

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 7883]
May 26, 1976]

EQUAL CREDIT OPPORTUNITY
Amendments to Regulation B

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

The Board of Governors of the Federal Reserve System has adopted several amendments to its Regulation B, "Equal Credit Opportunity." Following is the text of a statement issued by the Board of Governors on May 13 announcing the amendments:

The Board of Governors of the Federal Reserve System today announced adoption of several amendments to its Regulation B—Equal Credit Opportunity—that went into effect last October 28.

The amendments announced today relate to the regulation implementing the Equal Credit Opportunity Act in its original form, prohibiting discrimination in the granting of credit on grounds of sex or marital status. Amendments to the regulation to implement changes in the Act made by the Congress this year are in the process of development.

One amendment announced today adds a new subsection to Regulation B regarding credit extended under student loan programs. This permits lenders to ask student borrowers questions about marital status, and income of the applicant's spouse, and to obtain the signature of the applicant's spouse to determine if the applicant qualifies for assistance on the basis of need. Without this amendment lenders could not make these inquiries or obtain the spouse's signature. The amendment applies to both State and Federal student loan programs.

Another amendment to the regulation requires creditors to retain a copy of the notice of action taken on an application for credit. This is in addition to the existing requirement that lenders retain copies of customers' applications. Where lenders notify customers by form letter of action taken, a notation in the customer's file that such a letter was sent will satisfy the new requirement.

A third amendment provides that in business transactions of \$100,000 or more a creditor need not explain the reasons for denial of credit, and in business transactions of less than \$100,000 creditors must explain reasons for denial if requested in writing to do so.

In submitting the amendments for publication in the *Federal Register*, the Board issued the following additional statements:

On January 12, 1976, the Board of Governors of the Federal Reserve System published for comment (41 *Federal Register* 1769) several proposed amendments to its Regulation B, Equal Credit Opportunity.

After review and consideration of all comments received, pursuant to its authority under section 703(a) of the Equal Credit Opportunity Act (15 U.S.C. 1691 b), the Board of Governors has decided to adopt the amendments with the following changes.

Section 202.4—Applications

The Board proposed to substitute the word "the" for the word "each" in section 202.4(d)(1), which requires creditors to furnish applicants with a notice regarding the Act. This amendment was intended to make it clear that a creditor need furnish only one such notice per transaction. Thus, where two or more applicants apply jointly for credit, the notice need be furnished to only one of them. In determining which applicant shall receive the notice, the creditor may not select an applicant who is secondarily liable such as an endorser, co-maker (when designated as a surety) or guarantor. Of course, the creditor may, if it wishes, furnish the notice to all joint applicants.

The comments received indicated that the substitution of the word "the" for "each" did not convey the Board's intent with sufficient clarity. Therefore, in addition to making this substitution, the Board has decided to add a new paragraph (3) to section 202.4(d) explaining a creditor's duty to deliver the notice in a transaction involving multiple applicants.

After consideration of the comments received, the Board determined that the proposed amendment will eliminate unnecessary duplication in the delivery of the notice and, therefore, has adopted it.

Section 202.5—Evaluation of Applications

The Board proposed to delete the words "under section 202.4(c)(3)" from section 202.5(d)(2) because this language was superfluous and possibly confusing. The Board has determined that deletion of this phrase is appropriate. Therefore, this amendment has been adopted in the form proposed.

Section 202.6—Furnishing of Credit Information

The Board proposed to amend section 202.6(a)(2)(ii) to indicate that when furnishing credit information, a creditor need furnish information only about the spouse who is the subject of the inquiry. After consideration of the comments received, the Board has determined not to adopt the amendment at this time.

Section 202.9—Preservation of Records

The Board proposed to amend section 202.9(a) to require creditors to retain a copy of the notification of action taken furnished to the applicant and a copy of the reasons for denial, if this document is provided to the applicant. If a creditor explains the reasons for denial orally and makes a notation or memorandum regarding this action, the creditor shall retain such notation or memorandum for the required period.

Several commentators explained that they use computer-generated form letters for purposes of complying with sections 202.5(m)(1) and (2), notification of action taken and reasons for denial. The proposed amendment was not intended to require creditors to retain "hard" copies of these form letters. The words "or recorded notation" have been added to the language of the amendment to indicate that if a creditor uses an automated system for generating form letters, the creditor need not retain copies of each letter. The requirement of the regulation is satisfied if the creditor makes a notation in the applicant's file that a particular form letter has been sent.

The Board has adopted the amendment in substantially the same form as proposed.

The Board proposed to amend section 202.9(b) to make it clear that a creditor must retain records when credit is terminated and to provide that creditors need not retain records after revoking credit when the revocation is the result of the customer's delinquency or when the creditor changes the terms of a substantial portion of its accounts.

After consideration of the comments received, the Board has adopted these amendments as proposed.

Section 202.10—Certain Specialized Credit

The Board proposed to amend section 202.10(c), which relates to business credit, to provide that creditors need not furnish an explanation of reasons for denial in connection with applications for business credit in excess of \$100,000. The Board proposed this amendment because it felt that in large commercial transactions, the benefit to the applicant of receiving reasons for denial is outweighed by the cost to the creditor. The amendment to section 202.10(c) also provides that section 202.4(e) and section 202.5(g) shall not apply to applications for business credit. After consideration of all comments received, the Board has decided to adopt this amendment as proposed.

The Board proposed to add a new subsection (f) to section 202.10. The new provision relates to credit extended under student loan programs. The Board proposed this amendment because lenders who extend credit under Federal student loan programs are required by the Department of Health, Education and Welfare to inquire about an applicant's marital status, about the income of the applicant's spouse and to obtain the signature of the applicant's spouse for verification purposes. Information about the applicant's spouse is required because access to credit under these programs is determined on the basis of need. Without this amendment to Regulation B, creditors would be prohibited from making these inquiries and from obtaining the spouse's signature.

As proposed, the amendment referred only to student loan programs administered by the Department of Health, Education and Welfare. The amendment did not mention State guarantee agencies. Public comments indicated that in certain States, State agencies administer Federal student loan guarantee programs and also administer State guarantee programs that are unconnected with the Federal program. In response to these comments, the Board has added a specific reference to State guarantee agencies to indicate that credit extended under State or Federal student loan programs administered by a State agency is not subject to the restrictions of sections 202.4(c), 202.5(b) and 202.7(a).

The Board has adopted this amendment in substantially the same form as proposed.

Section 202.14—Transition Periods

The Board proposed to amend section 202.14 by deleting the reference to section 202.5(d) in section 202.14(b) and adding it to section 202.14(d). This change would make the effective date of section 202.5(d) consistent with that of section 202.4(c)(3).

The portions of Regulation B that require changes in creditors' application forms become effective on June 30, 1976. Section 202.5(d)(1) also may require changes in forms and, thus, its effective date should be June 30. However, section 202.5(d)(2) does not require any alteration in application format. Therefore, the Board has decided to change the effective date of only paragraph (1) of section 202.5(d) to June 30, 1976.

Effective Date

These amendments become effective on June 30, 1976, except for section 202.10(f). Since section 202.10(f) grants an exemption, it becomes effective on May 13, 1976.

Enclosed is a copy of the amendments to Regulation B. Inquiries thereon may be directed to our Bank Regulations Department. Additional copies of the enclosure will be furnished upon request.

PAUL A. VOLCKER,
President.

Board of Governors of the Federal Reserve System

EQUAL CREDIT OPPORTUNITY

AMENDMENTS TO REGULATION B

Effective May 13, 1976, Section 202.10(f) is added to read as follows:

SECTION 202.10—CERTAIN SPECIALIZED CREDIT

* * *

(f) **Credit under student loan programs.** Credit granted under student loan programs administered by the Department of Health, Education and Welfare or by State guarantee agencies shall be subject to all the provisions of this Part except that to the extent necessary or appropriate to ascertain and/or verify the applicant's marital status and the financial resources of the applicant and the applicant's spouse, if the applicant is married, sections 202.4(c), 202.5(b) and 202.7(a) shall not apply.

Effective June 30, 1976, Regulation B is amended as follows:

1. Subparagraph (1) of Section 202.4(d) is amended by substituting the word "the" for the word "each" before "applicant," and by adding a new subparagraph (3) to that section:

SECTION 202.4—APPLICATIONS

* * *

(d) **Equal Credit Opportunity Act notice.**

(1) Except where application is made by telephone, or orally for an amount of credit to exceed an existing limit on an applicant's open end account, the creditor shall provide the applicant with the following notice in writing:

* * *

(3) Where two or more applicants jointly apply for credit, the creditor need furnish the notice required by paragraph (1) to only one of them. In determining which applicant shall receive the notice, the creditor may not select an applicant who is secondarily liable, such as an endorser, co-maker (when designated as a surety) or guarantor.

* * *

2. The first sentence of subparagraph (2) of Section 202.5(d) is amended to read as follows:

SECTION 202.5—EVALUATION OF APPLICATIONS

* * *

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

* * *

(2) Where an applicant chooses to disclose alimony, child support or maintenance payments, a creditor shall consider such payments as income to the extent that such payments are likely to be consistently made.***

3. Paragraphs (a) and (b) of Section 202.9 are amended to read as follows:

SECTION 202.9—PRESERVATION OF RECORDS

(a) For a period ending 15 months after the date a creditor gives the applicant notice of action on an application, the creditor shall retain as to each applicant:

(1) the original or a copy of any application form and all other written or recorded information used in evaluating an application; and

(2) a copy or recorded notation of the following if furnished the applicant in written form (or if furnished orally, and notation or memorandum made by the creditor):

(i) the notification of action taken; and

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

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

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

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

For this Regulation to be complete, retain:

- 1) Printed Regulation B pamphlet, effective October 28, 1975.
- 2) This slip sheet.

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

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

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

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

* * *

4. Section 202.10(c) is amended to read as follows:

SECTION 202.10—CERTAIN
SPECIALIZED CREDIT

* * *

(c) **Business credit.** Business credit shall be subject to the provisions specified in sections 202.10(a), 202.5, 202.7 and 202.9, except that sections 202.5(m)(2), 202.5(m)(3) and 202.9 shall only apply in those transactions involving an application for credit in the amount of

\$100,000 or less where the applicant requests in writing that the creditor provide such reasons or retain such records. Sections 202.4(e) and 202.5(g) shall not apply to business credit extended in the name of a business firm. As used in this Part, business credit is credit granted for business, commercial or agricultural purposes.

* * *

5. Section 202.14 is amended to read as follows:

SECTION 202.14—TRANSITION
PERIODS

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

(a) * * *

(b) Sections 202.4(b), 202.4(e), 202.5(d)(2), 202.5(e), 202.5(f), 202.5(g), 202.9(a) and 202.9(b) shall take effect on November 30, 1975.

(c) * * *

(d) Sections 202.4(c), 202.4(d), 202.5(b) and 202.5(d)(1) shall take effect on June 30, 1976.