

**FEDERAL RESERVE BANK  
OF NEW YORK**

[ Circular No. **10535**  
April 30, 1992 ]

**EQUAL CREDIT OPPORTUNITY**  
**Amendments to the Staff Commentary to Regulation B**

*To All Depository Institutions, and Others  
Concerned, in the Second Federal Reserve District:*

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

The Federal Reserve Board has issued revisions to its staff commentary to Regulation B, Equal Credit Opportunity.

The revisions clarify the relationship between Regulation B and Regulation C, which implements the Home Mortgage Disclosure Act (HMDA). The clarifications address data collection on loan applications received by creditors through brokers or other persons.

The revisions also state that use of the uniform residential loan application form dated May 1991 and prepared by the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association does not violate Regulation B. Creditors subject to HMDA may use the form as issued.

Enclosed — for depository institutions in the Second Federal Reserve District and others who maintain sets of regulations of the Board of Governors — is a copy of the amendments to the official staff commentary to Regulation B, which has been reprinted from the *Federal Register*; additional, single copies may be obtained at this Bank (33 Liberty Street) from the Issues Division on the first floor, or by contacting the Circulars Division (Tel. No. 212-720-5215 or 5216). Questions regarding Regulation B may be directed to our Compliance Examinations Department (Tel. No. 212-720-5914).

E. GERALD CORRIGAN,  
*President.*

# Board of Governors of the Federal Reserve System

## EQUAL CREDIT OPPORTUNITY

### Amendments to the Official Staff Commentary to Regulation B

(Effective April 7, 1992)

#### FEDERAL RESERVE SYSTEM

#### 12 CFR Part 202

[Reg. B; EC-1]

#### Equal Credit Opportunity; Update to Official Staff Commentary

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

**ACTION:** Official staff interpretation.

**SUMMARY:** The Board is publishing revisions to the official staff commentary to Regulation B (Equal Credit Opportunity). The commentary applies and interprets the requirements of Regulation B and is a substitute for individual staff interpretations of the regulation. The revisions clarify the relationship between Regulation B and Regulation C (which implements the Home Mortgage Disclosure Act) with regard to data collection on loan applications received by creditors through brokers or other persons. While data collection on such applications is not required for purposes of Regulation B, it may be called for under Regulation C. The revisions also address the use of the uniform residential loan application form dated May 1991 and prepared by the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association. Use of the form does not violate Regulation B even though the monitoring information section of the form contains categories for noting an applicant's race or national origin that differ from those required by § 202.13 of the regulation.

**EFFECTIVE DATE:** April 7, 1992.

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

#### SUPPLEMENTARY INFORMATION:

##### (1) General

The Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1691-1691f, makes it unlawful for creditors to discriminate in any aspect of a credit transaction on the basis of sex, marital status, age, race, national origin, color, religion, receipt of public assistance, or the exercise of rights under the Consumer Credit Protection Act. This statute is implemented by the Board's Regulation B (12 CFR part 202). The Board also has an official staff commentary (12 CFR part 202 (supp. I)) that interprets the regulation. The commentary provides general guidance to creditors in applying the regulation to various credit transactions, and is updated periodically to address significant questions that arise.

##### (2) Revisions

*Section 202.5—Rules Concerning Taking of Applications*

5(b) General Rules Concerning Requests for Information

Comment 5(b)(2)-3 is added primarily

to indicate that loan brokers, correspondents, or other persons do not violate the ECOA or Regulation B if they collect information about race, national origin, and sex (that they would otherwise be prohibited from collecting under the regulation) for the purpose of providing the information to a creditor subject to the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. 2801-2810.

*Section 202.13—Information for Monitoring Purposes*

13(b) Obtaining of Information

Comment 13(b)-4 is revised to indicate that even though creditors need not obtain the monitoring information for purposes of § 202.13 of Regulation B, when receiving an application through an unaffiliated loan-shopping service, data collection may nonetheless be required for creditors subject to HMDA.

*Appendix B—Model Application Forms*

Comment 1 is revised to indicate that the uniform residential loan application form dated May 1991 and prepared by the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Federal National Mortgage Association (Fannie Mae) may be used by creditors without violating Regulation B—even though the monitoring information section of this form contains categories for noting an applicant's race or national origin that differ from those required by § 202.13 of the regulation. The categories on the Fannie Mae-Freddie Mac form conform to classifications specified by the U.S. Office of Management and

For this Commentary to be complete, retain:

- 1) Commentary pamphlet dated April 1, 1990.
- 2) Amendments effective April 1, 1991
- 3) This slip sheet.

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Budget for recordkeeping, collection, and presentation of data on race and ethnicity in federal program administrative reporting and statistical activities. The comment is also revised to indicate that creditors subject to HMDA may use the form as issued, in compliance with that act and Regulation C.

**List of Subjects in 12 CFR Part 202**

Aged, Banks, banking, Civil rights, Credit, Federal Reserve System, Marital status discrimination, Minority groups, Penalties, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination, Women.

For the reasons set forth in the preamble, and pursuant of authority granted in section 703 of the Equal Credit Opportunity Act, 15 U.S.C. 1691b, the Board is amending the official staff commentary to Regulation B (12 CFR part 202 supp. I) to read as follows:

**PART 202—EQUAL CREDIT OPPORTUNITY**

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

**Authority:** 15 U.S.C. 1691-1691f.

2. In supp. I to part 202, under section 202.5, paragraph 5(b)(2), comment 3 is added to read as follows:

*Section 202.5—Rules Concerning Taking of Applications*

\* \* \* \* \*

3. *Collecting information on behalf of creditors.* Loan brokers, correspondents, or other persons do not violate the ECOA or Regulation B if they collect information that they are otherwise prohibited from collecting, where the purpose of collecting the information is to provide it to a creditor that is subject to the Home Mortgage Disclosure Act or another federal or state statute or regulation requiring data collection.

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3. In supp. I to part 202, under section 202.13, paragraph 13(b), comment 4 is revised to read as follows:

*Section 202.13—Information for Monitoring Purposes*

\* \* \* \* \*

4. *Applications through loan-shopping services.* When a creditor receives an application through an unaffiliated loan-shopping service, it does not have to request the monitoring information for purposes of the ECOA or Regulation B. Creditors subject to the Home Mortgage Disclosure Act should be aware, however, that data collection may be called for under Regulation C, which generally requires creditors to report, among other things, the sex and race or national origin of an applicant on brokered applications or applications received through a correspondent.

\* \* \* \* \*

4. In supp. I to part 202, under appendix B, comment 1 is revised to read as follows:

**Appendix B—Model Application Forms**

1. *FHLMC/FNMA form—residential loan*

*application.* The uniform residential loan application form (FHLMC 65/FNMA 1003), including supplemental form (FHLMC 65A/FNMA 1003A), prepared by the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association and dated May 1991 may be used by creditors without violating this regulation even though the form's listing of race or national origin categories in the "Information for Government Monitoring Purposes" section differs from the classifications currently specified in § 202.13(a)(1). The classifications used on the FNMA-FHLMC form are those required by the U.S. Office of Management and Budget for notation of race and ethnicity by federal programs in their administrative reporting and statistical activities. Creditors that are governed by the monitoring requirements of Regulation B (which limits collection to applications primarily for the purchase or refinancing of the applicant's principal residence) should delete, strike, or modify the data-collection section on the form when using it for transactions not covered by § 202.13(a) to ensure that they do not collect the information. Creditors that are subject to more extensive collection requirements by a substitute monitoring program under § 202.13(d) or by the Home Mortgage Disclosure Act (HMDA) may use the form as issued, in compliance with the substitute program or HMDA.

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Board of Governors of the Federal Reserve System.

Dated: April 3, 1992.

**Jennifer J. Johnson,**  
*Associate Secretary of the Board.*

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