

FEDERAL RESERVE SYSTEM

12 CFR Part 202

Regulation B; Docket No. R-1408

RIN No. 7100- AD67

Equal Credit Opportunity

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 701 of the Equal Credit Opportunity Act (ECOA) requires a creditor to notify a credit applicant when it has taken adverse action against the applicant. The ECOA adverse action requirements are implemented in the Board's Regulation B. Section 615(a) of the Fair Credit Reporting Act (FCRA) also requires a person to provide a notice when the person takes an adverse action against a consumer based in whole or in part on information in a consumer report. Certain model notices in Regulation B include the content required by both the ECOA and the FCRA adverse action provisions, so that creditors can use the model notices to comply with the adverse action requirements of both statutes. The Board proposes to amend these model notices in Regulation B to include the disclosure of credit scores and information relating to credit scores if a credit score is used in taking adverse action. These proposed amendments reflect the new content requirements in section 615(a) of the FCRA that were added by section 1100F of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

DATES: Comments must be received on or before **[INSERT DATE 30 days after date of publication]**. Comments on the Paperwork Reduction Act analysis set forth in Section

III.A. of this Federal Register notice must be received on or before **[INSERT DATE 60 days after date of publication]**.

FOR FURTHER INFORMATION CONTACT:

Board: Mandie K. Aubrey, Senior Attorney, or Catherine Henderson, Attorney, Division of Consumer and Community Affairs, (202) 452-3667 or (202) 452-2412, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. For users of a Telecommunications Device for the Deaf (TDD) only, contact (202) 263-4869.

SUPPLEMENTARY INFORMATION:

I. Background

The Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1691 et seq., makes it unlawful for creditors to discriminate in any aspect of a credit transaction on the basis of sex, race, color, religion, national origin, marital status, or age (provided the applicant has the capacity to contract), because all or part of an applicant's income derives from public assistance, or because an applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Board's Regulation B (12 CFR part 202) implements the ECOA.

Section 701(d) of the ECOA generally requires a creditor to notify a credit applicant against whom it has taken an adverse action. Under section 701(d)(6) of the ECOA, an adverse action generally 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.

Section 615(a) of the FCRA also requires a person to provide an adverse action notice when the person takes an adverse action based in whole or in part on information in a consumer report. The definition of adverse action in section 603(k) of the FCRA incorporates, for purposes of credit transactions, the definition of adverse action under ECOA. The adverse action provisions in both the ECOA and the FCRA require certain disclosures to be given to consumers.

The ECOA adverse action provisions are implemented in Regulation B. There are no implementing regulations for the adverse action requirements of section 615(a) of the FCRA. However, as explained in comment 202.9(b)(2)-9 of Regulation B, certain model notices in Regulation B include the content required by both the ECOA and the FCRA, so that persons can use the model notices to comply with the adverse action requirements of both statutes.

On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) was signed into law. Pub. L. No. 111-203, 124 Stat. 1376. Section 1100F of the Dodd-Frank Act amends section 615(a) of the FCRA to require creditors to disclose on FCRA adverse action notices a credit score used in taking any adverse action and information relating to that score. The effective date of these amendments is July 21, 2011.¹

The Board is proposing to amend those model adverse action notices in Regulation B which incorporate the content requirements of section 615(a) of the FCRA to reflect the new content requirements added by section 1100F of the Dodd-Frank Act. These revisions to the model notices will help facilitate uniform compliance when section

¹ Section 1100H of the Dodd-Frank Act provides that the amendments in Subtitle H of Title X, which includes Section 1100F, become effective on the “designated transfer date.” The Secretary of the Treasury set the designated transfer date as July 21, 2011. 75 Fed. Reg. 57252 (Sept. 20, 2010).

1100F of the Dodd-Frank Act becomes effective. Thus, pursuant to its authority in section 703(a) of the ECOA, the Board is proposing to amend certain adverse action model notices in Regulation B consistent with the requirements of section 1100F of the Dodd-Frank Act.

II. Section-by-Section Analysis

Appendix C to Part 202 – Sample Notification Forms.

Under section 701(d) of the ECOA, a creditor must provide to applicants against whom adverse action is taken either: (1) a statement of reasons for taking the adverse action as a matter of course; or (2) a notification of adverse action which discloses the applicant's right to a statement of reasons within thirty days after receipt by the creditor of a request made by the applicant within sixty days after the written notification.

Section 615(a) of the FCRA requires a person to provide in an adverse action notice information regarding the consumer reporting agency that furnished the consumer report used in taking the adverse action. It also requires a person to disclose that a consumer has a right to a free credit report and right to dispute the accuracy or completeness of any information in a consumer report.

Section 1100F of the Dodd-Frank Act amends section 615(a) of the FCRA to require that creditors disclose additional information on FCRA adverse action notices. Specifically, a person must disclose on a FCRA adverse action notice a credit score used in taking any adverse action and information relating to that score, in addition to the information currently required by section 615(a) of the FCRA. The statute generally requires that the FCRA adverse action notice include: (1) a numerical credit score used in making the credit decision; (2) the range of possible scores under the model used; (3) the

key factors that adversely affected the credit score of the consumer in the model used; (4) the date on which the credit score was created; and (5) the name of the person or entity that provided the credit score.

As explained in paragraph 2 of Appendix C to Part 202, model notices C-1 through C-5 may be used to comply with the adverse action provisions of both the ECOA and the FCRA. The Board proposes to amend model notices C-1 through C-5 to incorporate the additional content requirements prescribed by section 1100F of the Dodd-Frank Act.

Under the proposal, Forms C-1 through C-5 would be revised to include, as applicable, a statement that the creditor obtained the consumer's credit score from a consumer reporting agency named in the notice and used the score in making the credit decision. The notice would also state that a credit score is a number that reflects the information in the consumer's credit report and that the consumer's credit score can change, depending on how the information in the consumer's credit report changes. The model notices would also provide space for the creditor to include the content required under section 1100F of the Dodd-Frank Act that is specific to the consumer. This content includes: the consumer's credit score, the date the credit score was created, the range of possible credit scores under the model used, and up to four key factors that adversely affected the consumer's credit score (or up to five factors if the number of enquiries made with respect to that consumer report is one of the factors).

In addition to the content added to each of Forms C-1 through C-5, Form C-3 would be amended for clarity. Form C-3 is a model notice that can be used by creditors in circumstances where the creditor uses a proprietary credit scoring system to make a

credit decision and where the creditor uses information from a consumer reporting agency in this scoring evaluation. As discussed above, section 1100F of the Dodd-Frank Act requires information regarding a credit score that is obtained from a consumer reporting agency to be included on an adverse action notice. The Board believes discussing two different types of credit scoring systems on Form C-3 could be confusing for consumers. Therefore, the Board proposes to amend Form C-3 to clarify the differences between a proprietary score and a credit score that is obtained from a consumer reporting agency. The text would clarify that the consumer's application was processed by a system that assigns a numerical value to the various items of information the creditor considers when evaluating the consumer's application. This numerical value is based upon analyses of repayment histories of the creditor's customers. The proposed form would also add topic headings to help distinguish the different types of scores that were used in making the credit decision. It would also remove the reference to credit scoring in the title of the form.

In some cases, a person who is required to provide an adverse action notice under the FCRA may use a consumer report, but not a credit score, in taking the adverse action. Under section 1100F of the Dodd-Frank Act, a person is not required to disclose a credit score and related information if a credit score is not used in taking the adverse action. Therefore, the amendments to Forms C-1 through C-5 are only applicable if a credit score is used in taking an adverse action. A person may amend, at its option, Form C-3 to add the additional headings and remove the reference to a credit scoring system, even if the person does not add the heading and information about the consumer's credit score.

The Board notes that section 1100F of the Dodd-Frank Act requires a creditor to provide, if applicable, a consumer's credit score and related information, regardless of whether it provides a statement of specific reasons for taking the adverse action or a disclosure of the applicant's right to a statement of specific reasons for an adverse action. Therefore, a creditor would not comply with the FCRA adverse action provisions by providing the required FCRA disclosures only if a consumer responds to a request for a statement of specific reasons for an adverse action. As a result, proposed Form C-5 reflects the requirement to provide the disclosures required by section 615(a) of the FCRA, including the consumer's credit score and the key factors that adversely affected the credit score, at the time a creditor provides a disclosure of the applicant's right to a statement of specific reasons for an adverse action.

The Board requests comment on whether the proposed revisions to the content of the adverse action model notices are appropriate. The Board also solicits comment on whether additional or different changes to the model notices should be adopted.

The Board also proposes to amend paragraph 2 of Appendix C, which discusses the disclosure requirements of section 615 of the FCRA that are contained in Forms C-1 through C-5. Paragraph 2 explains that Form C-1 contains the disclosures required by sections 615(a) and (b) of the FCRA, and Forms C-2 through C-5 contain only disclosures required by section 615(a) of the FCRA. Paragraph 2 also describes the circumstances under which a creditor must provide the section 615(a) disclosures or the section 615(b) disclosures.

The paragraph states that the combined ECOA-FCRA disclosures in Form C-1 through Form C-5 must state that a creditor obtained information from a consumer

reporting agency. Consistent with section 1100F of the Dodd-Frank Act, the paragraph would be revised to state that the combined disclosure must also include, as applicable, a credit score used in taking adverse action along with related information. The paragraph would also be revised to clarify that information from a consumer reporting agency was considered in the credit decision.

Supplement I to Part 202 – Official Staff Interpretations

The Board proposes to amend comment 9(b)(2)-9 to reflect the proposed changes to the adverse action model notices. Comment 9(b)(2)-9 addresses the combined ECOA-FCRA adverse action disclosures. The proposed amendment would clarify that the FCRA requires a creditor to disclose, as applicable, a credit score it used in taking adverse action along with related information, including the key factors that adversely affected the consumer's credit score. It would also eliminate a statement that is redundant.

The proposed amendment to comment 9(b)(2)-9 would also clarify that disclosing the key factors that adversely affected the consumer's credit score does not satisfy the ECOA requirement to disclose specific reasons for denying or taking other adverse action on an application or extension of credit. The Board recognizes that a key factor(s) that adversely affected the consumer's credit score may be the same as a specific reason(s) for denying credit or taking other adverse action. However, some specific reasons for taking adverse action may be unrelated to a consumer's credit score, such as reasons related to the consumer's income, employment, or residency. Therefore, the Board believes the disclosure of both the key factors that adversely affected the consumer's credit score and

the specific reasons for denying credit or taking other adverse action is necessary to fulfill the separate requirements of the ECOA and the FCRA.

III. Regulatory Analysis

A. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the proposed rulemaking under the authority delegated to the Board by the Office of Management and Budget (OMB). The collection of information that is required by this proposed rulemaking is found in 12 CFR 202. In addition, as permitted by the PRA, the Board also proposes to extend for three years the current recordkeeping and disclosure requirements in connection with Regulation B. The Board may not conduct or sponsor, and an organization is not required to respond to, this information collection unless it displays a currently valid OMB control number. The OMB control number is 7100–0201.

Section 703(a)(1) of the Equal Credit Opportunity Act (15 U.S.C. 1691b(a)(1)) authorizes the Board to issue regulations to carry out the provisions of the Act. The purpose of the Act is to ensure that credit is made available to all creditworthy customers without discrimination on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to contract), receipt of public assistance income, or the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act (15 U.S.C. 1600 *et seq.*). This information collection is mandatory.

Regulation B applies to all types of creditors, not just State member banks. However, under the Paperwork Reduction Act, the Board accounts for the burden of the

paperwork associated with the regulation only for entities that are supervised by the Board. Appendix A of Regulation B defines these creditors as State member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act. Other federal agencies account for the paperwork burden for the institutions they supervise. Creditors are required to retain records for 12 to 25 months as evidence of compliance.

The current annual burden to comply with the provisions of Regulation B is estimated to be 157,538 hours for the 1,107 institutions² supervised by the Board that are deemed to be respondents for the purposes of the PRA.

As discussed above, the Board proposes to amend model notices C-1 through C-5 to incorporate the additional content requirements prescribed by section 1100F of the Dodd-Frank Act. In addition, the Board proposes to amend Form C-3 to clarify the differences between a proprietary score and a credit score that is obtained from a consumer reporting agency.

The Board estimates that the proposed rule would impose a one-time increase in the total annual burden under Regulation B. The 1,107 respondents would take, on average, 16 hours (two business days) to update their systems to comply with the disclosure requirements addressed in 12 CFR Part 202. This one-time revision would increase the burden by 17,712 hours. The Board estimates that, on a continuing basis, the

² The number of Board-supervised respondents was obtained from numbers published in the Board of Governors of the Federal Reserve System 96th Annual Report 2009: 845 State member banks, 204 branches & agencies of foreign banks, three commercial lending companies, and 55 Edge Act or agreement corporations.

revision to the rule would have a negligible effect on the annual burden. The total annual burden for the Regulation B information collection is estimated to increase from 157,538 to 175,250 hours.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the Board's functions; including whether the information has practical utility; (2) the accuracy of the Board's estimate of the burden of the proposed information collection, including the cost of compliance; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology. Comments on the collection of information should be sent to Cynthia Ayouch, Acting Federal Reserve Clearance Officer, Division of Research and Statistics, Mail Stop 95-A, Board of Governors of the Federal Reserve System, Washington, DC 20551, with copies of such comments sent to the Office of Management and Budget, Paperwork Reduction Project (7100-0202), Washington, DC 20503.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) requires an agency either to provide an initial regulatory flexibility analysis with a proposed rule or certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed regulations cover certain banks, other depository institutions, and non-bank entities that take adverse action against consumers. The Small Business Administration (SBA) establishes size standards that define which entities are

small businesses for purposes of the RFA.³ The size standard to be considered a small business is: \$175 million or less in assets for banks and other depository institutions; and \$7 million or less in annual revenues for the majority of non-bank entities that are likely to be subject to the proposed regulations. The Board requests public comment in the following areas.

1. Reasons for the Proposed Rule

Section 1100F of the Dodd-Frank Act amends section 615(a) of the FCRA to require persons to disclose a credit score and information relating to that credit score in adverse action notices when the person uses a credit score in taking adverse action. Specifically, a person must disclose, in addition to the information currently required by section 615(a) of the FCRA: (1) a numerical credit score used in making the credit decision; (2) the range of possible scores under the model used; (3) the key factors that adversely affected the credit score of the consumer in the model used; (4) the date on which the credit score was created; and (5) the name of the person or entity that provided the credit score. The effective date of these amendments is July 21, 2011.

Certain model notices in Regulation B include the content required by both the ECOA and the FCRA adverse action provisions, so that creditors can use the model notices to comply with the adverse action requirements of both statutes. The Board is issuing proposed amendments to the combined ECOA-FCRA adverse action model notices in Regulation B pursuant to its existing authority under section 703(a) of the

³ U.S. Small Business Administration, Table of Small Business Size Standards Matched to North American Industry Classification System Codes, available at http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf.

ECOA to facilitate compliance with the new requirements under section 1100F of the Dodd-Frank Act.

2. Statement of Objectives and Legal Basis

The SUPPLEMENTARY INFORMATION above contains this information.

The legal basis for the proposed regulations is section 703(a) of the ECOA. The proposed regulations are consistent with section 1100F of the Dodd-Frank Act.

3. Description of Small Entities to Which the Regulation Applies

The proposed regulations apply to any person that (1) is required to provide an adverse action notice to a consumer; and (2) uses a credit score in making the credit decision requiring an adverse action notice. The total number of small entities likely to be affected by the proposal is unknown because the Board does not have data on the number of small entities that use credit scores in taking adverse action in connection with consumer credit. The adverse action provisions of section 1100F of the Dodd-Frank Act have broad applicability to persons who use credit scores in taking adverse action in connection with the provision of consumer credit.

Based on estimates compiled by the Board, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision, there are approximately 9,585 depository institutions that could be considered small entities and that are potentially subject to the proposed rule.⁴ The available data are insufficient to estimate the number of non-bank entities that would be subject to the proposed rule and that are small as defined by the SBA. Such entities would include non-bank mortgage lenders, auto

⁴ The estimate includes 1,504 institutions regulated by the Board, 673 national banks, and 4,167 federally-chartered credit unions, as determined by the Board. The estimate also includes 2,872 institutions regulated by the FDIC and 369 thrifts regulated by the OTS. See 75 FR 36016, 36020 (Jun. 24, 2010).

finance companies, automobile dealers, other non-bank finance companies, insurance companies, employers, telephone companies, and utility companies.

It also is unknown how many of these small entities that meet the SBA's size standards and are potentially subject to the proposed regulations use credit scores in taking adverse action in connection with the provision of consumer credit. The proposed regulations do not impose any requirements on small entities that do not use credit scores in taking adverse action in connection with consumer credit.

The Board invites comment regarding the number and type of small entities that would be affected by the proposed rule.

4. Projected Reporting, Recordkeeping and Other Compliance Requirements

The compliance requirements of the proposed regulations are described in detail in the SUPPLEMENTARY INFORMATION above.

The proposed regulations generally require a person that is required to provide an adverse action notice to a consumer and uses a credit score in making the credit decision to provide a credit score and information relating to that credit score in the notice, in addition to the information currently required by section 615(a) of the FCRA. A person is currently required to determine if it takes an adverse action, based in whole or in part on consumer reports, in connection with the provision of consumer credit. If the person does take adverse action based on consumer reports, the person is required to establish procedures for identifying those consumers to whom it must provide adverse action notices.

A person that is required to provide adverse action notices to certain consumers would need to analyze the regulations. The person would need to determine whether it

uses credit scores in taking adverse action against the consumers to whom it must provide adverse action notices. Persons that use credit scores in taking adverse action would need to provide a credit score and information relating to that credit score to those consumers to whom it must provide an adverse action notice, in addition to the information currently required by section 615(a) of the FCRA. Persons would need to design, generate, and provide notices, including a credit score and information relating to that credit score, to the consumers to whom it must provide an adverse action notice.

The Board seeks information and comment on any costs, compliance requirements, or changes in operating procedures arising from the application of the proposed rule to small institutions.

5. Identification of Duplicative, Overlapping, or Conflicting Federal Regulations

The Board has not identified any federal statutes or regulations that would duplicate, overlap, or conflict with the proposed regulations. As discussed in Part III above, the proposed amendments to the adverse action rules are consistent with section 1100F of the Dodd-Frank Act. The Board is proposing the rules pursuant to their existing authority under section 703(a) of the ECOA. The proposed amendments to the adverse action model notices have been designed to work in conjunction with the requirements of section 1100F of the Dodd-Frank Act to help facilitate uniform compliance when this section becomes effective. The Board seeks comment regarding any statutes or regulations, including state or local statutes or regulations, that would duplicate, overlap, or conflict with the proposed regulations.

6. Discussion of Significant Alternatives

The Board welcomes comments on any significant alternatives consistent with section 703(a) of the ECOA and the provisions of section 1100F of the Dodd-Frank Act that would minimize the impact of the proposed regulations on small entities.

Text of Proposed Revisions

Certain conventions have been used to highlight the proposed revisions. New language is shown inside ► bold-type arrows ◀ while language that would be deleted is set off with <bold-type angles>.

List of Subjects in 12 CFR Part 202

Aged, Banks, Banking, Civil Rights, Consumer protection, Credit, Discrimination, Federal Reserve System, Marital Status Discrimination, Penalties, Religious Discrimination, Reporting and recordkeeping requirements, Sex Discrimination.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR part 202 and the Official Staff Commentary, as follows:

Part 202 – EQUAL CREDIT OPPORTUNITY ACT (REGULATION B)

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

Authority: 15 U.S.C. 1693b.

2. Appendix C to Part 202 is amended as follows:

A. Paragraph 2 is revised.

B. Forms C-1 through C-5 are revised.

3. Supplement I to part 202 is amended as follows:

A. Paragraph 9(b)(2)-9 is revised.

APPENDIX C TO PART 202—SAMPLE NOTIFICATION FORMS

* * * * *

2. 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> ► was considered ◀ in the credit decision ► and, as applicable, a credit score used in taking adverse action along with related information ◀). A creditor must provide the section 615(a) disclosure when adverse action is taken against a consumer based on information from a consumer reporting agency. A creditor must provide the section 615(b) disclosure when adverse action is taken based on information from an outside source other than a consumer reporting agency. In addition, a creditor must provide the section 615(b) disclosure if the creditor obtained information from an affiliate other than information in a consumer report or other than information concerning the affiliate’s own transactions or experiences with the consumer. Creditors may comply with the disclosure requirements for adverse action based on information in a consumer report obtained from an affiliate by providing either the section 615(a) or section 615(b) disclosure.

* * * * *

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
- ___ Collection action or judgment
- ___ Garnishment or attachment
- ___ Foreclosure or repossession

- ____ Bankruptcy
- ____ Number of recent inquiries on credit bureau report
- ____ 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. You also have a right to a free copy of your report from the reporting agency, if you request it no later than 60 days after you receive this notice. In addition, if you find that any information contained in the report you receive is inaccurate or incomplete, you have the right to dispute the matter with the reporting agency.

Name: _____

Address: _____

[Toll-free] Telephone number: _____

► [We also obtained your credit score from this consumer reporting agency and used it in making our credit decision. Your credit score is a number that reflects the information in your credit report. Your credit score can change, depending on how the information in your credit report changes.

Your credit score: _____

Date: _____

Scores range from a low of _____ to a high of _____

Key factors that adversely affected your credit score:

[Number of recent inquiries on credit report]] ◀

____ Our credit decision was based in whole or in part on information obtained from an affiliate or 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 [toll-free] telephone number of

the 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. 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 also have a right to a free copy of your report from the reporting agency, if you request it no later than 60 days after you receive this notice. In addition, if you find that any information contained in the report you receive is inaccurate or incomplete, you have the right to dispute the matter with the reporting agency. 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].

► [We also obtained your credit score from this consumer reporting agency and used it in making our credit decision. Your credit score is a number that reflects the information in your credit report. Your credit score can change, depending on how the information in your credit report changes.

Your credit score: _____

Date: _____

Scores range from a low of _____ to a high of _____

Key factors that adversely affected your credit score:

[Number of recent inquiries on credit report] ◀

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.

► [Reasons for Denial of Credit] ◀

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
- Number of recent inquiries on credit bureau report

► [Your Right to Get Your Credit Report] ◀

In evaluating your application the consumer reporting agency listed below provided us with information that in whole or in part influenced our decision. The consumer reporting agency played no part in our decision and is unable to supply specific reasons why we have denied credit to you. You have a right under the Fair Credit Reporting Act to know the information contained in your credit file at the consumer reporting agency. It can be obtained by contacting: [name, address, and [toll-free] telephone number of the consumer reporting agency]. You also have a right to a free copy of your report from the reporting agency, if you request it no later than 60 days after you receive this notice. In addition, if you find that any information contained in the report you receive is inaccurate or incomplete, you have the right to dispute the matter with the reporting agency.

► [Information about Your Credit Score

We also obtained your credit score from this consumer reporting agency and used it in making our credit decision. Your credit score is a number that reflects the information in your credit report. Your credit score can change, depending on how the information in your credit report changes.

Your credit score: _____

Date: _____

Scores range from a low of _____ to a high of _____

Key factors that adversely affected your credit score:

[Number of recent inquiries on credit report]] ◀

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 [toll-free] 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. The reporting agency played no part in our decision and is unable to supply specific reasons why we have denied credit to you. You also have a right to a free copy of your report from the reporting agency, if you request it no later than 60 days after you receive this notice. In addition, if you find that any information contained in the report you receive is inaccurate or incomplete, you have the right to dispute the matter with the reporting agency.

► [We also obtained your credit score from this consumer reporting agency and used it in making our credit decision. Your credit score is a number that reflects the information in your credit report. Your credit score can change, depending on how the information in your credit report changes.

Your credit score: _____

Date: _____

Scores range from a low of _____ to a high of _____

Key factors that adversely affected your credit score:

[Number of recent inquiries on credit report] ◀

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 (provided the applicant has the capacity to enter into a binding contract), 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 [toll-free] telephone number is shown below. The reporting agency played no part in our decision and is unable to supply specific reasons why we have denied credit to you. [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 have a right to a free copy of your report from the reporting agency, if you request it no later than 60 days after you receive this notice. In addition, if you find that any information contained in the report you received is inaccurate or incomplete, you have the right to dispute the matter with the reporting agency. You can find out about the information contained in your file (if one was used) by contacting:

Consumer reporting agency's name

Address

[Toll-free] Telephone number

► [We also obtained your credit score from this consumer reporting agency and used it in making our credit decision. Your credit score is a number that reflects the information in your credit report. Your credit score can change, depending on how the information in your credit report changes.

Your credit score: _____

Date: _____

Scores range from a low of _____ to a high of _____

Key factors that adversely affected your credit score:

[Number of recent inquiries on credit report]] ◀

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).

COMMENTARY

Supplement I to Part 202 – Official Staff Interpretations

* * * * *

Section 202.9 – Notifications

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9(b)(2)

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9. Combined ECOA-FCRA disclosures. The ECOA requires disclosure of the principal reasons for denying or taking other adverse action on an application for an extension of credit. The Fair Credit Reporting Act (FCRA) requires a creditor to disclose when it has based its decision in whole or in part on information from a source other than the applicant or its own files. Disclosing that a credit report was obtained and used in the denial of the application, as the FCRA requires, does not satisfy the ECOA requirement to disclose specific reasons. For example, if the applicant's credit history reveals delinquent credit obligations and the application is denied for that reason, to satisfy § 202.9(b)(2) the creditor must disclose that the application was denied because of the applicant's delinquent credit obligations. ► The FCRA also requires a creditor to disclose, as applicable, a credit score it used in taking adverse action along with related information, including the key factors that adversely affected the consumer's credit score. Disclosing the key factors that adversely affected the consumer's credit score does not satisfy the ECOA requirement to disclose specific reasons for denying or taking other adverse action on an application or extension of credit. ◀ ◀ To satisfy the FCRA requirement, the creditor must also disclose that a credit report was obtained and used in the denial of the application. > Sample forms C-1 through C-5 of Appendix C of the regulation provide for the two disclosures. See also comment 9(a)(2)-1.

By order of the Board of Governors of the Federal Reserve System, March 1, 2011.

Jennifer J. Johnson (signed)
Jennifer J. Johnson
Secretary of the Board.