

ANNUAL REPORT TO CONGRESS
ON
THE EQUAL CREDIT OPPORTUNITY ACT
FOR THE YEAR 1980

Board of Governors of the Federal Reserve System
February 2, 1981

This fourth annual report on the Equal Credit Opportunity Act discusses the Federal Reserve System's enforcement of, and assessment of compliance with, the act and Regulation B in 1980; rulewriting activities and legislative recommendations of the Board; the Consumer Advisory Council; interagency activities; and enforcement and assessment of compliance by other agencies, as well as their efforts to educate consumers and creditors about equal credit opportunity.

ENFORCEMENT AND ASSESSMENT OF COMPLIANCE

Most of the federal agencies responsible for enforcing the act and Regulation B indicated that compliance improved in 1980. Statistics from summaries of examination reports of the Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board show varying levels of improvement. The Small Business Administration, the United States Department of Agriculture, the Civil Aeronautics Board, the Securities and Exchange Commission, and the Farm Credit Administration reported that compliance among the creditors they supervise generally appears good.

The Federal Reserve System enforces the ECOA and Regulation B through its examination of state member banks and investigation of consumer complaints against these banks. Specially trained consumer affairs and civil rights examiners from the Federal Reserve Banks conduct the examinations, and Board staff members review selected examination reports to determine the compliance status of individual banks. Examination reports are also reviewed to evaluate and improve examination procedures and reporting methods.

The Board's records show significant improvement in 1980 in the compliance of state member banks with the ECOA. The Federal Reserve System examined about 10 percent more state member banks in 1980 than in 1979; examination reports received as of December 1980 reveal that 60 percent of the banks examined had one or more violations, down from 77 percent in 1979. The most common violations were failure to provide an adverse action notice (containing a statement of the action taken, the required ECOA notice, and the name and address of the federal agency that enforces compliance); failure to notify applicants of the action taken within specific periods; and failure to make required disclosures related to requests for information about "other income."

In 1980 the Board took formal action against two state member banks that had violated consumer laws and regulations. In both cases written agreements were issued that required each bank to appoint a compliance officer whose job description and qualifications were to be reviewed by the appropriate Reserve Bank; to submit written compliance procedures to the Reserve Bank within a prescribed time; to establish consumer protection training and educational programs for bank employees; to develop an internal program to audit compliance with consumer laws and regulations; to replace or correct all disclosure forms to ensure compliance; and to establish procedures for periodic progress reports to the Reserve Bank.

The Federal Reserve System replies to complaints and inquiries about diverse areas of consumer activity. Responses range from providing consumers with explanations of laws to conducting investigations that may reveal errors made by state member banks. In the latter case, the bank is asked to take corrective action. Complaints alleging illegal credit discrimination are investigated by the appropriate Federal Reserve Bank and the consumer is

informed of the results of the investigation. In cases of possible violation, the commercial bank is required to take corrective action and the consumer is advised of his or her rights and remedies.

The Federal Reserve System received 284 ECOA-related complaints against state member banks in 1980; 84 percent, or 238, concerned adverse actions. Thirty-one of these alleged discrimination on the basis of characteristics covered by the act: eight, on age; seven, on sex; seven, on source of income; four, on marital status; two, on race, color, or national origin; two, on exercise of rights under the Consumer Credit Protection Act; and one, on religion. The other complaints alleged unfair treatment: 83, with regard to credit history; 29, income; 22, length of employment; 13, length of residency; and 60, miscellaneous.

Of the 238 complaints, 21 percent were resolved by correcting the complainant's misunderstanding of the law; 57 percent, through investigation that revealed no bank error; one percent, through investigation that revealed a factual dispute between the complainant and the bank (the consumer was advised to consult an attorney); one percent, through investigation that revealed a possible bank violation; four percent, through investigation that revealed a bank error, which was corrected; and two percent through investigation that revealed error on the part of the customer. As of October 31, 1980, the remaining 14 percent were still under investigation.

To assist creditor compliance with the requirements of the ECOA and Regulation B in 1980, representatives of the Federal Reserve System visited more than 219 member banks to advise them about the requirements of the ECOA

and other consumer laws. These visits are made, upon request, to member banks and provide them with the opportunity to ask specific questions about how ECOA requirements relate to the actual practices and procedures of the bank.

The Federal Reserve distributed more than two million copies of the Board's consumer pamphlets on ECOA, including "The Equal Credit Opportunity Act and Women," "The Equal Credit Opportunity Act and Age," "The Equal Credit Opportunity Act and Doctors, Lawyers and Small Retailers," "The Equal Credit Opportunity Act and Credit Rights in Housing," and "How the New Equal Credit Opportunity Act Affects You." These pamphlets are distributed free on request and during presentations to consumers and creditors.

In 1980 more than two million people viewed the color film, "To Your Credit." Designed for school and television use, the film shows how Regulation B and Regulation Z, Truth in Lending, protect the consumer.

The Civil Aeronautics Board (CAB) reported a satisfactory level of compliance among U.S. and foreign airlines in 1980. The number of consumer complaints in 1980 was lower than the number received in 1979; according to the CAB, none of the complaints warranted formal enforcement action.

The Farm Credit Administration (FCA) reported good compliance with the act. They received 12 complaints in 1980, and investigations revealed no violations. Four of the twelve complaints charged discrimination based on sex; three, on race; one, on national origin; and four specified no particular basis.

The Federal Deposit Insurance Corporation (FDIC) reported a modest improvement in compliance with the act in 1980. Of the banks examined in 1980, 47 percent were not in full compliance with Regulation B, compared with 50

percent the previous year. The violations that were reported most frequently, according to the FDIC, all related to the adverse action notice requirements: the failure to provide a notice; failure to provide a written statement of specific reasons for adverse action, or a notice of the right of the applicant to such a statement; failure to provide the required name and address of the FDIC as the enforcement agency; and failure to give the required ECOA notice.

The FDIC received 369 consumer complaints and 186 inquiries related to equal credit opportunity. The most frequently alleged types of discrimination were related to sex, marital status, race, color, and national origin -- in that order.

Several FDIC activities in 1980 were designed to provide information and education on the ECOA to creditors and consumers. The agency conducted consumer compliance seminars for bankers on equal credit opportunity, fair housing, and community reinvestment; provided consumers with a toll-free "hotline"; and prepared for a series of consumer-awareness seminars to begin in early 1981. The seminars are aimed at neighborhood leaders and others concerned with consumer protection and civil rights issues.

The Federal Home Loan Bank Board (FHLBB) reported that 23 percent of the institutions it examined in 1980 were found to have one or more violations of Regulation B. About 3,000 violations were reported last year, down from 4,000 in 1979. The most frequent violations reported were failure to provide applicants with the required adverse action notice, failure to provide the required information on adverse action notices, and failure to retain records as required by Regulation B.

The FHLBB reports that 217 complaints related to equal credit opportunity were received in 1980. One hundred and thirty-one of these were found not to involve violations; 17 involved interpretive problems which were settled;

18 were unresolved as of September 30, 1980; 45 were referred to other agencies for resolution; and six involved violations or errors that were corrected.

The Federal Trade Commission (FTC) reported that overall compliance with the act seems to have improved, and that it received fewer complaints related to credit discrimination in 1980 than in 1979. Continuing compliance problems in the sales finance and small loan industries, according to the FTC, involve requests for a spouse's signature and information about a spouse. The FTC has also reported that a number of creditors may treat protected income less favorably than other income in both judgmental and credit scoring systems. It continues to be concerned that the use of ZIP codes in credit scoring systems may have a disproportionately adverse effect on racial minorities. Finally, the FTC reported that its staff investigation of mortgage lenders, sales finance, and small loan companies suggests that various subtle forms of discrimination, such as discouraging minorities and others from applying for credit, may be replacing the more blatant discriminatory practices that were documented during hearings prior to the enactment of the ECOA.

The FTC initiated formal action against two creditors that failed to comply with the act. A complaint filed by the Department of Justice on behalf of the FTC charged that an oil company's consideration of ZIP codes had the effect of discriminating against blacks and Hispanics; its practice of discounting protected income had the effect of discriminating against women and recipients of public assistance; and its method of disclosing reasons for adverse action failed to reveal the specific reasons for denial. In a second consent judgment, the FTC acted against a credit union that discriminated against women by treating anticipated maternity leave as grounds for denying credit.

The FTC also reports the development of a program to monitor the credit activities of the Farmers Home Administration. The program requests everyone who applies to the Farmers Home Administration for credit to specify their race, sex, and national origin for monitoring purposes; if the information is not volunteered, it must be designated by the person taking the application based on surname or visual observation.

Educational activities of the FTC during 1980 included lectures at industry conferences and the continued distribution of two consumer brochures, "Women and Credit Histories" and "Equal Credit Opportunity."

The Interstate Commerce Commission (ICC) reported that it received no consumer complaints related to credit discrimination in 1980, as in 1979. The ICC has created a new office of consumer protection to maintain a computer record of complaints and to develop profiles of carrier abuses and irregularities.

The National Credit Union Administration (NCUA) reported that 63 percent of the credit unions examined in 1980 were found not to be in full compliance with the ECOA; in 1979 the figure was 44 percent. The NCUA attributes this increase to the intensified examination procedures of its new separate examination program for consumer compliance. The most frequently reported violations, according to the NCUA, were failure to provide adverse action notices, failure to avoid loan policies that might have the effect of discriminating on a prohibited basis; failure to avoid certain prohibited requests for information on loan applications; and failure to avoid prohibited requests for the signature of a spouse. The NCUA issued two cease-and-desist orders in 1980.

In 1980 the NCUA received 57 consumer complaints. The two most common allegations were discrimination on the basis of race and national origin and failure to provide proper adverse action notices.

The Office of the Comptroller of the Currency (OCC) reported improved compliance with the ECOA. Of the banks examined by the OCC in 1980, 63 percent were not in full compliance, compared with 82 percent in 1979. The most frequent violations reported, according to the OCC, are failure to provide adverse action notices or notices of the right to receive such a statement; failure to disclose the rights of applicants with regard to giving information about income from alimony, child support, separate maintenance, part-time employment, retirement benefits or public assistance; failure to provide a notice of action taken within the required time periods; and failure to observe prohibitions against requesting marital status and using certain terms in applications for unsecured credit. The OCC reported a number of administrative actions in 1980 against banks failing to comply with the act and Regulation B: four cease-and-desist orders, eleven formal agreements, and four memoranda of understanding.

The OCC received 1,180 consumer complaints involving the ECOA. More than two-thirds were related to the requirements for denial of credit: 16 percent alleged that the creditor refused to give reasons for adverse action, and 52 percent claimed a lack of clarity in the reasons given. Two-thirds were related to bank credit cards. According to the OCC, 44 percent of the complaints of discrimination named either sex or marital status.

To educate consumers and creditors about the ECOA and Regulation B, the OCC provided speakers for meetings with consumer and civil rights groups and assisted trade groups in preparing educational materials on the ECOA. In 1980 the OCC began using a computerized mailing list to send information to consumer, civil rights, and community groups.

The OCC reported that in the last quarter of 1980, a new unit was formed to implement the ECOA and other fair lending enforcement laws. This unit is expected to produce a sharper focus on civil rights enforcement activities and a more effective coordination of civil rights responsibilities. The OCC also reported a new data system, the Fair Housing Home Loan Data System, designed to determine national bank compliance with the ECOA and the Fair Housing Act. The system has been in operation since August 1980; it requires national banks to submit information on monthly home-loan activity, and, if warranted, additional information on a sample of home-loan applications.

The Securities and Exchange Commission (SEC) reported continued good compliance with the ECOA. Only one complaint relating to the act was received in 1980, and investigation revealed that no violation occurred.

The Small Business Administration (SBA) reported continued good compliance with the ECOA; no violations were discovered in 1980, as in 1979. The SBA received 21 complaints of discrimination, but none were substantiated. In response to an audit of its civil rights compliance activities by the Department of Justice, the SBA is conducting on-site reviews of all small business investment companies, development companies, and other recipients of SBA funds.

The United States Department of Agriculture (USDA) reported no compliance problems in the limited program under the Packers and Stockyards Act.

RULEWRITING

In August 1980 the Board issued two proposed interpretations of Regulation B. The first concerns the consideration of income by creditors, and the second, the disclosure of reasons for adverse action.

The first proposal deals with the meaning of the requirement in Regulation B that a creditor not discount or exclude from consideration an applicant's income that is derived from alimony, child support, separate maintenance, part-time employment, retirement benefits, or public assistance. Under the proposal the creditor would be required, in evaluating a credit application, to treat protected income at least as favorably as income from any other source. When such income would have no effect on the credit decision, the creditor would not have to consider it.

The second proposal addresses the question of how a creditor should select and disclose the principal reasons for denying credit. In the case of a credit scoring system, the disclosed reasons for adverse action would have to be directly related to factors actually scored by the creditor. Creditors would be required to attempt to disclose the minimum adjustment that the applicant would have to make to become creditworthy. Regardless of the method used to evaluate credit applications, the creditor would be required to be consistent in the use of that method, applying it to all applications.

In response to numerous requests, and to encourage public participation, the comment period for both proposals was extended to December 22, 1980. The Board is expected to take final action on the proposed interpretations in the first quarter of 1981.

Final action on two amendments to Regulation B relating to business credit, proposed in October 1978, will be considered by the Board at the same time. Those proposals related to the current business credit exemption from record-keeping and notification requirements and would (if adopted as proposed) make certain modifications in the application of the rules for transactions under \$100,000. Another proposed amendment would eliminate, for all business credit transactions, the current exemption from the prohibition against requesting information on marital status.

LEGISLATIVE RECOMMENDATIONS

The Board received one legislative recommendation from the Small Business Administration (SBA). With regard to the SBA and its recipients who engage in credit activity, the Equal Credit Opportunity Act is enforced by the Civil Rights Compliance Division of the SBA through a letter of understanding with the Federal Trade Commission. The SBA has expressed the belief that the act should assign this enforcement responsibility directly to the SBA.

THE CONSUMER ADVISORY COUNCIL

The Consumer Advisory Council was established in 1976 to advise the Board on its responsibilities under the Consumer Credit Protection Act and other consumer-related activities. The Council has thirty members who represent the interests of consumers and creditors and come from different regions of the country.

The Council met four times in 1980. Regarding equal opportunity in credit, the Council discussed credit scoring systems; in particular, the advantages and disadvantages of judgmental and credit scoring systems to consumers and creditors, the use of ZIP codes in scoring systems, and the importance of creditors giving consumers adequate adverse action notices. Some Council members suggested that the federal government monitor credit scoring practices that use ZIP codes; the members were concerned that the use of ZIP codes may have the effect of discriminating against applicants in certain racially or ethnically concentrated neighborhoods. Other members cautioned against federal attempts to tinker with credit scoring systems because removing a particular factor from a credit scoring system can have an undesirable effect on the classes of borrowers that the law seeks to protect. With regard to reasons for denial of

credit, many Council members were firm in expressing the view that reasons should be explained as fully as possible so that consumers have the opportunity to refute any inaccurate or unusual factor used in the credit assessment.

The Council also discussed the enforcement of the Community Reinvestment Act and the need for uniformity in the enforcement of consumer credit protection and related civil rights laws.

INTERAGENCY ACTIVITIES

The member agencies of the Federal Financial Institutions Examination Council have jointly proposed uniform guidelines for the enforcement of the ECOA, Regulation B, and the Fair Housing Act. Field tests to determine the operational feasibility and general effectiveness of the guidelines were completed in early 1980. After the field tests, the guidelines were redrafted by an interagency work group and sent to the Examination Council's Task Force on Consumer Compliance.

The Examination Council conducted five Consumer Compliance Schools in 1980 to refine its educational program before giving formal approval. More than 195 consumer examiners from the Federal Reserve System and the offices of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration (all members of the Examination Council) were trained at these schools. About 16 percent of the classroom time at each of the schools was devoted to the ECOA, Regulation B, and the Fair Housing Act; about 27 percent, to civil rights in general. The development of the lesson plans, the teaching, and the other responsibilities associated with the school were shared by the agencies represented on the Examination Council.