate provisions for enforcement.

(2) Any state, state-chartered, or state-licensed financial institution, or association of such institutions may apply to the Board for any exemption under this paragraph.

(3) An institution that is exempt under this paragraph shall submit the data required by the state disclosure law to its state supervisory agency for purposes of aggregation.

(c) *Loss of exemption.* (1) An institution losing an exemption that was based on asset size or location under paragraph (a) of this section shall comply with this regulation beginning with the calendar year following the year in which it lost its exemption.

(2) An institution losing an exemption that was based on state law under paragraph (b) of this section shall comply with this regulation beginning with the calendar

year following the year for which it last reported loan data under the state disclosure law.

SECTION 203.4—Compilation of Loan Data

(a) *Data format and itemization.* A financial institution shall collect data regarding applications for, and originations and purchases of, home-purchase loans (including refinancings) and home-improvement loans for each calendar year. These data shall be presented on a register in the format prescribed in appendix A and shall include the following items:

- (1) A number for the loan or loan application, and the date the application was received.
- (2) The type and purpose of the loan.
- (3) The owner-occupancy status of the property to which the loan relates.
- (4) The amount of the loan or application.
- (5) The type of action taken, and the date.
- (6) The location of the property to which the loan relates, by MSA, state, county, and census tract, if the institution has a home or branch office in that MSA.
- (7) The race or national origin and sex of the applicant or borrower, and the income relied upon in processing the loan application.
- (8) The type of entity purchasing a loan that the institution originates or purchases and then sells within the same calendar year.

(b) *Collection of data on race or national origin, sex, and income.*

- (1) A financial institution shall collect data about the race or national origin and sex of the applicant or borrower as prescribed in appendix B. If the applicant or borrower chooses not to provide the information, the lender shall note the data on the basis of visual observation or surname, to the extent possible.
- (2) Race or national origin, sex, and income data may but need not be collected for—
 - (i) loans purchased by the financial institution; or
 - (ii) applications received or loans origi-

nated by a bank, savings association, or credit union with assets on the preceding December 31 of \$30 million or less.

(c) *Optional data.* A financial institution may report the reasons it denied a loan application.

(d) *Excluded data.* A financial institution shall not report—

- (1) loans originated or purchased by the financial institution acting in a fiduciary capacity (such as trustee);
- (2) loans on unimproved land;
- (3) temporary financing (such as bridge or construction loans);
- (4) the purchase of an interest in a pool of loans (such as mortgage-participation certificates); or
- (5) the purchase solely of the right to service loans.

SECTION 203.5—Disclosure and Reporting

(a) *Reporting requirements.* By March 1 following the calendar year for which the loan data are compiled, a financial institution shall send two copies of its complete register to the agency office specified in appendix A of this regulation, and shall retain a copy for its records for a period of not less than two years.

(b) *Disclosure to the public.* A financial institution shall make its mortgage-loan disclosure statement (to be prepared by the Federal Financial Institutions Examination Council) available to the public no later than 30 calendar days after the institution receives it from its supervisory agency. The financial institution shall make the statement available to the public for a period of five years.

(c) *Availability of disclosure statement.* A financial institution shall make the disclosure statement available at its home office. If it has a physical branch office in other MSAs, it shall also make a statement available in at least one branch office in each of those MSAs; the statement at a branch office need only contain data relating to property in the MSA where that branch office is located. An institution shall make the disclosure statement available for inspection and copying during the

hours the office is normally open to the public for business. It may impose a reasonable charge for photocopying services.

(d) *Notice of availability.* A financial institution shall post a general notice about the availability of its disclosure statement in the lobbies of its home office and any physical branch offices located in an MSA. Upon request, it shall promptly provide the location of the institution's offices where the statement is available. At its option, an institution may include the location in its notice.

SECTION 203.6—Enforcement

(a) *Administrative enforcement.* A violation of the act or this regulation is subject to administrative sanctions as provided in section 305 of the act. Compliance is enforced by the agencies listed in appendix A of this regulation.

(b) *Bona fide errors.* An error in compiling or recording loan data is not a violation of the act or this regulation if it was unintentional and occurred despite the maintenance of procedures reasonably adopted to avoid such errors.

APPENDIX A—Form and Instructions for Loan/Application Register

Loan/Application Register Form

Public reporting burden for this collection of information is estimated to vary from 10 to 750 hours per response, with an average of 120 hours per response, including time to gather and maintain the data needed and to review instructions and complete the information collection. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

Instructions to Lending Institutions

I. General

A. Who must file a report

1. Subject to some exceptions that are discussed below, banks, savings associations, credit unions, and other mortgage-lending institutions must complete a register listing data about loan applications received, loans originated, and loans purchased if on the preceding December 31 the institution—

a. had assets of more than \$10 million, and

b. had a home or a branch office in a "metropolitan statistical area" or a "primary metropolitan statistical area" (both are referred to in these instructions by the term "MSA").

Example: If on December 31, 1989, you had a home or a branch office in an MSA and your assets exceeded \$10 million, you must complete a register that lists the home-purchase and home-improvement loans that you originate or purchase during calendar year 1990, and also lists applications that did not result in an origination.

2. You need not complete a register—even if the tests for asset size and location are met—if your institution is a bank, savings association, or credit union and it made *no* first-lien home-purchase loans on one- to four-family dwellings in the preceding calendar year.

3. You need not complete a register—even if the tests for asset size and location are met—if your institution is a for-profit mortgage lender (other than a bank, savings association, or credit union) and the home-purchase loans that you originated in the preceding year came to less than 10 percent of your total loan volume, measured in dollars.

4. If you are a for-profit mortgage lender (other than a bank, savings association, or credit union) the asset test is based on the combined assets of your institution and any parent corporation.

5. If you are the subsidiary of a bank or savings association, you must complete a separate register for your institution and submit it, directly or through your parent, to the agency that supervises your parent.

B. Institutions exempted from HMDA. Institutions that are specifically exempted by the Federal Reserve Board from complying with federal law because they are covered by a similar state law on mortgage loan disclosures must use the disclosure form required by their state law.

C. Format

1. You must use the format of this loan/application register, but you are not required to use the form itself. For example, you may produce a computer printout instead. The layout must conform exactly, however, to that of this register, including the order of columns, column headings, etc. Or you may submit the data in machine-readable form (see paragraph D.2. below).
2. The required data are to be entered in the register for each loan origination, each application acted upon during the calendar year, and each loan purchased. Your institution will have to decide on the procedure it wants to follow—whether to begin entering the required data when an application is received, or to enter the data when final action is taken (such as when a loan goes to closing or an application is denied). Keep in mind that an application is to be reported in the calendar year when final action is taken. Loan originations are to be reported in the year they go to closing; do not report applications for loans that have been approved but that have not yet gone to closing at year-end.
3. Your institution may use separate registers at different branches, or separate registers for different loan types (such as for home-purchase or home-improvement loans, or for loans on multifamily dwellings). But you must submit the registers to your supervisory agency *in one package*, with the prescribed transmittal sheet; and an officer of your institution must certify to the accuracy of the data.
4. Entries need *not* be grouped by MSA, or chronologically, or by census-tract numbers, or in any other particular order. But make sure the application or loan numbers (discussed under paragraph II.C.1.a. below) are unique. If separate registers are being maintained in various branches, your

institution could add a letter code to identify different branches, or assign series of numbers to each branch, to avoid duplicate numbers.

5. Number each page of your report, indicating the total number of pages (for example, "Page 1 of 24").

D. Submission of report; release of disclosure statements

1. You must submit the register to the office specified by your federal supervisory agency no later than March 1 following the calendar year for which the data are compiled. A list of the agencies appears at the end of these instructions.
2. Institutions are encouraged to submit data in machine-readable form. Contact your federal supervisory agency for information regarding electronic submission.
3. If you submit your register in hard copy, you must send two copies.
4. The FFIEC (Federal Financial Institutions Examination Council) will prepare a disclosure statement from the data that you submit. Your disclosure statement will be returned to you at the address that you indicate on the transmittal sheet. When you receive that disclosure statement you must make a copy available for inspection by the public within 30 calendar days. You must make it available at your home office and, if you have physical branch offices in other MSAs, at one branch office in each of those MSAs. (Your agency can provide you with HMDA posters that you can use to inform the public of the availability of your disclosure statement.)

II. Completion of Register

A. Data to be shown

1. Show the data on home-purchase and home-improvement loans that you originated (or that were originated in your name) and loans that you purchased during the calendar year covered by the report. Report these data even if the loans were subsequently sold. Include refinancings of home purchase loans.
2. For these same types of loans, show the data for applications that did not result in originations—for example, applications

that your institution denied or that the applicant withdrew during the calendar year covered by the report. Include applications that were received in the previous calendar year but not acted upon until the calendar year covered by the register.

B. Data to be excluded. Do not report the following loans or applications for loans:

1. Loans that, although secured by real estate, are made for purposes other than home purchase, home improvement, or refinancing (for example, do not report a loan secured by residential real property for purposes of financing college tuition, a vacation, or business operations);
2. Loans received in a fiduciary capacity (for example, by your trust department);
3. Loans on unimproved land;
4. Construction or bridge loans and other temporary financing;
5. The purchase of an interest in a pool of loans (such as mortgage-participation certificates); or
6. The purchase solely of the right to service loans.

C. Itemization of data. Your loan/application register must include the following:

1. *Application or loan information.*
 - a. *Application or loan number.* Enter an identifying number or code that can be used later to retrieve the loan or application file. It can be any number of your choosing (not exceeding 25 characters). You may use letters, numerals, or a combination of both. But make sure that all numbers are unique within your institution. If your register contains data for branch offices, for example, you could use codes to identify the loans or applications of particular branches, or could assign certain series of numbers to particular branches to avoid duplicate numbers.
 - b. *Date application received.* Enter the date the loan application was received by your institution by month, day, and year, using numerals (for example, 02/28/90). Or if your institution normally records the date shown on the application form, you may use that date. Enter "NA" for loans purchased by your institution.

c. *Type.* Indicate the type of loan (or loan application) by entering the applicable code from the following:

- 1—Conventional (any loan other than FHA, VA or FmHA loans)
- 2—FHA-insured (Federal Housing Administration)
- 3—VA-guaranteed (Veterans Administration)
- 4—FmHA-insured (Farmers Home Administration)

d. *Purpose.* Indicate the purpose of the loan or application by entering the applicable code from the following:

- 1—Home purchase (one- to four-family)
- 2—Home improvement (one- to four-family)
- 3—Refinancing (home purchase, one- to four-family)
- 4—Multifamily dwelling (home purchase, home improvement, and refinancings)

e. *Explanation of purpose codes.*

Code 1: Home purchase

i. This code applies to loans made, and to applications for loans, for the purpose of purchasing a residential dwelling for one to four families, if the loan is secured by a lien.

ii. At your option, you may use code 1 for loans that are made for home-improvement purposes but are secured by a first lien, if you normally classify such first-lien loans as home-purchase loans.

Code 2: Home improvement

i. Code 2 applies to loans and applications for loans that (1) the borrowers have said will be used for repairing, rehabilitating, or remodeling one- to four-family residential dwellings, and (2) are recorded on your books as home-improvement loans.

ii. Report both secured and unsecured loans.

iii. At your option, you may record a home-equity line of credit as a home-improvement loan if the borrower or applicant indicates at the time of application or when the account is opened

that some portion of the proceeds will be used for home improvement. (For such credit lines, under "Amount" in paragraph g. below, enter only that portion of the line which the borrower or applicant indicates will be for home-improvement purposes.) Report only in the year the line is established.

Code 3: Refinancings

i. Use this code only for refinancings of home-purchase loans on one- to four-family residential dwellings.

ii. Use this code whether or not you were the original creditor on the loan being refinanced, and whether or not the refinancing results in an increase in the outstanding principal.

iii. Report the full amount of a refinancing if more than 50 percent of the loan proceeds is for home purchase or home improvement. You may treat the amount that is equivalent to the unpaid principal of the original loan as being for home purchase.

Code 4: Multifamily dwelling

i. Use this code for loans and loan applications on dwellings for five or more families, including home-purchase loans, refinancings, and loans for repairing, rehabilitation, and remodeling purposes.

ii. Do not use this code for loans on individual condominium or cooperative units; use codes 1, 2, or 3 for such loans, as applicable.

f. *Occupancy.* Use the applicable code to indicate whether the property to which the loan or loan application relates is to be owner-occupied as a principal dwelling.

1—Owner-occupied as a principal dwelling

2—Not owner-occupied

3—Not applicable

i. Use code 2 for loans on second homes or vacation homes, as well as on rental properties.

ii. Use code 2 only for nonoccupant loans or applications related to one- to four-family dwellings (including individual condominium or cooperative units).

iii. Use code 3 if the property to which the loan relates is a multifamily dwelling; is not located in an MSA; or is located in an MSA in which your institution has neither a home nor a branch office.

iv. For purchased loans, you may assume that the property will be owner-occupied as a principal dwelling unless the loan documents or application contain information to the contrary.

g. *Amount.* Enter the amount of the loan or application. Round to the nearest thousand (\$500 should be rounded up to \$1,000). Show in terms of thousands; for example, a loan for \$167,300 should be entered as 167.

i. For home-purchase loans that you originate, "amount" means the original principal amount of the loan. For home-purchase loans that you purchase, "amount" means the unpaid principal balance of the loan at the time of purchase.

ii. For home-improvement loans (both originations and purchases), you may include unpaid finance charges in the amount if that is how you record such loans on your books.

iii. For lines of credit secured by home equity, include only that portion of the line indicated by the applicant or borrower at the time the application is made or when the account is opened as being for the purpose of home improvement. Report only in the year the line is established.

iv. For a loan application that was denied or withdrawn, enter the amount applied for.

v. If you offered to lend less than the applicant applied for, enter the amount of the loan if the offer was accepted by the applicant. If the offer was not accepted, enter the amount initially applied for.

2. *Action taken.* Indicate the type of action taken on the application or loan by using the following codes:

1—Loan originated

- 2—Application approved but not accepted by applicant
- 3—Application denied
- 4—Application withdrawn
- 5—File closed for incompleteness
- 6—Loan purchased by your institution

a. *Type of action taken.* Do not report any loan application still pending at the end of the calendar year. You will report that application in your register for the year final action is taken.

i. Use code 2 where an application has been approved by you, but where the applicant fails to respond to your notification of approval or your commitment letter within the specified time.

ii. Use code 4 only when an application has been expressly withdrawn by the applicant.

iii. Use code 5 if you sent a written notice of incompleteness under section 202.9(c) of Regulation B (Equal Credit Opportunity) and if the applicant failed to respond to your request for additional information within the period of time specified in your notice.

b. *Date.* Enter the date by month, day, and year, using numerals (for example, 02/28/90).

i. For loans originated, enter the settlement or closing date.

ii. For applications denied, applications approved but not accepted by the applicant, and files closed for incompleteness, enter the date that the action was taken by your institution or the date the notice was sent to the applicant.

iii. For applications withdrawn, enter the date that you received the applicant's express withdrawal; or you may enter the date shown on the notification from the applicant, in the case of a written withdrawal.

3. *Property location.* In these columns you will enter the applicable codes for the MSA, state, county, and census-tract locations for the property to which a loan relates. (See paragraph e. below for treatment of loans on property outside the MSAs in which you have offices.)

a. *MSA.* For each loan or loan application, indicate the location of the property by the MSA number. Enter only the MSA number, not the MSA name. MSA boundaries are defined by the U.S. Office of Management and Budget; use the boundaries that were in effect on January 1 of the calendar year for which you are reporting.

b. *State and county.* Use the two-digit numerical code for state and the three-digit numerical code for county available from your regional supervisory agency. Use only these established codes. Do not use the abbreviations used by the U.S. Postal Service.

c. *Census tract.* Indicate the census tract in which the property is located.

i. Enter the code "NA" if the property is located in an area not divided into census tracts on the U.S. Census Bureau's census-tract outline maps (see paragraph d. below).

ii. If the property is located in a county with a population of 30,000 or less in the 1980 census, enter "NA" or enter the census-tract number. To determine population, use the Census Bureau's PC80-1-A population series even if the population has increased above 30,000 since 1980.

d. *Census-tract number.* To determine the census-tract number, consult the U.S. Census Bureau's census-tract outline maps. You must use the maps from the Census Bureau's PHC80-2 series for the 1980 census, or equivalent 1980 census data from the Census Bureau (such as GBF/DIME files) or from a private publisher. You will continue to use the maps in the 1980 series until you are advised differently by your supervisory agency, even if more current maps are available.

e. *Outside MSA.* For loans on property located outside the MSAs in which you have a home or branch office (or outside any MSA), you may either enter the code "NA" in the MSA, state, county, and census-tract columns or enter the data. Keep in mind that if you are a for-profit mortgage-lending institution (other than a bank, savings association, or

credit union) and (1) you received five or more loan applications or (2) originated or purchased five or more home-purchase or home-improvement loans in an MSA in the preceding year, you *must complete* these columns because you are considered to have a branch office in that MSA, whether or not you have a physical office there.

4. Race or national origin, sex, and income.

Appendix B of Regulation C contains instructions for the collection of data on race or national origin and sex, and also contains a sample form for data collection. You may also use the form that you use to obtain data on race or national origin and sex under section 202.13 of Regulation B.

a. Applicability. You must report this information concerning applicants for loans that you originate and applications that you receive.

i. You need not collect or report this information for loans purchased; if you choose not to, enter the appropriate code specified in the lists under paragraphs c., d., and e. below for "not applicable."

ii. If your institution is a bank, savings association, or credit union that had assets of \$30 million or less on the preceding December 31, you may—but need not—collect and report these data. If you choose not to, enter the appropriate codes specified in the lists under paragraphs c., d., and e. below for "not applicable."

iii. If the borrower or applicant is not a natural person (a corporation or partnership, for example), use the appropriate code under paragraphs c., d., and e. below for "not applicable."

b. Telephone and mail applications. Any application forms mailed to applicants must contain a collection form similar to that shown in appendix B, and you must record the data on race or national origin and sex if the applicant provides it. If the applicant chooses not to provide the data, enter the applicable code number for "information not provided by appli-

cant in mail or telephone application" under paragraphs c. and d. below.

c. Race or national origin of borrower or applicant. Use the following codes to indicate the race or national origin of the applicant or borrower under column "A" and of any co-applicant or co-borrower under column "CA." If there is more than one co-applicant, provide this information only for the first co-applicant listed on the application form.

- 1—American Indian or Alaskan Native
- 2—Asian or Pacific Islander
- 3—Black
- 4—Hispanic
- 5—White
- 6—Other
- 7—Information not provided by applicant in mail or telephone application
- 8—Not applicable

d. Sex of borrower or applicant. Use the following codes to indicate the sex of the applicant or borrower under column "A" and of any co-applicant or co-borrower under column "CA." If there is more than one co-applicant, provide this information only for the first co-applicant listed on the application form:

- 1—Male
- 2—Female
- 3—Information not provided by applicant in mail or telephone application
- 4—Not applicable

e. Income. Enter the income that your institution relied upon in making the credit decision.

i. Round all dollar amounts to the nearest thousand (round \$500 up to the next \$1,000), and show in terms of thousands. For example, \$35,550 should be reported as 36.

ii. For loans on multifamily dwellings, enter "NA."

iii. If no income is asked for or relied on in the credit decision (such as in "no income verification" type loans), enter "NA."

5. Type of purchaser. For loans originated or purchased and then sold within the same

calendar year, enter the applicable code to indicate the secondary market entity:

- 0—Loan was not sold in calendar year covered by register
- 1—FNMA (Federal National Mortgage Association)
- 2—GNMA (Government National Mortgage Association)
- 3—FHLMC (Federal Home Loan Mortgage Corporation)
- 4—FmHA (Farmers Home Administration)
- 5—Commercial bank
- 6—Savings bank or savings association
- 7—Life insurance company
- 8—Affiliate institution
- 9—Other type of purchaser

a. If you originated or purchased a loan and did not sell the loan that same calendar year, enter code 0.

b. If you sell a loan in a succeeding year, you need not report the sale.

c. If you conditionally assign a loan to GNMA in connection with a mortgage-backed security transaction, use code 2.

d. Loans "swapped" for mortgage-backed securities are to be treated as sales; enter the type of entity receiving the loans that are swapped as the purchaser.

e. Use code 8 for loans sold in the same year to an institution affiliated with you, such as a subsidiary or a parent corporation.

6. *Reasons for denial.* You need not enter the reasons for the denial of an application. But if you wish to do so, you may indicate up to three reasons by using the following codes:

- 1—Debt-to-income ratio
- 2—Employment history
- 3—Credit history
- 4—Collateral
- 5—Insufficient cash (downpayment, closing costs)
- 6—Unverifiable information
- 7—Credit application incomplete
- 8—Mortgage insurance denied
- 9—Other

If your institution uses the model form for adverse action supplied in the appendix to Regulation B (Form C-1 in appendix C, Sample Notification Form, which offers some 20 reasons for denial), the following list shows which codes to use.

a. Use code 1 for: Income insufficient for amount of credit requested, and Excessive obligations in relation to income.

b. Use code 2 for: Temporary or irregular employment, and Length of employment.

c. Use code 3 for: Insufficient number of credit references provided; Unacceptable type of credit references provided; No credit file; Limited credit experience; Poor credit performance with us; Delinquent past or present credit obligations with others; Garnishment, attachment, foreclosure, repossession, collection action, or judgment; and Bankruptcy.

d. Use code 4 for: Value or type of collateral not sufficient.

e. Use code 6 for: Unable to verify credit references, Unable to verify employment, Unable to verify income, and Unable to verify residence.

f. Use code 7 for: Credit application incomplete.

g. Use code 9 for: Length of residence, Temporary residence, and Other.

III. Federal Supervisory Agencies

Send your loan/application register and direct any questions to the office of your federal supervisory agency specified below. If you are the subsidiary of a bank, savings association, or credit union, send the register to the supervisory agency for your parent institution.

National banks and their subsidiaries. District office of the Office of the Comptroller of the Currency serving the district in which the national bank or subsidiary is located.

State member banks of the Federal Reserve System, their subsidiaries, and subsidiaries of bank holding companies. Federal Reserve Bank serving the district in which the state member bank or subsidiary is located.

Nonmember insured banks (except for federal savings banks) and their subsidiaries. Regional

director of the Federal Deposit Insurance Corporation for the region in which the bank or subsidiary is located.

Savings institutions insured under the Savings Association Insurance Fund of the FDIC; federally chartered savings banks insured under the Bank Insurance Fund of the FDIC (but not including state-chartered savings banks insured under the Bank Insurance Fund), their subsidiaries, and subsidiaries of savings institution holding companies. To the district or other office specified by the Office of Thrift Supervision.

Credit unions. National Credit Union Administration, Office of Examination and Insurance, 1776 G Street, N.W., Washington, D.C. 20456.

Other depository institutions. Regional director of the Federal Deposit Insurance Corporation for the region in which the institution is located.

Other mortgage lending institutions. Assistant Secretary for Housing, HMDA Reporting—Room 9233, U.S. Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

Loan/Application Register

Use the following codes to complete the loan/application register. The instructions explain the proper use of each code.

*Application or Loan Information***Type:**

- 1—Conventional (any loan other than FHA, VA or FmHA loans)
- 2—FHA-insured (Federal Housing Administration)
- 3—VA-guaranteed (Veterans Administration)
- 4—FmHA-insured (Farmers Home Administration)

Purpose:

- 1—Home purchase (one- to four-family)
- 2—Home improvement (one- to four-family)
- 3—Refinancing (home purchase, one- to four-family)
- 4—Multifamily dwelling (home purchase, home improvement, and refinancings)

Occupancy:

- 1—Owner-occupied as a principal dwelling
- 2—Not owner-occupied
- 3—Not applicable

Action Taken:

- 1—Loan originated
- 2—Application approved but not accepted by applicant
- 3—Application denied
- 4—Application withdrawn
- 5—File closed for incompleteness
- 6—Loan purchased by your institution

*Applicant Information***Race or National Origin:**

- 1—American Indian or Alaskan Native
- 2—Asian or Pacific Islander

- 3—Black
- 4—Hispanic
- 5—White
- 6—Other
- 7—Information not provided by applicant in mail or telephone application
- 8—Not applicable

Sex:

- 1—Male
- 2—Female
- 3—Information not provided by applicant in mail or telephone application
- 4—Not applicable

Type of Purchaser

- 0—Loan was not sold in calendar year covered by register
- 1—FNMA (Federal National Mortgage Association)
- 2—GNMA (Government National Mortgage Association)
- 3—FHLMC (Federal Home Loan Mortgage Corporation)
- 4—FmHA (Farmers Home Administration)
- 5—Commercial bank
- 6—Savings bank or savings association
- 7—Life insurance company
- 8—Affiliate institution
- 9—Other type of purchaser

Reasons for Denial

- 1—Debt-to-income ratio
- 2—Employment history
- 3—Credit history
- 4—Collateral
- 5—Insufficient cash (downpayment, closing costs)
- 6—Unverifiable information
- 7—Credit application incomplete
- 8—Mortgage insurance denied
- 9—Other

APPENDIX B—Form and Instructions for Data Collection on Race or National Origin and Sex

I. Instructions on Collection of Data on Race or National Origin and Sex

A. Format. You may list questions regarding the race or national origin and sex of the applicant on your loan application form, or on a separate form that refers to the application. (See the sample form below for recommended language.)

B. Procedures.

1. You must ask for this information, but cannot require the applicant to provide it.
2. If the applicant chooses not to provide the information for an application taken in person, note this fact on the form and note the data, to the extent possible, on the basis of visual observation or surname.
3. Inform the applicant that the federal government is requesting this information in order to monitor compliance with federal statutes that prohibit lenders from discriminating against applicants on these bases. Inform the applicant that if the information is not provided where the application is taken in person, you are required to note the data on the basis of visual observation or surname.
4. If an application is made entirely by telephone, you need not request this information. And you need not provide the data when you take an application by mail, if the applicant fails to answer these questions on the application form. You should indicate whether an application was received by mail or telephone, if it is not otherwise evident on the face of the application.
5. The "other" block is available only to the applicant who chooses to indicate some other appropriate category for race or national origin. If completing the form based on visual observation, do not use this category; use one of the other five categories.

Sample Data-Collection Form

INFORMATION FOR GOVERNMENT MONITORING PURPOSES

The following information is requested by the federal government for certain types of loans related to a dwelling in order to monitor the lender's compliance with equal credit opportunity, fair housing, and home mortgage disclosure laws. You are not required to furnish this information, but are encouraged to do so. The law provides that a lender may not discriminate on the basis of this information, or on whether you choose to furnish it. However, if you choose not to furnish the information and you have made this application in person, under federal regulations the lender is required to note race or national origin and sex on the basis of visual observation or surname. If you do not wish to furnish the information, please check below.

APPLICANT:

I do not wish to furnish this information.

Race or National Origin:

- American Indian, Alaskan Native
 Asian, Pacific Islander
 Black
 Hispanic
 White
 Other (specify) _____

Sex:

- Female
 Male

CO-APPLICANT:

I do not wish to furnish this information.

Race or National Origin:

- American Indian, Alaskan Native
 Asian, Pacific Islander
 Black
 Hispanic
 White
 Other (specify) _____

Sex:

- Female
 Male

MEMORANDUM FOR THE DIRECTOR

RE: [Illegible]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

Home Mortgage Disclosure Act

12 USC 2801 et seq.; 89 Stat. 1125; Pub. L. 94-200, Title III (December 31, 1975)

TITLE III—HOME MORTGAGE DISCLOSURE

Section

- 301 Short title
- 302 Findings and purposes
- 303 Definitions
- 304 Maintenance of records and public disclosure
- 305 Enforcement
- 306 Relation to state laws
- 307 Research and improved methods
- 308 Study
- 309 Effective date
- 310 Compilation of aggregate data
- 311 Disclosure by the secretary

SECTION 301—Short Title

This title may be cited as the "Home Mortgage Disclosure Act of 1975."

[12 USC 2801 note.]

SECTION 302—Findings and Purposes

(a) The Congress finds that some depository institutions have sometimes contributed to the decline of certain geographic areas by their failure pursuant to their chartering responsibilities to provide adequate home financing to qualified applicants on reasonable terms and conditions.

(b) The purpose of this title is to provide the citizens and public officials of the United States with sufficient information to enable them to determine whether depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located and to assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment.

(c) Nothing in this title is intended to, nor shall it be construed to, encourage unsound lending practices or the allocation of credit.

[12 USC 2801.]

SECTION 303—Definitions

For purposes of this title—

(1) the term "mortgage loan" means a loan which is secured by residential real property or a home improvement loan;

(2) the term "depository institution"—

(A) means—

(i) any bank (as defined in section 3(a)(1) of the Federal Deposit Insurance Act);

(ii) any savings association (as defined in section 3(b)(1) of the Federal Deposit Insurance Act); and

(iii) any credit union,

which makes federally related mortgage loans as determined by the Board; and

(B) includes any other lending institution (as defined in paragraph (4)) other than any institution described in subparagraph (A);

(3) the term "completed application" means an application in which the creditor has received the information that is regularly obtained in evaluating applications for the amount and type of credit requested;

(4) the term "other lending institutions" means any person engaged for profit in the business of mortgage lending;

(5) the term "Board" means the Board of Governors of the Federal Reserve System; and

(6) the term "Secretary" means the Secretary of Housing and Urban Development.

[12 USC 2802. As amended by acts of Feb. 5, 1988 (101 Stat. 1945) and Aug. 9, 1989 (103 Stat. 525).]

SECTION 304—Maintenance of Records and Public Disclosure

(a)(1) Each depository institution which has a home office or branch office located within a primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas, as defined by the Department of Commerce shall compile and

make available, in accordance with regulations of the Board, to the public for inspection and copying at the home office, and at least one branch office within each primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas in which the depository institution has an office the number and total dollar amount of mortgage loans which were (A) originated (or for which the institution received completed applications), or (B) purchased by that institution during each fiscal year (beginning with the last full fiscal year of that institution which immediately preceded the effective date of this title.)

(2) The information required to be maintained and made available under paragraph (1) shall also be itemized in order to clearly and conspicuously disclose the following:

(A) The number and dollar amount for each item referred to in paragraph (1), by census tracts for mortgage loans secured by property located within any county with a population of more than 30,000, within that primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas, otherwise, by county, for mortgage loans secured by property located within any other county within that primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas.

(B) The number and dollar amount for each item referred to in paragraph (1) for all such mortgage loans which are secured by property located outside that primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas.

For the purpose of this paragraph, a depository institution which maintains offices in more than one primary metropolitan statis-

tical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas shall be required to make the information required by this paragraph available at any such office only to the extent that such information relates to mortgage loans which were originated or purchased (or for which completed applications were received) by an office of that depository institution located in the primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas in which the office making such information available is located. For purposes of this paragraph, other lending institutions shall be deemed to have a home office or branch office within a primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas if such institutions have originated or purchased or received completed applications for at least 5 mortgage loans in such area in the preceding calendar year.

(b) Any item of information relating to mortgage loans required to be maintained under subsection (a) shall be further itemized in order to disclose for each such item—

(1) the number and dollar amount of mortgage loans which are insured under title II of the National Housing Act or under title V of the Housing Act of 1949 or which are guaranteed under chapter 37 of title 38, United States Code;

(2) the number and dollar amount of mortgage loans made to mortgagors who did not, at the time of execution of the mortgage, intend to reside in the property securing the mortgage loan;

(3) the number and dollar amount of home improvement loans; and

(4) the number and dollar amount of mortgage loans and completed applications involving mortgagors or mortgage applicants grouped according to census tract, income level, racial characteristics, and gender.

(c) Any information required to be compiled and made available under this section shall be maintained and made available for a period of five years after the close of the first year during which such information is required to be maintained and made available.

(d) Notwithstanding the provisions of subsection (a)(1), data required to be disclosed under this section for 1980 and thereafter shall be disclosed for each calendar year. Any depository institution which is required to make disclosures under this section but which has been making disclosures on some basis other than a calendar year basis shall make available a separate disclosure statement containing data for any period prior to calendar year 1980 which is not covered by the last full year report prior to the 1980 calendar year report.

(e) Subject to subsection (L), the Board shall prescribe a standard format for the disclosures required under this section.

(f) The Federal Financial Institutions Examination Council in consultation with the Secretary, shall implement a system to facilitate access to data required to be disclosed under this section. Such system shall include arrangements for a central depository of data in each primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas. Disclosure statements shall be made available to the public for inspection and copying at such central depository of data for all depository institutions which are required to disclose information under this section (or which are exempted pursuant to section 306(b)) and which have a home office or branch office within such primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas.

(g) The requirements of subsections (a) and (b) shall not apply with respect to mortgage loans that are—

(1) made (or for which completed applications are received) by any mortgage banking subsidiary of a bank holding company

or savings and loan holding company or by any savings and loan service corporation that originates or purchases mortgage loans; and

(2) approved (or for which completed applications are received) by the secretary for insurance under title I or II of the National Housing Act.

(h) The data required to be disclosed under subsection (b)(4) shall be submitted to the appropriate agency for each institution reporting under this title. Notwithstanding the requirement of section 304(a)(2)(A) for disclosure by census tract, the Board, in cooperation with other appropriate regulators, including—

(1) the Comptroller of the Currency for national banks;

(2) the Director of the Office of Thrift Supervision for savings associations;

(3) the Federal Deposit Insurance Corporation for banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks, and any other depository institution described in section 303(2)(A) which is not otherwise referred to in this paragraph;

(4) the National Credit Union Administration Board for credit unions; and

(5) the Secretary of Housing and Urban Development for other lending institutions not regulated by the agencies referred to in paragraphs (1) through (4),

shall develop regulations prescribing the format for such disclosures, the method for submission of the data to the appropriate regulatory agency, and the procedures for disclosing the information to the public. These regulations shall also require the collection of data required to be disclosed under subsection (b)(4) with respect to loans sold by each institution reporting under this title, and, in addition, shall require disclosure of the class of the purchaser of such loans. Any reporting institution may submit in writing to the appropriate agency such additional data or explanations as it deems relevant to the decision to originate or purchase mortgage loans.

(i) The requirements of subsection (b)(4) shall not apply with respect to any depository institution described in section 303(2)(A)

which has total assets, as of the most recent full fiscal year of such institution, of \$30,000,000 or less.

[12 USC 2803. As amended by acts of Oct. 8, 1980 (94 Stat. 1657); Nov. 30, 1983 (97 Stat. 1266); Feb. 5, 1988 (101 Stat. 1945, 1950); and Aug. 9, 1989 (103 Stat. 524, 525, 526).]

SECTION 305—Enforcement

(a) The Board shall prescribe such regulations as may be necessary to carry out the purposes of this title. These regulations may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary and proper to effectuate the purposes of this title, and prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(b) Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System, other than national banks, by the Board;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and mutual savings banks as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)) and any other depository institution not referred to in this paragraph or paragraph (2) or (3) of this subsection, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act, by the Administrator of the National Credit Un-

ion Administration with respect to any credit union; and

(4) other lending institutions, by the Secretary of Housing and Urban Development.

(c) For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

[12 USC 2804. As amended by act of Aug. 9, 1989 (103 Stat. 440, 526).]

SECTION 306—Relation to State Laws

(a) This title does not annul, alter, or affect, or exempt any State-chartered depository institution subject to the provisions of this title from complying with the laws of any state or subdivision thereof with respect to public disclosure and recordkeeping by depository institutions, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board may not determine that any such law is inconsistent with any provision of this title if the Board determines that such law requires the maintenance of records with greater geographic or other detail than is required under this title, or that such law otherwise provides greater disclosure than is required under this title.

(b) The Board may by regulation exempt from the requirements of this title any state-chartered depository institution within any state or subdivision thereof if it determines that, under the law of such state or subdivision, that institution is subject to requirements substantially similar to those imposed under this title, and that such law contains adequate provisions for enforcement. Notwithstanding

any other provision of this subsection, compliance with the requirements imposed under this subsection shall be enforced under—

- (1) section 8 of the Federal Deposit Insurance Act in the case of national banks, by the Comptroller of the Currency; and
- (2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation.

[12 USC 2805. As amended by act of Aug. 9, 1989 (103 Stat. 440).]

SECTION 307—Research and Improved Methods

(a)(1) The Director of the Office of Thrift Supervision, with the assistance of the Secretary, the Director of the Bureau of the Census, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and such other persons as the Director of the Office of Thrift Supervision deems appropriate, shall develop, or assist in the improvement of, methods of matching addresses and census tracts to facilitate compliance by depository institutions in as economical a manner as possible with the requirements of this title.

(2) There is authorized to be appropriated such sums as may be necessary to carry out this subsection.

(3) The Director of the Office of Thrift Supervision is authorized to utilize, contract with, act through, or compensate any person or agency in order to carry out this subsection.

(b) The Director of the Office of Thrift Supervision shall recommend to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate such additional legislation as the Director of the Office of Thrift Supervision deems appropriate to carry out the purpose of this title.

[12 USC 2806. As amended by H. Res. 5 of Jan. 4, 1977 and acts of Nov. 7, 1988 (102 Stat. 3280) and Aug. 9, 1989 (103 Stat. 440).]

SECTION 308—Study

The Board, in consultation with the Secretary of Housing and Urban Development, shall report annually to the Congress on the utility of the requirements of section 304(b)(4).

[12 USC 2807. As amended by acts of Nov. 30, 1983 (97 Stat. 1266) and Aug. 9, 1989 (103 Stat. 526).]

SECTION 309—Effective Date

This title shall take effect on the one hundred and eightieth day beginning after the date of its enactment. Any depository institution which has total assets as of its last full fiscal year of \$10,000,000 or less is exempt from the provisions of this title.

[12 USC 2808.]

SECTION 310—Compilation of Aggregate Data

(a) Beginning with data for calendar year 1980, the Federal Financial Institutions Examination Council shall compile each year, for each primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas, aggregate data by census tract for all depository institutions which are required to disclose data under section 304 or which are exempt pursuant to section 306(b). The Council shall also produce tables indicating, for each primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas, aggregate lending patterns for various categories of census tracts grouped according to location, age of housing stock, income level, and racial characteristics.

(b) The Board shall provide staff and data processing resources to the Council to enable

it to carry out the provisions of subsection (a).

(c) The data and tables required pursuant to subsection (a) shall be made available to the public by no later than December 31 of the year following the calendar year on which the data is based.

[12 USC 2809. As added by act of Oct. 8, 1980 (94 Stat. 1658) and amended by act of Nov. 30, 1983 (97 Stat. 1266).]

SECTION 311—Disclosure by the Secretary

Beginning with data for calendar year 1980, the Secretary shall make publicly available data in the Secretary's possession for each mortgagee which is not otherwise subject to the requirements of this title and which is not exempt pursuant to section 306(b) (and for each mortgagee making mortgage loans exempted under section 304(g)), with respect to mortgage loans approved (or for which completed applications are received) by the Secretary for insurance under title I or II of the National Housing Act. Such data to be disclosed shall consist of data comparable to the data which would be disclosed if such mortgagee were subject to the requirements of section 304. Disclosure statements containing data for each such mortgage for a primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas shall, at a minimum, be publicly available at the central depository of data established pursuant to section 304(f) for such primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas. The Secretary shall also compile and make publicly available aggregate data for such mortgagees by census tract, and tables indicating aggregate lending patterns, in a manner comparable to the infor-

mation required to be made publicly available in accordance with section 310.

[12 USC 2810. As added by act of Oct. 8, 1980 (94 Stat. 1658) and amended by acts of Nov. 30, 1983 (97 Stat. 1266); Feb. 5, 1988 (101 Stat. 1945); and Aug. 9, 1989 (103 Stat. 525).]

PUBLIC LAW 96-399, TITLE III

SECTION 340

(d) The Federal Financial Institutions Examination Council, in consultation with the Administrator of the Small Business Administration, shall conduct a study to assess the feasibility and usefulness of requiring depository institutions which make small business loans to compile and publicly disclose information regarding such loans. The Council shall submit a report on the results of such study, together with recommendations, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives not later than March 1, 1981.

[12 USC 3305 note.]

(e) To promote efficiency and avoid duplication to the maximum extent feasible, the Federal Financial Institutions Examination Council shall transmit a report to the Congress not later than September 30, 1982, on the feasibility and desirability of establishing a unified system for enforcing fair lending laws and regulations, implementing the Community Reinvestment Act of 1977, and satisfying the public disclosure purposes of the Home Mortgage Disclosure Act of 1975. Such report shall evaluate the status and effectiveness of data collection and analysis systems of such agencies involving fair lending and community reinvestment, and shall outline possible specific timetables for implementing such a unified system.

[12 USC 3305 note.]

BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

AMENDMENTS TO REGULATION Y

(Effective February 13, 1990)

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Reg. Y; Docket No. R-0686]

Bank Holding Companies and Change in Bank Control; Procedures Regarding Notices of Changes in Senior Executive Officers and Directors Under Section 914 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interim rule with request for public comment.

SUMMARY: The Federal Reserve Board is amending its Regulation Y, section 225 of title 12, Code of Federal Regulations, to implement the provisions of section 914 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), Public Law 101-73, 103 Stat. 183. Section 914 of FIRREA requires bank holding companies and state member banks that have recently undergone a change in control, have less than minimum required capital, or are otherwise in troubled condition to file a notice with the Board of Governors of the Federal Reserve System ("Board") prior to adding a member of the board of directors, or employing an individual as a senior executive officer. This prior notice requirement also applies to state member banks that have been chartered within two years before the proposed management change. The Board may disapprove any proposed board member or senior executive officer whose service is not considered to be in the best interests of the depositors of the bank or the public. The regulation defines the terms "troubled condition" and "senior executive officer." The regulation also clarifies the types of changes in control of a state member bank or bank holding company that require a notice under section 914, and establishes the procedures for filing the required notice.

Because the provisions of section 914 became effective on the date of enactment of FIRREA, this regulation is immediately effective. The Board

requests comment on any issue raised by this regulation; interested persons have 60 days in which to respond. After the close of the comment period, the Board may amend the regulation in response to the comments received.

DATES: *Effective Date:* February 13, 1990. Comments must be received no later than April 23, 1990.

ADDRESSES: Comments, which should refer to Docket No. R-0686, may be mailed to the Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, Attention: Mr. William W. Wiles, Secretary; or may be delivered to Room B-2223 between 8:45 a.m. and 5:00 p.m. All comments received will be made available to the public, and may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: Scott G. Alvarez, Assistant General Counsel (202/452-3583), or Mark J. Tenhundfeld, Attorney (202/452-3612), Legal Division; or Sidney M. Sussan, Assistant Director (202/452-2638), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing impaired only, Telecommunications Service for the Deaf, Earnestine Hill or Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION: Background

On August 9, 1989, the President signed into law the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), Public Law 101-73, 103 Stat. 183. Section 914 of FIRREA requires certain banks and bank holding companies to notify the appropriate Federal banking agency 30 days prior to the proposed addition of any individual to the board of directors of the bank or bank holding company, and to the employment of any individual as a senior executive officer.

In particular, this section requires state member banks and bank holding companies to provide this notice to the Board if the state member bank or bank holding company:

(1) Has been chartered less than 2 years in the case of a state member bank;

(2) Has undergone a change in control within the preceding 2-year period; or

(3) Is not in compliance with appropriate minimum capital requirements or is otherwise in a "troubled condition."

The Board must disapprove a notice under this section if the Board finds that the competence, experience, character, or integrity of the individual indicates that it would not be in the best interests of the depositors of the bank or in the best interests of the public for the individual to be employed by, or associated with, the bank or bank holding company.

This regulation implements the provisions of section 914 of FIRREA. In adopting this regulation, the Board has consulted with the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision, each of which must also adopt regulations under section 914 applicable to financial institutions that they supervise.

1. Definition of "Troubled Condition"

Section 914 by its terms applies to financial institutions that are not in compliance with the minimum capital requirements applicable to the institution or that are "otherwise in a troubled condition." In the Board's view, compliance with applicable minimum capital requirements includes compliance with the generally applicable capital adequacy guidelines as well as compliance with any capital directive or Board order applicable to the specific institution, even where that directive or order may require capital levels above the generally applicable minimum level in the Board's guidelines.

Section 914 of FIRREA requires the Board to promulgate regulations that define the term "troubled condition" for purposes of the notice requirements of this section. Because section 914 already applies by its terms to financial institutions that are not in compliance with applicable minimum capital requirements, the Board's definition of "troubled condition" focuses on other measures of the financial condition of the institution. The Board defines an institution in "troubled condition" as

any institution that: (1) Has received a composite rating of 4 or 5 at its most recent commercial examination or inspection; (2) is subject to a cease and desist order or written agreement requiring action to improve the financial condition of the institution; or (3) is expressly informed by the Board or appropriate Federal Reserve Bank that it is considered in troubled condition for purposes of the notice provisions of section 914. The Board believes that this definition of "troubled condition" covers only those state member banks and bank holding companies whose financial condition makes review of changes in management appropriate. The regulation contemplates that the Federal Reserve System will expressly inform individual state member banks and bank holding companies if other facts indicate that close scrutiny of changes in the management or directors of the institution under this subpart is appropriate.

2. Definition of "Senior Executive Officer"

Section 914 also requires the Board to define the term "senior executive officer." The Board has adopted a functional approach in defining the term "senior executive officer." The regulation designates as a "senior executive officer" those individuals who have significant influence over the policymaking decisions of financial institutions, regardless of the individual's title. The functions identified by the Board as those of senior executive officers include the functions of chief executive officer, chief operating officer, chief financial officer, chief lending officer, and chief investment officer. The Board has not identified specific titles that constitute "senior executive officers" because titles for senior executive functions vary widely among bank holding companies and banks.

In addition to the five functions specifically identified, the regulation also applies to any person with significant influence over major policymaking decisions of the institution. This provision is intended to cover consultants and other individuals who may in fact be acting as a senior executive officer at a particular institution.

The Board notes that Regulation O (12 CFR part 215), which addresses loans to bank insiders, defines "executive officer" to include a person who participates in the major policymaking functions of the bank and includes, by title, a bank's chairman of the board, president, vice-president, cashier, secretary, and treasurer. The new

statute, in contrast, reaches only "senior executive officers." Thus, the Board believes the scope of the new statute is narrower than the existing definition in Regulation O.

The Board's regulation does not include the appointment of an advisory director to an institution's board of directors. To qualify for this exemption as an advisory director, an individual must not be elected to the position by the company's shareholders, must not be authorized to vote on any matters before the board of directors, and must provide solely general policy advice to the board of directors. The Board and the Reserve Bank retain authority to find in specific cases that an individual who is nominally an advisory director is in fact functioning as a director or senior executive officer for purposes of the notice provisions of this subpart.

The notice requirements of section 914 are applicable whenever an institution subject to this section seeks to add an individual to the institution's board of directors. The Board believes that this provision applies whether the addition is made as a result of expansion of the number of members of the board of directors or through the replacement of existing directors. In both cases, an individual who was not previously a member of the board of directors has been added to the board. Similarly, the provisions of section 914 appear to apply to the employment of any individual as a senior executive officer, whether that employment results from external hiring or from internal promotion or re-assignment of responsibilities to include the functions of a senior executive officer. The notice requirement also applies to a senior executive officer who is proposed as a director of the institution and to a director who is offered employment as a senior executive officer.

3. Definition of Change in Control

As noted above, the notice requirement under section 914 is triggered when the bank or bank holding company has undergone a "change in control" within two years preceding the proposed addition of a director or employment of a senior executive officer. The term "change in control" is not defined in section 914 or explained in the legislative history of that section.

The Board does not believe that this term was intended by Congress to encompass every situation involving a change in ownership of a state member bank or bank holding company. For example, the acquisition of more than 5 percent of the voting shares of a bank by a registered bank holding company requires approval of the Board under

section 3 of the Bank Holding Company Act ("BHC Act") but may not involve a "change in control" for purposes of section 914 or any other statute.

The Board believes that it is consistent with the language and purpose of section 914 to require that notices be filed under this section by state member banks and bank holding companies that have been the subject of a notice of change in control pursuant to the Change in Bank Control Act. The language of section 914 parallels the Change in Bank Control Act in several respects, most notably by using the same terms as in the Change in Bank Control Act and by expressly adopting the information requirements and standards for review contained in that Act. Thus, section 914 appears to contemplate situations involving a change in control that would require a notice under the Change in Bank Control Act.

The Board does not believe that, as a general matter, transactions subject to section 3 of the BHC Act should trigger the requirements of section 914. These transactions are expressly exempt from the Change in Bank Control Act. Moreover, in connection with the review of all applications by bank holding companies under the BHC Act, the Board already carefully considers the managerial resources of the bank holding company. Bank holding companies are also subject to the continuing Board supervision and examination, including regular review of their managerial resources. Accordingly, there appears little regulatory purpose to broadly interpreting the requirements of section 914 to apply to all transactions subject to section 3 of the BHC Act.

The Board believes that it is appropriate to require notices of changes in directors and senior executive officers at bank holding companies in a limited number of bank holding company formations that are exempt from the requirements of the Change in Bank Control Act. In certain cases, a bank holding company formation involves the first-time acquisition of a bank by a previously unregulated company. In a limited number of other cases, a group of individuals who seek to acquire control of a bank or bank holding company may choose to form a new bank holding company to acquire the shares of the institution rather than the individuals acquiring the shares of the institution directly. Were the individuals to acquire control of the institution directly, the transaction would, in many instances, be subject to the provisions of the Change in Bank Control Act. However,

by choosing the bank holding company form, the transaction becomes subject to the provisions of the BHC Act and is expressly exempt from the provisions of the Change in Bank Control Act.

The Board believes that bank holding company formations of these types that involve an actual change in control and management of a bank merit the same type of review of subsequent changes in directors and management of the institution as would apply had the individuals acquired the institution's shares directly. Accordingly, the Board has applied the provisions of section 914 to changes in directors and senior executive officers at bank holding companies that were formed within two years of the management change. The regulation does not extend, however, to bank holding companies that have been established in a reorganization in which substantially all of the shareholders of the bank holding company were shareholders of the bank prior to the holding company's formation unless the institution is undercapitalized, in troubled condition, or otherwise subject to section 914. Similarly, the regulation does not extend to bank holding companies that are formed as an intermediate holding company that is owned by a registered bank holding company, unless the regulation is otherwise applicable.

The Board does not require that notices under section 914 be filed by institutions involved in other transactions that are exempt from the notice requirements of the Change in Bank Control Act under that Act or under § 225.42 of the Board's Regulation Y. (12 U.S.C. 1817(j); 12 CFR 225.42.) In this regard, the notice provisions of section 914 do not apply to state member banks or bank holding companies that are acquired by another previously registered bank holding company in a transaction subject to either the BHC Act or the Bank Merger Act (12 U.S.C. 1828(c)), unless the institution does not meet the appropriate minimum capital adequacy standards, is in troubled condition, or otherwise is required to file a notice under this section.

4. Procedures for Filing Notice and Information Required in the Notice

The responsibility for filing a notice under section 914 of FIRREA rests with the institution seeking to add or employ an individual as a director or senior executive officer. Notices under this section would be filed with the appropriate Reserve Bank.

Section 914 provides that certain information required under the Change in Bank Control Act is required in

notices filed under this section. In particular, section 914 of FIRREA requires the following information regarding a person who is the subject of a notice: the identity, personal history, business background, and experience of the individual, including material business activities and affiliations during the past five years, a description of any pending legal or administrative proceedings in which the individual is a party, and an explanation of any criminal indictment or conviction involving the individual. The regulation adopts these information requirements.

Notices filed under this section may take the form of a letter containing the relevant information or the relevant sections of the current form filed under the Change in Bank Control Act. The Board or Reserve Bank may modify these requirements where appropriate, and may request additional information necessary to permit a full evaluation of the competence, experience, character, or integrity of the individual with respect to whom the notice has been filed, or of the public interest factors the Board must consider.

Under the regulation, the 30-day time period for System review of a notice would not commence until the notificant submits all the information required by the statute and requested by the Board or the Reserve Bank. The notificant will be informed by the Reserve Bank in writing once the notice is deemed to be complete and is considered effective. This letter from the Reserve Bank will also state when the 30-day period has begun as well as when the 30-day period ends.

5. Commencement of Service

Unless otherwise informed by the Board or Reserve Bank, an individual for whom a notice has been filed under this section may begin the proposed service as a member of the board of directors or as a senior executive officer on the 31st day following the date on which a complete notice is given to the appropriate Reserve Bank. Under the Board's regulation, an individual may begin his or her proposed service at an earlier date if the Board or the Reserve Bank notifies the employing institution in writing at an earlier date that the System does not intend to object to the proposed employment.

The Board has amended its Rules Regarding Delegation of Authority to permit the Reserve Banks to take all actions necessary regarding a notice filed under this subpart, including determining the informational sufficiency of the notice, issuing letters that the System does not intend to object to a proposed appointment, and

issuing notices of disapproval of a proposed appointment.

6. Disapproval of a Notice and Appeals

The statute provides that an agency is required to disapprove a notice if the competence, experience, character, or integrity of the individual with respect to whom the notice is submitted indicates that it would not be in the best interest of the depositors of the bank or in the best interest of the public to permit the individual to be employed by, or associated with, the bank or bank holding company. These standards have been adopted in the regulation.

The Reserve Bank or the Board will inform the notificant in writing in the event the Federal Reserve System objects to the proposed service by an individual for whom a notice has been filed. The written notice of disapproval will contain an explanation of the basis for disapproval.

Under the regulation, the disapproved individual, the state member bank or the bank holding company notificant may appeal the disapproval to the Board. The appeal must be received by the Board within 15 calendar days of the effective date of the notice of disapproval. The appeal must be made in writing and must contain all facts, documents, and arguments that the appealing party wishes to be considered in the appeal. The disapproved individual may not serve as a director or senior executive officer while the appeal is pending. The Board will issue a written statement of its final decision to the appealing party.

In connection with an appeal, the Board may, in its sole discretion, order an informal hearing if requested by the disapproved individual or the notificant and if the Board finds that oral argument is appropriate or that a hearing is necessary to resolve issues of material fact. Section 914 does not confer a statutory right to a hearing. The Board requests comment on whether, in light of the court decisions in this area, a disapproved individual would have any constitutional right to a hearing in the case of a disapproval under section 914. (See, e.g., *Feinberg v. FDIC*, 420 F. Supp. 109 (D.C. 1976); *Connelly v. Comptroller of the Currency*, 876 F.2d 1209 (5th Cir. 1989)).

7. Waiver Provisions

Sections 914 of FIRREA permits the appropriate Federal banking agency to waive the notice provisions of this section in the event of extraordinary circumstances. The Board's regulation allows the Board or the appropriate Reserve Bank to waive the notice provision if the delay associated with

prior notice would threaten the safety or soundness of the state member bank or bank holding company involved, or any of the holding company's subsidiary banks. The notice requirements may also be waived if delay would harm the public interest or if extraordinary circumstances exist that justify a waiver. If a waiver is granted, the individuals subject to the waiver may immediately assume responsibility as a director or senior executive officer. As provided by section 914, the regulation states that waiver of the notice provisions does not affect the Board's authority to issue a subsequent notice of disapproval within 30 days after the waiver has been granted.

8. Interim Applicability

The provisions of section 914 of FIRREA were made immediately effective upon enactment of that Act on August 9, 1989. As a result, state member banks and bank holding companies are currently required by statute to file notices with the Board regarding proposed changes in directors and senior executive officers. The Board believes that it is in the public interest to clarify immediately the scope of section 914 and the procedures that should be followed by state member banks and bank holding companies. Accordingly, the Board for good cause, finds that these rules should be adopted on an interim basis and that notice and public comment prior to adoption of an interim rule is impracticable and contrary to the public interest under 5 USC 553(b)(3). The Board finds, for the same reasons, that there is good cause under 5 USC 553(d)(3) to make the interim rule effective immediately without regard to the 30-day period provided in 5 USC 553(d). Accordingly, the Board expects state member banks and bank holding companies to follow the procedures set out in the regulation, subject to amendment after the close of the comment period.

Regulatory Flexibility Act

This rule implements specific statutory requirements imposed by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Section 914 of that Act imposed specific prior notice requirements on certain types of banks and bank holding companies. This prior notice requirement is intended to permit the Federal banking agencies to monitor changes in the senior management and board of directors of banks and bank holding companies that are undercapitalized, in troubled condition, have been newly chartered, or have recently undergone a change in control. In enacting this

provision, Congress determined that the burden that may be associated with the notice requirement was outweighed by the public benefits of review of senior management at certain banking institutions. The required notice is of short duration and should not significantly disrupt the hiring and appointment procedures of banks or bank holding companies, including small banking organizations. In order to minimize the burden associated with this regulation, the Board has adopted a procedure that allows action prior to the expiration of the statutory notice periods, and a provision for waiver of the notice provisions in extraordinary circumstances. The Board also expects notificants to use existing forms, thereby further minimizing any reporting burden. Thus, the regulation is not expected to have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

Paperwork Reduction Act

The regulation requires certain banks and bank holding companies to provide written notice to the Board prior to adding or replacing a director or senior executive officer. The Board intends to permit these organizations to use existing reporting forms in fulfilling this requirement.

List of Subjects in 12 CFR Part 225

Administrative practice and procedure, Appraisals, Banks, Banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in this notice, the Board amends 12 CFR part 225 as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

1. The authority citation for part 225 is revised to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1843(c)(8), 1844(b), 3108, 3109, 3907 and 3909.

2. Subpart H, consisting of §§ 225.71 through 225.73, is added to read as follows:

Subpart H—Notice of Addition or Change of Directors and Senior Executive Officers

Sec.

225.71 Definitions.

225.72 Director and officer appointments; prior notice requirement.

225.73 Procedures for filing, processing, and action on notices; standards for disapproval; waiver of notice.

Subpart H—Notice of Addition or Change of Directors And Senior Executive Officers

§ 225.71 Definitions.

(a) *Senior executive officer* means a person who, without regard to title, exercises the authority of one or more of the following positions: chief executive officer, chief operating officer, chief financial officer, chief lending officer, or chief investment officer. "Senior executive officer" also includes any other person with significant influence over major policymaking decisions of a state member bank or bank holding company.

(b) *Bank or bank holding company in troubled condition* means any state member bank or bank holding company that:

(1) Has a composite rating, as determined in the most recent report of examination or inspection, of 4 or 5 under the commercial bank Uniform Interagency Bank Rating System or under the Federal Reserve bank holding company rating system;

(2) Is subject to a cease and desist order or formal written agreement that requires action to improve the financial condition of the institution, unless otherwise informed in writing by the Board or the appropriate Reserve Bank; or

(3) Is expressly informed by the Board or Reserve Bank that it is in troubled condition for purposes of the requirements of this subpart on the basis of the institution's most recent examination, report of condition, or inspection, or other information available to the Board.

§ 225.72 Director and officer appointments; prior notice requirement.

(a) *Prior notice.* A state member bank or bank holding company shall give the Board 30 days' written notice, as specified in § 225.73, before adding or replacing any member of the board of directors or employing or changing the responsibilities of any individual to a position as a senior executive officer of the bank or bank holding company, if:

(1) The bank has been chartered less than two years;

(2) Within the preceding two years, the bank or bank holding company has undergone a change in control that required a notice to be filed pursuant to the Change in Bank Control Act or subpart E of this part;

(3) Within the preceding two years, the bank holding company became a registered bank holding company, unless the bank holding company is owned or controlled by a registered bank holding

company, or the bank holding company was established in a reorganization in which substantially all of the shareholders of the bank holding company were shareholders of the bank prior to the bank holding company's formation; or

(4) The bank or bank holding company is not in compliance with all minimum capital requirements applicable to the institution as determined on the basis of the institution's most recent report of condition, examination or inspection, or is otherwise in troubled condition.

(b) *Advisory directors.* (1) For purposes of this subpart, except as provided in paragraph (b)(2) of this section, the term "member of the board of directors" does not include an advisory director who:

(i) Is not elected by the shareholders of the bank or bank holding company;

(ii) Is not authorized to vote on any matters before the board of directors; and

(iii) Provides solely general policy advice to the board of directors.

(2) The Board or Reserve Bank may otherwise determine that an advisory director is in fact functioning as a director or senior executive officer for purposes of this subpart.

§ 225.73 Procedures for filing, processing, and acting on notices; standards for disapproval; waiver of notice.

(a)(1) *Filing notice.* The notice required in § 225.72 shall be filed with the appropriate Reserve Bank and shall contain the information required by paragraph 6(A) of the Change in Bank Control Act (12 U.S.C. 1817(j)(6)(A)) or prescribed in the designated Board form subject, in either case, to the authority of the Reserve Bank or the Board to modify these requirements or require additional information.

(2) *Acceptance of notice.* The 30-day

notice period specified in § 225.72 shall begin on the date all required information is received by the appropriate Reserve Bank or the Board. The Reserve Bank shall notify the bank or bank holding company submitting the notice of the date all such required information is received and the notice is accepted for processing, and of the date on which the 30-day notice period will expire.

(b) *Commencement of service—(1) At expiration of period.* A proposed director or senior executive officer may begin service 30 days after a complete notice under paragraph (a) of this section has been accepted by the Reserve Bank unless the Board or Reserve Bank issues a notice of disapproval of the proposed addition or employment before the end of the 30-day period.

(2) *Prior to expiration of period.* A proposed director or senior executive officer may begin service before the expiration of the 30-day period if the Board or the Reserve Bank notifies the bank or bank holding company in writing of the Board's intention not to disapprove the addition or employment.

(c) *Notice of disapproval.* The Board or Reserve Bank must disapprove a notice under § 225.72 if the Board or Reserve Bank finds that the competence, experience, character, or integrity of the individual with respect to whom the notice is submitted indicates that it would not be in the best interests of the depositors of the bank or in the best interests of the public to permit the individual to be employed by, or associated with, the bank or bank holding company. The notice of disapproval shall contain a statement of the basis for disapproval.

(d) *Appeal.* (1) The disapproved individual or the state member bank or bank holding company may appeal to

the Board the disapproval of a notice under this subpart within 15 calendar days of the effective date of the notice of disapproval. An appeal shall be in writing and explain the reasons for the appeal and include all facts, documents, and arguments that the appealing party wishes to be considered in the appeal.

(2) The Board may, in its sole discretion, order an informal hearing if the hearing is requested in writing by the disapproved individual or the notificant at the time of an appeal, and the Board finds that oral argument is appropriate or that a hearing is necessary to resolve disputes regarding material issues of fact.

(3) The disapproved individual may not serve as a director or senior executive officer while the appeal is pending. Written notice of the final decision of the Board shall be sent to the appealing party.

(e)(1) *Waiver of notice.* The Board or the Reserve Bank may waive the prior notice required under this subpart if it finds that:

(i) Delay would threaten the safety or soundness of the state member bank or the bank holding company or any of its bank subsidiaries;

(ii) Delay would not be in the public interest; or

(iii) Other extraordinary circumstances exist that justify waiver of prior notice.

(2) *Effect on disapproval authority.* Any waiver issued by the Board or Reserve Bank shall not affect the authority of the Board or Reserve Bank to issue a notice of disapproval within 30 days after such waiver.

By order of the Board of Governors of the Federal Reserve System, February 13, 1990.
William W. Wiles,

Secretary of the Board.

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