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Title 12 — Banks and Banking

Chapter X — Consumer Financial Protection Bureau

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PART 1002—EQUAL CREDIT OPPORTUNITY ACT (REGULATION B)

Authority: 12 U.S.C. 5512, 5581; 15 U.S.C. 1691b. Subpart B is also issued under 15 U.S.C. 1691c-2.

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Subpart A—General

§ 1002.1 Authority, scope and purpose.

- (a) **Authority and scope.** This part, known as Regulation B, is issued by the Bureau of Consumer Financial Protection (Bureau) pursuant to title VII (Equal Credit Opportunity Act) of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 *et seq.*). Except as otherwise provided herein, this subpart applies to all persons who are creditors, as defined in § 1002.2(l), other than a person excluded from coverage of this part by section 1029 of the Consumer Financial Protection Act of 2010, title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376. Information collection requirements contained in this part have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. 3501 *et seq.* and have been assigned OMB No. 3170-0013.
- (b) **Purpose.** The purpose of this part is to promote the availability of credit to all creditworthy applicants without regard to race, color, religion, national origin, sex, marital status, or age (provided the applicant has the capacity to contract); to the fact that all or part of the applicant's income derives from a public assistance program; or to the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The regulation prohibits creditor practices that discriminate on the basis of any of these factors. The regulation also requires creditors to notify applicants of action taken on their applications; to report credit history in the names of both spouses on an account; to retain records of

credit applications; to collect information about the applicant's race and other personal characteristics in applications for certain dwelling-related loans; and to provide applicants with copies of appraisal reports used in connection with credit transactions.

[76 FR 79445, Dec. 21, 2011, as amended at 88 FR 35527, May 31, 2023]

§ 1002.2 Definitions.

For the purposes of this part, unless the context indicates otherwise or as otherwise defined in subpart B, the following definitions apply:

- (a) **Account** means an extension of credit. When employed in relation to an account, the word use refers only to open-end credit.
- (b) **Act** means the Equal Credit Opportunity Act (Title VII of the Consumer Credit Protection Act).
- (c) **Adverse action.**
 - (1) The term means:
 - (i) A refusal to grant credit in substantially the amount or on substantially the terms requested in an application unless the creditor makes a counteroffer (to grant credit in a different amount or on other terms) and the applicant uses or expressly accepts the credit offered;
 - (ii) A termination of an account or an unfavorable change in the terms of an account that does not affect all or substantially all of a class of the creditor's accounts; or
 - (iii) A refusal to increase the amount of credit available to an applicant who has made an application for an increase.
 - (2) The term does not include:
 - (i) A change in the terms of an account expressly agreed to by an applicant;
 - (ii) Any action or forbearance relating to an account taken in connection with inactivity, default, or delinquency as to that account;
 - (iii) A refusal or failure to authorize an account transaction at point of sale or loan, except when the refusal is a termination or an unfavorable change in the terms of an account that does not affect all or substantially all of a class of the creditor's accounts, or when the refusal is a denial of an application for an increase in the amount of credit available under the account;
 - (iv) A refusal to extend credit because applicable law prohibits the creditor from extending the credit requested; or
 - (v) A refusal to extend credit because the creditor does not offer the type of credit or credit plan requested.
 - (3) An action that falls within the definition of both paragraphs (c)(1) and (c)(2) of this section is governed by paragraph (c)(2) of this section.
- (d) **Age** refers only to the age of natural persons and means the number of fully elapsed years from the date of an applicant's birth.

- (e) **Applicant** means any person who requests or who has received an extension of credit from a creditor, and includes any person who is or may become contractually liable regarding an extension of credit. For purposes of § 1002.7(d), the term includes guarantors, sureties, endorsers, and similar parties.
- (f) **Application** means an oral or written request for an extension of credit that is made in accordance with procedures used by a creditor for the type of credit requested. The term application does not include the use of an account or line of credit to obtain an amount of credit that is within a previously established credit limit. A *completed application* means an application in connection with which a creditor has received all the information that the creditor regularly obtains and considers in evaluating applications for the amount and type of credit requested (including, but not limited to, credit reports, any additional information requested from the applicant, and any approvals or reports by governmental agencies or other persons that are necessary to guarantee, insure, or provide security for the credit or collateral). The creditor shall exercise reasonable diligence in obtaining such information.
- (g) **Business credit** refers to extensions of credit primarily for business or commercial (including agricultural) purposes, but excluding extensions of credit of the types described in § 1002.3(a)-(d).
- (h) **Consumer credit** means credit extended to a natural person primarily for personal, family, or household purposes.
- (i) **Contractually liable** means expressly obligated to repay all debts arising on an account by reason of an agreement to that effect.
- (j) **Credit** means the right granted by a creditor to an applicant to defer payment of a debt, incur debt and defer its payment, or purchase property or services and defer payment therefor.
- (k) **Credit card** means any card, plate, coupon book, or other single credit device that may be used from time to time to obtain money, property, or services on credit.
- (l) **Creditor** means a person who, in the ordinary course of business, regularly participates in a credit decision, including setting the terms of the credit. The term creditor includes a creditor's assignee, transferee, or subrogee who so participates. For purposes of §§ 1002.4(a) and (b), the term creditor also includes a person who, in the ordinary course of business, regularly refers applicants or prospective applicants to creditors, or selects or offers to select creditors to whom requests for credit may be made. A person is not a creditor regarding any violation of the Act or this part committed by another creditor unless the person knew or had reasonable notice of the act, policy, or practice that constituted the violation before becoming involved in the credit transaction. The term does not include a person whose only participation in a credit transaction involves honoring a credit card.
- (m) **Credit transaction** means every aspect of an applicant's dealings with a creditor regarding an application for credit or an existing extension of credit (including, but not limited to, information requirements; investigation procedures; standards of creditworthiness; terms of credit; furnishing of credit information; revocation, alteration, or termination of credit; and collection procedures).
- (n) **Discriminate against an applicant** means to treat an applicant less favorably than other applicants.
- (o) **Elderly** means age 62 or older.
- (p) **Empirically derived and other credit scoring systems** —

- (1) A **credit scoring system** is a system that evaluates an applicant's creditworthiness mechanically, based on key attributes of the applicant and aspects of the transaction, and that determines, alone or in conjunction with an evaluation of additional information about the applicant, whether an applicant is deemed creditworthy. To qualify as an *empirically derived, demonstrably and statistically sound, credit scoring system*, the system must be:
 - (i) Based on data that are derived from an empirical comparison of sample groups or the population of creditworthy and non-creditworthy applicants who applied for credit within a reasonable preceding period of time;
 - (ii) Developed for the purpose of evaluating the creditworthiness of applicants with respect to the legitimate business interests of the creditor utilizing the system (including, but not limited to, minimizing bad debt losses and operating expenses in accordance with the creditor's business judgment);
 - (iii) Developed and validated using accepted statistical principles and methodology; and
 - (iv) Periodically revalidated by the use of appropriate statistical principles and methodology and adjusted as necessary to maintain predictive ability.
- (2) A creditor may use an empirically derived, demonstrably and statistically sound, credit scoring system obtained from another person or may obtain credit experience from which to develop such a system. Any such system must satisfy the criteria set forth in paragraph (p)(1)(i) through (iv) of this section; if the creditor is unable during the development process to validate the system based on its own credit experience in accordance with paragraph (p)(1) of this section, the system must be validated when sufficient credit experience becomes available. A system that fails this validity test is no longer an empirically derived, demonstrably and statistically sound, credit scoring system for that creditor.
- (q) **Extend credit** and *extension of credit* mean the granting of credit in any form (including, but not limited to, credit granted in addition to any existing credit or credit limit; credit granted pursuant to an open-end credit plan; the refinancing or other renewal of credit, including the issuance of a new credit card in place of an expiring credit card or in substitution for an existing credit card; the consolidation of two or more obligations; or the continuance of existing credit without any special effort to collect at or after maturity).
- (r) **Good faith** means honesty in fact in the conduct or transaction.
- (s) **Inadvertent error** means a mechanical, electronic, or clerical error that a creditor demonstrates was not intentional and occurred notwithstanding the maintenance of procedures reasonably adapted to avoid such errors.
- (t) **Judgmental system of evaluating applicants** means any system for evaluating the creditworthiness of an applicant other than an empirically derived, demonstrably and statistically sound, credit scoring system.
- (u) **Marital status** means the state of being unmarried, married, or separated, as defined by applicable state law. The term "unmarried" includes persons who are single, divorced, or widowed.
- (v) **Negative factor or value**, in relation to the age of elderly applicants, means utilizing a factor, value, or weight that is less favorable regarding elderly applicants than the creditor's experience warrants or is less favorable than the factor, value, or weight assigned to the class of applicants that are not classified as elderly and are most favored by a creditor on the basis of age.

- (w) **Open-end credit** means credit extended under a plan in which a creditor may permit an applicant to make purchases or obtain loans from time to time directly from the creditor or indirectly by use of a credit card, check, or other device.
- (x) **Person** means a natural person, corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.
- (y) **Pertinent element of creditworthiness**, in relation to a judgmental system of evaluating applicants, means any information about applicants that a creditor obtains and considers and that has a demonstrable relationship to a determination of creditworthiness.
- (z) **Prohibited basis** means race, color, religion, national origin, sex, marital status, or age (provided that the applicant has the capacity to enter into a binding contract); the fact that all or part of the applicant's income derives from any public assistance program; or the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act or any state law upon which an exemption has been granted by the Bureau.
- (aa) **State** means any state, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

[76 FR 79445, Dec. 21, 2011, as amended at 88 FR 35527, May 31, 2023]

§ 1002.3 Limited exceptions for certain classes of transactions.

- (a) **Public utilities credit** –
 - (1) **Definition.** Public utilities credit refers to extensions of credit that involve public utility services provided through pipe, wire, or other connected facilities, or radio or similar transmission (including extensions of such facilities), if the charges for service, delayed payment, and any discount for prompt payment are filed with or regulated by a government unit.
 - (2) **Exceptions.** The following provisions of this part do not apply to public utilities credit:
 - (i) Section 1002.5(d)(1) concerning information about marital status; and
 - (ii) Section 1002.12(b) relating to record retention.
- (b) **Securities credit**
 - (1) **Definition.** Securities credit refers to extensions of credit subject to regulation under section 7 of the Securities Exchange Act of 1934 or extensions of credit by a broker or dealer subject to regulation as a broker or dealer under the Securities Exchange Act of 1934.
 - (2) **Exceptions.** The following provisions of this part do not apply to securities credit:
 - (i) Section 1002.5(b) concerning information about the sex of an applicant;
 - (ii) Section 1002.5(c) concerning information about a spouse or former spouse;
 - (iii) Section 1002.5(d)(1) concerning information about marital status;
 - (iv) Section 1002.7(b) relating to designation of name to the extent necessary to comply with rules regarding an account in which a broker or dealer has an interest, or rules regarding the aggregation of accounts of spouses to determine controlling interests, beneficial interests, beneficial ownership, or purchase limitations and restrictions;

- (v) Section 1002.7(c) relating to action concerning open-end accounts, to the extent the action taken is on the basis of a change of name or marital status;
- (vi) Section 1002.7(d) relating to the signature of a spouse or other person;
- (vii) Section 1002.10 relating to furnishing of credit information; and
- (viii) Section 1002.12(b) relating to record retention.

(c) **Incidental credit**

- (1) **Definition.** Incidental credit refers to extensions of consumer credit other than the types described in paragraphs (a) and (b) of this section:
 - (i) That are not made pursuant to the terms of a credit card account;
 - (ii) That are not subject to a finance charge (as defined in Regulation Z, 12 CFR 1026.4); and
 - (iii) That are not payable by agreement in more than four installments.
- (2) **Exceptions.** The following provisions of this part do not apply to incidental credit:
 - (i) Section 1002.5(b) concerning information about the sex of an applicant, but only to the extent necessary for medical records or similar purposes;
 - (ii) Section 1002.5(c) concerning information about a spouse or former spouse;
 - (iii) Section 1002.5(d)(1) concerning information about marital status;
 - (iv) Section 1002.5(d)(2) concerning information about income derived from alimony, child support, or separate maintenance payments;
 - (v) Section 1002.7(d) relating to the signature of a spouse or other person;
 - (vi) Section 1002.9 relating to notifications;
 - (vii) Section 1002.10 relating to furnishing of credit information; and
 - (viii) Section 1002.12(b) relating to record retention.

(d) **Government credit –**

- (1) **Definition.** Government credit refers to extensions of credit made to governments or governmental subdivisions, agencies, or instrumentalities.
- (2) **Applicability of regulation.** Except for § 1002.4(a), the general rule against discrimination on a prohibited basis, the requirements of this part do not apply to government credit.

§ 1002.4 General rules.

- (a) **Discrimination.** A creditor shall not discriminate against an applicant on a prohibited basis regarding any aspect of a credit transaction.
- (b) **Discouragement.** A creditor shall not make any oral or written statement, in advertising or otherwise, to applicants or prospective applicants that would discourage on a prohibited basis a reasonable person from making or pursuing an application.
- (c) **Written applications.** A creditor shall take written applications for the dwelling-related types of credit covered by § 1002.13(a).

(d) *Form of disclosures* —

- (1) **General rule.** A creditor that provides in writing any disclosures or information required by this part must provide the disclosures in a clear and conspicuous manner and, except for the disclosures required by §§ 1002.5 and 1002.13, in a form the applicant may retain.
 - (2) **Disclosures in electronic form.** The disclosures required by this part that are required to be given in writing may be provided to the applicant in electronic form, subject to compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 et seq.). Where the disclosures under §§ 1002.5(b)(1), 1002.5(b)(2), 1002.5(d)(1), 1002.5(d)(2), 1002.13, and 1002.14(a)(2) accompany an application accessed by the applicant in electronic form, these disclosures may be provided to the applicant in electronic form on or with the application form, without regard to the consumer consent or other provisions of the E-Sign Act.
- (e) **Foreign-language disclosures.** Disclosures may be made in languages other than English, provided they are available in English upon request.

[76 FR 79445, Dec. 21, 2011, as amended at 78 FR 7248, Jan. 31, 2013]

§ 1002.5 Rules concerning requests for information.

(a) *General rules* —

- (1) **Requests for information.** Except as provided in paragraphs (b) through (d) of this section, a creditor may request any information in connection with a credit transaction. This paragraph does not limit or abrogate any Federal or state law regarding privacy, privileged information, credit reporting limitations, or similar restrictions on obtainable information.
- (2) **Required collection of information.** Notwithstanding paragraphs (b) through (d) of this section, a creditor shall request information for monitoring purposes as required by § 1002.13 for credit secured by the applicant's dwelling. In addition, a creditor may obtain information required by a regulation, order, or agreement issued by, or entered into with, a court or an enforcement agency (including the Attorney General of the United States or a similar state official) to monitor or enforce compliance with the Act, this part, or other Federal or state statutes or regulations.
- (3) **Special-purpose credit.** A creditor may obtain information that is otherwise restricted to determine eligibility for a special purpose credit program, as provided in § 1002.8(b), (c), and (d).
- (4) **Other permissible collection of information.** Notwithstanding paragraph (b) of this section, a creditor may collect information under the following circumstances provided that the creditor collects the information in compliance with § 1002.107(a)(18) and (19) and accompanying commentary, or appendix B to 12 CFR part 1003, as applicable:
 - (i) A creditor that is a financial institution under 12 CFR 1003.2(g) may collect information regarding the ethnicity, race, and sex of an applicant for a closed-end mortgage loan that is an excluded transaction under 12 CFR 1003.3(c)(11) if it submits HMDA data concerning such closed-end mortgage loans and applications or if it submitted HMDA data concerning closed-end mortgage loans for any of the preceding five calendar years;

- (ii) A creditor that is a financial institution under 12 CFR 1003.2(g) may collect information regarding the ethnicity, race, and sex of an applicant for an open-end line of credit that is an excluded transaction under 12 CFR 1003.3(c)(12) if it submits HMDA data concerning such open-end lines of credit and applications or if it submitted HMDA data concerning open-end lines of credit for any of the preceding five calendar years;
- (iii) A creditor that submitted HMDA data for any of the preceding five calendar years but is not currently a financial institution under 12 CFR 1003.2(g) may collect information regarding the ethnicity, race, and sex of an applicant for a loan that would otherwise be a covered loan under 12 CFR 1003.2(e) if not excluded by 12 CFR 1003.3(c)(11) or (12);
- (iv) A creditor that exceeded an applicable loan volume threshold in the first year of the two-year threshold period provided in 12 CFR 1003.2(g), 1003.3(c)(11), or 1003.3(c)(12) may, in the second year, collect information regarding the ethnicity, race, and sex of an applicant for a loan that would otherwise be a covered loan under 12 CFR 1003.2(e) if the loan were not excluded by 12 CFR 1003.3(c)(11) or (12);
- (v) A creditor that is a financial institution under 12 CFR 1003.2(g), or that submitted HMDA data for any of the preceding five calendar years but is not currently a financial institution under 12 CFR 1003.2(g), may collect information regarding the ethnicity, race, and sex of an applicant for a loan that would otherwise be a covered loan under 12 CFR 1003.2(e) if the loan were not excluded by 12 CFR 1003.3(c)(10).
- (vi) A creditor that is collecting information regarding the ethnicity, race, and sex of an applicant or first co-applicant may collect information regarding the ethnicity, race, and sex of a second or additional co-applicant for a covered loan under 12 CFR 1003.2(e) or for a second or additional co-applicant for a loan described in paragraphs (a)(4)(i) through (v) of this section.
- (vii) A creditor that was required to report small business lending data pursuant to § 1002.109 for any of the preceding five calendar years but is not currently a covered financial institution under § 1002.105(b) may collect information pursuant to subpart B of this part for covered applications from small businesses as defined in §§ 1002.103 and 1002.106(b) regarding whether an applicant is a minority-owned business, a women-owned business, or an LGBTQI+-owned business, and the ethnicity, race, and sex of the applicant's principal owners if it complies with the requirements for covered financial institutions pursuant to §§ 1002.107(a)(18) and (19), 1002.108, 1002.111, and 1002.112 for that application. Such a creditor is permitted, but not required, to report data to the Bureau collected pursuant to subpart B of this part if it complies with the requirements of subpart B as otherwise required for covered financial institutions pursuant to §§ 1002.109 and 1002.110.
- (viii) A creditor that exceeded the loan-volume threshold in the first year of the two-year threshold period provided in § 1002.105(b) may, in the second year, collect information pursuant to subpart B of this part for covered applications from small businesses as defined in §§ 1002.103 and 1002.106(b) regarding whether an applicant is a minority-owned business, a women-owned business, or an LGBTQI+-owned business, and the ethnicity, race, and sex of the applicant's principal owners if it complies with the requirements for covered financial institutions pursuant to §§ 1002.107(a)(18) and (19), 1002.108, 1002.111, and 1002.112 for that application. Such a creditor is permitted, but not required, to report data to the Bureau collected pursuant to subpart B of this part if it complies with the requirements of subpart B as otherwise required for covered financial institutions pursuant to §§ 1002.109 and 1002.110.

- (ix) A creditor that is not currently a covered financial institution under § 1002.105(b), and is not otherwise a creditor to which § 1002.5(a)(4)(vii) or (viii) applies, may collect information pursuant to subpart B of this part for covered applications from small businesses as defined in §§ 1002.103 and 1002.106(b) regarding whether an applicant for a covered credit transaction is a minority-owned business, a women-owned business, or an LGBTQI+-owned business, and the ethnicity, race, and sex of the applicant's principal owners for a transaction if it complies with the requirements for covered financial institutions pursuant to §§ 1002.107 through 1002.112 for that application.
- (x) A creditor that is collecting information pursuant to subpart B of this part or as described in paragraphs (a)(4)(vii) through (ix) of this section for covered applications from small businesses as defined in §§ 1002.103 and 1002.106(b) regarding whether an applicant for a covered credit transaction is a minority-owned business, a women-owned business, or an LGBTQI+-owned business, and the ethnicity, race, and sex of the applicant's principal owners may also collect that same information for any co-applicants provided that it also complies with the relevant requirements of subpart B of this part or as described in paragraphs (a)(4)(vii) through (ix) of this section with respect to those co-applicants.

(b) **Limitation on information about race, color, religion, national origin, or sex.** A creditor shall not inquire about the race, color, religion, national origin, or sex of an applicant or any other person in connection with a credit transaction, except as provided in paragraphs (b)(1) and (b)(2) of this section.

(1) **Self-test.** A creditor may inquire about the race, color, religion, national origin, or sex of an applicant or any other person in connection with a credit transaction for the purpose of conducting a self-test that meets the requirements of § 1002.15. A creditor that makes such an inquiry shall disclose orally or in writing, at the time the information is requested, that:

- (i) The applicant will not be required to provide the information;
- (ii) The creditor is requesting the information to monitor its compliance with the Federal Equal Credit Opportunity Act;
- (iii) Federal law prohibits the creditor from discriminating on the basis of this information, or on the basis of an applicant's decision not to furnish the information; and
- (iv) If applicable, certain information will be collected based on visual observation or surname if not provided by the applicant or other person.

(2) **Sex.** An applicant may be requested to designate a title on an application form (such as Ms., Miss, Mr., or Mrs.) if the form discloses that the designation of a title is optional. An application form shall otherwise use only terms that are neutral as to sex.

(c) **Information about a spouse or former spouse —**

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

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

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

- (iii) The applicant is relying on the spouse's income as a basis for repayment of the credit requested;
- (iv) The applicant resides in a community property state or is relying on property located in such a state as a basis for repayment of the credit requested; or
- (v) The applicant is relying on alimony, child support, or separate maintenance payments from a spouse or former spouse as a basis for repayment of the credit requested.

(3) **Other accounts of the applicant.** A creditor may request that an applicant list any account on which the applicant is contractually liable and to provide the name and address of the person in whose name the account is held. A creditor may also ask an applicant to list the names in which the applicant has previously received credit.

(d) **Other limitations on information requests —**

(1) **Marital status.** If an applicant applies for individual unsecured credit, a creditor shall not inquire about the applicant's marital status unless the applicant resides in a community property state or is relying on property located in such a state as a basis for repayment of the credit requested. If an application is for other than individual unsecured credit, a creditor may inquire about the applicant's marital status, but shall use only the terms *married*, *unmarried*, and *separated*. A creditor may explain that the category unmarried includes single, divorced, and widowed persons.

(2) **Disclosure about income from alimony, child support, or separate maintenance.** A creditor shall not inquire whether income stated in an application is derived from alimony, child support, or separate maintenance payments unless the creditor discloses to the applicant that such income need not be revealed if the applicant does not want the creditor to consider it in determining the applicant's creditworthiness.

(3) **Childbearing, childrearing.** A creditor shall not inquire about birth control practices, intentions concerning the bearing or rearing of children, or capability to bear children. A creditor may inquire about the number and ages of an applicant's dependents or about dependent-related financial obligations or expenditures, provided such information is requested without regard to sex, marital status, or any other prohibited basis.

(e) **Permanent residency and immigration status.** A creditor may inquire about the permanent residency and immigration status of an applicant or any other person in connection with a credit transaction.

[76 FR 79445, Dec. 21, 2011, as amended at 82 FR 45694, Oct. 2, 2017; 88 FR 35527, May 31, 2023]

§ 1002.6 Rules concerning evaluation of applications.

(a) **General rule concerning use of information.** Except as otherwise provided in the Act and this part, a creditor may consider any information obtained, so long as the information is not used to discriminate against an applicant on a prohibited basis. The legislative history of the Act indicates that the Congress intended an "effects test" concept, as outlined in the employment field by the Supreme Court in the cases of *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971), and *Albemarle Paper Co. v. Moody*, 422 U.S. 405 (1975), to be applicable to a creditor's determination of creditworthiness.

(b) **Specific rules concerning use of information.**

(1) Except as provided in the Act and this part, a creditor shall not take a prohibited basis into account in any system of evaluating the creditworthiness of applicants.

(2) **Age, receipt of public assistance.**

- (i) Except as permitted in this paragraph, a creditor shall not take into account an applicant's age (provided that the applicant has the capacity to enter into a binding contract) or whether an applicant's income derives from any public assistance program.
- (ii) In an empirically derived, demonstrably and statistically sound, credit scoring system, a creditor may use an applicant's age as a predictive variable, provided that the age of an elderly applicant is not assigned a negative factor or value.
- (iii) In a judgmental system of evaluating creditworthiness, a creditor may consider an applicant's age or whether an applicant's income derives from any public assistance program only for the purpose of determining a pertinent element of creditworthiness.
- (iv) In any system of evaluating creditworthiness, a creditor may consider the age of an elderly applicant when such age is used to favor the elderly applicant in extending credit.

(3) **Childbearing, childrearing.** In evaluating creditworthiness, a creditor shall not make assumptions or use aggregate statistics relating to the likelihood that any category of persons will bear or rear children or will, for that reason, receive diminished or interrupted income in the future.

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

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

(6) **Credit history.** To the extent that a creditor considers credit history in evaluating the creditworthiness of similarly qualified applicants for a similar type and amount of credit, in evaluating an applicant's creditworthiness a creditor shall consider:

- (i) The credit history, when available, of accounts designated as accounts that the applicant and the applicant's spouse are permitted to use or for which both are contractually liable;
- (ii) On the applicant's request, any information the applicant may present that tends to indicate the credit history being considered by the creditor does not accurately reflect the applicant's creditworthiness; and
- (iii) On the applicant's request, the credit history, when available, of any account reported in the name of the applicant's spouse or former spouse that the applicant can demonstrate accurately reflects the applicant's creditworthiness.

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

- (8) **Marital status.** Except as otherwise permitted or required by law, a creditor shall evaluate married and unmarried applicants by the same standards; and in evaluating joint applicants, a creditor shall not treat applicants differently based on the existence, absence, or likelihood of a marital relationship between the parties.
- (9) **Race, color, religion, national origin, sex.** Except as otherwise permitted or required by law, a creditor shall not consider race, color, religion, national origin, or sex (or an applicant's or other person's decision not to provide the information) in any aspect of a credit transaction.
- (c) **State property laws.** A creditor's consideration or application of state property laws directly or indirectly affecting creditworthiness does not constitute unlawful discrimination for the purposes of the Act or this part.

§ 1002.7 Rules concerning extensions of credit.

- (a) **Individual accounts.** A creditor shall not refuse to grant an individual account to a creditworthy applicant on the basis of sex, marital status, or any other prohibited basis.
- (b) **Designation of name.** A creditor shall not refuse to allow an applicant to open or maintain an account in a birth-given first name and a surname that is the applicant's birth-given surname, the spouse's surname, or a combined surname.
- (c) **Action concerning existing open-end accounts —**
 - (1) **Limitations.** In the absence of evidence of the applicant's inability or unwillingness to repay, a creditor shall not take any of the following actions regarding an applicant who is contractually liable on an existing open-end account on the basis of the applicant's reaching a certain age or retiring or on the basis of a change in the applicant's name or marital status:
 - (i) Require a reapplication, except as provided in paragraph (c)(2) of this section;
 - (ii) Change the terms of the account; or
 - (iii) Terminate the account.
 - (2) **Requiring reapplication.** A creditor may require a reapplication for an open-end account on the basis of a change in the marital status of an applicant who is contractually liable if the credit granted was based in whole or in part on income of the applicant's spouse and if information available to the creditor indicates that the applicant's income may not support the amount of credit currently available.
- (d) **Signature of spouse or other person —**
 - (1) **Rule for qualified applicant.** Except as provided in this paragraph, a creditor shall not require the signature of an applicant's spouse or other person, other than a joint applicant, on any credit instrument if the applicant qualifies under the creditor's standards of creditworthiness for the amount and terms of the credit requested. A creditor shall not deem the submission of a joint financial statement or other evidence of jointly held assets as an application for joint credit.
 - (2) **Unsecured credit.** If an applicant requests unsecured credit and relies in part upon property that the applicant owns jointly with another person to satisfy the creditor's standards of creditworthiness, the creditor may require the signature of the other person only on the instrument(s) necessary, or

reasonably believed by the creditor to be necessary, under the law of the state in which the property is located, to enable the creditor to reach the property being relied upon in the event of the death or default of the applicant.

- (3) **Unsecured credit—community property states.** If a married applicant requests unsecured credit and resides in a community property state, or if the applicant is relying on property located in such a state, a creditor may require the signature of the spouse on any instrument necessary, or reasonably believed by the creditor to be necessary, under applicable state law to make the community property available to satisfy the debt in the event of default if:
 - (i) Applicable state law denies the applicant power to manage or control sufficient community property to qualify for the credit requested under the creditor's standards of creditworthiness; and
 - (ii) The applicant does not have sufficient separate property to qualify for the credit requested without regard to community property.
- (4) **Secured credit.** If an applicant requests secured credit, a creditor may require the signature of the applicant's spouse or other person on any instrument necessary, or reasonably believed by the creditor to be necessary, under applicable state law to make the property being offered as security available to satisfy the debt in the event of default, for example, an instrument to create a valid lien, pass clear title, waive inchoate rights, or assign earnings.
- (5) **Additional parties.** If, under a creditor's standards of creditworthiness, the personal liability of an additional party is necessary to support the credit requested, a creditor may request a cosigner, guarantor, endorser, or similar party. The applicant's spouse may serve as an additional party, but the creditor shall not require that the spouse be the additional party.
- (6) **Rights of additional parties.** A creditor shall not impose requirements upon an additional party that the creditor is prohibited from imposing upon an applicant under this section.
- (e) **Insurance.** A creditor shall not refuse to extend credit and shall not terminate an account because credit life, health, accident, disability, or other credit-related insurance is not available on the basis of the applicant's age.

§ 1002.8 Special purpose credit programs.

- (a) **Standards for programs.** Subject to the provisions of paragraph (b) of this section, the Act and this part permit a creditor to extend special purpose credit to applicants who meet eligibility requirements under the following types of credit programs:
 - (1) Any credit assistance program expressly authorized by Federal or state law for the benefit of an economically disadvantaged class of persons;
 - (2) Any credit assistance program offered by a not-for-profit organization, as defined under section 501(c) of the Internal Revenue Code of 1954, as amended, for the benefit of its members or for the benefit of an economically disadvantaged class of persons; or
 - (3) Any special purpose credit program offered by a for-profit organization, or in which such an organization participates to meet special social needs, if:
 - (i) The program is established and administered pursuant to a written plan that identifies the class of persons that the program is designed to benefit and sets forth the procedures and standards for extending credit pursuant to the program; and

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

(b) **Rules in other sections –**

- (1) **General applicability.** All the provisions of this part apply to each of the special purpose credit programs described in paragraph (a) of this section except as modified by this section.
- (2) **Common characteristics.** A program described in paragraph (a)(2) or (a)(3) of this section qualifies as a special purpose credit program only if it was established and is administered so as not to discriminate against an applicant on any prohibited basis; however, all program participants may be required to share one or more common characteristics (for example, race, national origin, or sex) so long as the program was not established and is not administered with the purpose of evading the requirements of the Act or this part.
- (c) **Special rule concerning requests and use of information.** If participants in a special purpose credit program described in paragraph (a) of this section are required to possess one or more common characteristics (for example, race, national origin, or sex) and if the program otherwise satisfies the requirements of paragraph (a) of this section, a creditor may request and consider information regarding the common characteristic(s) in determining the applicant's eligibility for the program.
- (d) **Special rule in the case of financial need.** If financial need is one of the criteria under a special purpose credit program described in paragraph (a) of this section, the creditor may request and consider, in determining an applicant's eligibility for the program, information regarding the applicant's marital status; alimony, child support, and separate maintenance income; and the spouse's financial resources. In addition, a creditor may obtain the signature of an applicant's spouse or other person on an application or credit instrument relating to a special purpose credit program if the signature is required by Federal or state law.

§ 1002.9 Notifications.

(a) **Notification of action taken, ECOA notice, and statement of specific reasons –**

- (1) **When notification is required.** A creditor shall notify an applicant of action taken within:
 - (i) 30 days after receiving a completed application concerning the creditor's approval of, counteroffer to, or adverse action on the application;
 - (ii) 30 days after taking adverse action on an incomplete application, unless notice is provided in accordance with paragraph (c) of this section;
 - (iii) 30 days after taking adverse action on an existing account; or
 - (iv) 90 days after notifying the applicant of a counteroffer if the applicant does not expressly accept or use the credit offered.
- (2) **Content of notification when adverse action is taken.** A notification given to an applicant when adverse action is taken shall be in writing and shall contain a statement of the action taken; the name and address of the creditor; a statement of the provisions of section 701(a) of the Act; the name and address of the Federal agency that administers compliance with respect to the creditor; and either:

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

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

- (i) With regard to a business that had gross revenues of \$1 million or less in its preceding fiscal year (other than an extension of trade credit, credit incident to a factoring agreement, or other similar types of business credit), a creditor shall comply with paragraphs (a)(1) and (2) of this section, except that:
 - (A) The statement of the action taken may be given orally or in writing, when adverse action is taken;
 - (B) Disclosure of an applicant's right to a statement of reasons may be given at the time of application, instead of when adverse action is taken, provided the disclosure contains the information required by paragraph (a)(2)(ii) of this section and the ECOA notice specified in paragraph (b)(1) of this section;
 - (C) For an application made entirely by telephone, a creditor satisfies the requirements of paragraph (a)(3)(i) of this section by an oral statement of the action taken and of the applicant's right to a statement of reasons for adverse action.
- (ii) With regard to a business that had gross revenues in excess of \$1 million in its preceding fiscal year or an extension of trade credit, credit incident to a factoring agreement, or other similar types of business credit, a creditor shall:
 - (A) Notify the applicant, within a reasonable time, orally or in writing, of the action taken; and
 - (B) Provide a written statement of the reasons for adverse action and the ECOA notice specified in paragraph (b)(1) of this section if the applicant makes a written request for the reasons within 60 days of the creditor's notification.

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

- (1) **ECOA notice.** To satisfy the disclosure requirements of paragraph (a)(2) of this section regarding section 701(a) of the Act, the creditor shall provide a notice that is substantially similar to the following: The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law concerning this creditor is [name and address as specified by the appropriate agency or agencies listed in appendix A of this part].

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

(c) **Incomplete applications —**

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

(i) Of action taken, in accordance with paragraph (a) of this section; or

(ii) Of the incompleteness, in accordance with paragraph (c)(2) of this section.

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

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

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

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

(f) **Multiple applicants.** When an application involves more than one applicant, notification need only be given to one of them but must be given to the primary applicant where one is readily apparent.

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

[76 FR 79445, Dec. 21, 2011, as amended at 88 FR 16537, Mar. 20, 2023]

§ 1002.10 Furnishing of credit information.

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

- (1) Any new account to reflect the participation of both spouses if the applicant's spouse is permitted to use or is contractually liable on the account (other than as a guarantor, surety, endorser, or similar party); and
 - (2) Any existing account to reflect such participation, within 90 days after receiving a written request to do so from one of the spouses.
- (b) **Routine reports to consumer reporting agency.** If a creditor furnishes credit information to a consumer reporting agency concerning an account designated to reflect the participation of both spouses, the creditor shall furnish the information in a manner that will enable the agency to provide access to the information in the name of each spouse.
- (c) **Reporting in response to inquiry.** If a creditor furnishes credit information in response to an inquiry, concerning an account designated to reflect the participation of both spouses, the creditor shall furnish the information in the name of the spouse about whom the information is requested.

§ 1002.11 Relation to state law.

- (a) **Inconsistent state laws.** Except as otherwise provided in this section, this part alters, affects, or preempts only those state laws that are inconsistent with the Act and this part and then only to the extent of the inconsistency. A state law is not inconsistent if it is more protective of an applicant.
- (b) **Preempted provisions of state law.**
- (1) A state law is deemed to be inconsistent with the requirements of the Act and this part and less protective of an applicant within the meaning of section 705(f) of the Act to the extent that the law:
 - (i) Requires or permits a practice or act prohibited by the Act or this part;
 - (ii) Prohibits the individual extension of consumer credit to both parties to a marriage if each spouse individually and voluntarily applies for such credit;
 - (iii) Prohibits inquiries or collection of data required to comply with the Act or this part;
 - (iv) Prohibits asking about or considering age in an empirically derived, demonstrably and statistically sound, credit scoring system to determine a pertinent element of creditworthiness, or to favor an elderly applicant; or
 - (v) Prohibits inquiries necessary to establish or administer a special purpose credit program as defined by § 1002.8.
 - (2) A creditor, state, or other interested party may request that the Bureau determine whether a state law is inconsistent with the requirements of the Act and this part.
- (c) **Laws on finance charges, loan ceilings.** If married applicants voluntarily apply for and obtain individual accounts with the same creditor, the accounts shall not be aggregated or otherwise combined for purposes of determining permissible finance charges or loan ceilings under any Federal or state law. Permissible loan ceiling laws shall be construed to permit each spouse to become individually liable up to the amount of the loan ceilings, less the amount for which the applicant is jointly liable.
- (d) **State and Federal laws not affected.** This section does not alter or annul any provision of state property laws, laws relating to the disposition of decedents' estates, or Federal or state banking regulations directed only toward insuring the solvency of financial institutions.
- (e) **Exemption for state-regulated transactions —**

- (1) **Applications.** A state may apply to the Bureau for an exemption from the requirements of the Act and this part for any class of credit transactions within the state. The Bureau will grant such an exemption if the Bureau determines that:
 - (i) The class of credit transactions is subject to state law requirements substantially similar to those of the Act and this part or that applicants are afforded greater protection under state law; and
 - (ii) There is adequate provision for state enforcement.
- (2) **Liability and enforcement.**
 - (i) No exemption will extend to the civil liability provisions of section 706 of the Act or the administrative enforcement provisions of section 704 of the Act.
 - (ii) After an exemption has been granted, the requirements of the applicable state law (except for additional requirements not imposed by Federal law) will constitute the requirements of the Act and this part.

§ 1002.12 Record retention.

- (a) **Retention of prohibited information.** A creditor may retain in its files information that is prohibited by the Act or this part for use in evaluating applications, without violating the Act or this part, if the information was obtained:
 - (1) From any source prior to March 23, 1977;
 - (2) From consumer reporting agencies, an applicant, or others without the specific request of the creditor; or
 - (3) As required to monitor compliance with the Act and this part or other Federal or state statutes or regulations.
- (b) **Preservation of records —**
 - (1) **Applications.** For 25 months (12 months for business credit, except as provided in paragraph (b)(5) of this section or otherwise provided for in subpart B of this part) after the date that a creditor notifies an applicant of action taken on an application or of incompleteness, the creditor shall retain in original form or a copy thereof:
 - (i) Any application that it receives, any information required to be obtained concerning characteristics of the applicant to monitor compliance with the Act and this part or other similar law, any information obtained pursuant to § 1002.5(a)(4), and any other written or recorded information used in evaluating the application and not returned to the applicant at the applicant's request.
 - (ii) A copy of the following documents if furnished to the applicant in written form (or, if furnished orally, any notation or memorandum made by the creditor):
 - (A) The notification of action taken; and
 - (B) The statement of specific reasons for adverse action; and
 - (iii) Any written statement submitted by the applicant alleging a violation of the Act or this part.

- (2) **Existing accounts.** For 25 months (12 months for business credit, except as provided in paragraph (b)(5) of this section or otherwise provided for in subpart B of this part) after the date that a creditor notifies an applicant of adverse action regarding an existing account, the creditor shall retain as to that account, in original form or a copy thereof:
- (i) Any written or recorded information concerning the adverse action; and
 - (ii) Any written statement submitted by the applicant alleging a violation of the Act or this part.
- (3) **Other applications.** For 25 months (12 months for business credit, except as provided in paragraph (b)(5) of this section or otherwise provided for in subpart B of this part) after the date that a creditor receives an application for which the creditor is not required to comply with the notification requirements of § 1002.9, the creditor shall retain all written or recorded information in its possession concerning the applicant, including any notation of action taken.
- (4) **Enforcement proceedings and investigations.** A creditor shall retain the information beyond 25 months (12 months for business credit, except as provided in paragraph (b)(5) of this section or otherwise provided for in subpart B) if the creditor has actual notice that it is under investigation or is subject to an enforcement proceeding for an alleged violation of the Act or this part, by the Attorney General of the United States or by an enforcement agency charged with monitoring that creditor's compliance with the Act and this part, or if it has been served with notice of an action filed pursuant to section 706 of the Act and § 1002.16 of this part. The creditor shall retain the information until final disposition of the matter, unless an earlier time is allowed by order of the agency or court.
- (5) **Special rule for certain business credit applications.** With regard to a business that had gross revenues in excess of \$1 million in its preceding fiscal year, or an extension of trade credit, credit incident to a factoring agreement, or other similar types of business credit, the creditor shall retain records for at least 60 days, except as otherwise provided for in subpart B, after notifying the applicant of the action taken. If within that time period the applicant requests in writing the reasons for adverse action or that records be retained, the creditor shall retain records for 12 months.
- (6) **Self-tests.** For 25 months after a self-test (as defined in § 1002.15) has been completed, the creditor shall retain all written or recorded information about the self-test. A creditor shall retain information beyond 25 months if it has actual notice that it is under investigation or is subject to an enforcement proceeding for an alleged violation, or if it has been served with notice of a civil action. In such cases, the creditor shall retain the information until final disposition of the matter, unless an earlier time is allowed by the appropriate agency or court order.
- (7) **Prescreened solicitations.** For 25 months after the date on which an offer of credit is made to potential customers (12 months for business credit, except as provided in paragraph (b)(5) of this section or otherwise provided for in subpart B), the creditor shall retain in original form or a copy thereof:
- (i) The text of any prescreened solicitation;
 - (ii) The list of criteria the creditor used to select potential recipients of the solicitation; and
 - (iii) Any correspondence related to complaints (formal or informal) about the solicitation.

[76 FR 79445, Dec. 21, 2011, as amended at 82 FR 45694, Oct. 2, 2017; 88 FR 35528, May 31, 2023]

§ 1002.13 Information for monitoring purposes.

(a) **Information to be requested.**

(1) A creditor that receives an application for credit primarily for the purchase or refinancing of a dwelling occupied or to be occupied by the applicant as a principal residence, where the extension of credit will be secured by the dwelling, shall request as part of the application the following information regarding the applicant(s):

(i) Ethnicity and race using either:

(A) For ethnicity, the aggregate categories Hispanic or Latino and not Hispanic or Latino; and, for race, the aggregate categories American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White; or

(B) The categories and subcategories for the collection of ethnicity and race set forth in appendix B to 12 CFR part 1003.

(ii) Sex;

(iii) Marital status, using the categories married, unmarried, and separated; and

(iv) Age.

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

(b) **Obtaining information.** Questions regarding ethnicity, race, sex, marital status, and age may be listed, at the creditor's option, on the application form or on a separate form that refers to the application. The applicant(s) shall be asked but not required to supply the requested information. If the applicant(s) chooses not to provide the information or any part of it, that fact shall be noted on the form. The creditor shall then also note on the form, to the extent possible, the ethnicity, race, and sex of the applicant(s) on the basis of visual observation or surname. When a creditor collects ethnicity and race information pursuant to § 1002.13(a)(1)(i)(B), the creditor must comply with any restrictions on the collection of an applicant's ethnicity or race on the basis of visual observation or surname set forth in appendix B to 12 CFR part 1003. If there is more than one co-applicant, a creditor is permitted, but is not required, to collect the information set forth in paragraph (a) of this section from a second or additional co-applicant.

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

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

[76 FR 79445, Dec. 21, 2011, as amended at 82 FR 45694, Oct. 2, 2017]

§ 1002.14 Rules on providing appraisals and other valuations.

(a) *Providing appraisals and other valuations* —

- (1) ***In general.*** A creditor shall provide an applicant a copy of all appraisals and other written valuations developed in connection with an application for credit that is to be secured by a first lien on a dwelling. A creditor shall provide a copy of each such appraisal or other written valuation promptly upon completion, or three business days prior to consummation of the transaction (for closed-end credit) or account opening (for open-end credit), whichever is earlier. An applicant may waive the timing requirement in this paragraph (a)(1) and agree to receive any copy at or before consummation or account opening, except where otherwise prohibited by law. Any such waiver must be obtained at least three business days prior to consummation or account opening, unless the waiver pertains solely to the applicant's receipt of a copy of an appraisal or other written valuation that contains only clerical changes from a previous version of the appraisal or other written valuation provided to the applicant three or more business days prior to consummation or account opening. If the applicant provides a waiver and the transaction is not consummated or the account is not opened, the creditor must provide these copies no later than 30 days after the creditor determines consummation will not occur or the account will not be opened.
- (2) ***Disclosure.*** For applications subject to paragraph (a)(1) of this section, a creditor shall mail or deliver to an applicant, not later than the third business day after the creditor receives an application for credit that is to be secured by a first lien on a dwelling, a notice in writing of the applicant's right to receive a copy of all written appraisals developed in connection with the application. In the case of an application for credit that is not to be secured by a first lien on a dwelling at the time of application, if the creditor later determines the credit will be secured by a first lien on a dwelling, the creditor shall mail or deliver the same notice in writing not later than the third business day after the creditor determines that the loan is to be secured by a first lien on a dwelling.
- (3) ***Reimbursement.*** A creditor shall not charge an applicant for providing a copy of appraisals and other written valuations as required under this section, but may require applicants to pay a reasonable fee to reimburse the creditor for the cost of the appraisal or other written valuation unless otherwise provided by law.
- (4) ***Withdrawn, denied, or incomplete applications.*** The requirements set forth in paragraph (a)(1) of this section apply whether credit is extended or denied or if the application is incomplete or withdrawn.
- (5) ***Copies in electronic form.*** The copies required by § 1002.14(a)(1) may be provided to the applicant in electronic form, subject to compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 *et seq.*).

(b) *Definitions.* For purposes of paragraph (a) of this section:

- (1) ***Consummation.*** The term “consummation” means the time that a consumer becomes contractually obligated on a closed-end credit transaction.
- (2) ***Dwelling.*** The term “dwelling” means a residential structure that contains one to four units whether or not that structure is attached to real property. The term includes, but is not limited to, an individual condominium or cooperative unit, and a mobile or other manufactured home.
- (3) ***Valuation.*** The term “valuation” means any estimate of the value of a dwelling developed in connection with an application for credit.

[78 FR 7248, Jan. 31, 2013]

§ 1002.15 Incentives for self-testing and self-correction.

(a) *General rules* —

- (1) ***Voluntary self-testing and correction.*** The report or results of a self-test that a creditor voluntarily conducts (or authorizes) are privileged as provided in this section. Data collection required by law or by any governmental authority is not a voluntary self-test.
- (2) ***Corrective action required.*** The privilege in this section applies only if the creditor has taken or is taking appropriate corrective action.
- (3) ***Other privileges.*** The privilege created by this section does not preclude the assertion of any other privilege that may also apply.

(b) *Self-test defined* —

- (1) ***Definition.*** A self-test is any program, practice, or study that:
 - (i) Is designed and used specifically to determine the extent or effectiveness of a creditor's compliance with the Act or this part; and
 - (ii) Creates data or factual information that is not available and cannot be derived from loan or application files or other records related to credit transactions.
- (2) ***Types of information privileged.*** The privilege under this section applies to the report or results of the self-test, data or factual information created by the self-test, and any analysis, opinions, and conclusions pertaining to the self-test report or results. The privilege covers workpapers or draft documents as well as final documents.
- (3) ***Types of information not privileged.*** The privilege under this section does not apply to:
 - (i) Information about whether a creditor conducted a self-test, the methodology used or the scope of the self-test, the time period covered by the self-test, or the dates it was conducted; or
 - (ii) Loan and application files or other business records related to credit transactions, and information derived from such files and records, even if the information has been aggregated, summarized, or reorganized to facilitate analysis.

(c) *Appropriate corrective action* —

- (1) ***General requirement.*** For the privilege in this section to apply, appropriate corrective action is required when the self-test shows that it is more likely than not that a violation occurred, even though no violation has been formally adjudicated.
- (2) ***Determining the scope of appropriate corrective action.*** A creditor must take corrective action that is reasonably likely to remedy the cause and effect of a likely violation by:
 - (i) Identifying the policies or practices that are the likely cause of the violation; and
 - (ii) Assessing the extent and scope of any violation.
- (3) ***Types of relief.*** Appropriate corrective action may include both prospective and remedial relief, except that to establish a privilege under this section:
 - (i) A creditor is not required to provide remedial relief to a tester used in a self-test;

- (ii) A creditor is only required to provide remedial relief to an applicant identified by the self-test as one whose rights were more likely than not violated; and
- (iii) A creditor is not required to provide remedial relief to a particular applicant if the statute of limitations applicable to the violation expired before the creditor obtained the results of the self-test or the applicant is otherwise ineligible for such relief.

(4) **No admission of violation.** Taking corrective action is not an admission that a violation occurred.

(d) **Scope of privilege —**

(1) **General rule.** The report or results of a privileged self-test may not be obtained or used:

- (i) By a government agency in any examination or investigation relating to compliance with the Act or this part; or
- (ii) By a government agency or an applicant (including a prospective applicant who alleges a violation of § 1002.4(b)) in any proceeding or civil action in which a violation of the Act or this part is alleged.

(2) **Loss of privilege.** The report or results of a self-test are not privileged under paragraph (d)(1) of this section if the creditor or a person with lawful access to the report or results:

- (i) Voluntarily discloses any part of the report or results, or any other information privileged under this section, to an applicant or government agency or to the public;
- (ii) Discloses any part of the report or results, or any other information privileged under this section, as a defense to charges that the creditor has violated the Act or regulation; or
- (iii) Fails or is unable to produce written or recorded information about the self-test that is required to be retained under § 1002.12(b)(6) when the information is needed to determine whether the privilege applies. This paragraph does not limit any other penalty or remedy that may be available for a violation of § 1002.12.

(3) **Limited use of privileged information.** Notwithstanding paragraph (d)(1) of this section, the self-test report or results and any other information privileged under this section may be obtained and used by an applicant or government agency solely to determine a penalty or remedy after a violation of the Act or this part has been adjudicated or admitted. Disclosures for this limited purpose may be used only for the particular proceeding in which the adjudication or admission was made. Information disclosed under this paragraph (d)(3) remains privileged under paragraph (d)(1) of this section.

§ 1002.16 Enforcement, penalties and liabilities.

(a) **Administrative enforcement.**

(1) As set forth more fully in section 704 of the Act, administrative enforcement of the Act and this part regarding certain creditors is assigned to the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Board of Directors of the Federal Deposit Insurance Corporation, National Credit Union Administration, Surface Transportation Board, Civil Aeronautics Board, Secretary of Agriculture, Farm Credit Administration, Securities and Exchange Commission, Small Business Administration, Secretary of Transportation, and Bureau of Consumer Financial Protection.

- (2) Except to the extent that administrative enforcement is specifically assigned to some government agency other than the Bureau, and subject to subtitle B of the Consumer Financial Protection Act of 2010, the Federal Trade Commission is authorized to enforce the requirements imposed under the Act and this part.

(b) ***Penalties and liabilities.***

- (1) Sections 702(g) and 706(a) and (b) of the Act provide that any creditor that fails to comply with a requirement imposed by the Act or this part is subject to civil liability for actual and punitive damages in individual or class actions. Pursuant to sections 702(g) and 704(b), (c), and (d) of the Act, violations of the Act or this part also constitute violations of other Federal laws. Liability for punitive damages can apply only to nongovernmental entities and is limited to \$10,000 in individual actions and the lesser of \$500,000 or 1 percent of the creditor's net worth in class actions. Section 706(c) provides for equitable and declaratory relief and section 706(d) authorizes the awarding of costs and reasonable attorney's fees to an aggrieved applicant in a successful action.
- (2) As provided in section 706(f) of the Act, a civil action under the Act or this part may be brought in the appropriate United States district court without regard to the amount in controversy or in any other court of competent jurisdiction within five years after the date of the occurrence of the violation, or within one year after the commencement of an administrative enforcement proceeding or of a civil action brought by the Attorney General of the United States within five years after the alleged violation.
- (3) If an agency responsible for administrative enforcement is unable to obtain compliance with the Act or this part, it may refer the matter to the Attorney General of the United States. If the Bureau, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, or the National Credit Union Administration has reason to believe that one or more creditors have engaged in a pattern or practice of discouraging or denying applications in violation of the Act or this part, the agency shall refer the matter to the Attorney General. If the agency has reason to believe that one or more creditors violated section 701(a) of the Act, the agency may refer a matter to the Attorney General.
- (4) On referral, or whenever the Attorney General has reason to believe that one or more creditors have engaged in a pattern or practice in violation of the Act or this part, the Attorney General may bring a civil action for such relief as may be appropriate, including actual and punitive damages and injunctive relief.
- (5) If the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, or the National Credit Union Administration has reason to believe (as a result of a consumer complaint, a consumer compliance examination, or some other basis) that a violation of the Act or this part has occurred which is also a violation of the Fair Housing Act, and the matter is not referred to the Attorney General, the agency shall:
 - (i) Notify the Secretary of Housing and Urban Development; and
 - (ii) Inform the applicant that the Secretary of Housing and Urban Development has been notified and that remedies may be available under the Fair Housing Act.

- (c) ***Failure of compliance.*** A creditor's failure to comply with § 1002.6(b)(6), § 1002.9, § 1002.10, § 1002.12 or § 1002.13 is not a violation if it results from an inadvertent error. On discovering an error under §§ 1002.9 and 1002.10, the creditor shall correct it as soon as possible. If a creditor inadvertently obtains the

monitoring information regarding the ethnicity, race, and sex of the applicant in a dwelling-related transaction not covered by § 1002.13, the creditor may retain information and act on the application without violating the regulation.

Subpart B—Small Business Lending Data Collection

Source: 88 FR 35528, May 31, 2023, unless otherwise noted.

§ 1002.101 Authority, purpose, and scope.

- (a) **Authority and scope.** This subpart to Regulation B is issued by the Bureau pursuant to section 704B of the Equal Credit Opportunity Act (15 U.S.C. 1691c-2). Except as otherwise provided herein, this subpart applies to covered financial institutions, as defined in § 1002.105(b), other than a person excluded from coverage of this part by section 1029 of the Consumer Financial Protection Act of 2010, title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376, 2004 (2010).
- (b) **Purpose.** This subpart implements section 704B of the Equal Credit Opportunity Act, which Congress intended:
 - (1) To facilitate enforcement of fair lending laws; and
 - (2) To enable communities, governmental entities, and creditors to identify business and community development needs and opportunities of women-owned, minority-owned, and small businesses.

§ 1002.102 Definitions.

In this subpart:

- (a) **Affiliate** means, with respect to a financial institution, any company that controls, is controlled by, or is under common control with, another company, as set forth in the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*). With respect to a business or an applicant, *affiliate* shall have the same meaning as in 13 CFR 121.103.
- (b) **Applicant** means any person who requests or who has received an extension of business credit from a financial institution.
- (c) **Business** is defined in § 1002.106(a).
- (d) **Business credit** shall have the same meaning as in § 1002.2(g).
- (e) **Closed-end credit transaction** means an extension of business credit that is not an open-end credit transaction under paragraph (n) of this section.
- (f) **Covered application** is defined in § 1002.103.
- (g) **Covered credit transaction** is defined in § 1002.104.
- (h) **Covered financial institution** is defined in § 1002.105(b).
- (i) **Credit** shall have the same meaning as in § 1002.2(j).
- (j) **Financial institution** is defined in § 1002.105(a).

- (k) **LGBTQI+ individual** includes an individual who identifies as lesbian, gay, bisexual, transgender, queer, or intersex.
- (l) **LGBTQI+-owned business** means a business for which one or more LGBTQI+ individuals hold more than 50 percent of its ownership or control, and for which more than 50 percent of the net profits or losses accrue to one or more such individuals.
- (m) **Minority-owned business** means a business for which one or more American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, or Hispanic or Latino individuals hold more than 50 percent of its ownership or control, and for which more than 50 percent of the net profits or losses accrue to one or more such individuals.
- (n) **Open-end credit transaction** means an open-end credit plan as defined in Regulation Z, 12 CFR 1026.2(a)(20), but without regard to whether the credit is consumer credit, as defined in § 1026.2(a)(12), is extended by a creditor, as defined in § 1026.2(a)(17), or is extended to a consumer, as defined in § 1026.2(a)(11).
- (o) **Principal owner** means an individual who directly owns 25 percent or more of the equity interests of a business.
- (p) **Small business** is defined in § 1002.106(b).
- (q) **Small business lending application register or register** means the data reported, or required to be reported, annually pursuant to § 1002.109.
- (r) **State** shall have the same meaning as in § 1002.2(aa).
- (s) **Women-owned business** means a business for which more than 50 percent of its ownership or control is held by one or more women, and more than 50 percent of its net profits or losses accrue to one or more women.

§ 1002.103 Covered applications.

- (a) **Covered application.** Except as provided in paragraph (b) of this section, covered application means an oral or written request for a covered credit transaction that is made in accordance with procedures used by a financial institution for the type of credit requested.
- (b) **Circumstances that are not covered applications.** A covered application does not include:
 - (1) Reevaluation, extension, or renewal requests on an existing business credit account, unless the request seeks additional credit amounts.
 - (2) Inquiries and prequalification requests.

§ 1002.104 Covered credit transactions and excluded transactions.

- (a) **Covered credit transaction** means an extension of business credit that is not an excluded transaction under paragraph (b) of this section.
- (b) **Excluded transactions.** The requirements of this subpart do not apply to:
 - (1) **Trade credit.** A financing arrangement wherein a business acquires goods or services from another business without making immediate payment in full to the business providing the goods or services.
 - (2) **Home Mortgage Disclosure Act (HMDA)-reportable transactions.** A covered loan, or application therefor, as defined by Regulation C, 12 CFR 1003.2(e).

- (3) **Insurance premium financing.** A financing arrangement wherein a business agrees to pay to a financial institution, in installments, the principal amount advanced by the financial institution to an insurer or insurance producer in payment of premium on the business's insurance contract or contracts, plus charges, and, as security for repayment, the business assigns to the financial institution certain rights, obligations, and/or considerations (such as the unearned premiums, accrued dividends, or loss payments) in its insurance contract or contracts. Insurance premium financing does not include the financing of insurance policy premiums obtained in connection with the financing of goods and services.
- (4) **Public utilities credit.** Public utilities credit as defined in § 1002.3(a)(1).
- (5) **Securities credit.** Securities credit as defined in § 1002.3(b)(1).
- (6) **Incidental credit.** Incidental credit as defined in § 1002.3(c)(1), but without regard to whether the credit is consumer credit, as defined in § 1002.2(h).

§ 1002.105 Covered financial institutions and exempt institutions.

- (a) **Financial institution** means any partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity that engages in any financial activity.
- (b) **Covered financial institution** means a financial institution that originated at least 100 covered credit transactions for small businesses in each of the two preceding calendar years.

§ 1002.106 Business and small business.

- (a) **Business** has the same meaning as the term "business concern or concern" in 13 CFR 121.105.
- (b) **Small business definition** –
 - (1) **Small business** has the same meaning as the term "small business concern" in 15 U.S.C. 632(a), as implemented in 13 CFR 121.101 through 121.107. Notwithstanding the size standards set forth in 13 CFR 121.201, for purposes of this subpart, a business is a small business if its gross annual revenue, as defined in § 1002.107(a)(14), for its preceding fiscal year is \$5 million or less.
 - (2) **Inflation adjustment.** Every 5 years after January 1, 2025, the gross annual revenue threshold set forth in paragraph (b)(1) of this section shall adjust based on changes to the Consumer Price Index for All Urban Consumers (U.S. city average series for all items, not seasonally adjusted), as published by the United States Bureau of Labor Statistics. Any adjustment that takes effect under this paragraph shall be rounded to the nearest multiple of \$500,000. If an adjustment is to take effect, it will do so on January 1 of the following calendar year.

§ 1002.107 Compilation of reportable data.

- (a) **Data format and itemization.** A covered financial institution shall compile and maintain data regarding covered applications from small businesses. The data shall be compiled in the manner prescribed herein and the Filing Instructions Guide for this subpart for the appropriate year. The data compiled shall include the items described in paragraphs (a)(1) through (20) of this section.
 - (1) **Unique identifier.** An alphanumeric identifier, starting with the legal entity identifier of the financial institution, unique within the financial institution to the specific covered application, and which can be used to identify and retrieve the specific file or files corresponding to the application for or extension of credit.

- (2) **Application date.** The date the covered application was received or the date shown on a paper or electronic application form.
- (3) **Application method.** The means by which the applicant submitted the covered application directly or indirectly to the financial institution.
- (4) **Application recipient.** Whether the applicant submitted the covered application directly to the financial institution or its affiliate, or whether the applicant submitted the covered application indirectly to the financial institution via a third party.
- (5) **Credit type.** The following information regarding the type of credit applied for or originated:
 - (i) **Credit product.** The credit product.
 - (ii) **Guarantees.** The type or types of guarantees that were obtained for an extension of credit, or that would have been obtained if the covered credit transaction were originated.
 - (iii) **Loan term.** The length of the loan term, in months, if applicable.
- (6) **Credit purpose.** The purpose or purposes of the credit applied for or originated.
- (7) **Amount applied for.** The initial amount of credit or the initial credit limit requested by the applicant.
- (8) **Amount approved or originated.**
 - (i) For an application for a closed-end credit transaction that is approved but not accepted, the amount approved by the financial institution; or
 - (ii) For a closed-end credit transaction that is originated, the amount of credit originated; or
 - (iii) For an application for an open-end credit transaction that is originated or approved but not accepted, the amount of the credit limit approved.
- (9) **Action taken.** The action taken by the financial institution on the covered application, reported as originated, approved but not accepted, denied, withdrawn by the applicant, or incomplete.
- (10) **Action taken date.** The date of the action taken by the financial institution.
- (11) **Denial reasons.** For denied applications, the principal reason or reasons the financial institution denied the covered application.
- (12) **Pricing information.** The following information regarding the pricing of a covered credit transaction that is originated or approved but not accepted, as applicable:
 - (i) **Interest rate.**
 - (A) If the interest rate is fixed, the interest rate that is or would be applicable to the covered credit transaction; or
 - (B) If the interest rate is adjustable, the margin, index value, initial rate period expressed in months (if applicable), and index name that is or would be applicable to the covered credit transaction;
 - (ii) **Total origination charges.** The total amount of all charges payable directly or indirectly by the applicant and imposed directly or indirectly by the financial institution at or before origination as an incident to or a condition of the extension of credit, expressed in dollars;

- (iii) **Broker fees.** The total amount of all charges included in paragraph (a)(12)(ii) of this section that are fees paid by the applicant directly to a broker or to the financial institution for delivery to a broker, expressed in dollars;
- (iv) **Initial annual charges.** The total amount of all non-interest charges that are scheduled to be imposed over the first annual period of the covered credit transaction, expressed in dollars;
- (v) **Additional cost for merchant cash advances or other sales-based financing.** For a merchant cash advance or other sales-based financing transaction, the difference between the amount advanced and the amount to be repaid, expressed in dollars; and
- (vi) **Prepayment penalties.**
 - (A) Notwithstanding whether such a provision was in fact included, whether the financial institution could have included a charge to be imposed for paying all or part of the transaction's principal before the date on which the principal is due under the policies and procedures applicable to the covered credit transaction; and
 - (B) Notwithstanding the response to paragraph (a)(12)(vi)(A) of this section, whether the terms of the covered credit transaction do in fact include a charge imposed for paying all or part of the transaction's principal before the date on which the principal is due.
- (13) **Census tract.** The census tract in which is located:
 - (i) The address or location where the proceeds of the credit applied for or originated will be or would have been principally applied; or
 - (ii) If the information in paragraph (a)(13)(i) of this section is unknown, the address or location of the main office or headquarters of the applicant; or
 - (iii) If the information in both paragraphs (a)(13)(i) and (ii) of this section is unknown, another address or location associated with the applicant.
 - (iv) The financial institution shall also indicate which one of the three types of addresses or locations listed in paragraphs (a)(13)(i), (ii), or (iii) of this section the census tract is based on.
- (14) **Gross annual revenue.** The applicant's gross annual revenue for its preceding fiscal year.
- (15) **NAICS code.** A 3-digit North American Industry Classification System (NAICS) code for the applicant.
- (16) **Number of workers.** The number of non-owners working for the applicant.
- (17) **Time in business.** The time the applicant has been in business.
- (18) **Minority-owned, women-owned, and LGBTQI+-owned business statuses.** Whether the applicant is a minority-owned, women-owned, and/or LGBTQI+-owned business. When requesting minority-owned, women-owned, and LGBTQI+-owned business statuses from an applicant, the financial institution shall inform the applicant that the financial institution cannot discriminate on the basis of minority-owned, women-owned, or LGBTQI+-owned business statuses, or on whether the applicant provides this information.
- (19) **Ethnicity, race, and sex of principal owners.** The ethnicity, race, and sex of the applicant's principal owners. When requesting ethnicity, race, and sex information from an applicant, the financial institution shall inform the applicant that the financial institution cannot discriminate on the basis of a principal owner's ethnicity, race, or sex, or on whether the applicant provides this information.

(20) **Number of principal owners.** The number of the applicant's principal owners.

(b) **Reliance on and verification of applicant-provided data.** Unless otherwise provided in this subpart, the financial institution may rely on information from the applicant, or appropriate third-party sources, when compiling data. If the financial institution verifies applicant-provided data, however, it shall report the verified data.

(c) **Time and manner of collection –**

(1) **In general.** A covered financial institution shall not discourage an applicant from responding to requests for applicant-provided data under paragraph (a) of this section and shall otherwise maintain procedures to collect such data at a time and in a manner that are reasonably designed to obtain a response.

(2) **Applicant-provided data collected directly from the applicant.** For data collected directly from the applicant, procedures that are reasonably designed to obtain a response shall include provisions for the following:

- (i) The initial request for applicant-provided data occurs prior to notifying an applicant of final action taken on a covered application;
- (ii) The request for applicant-provided data is prominently displayed or presented;
- (iii) The collection does not have the effect of discouraging an applicant from responding to a request for applicant-provided data; and
- (iv) Applicants can easily respond to a request for applicant-provided data.

(3) **Procedures to monitor compliance.** A covered financial institution shall maintain procedures to identify and respond to indicia of potential discouragement, including low response rates for applicant-provided data.

(4) **Low response rates.** A low response rate for applicant-provided data may indicate discouragement or other failure by a covered financial institution to maintain procedures to collect applicant-provided data that are reasonably designed to obtain a response.

(d) **Previously collected data.** A covered financial institution is permitted, but not required, to reuse previously collected data to satisfy paragraphs (a)(13) through (20) of this section if:

- (1) To satisfy paragraphs (a)(13) and (a)(15) through (20) of this section, the data were collected within the 36 months preceding the current covered application, or to satisfy paragraph (a)(14) of this section, the data were collected within the same calendar year as the current covered application; and
- (2) The financial institution has no reason to believe the data are inaccurate.

§ 1002.108 Firewall.

(a) **Definitions.** For purposes of this section, the following terms shall have the following meanings:

- (1) **Involved in making any determination concerning a covered application from a small business** means participating in a decision regarding the evaluation of a covered application from a small business or the creditworthiness of a small business applicant for a covered credit transaction.
- (2) **Should have access** means that an employee or officer may need to collect, see, consider, refer to, or otherwise use the information to perform that employee's or officer's assigned job duties.

- (b) **Prohibition on access to certain information.** Unless the exception under paragraph (c) of this section applies, an employee or officer of a covered financial institution or a covered financial institution's affiliate shall not have access to an applicant's responses to inquiries that the financial institution makes pursuant to this subpart regarding whether the applicant is a minority-owned business, a women-owned business, or an LGBTQI+-owned business under § 1002.107(a)(18), and regarding the ethnicity, race, and sex of the applicant's principal owners under § 1002.107(a)(19), if that employee or officer is involved in making any determination concerning that applicant's covered application.
- (c) **Exception to the prohibition on access to certain information.** The prohibition in paragraph (b) of this section shall not apply to an employee or officer if the financial institution determines that it is not feasible to limit that employee's or officer's access to an applicant's responses to the financial institution's inquiries under § 1002.107(a)(18) or (19) and the financial institution provides the notice required under paragraph (d) of this section to the applicant. It is not feasible to limit access as required pursuant to paragraph (b) of this section if the financial institution determines that an employee or officer involved in making any determination concerning a covered application from a small business should have access to one or more applicants' responses to the financial institution's inquiries under § 1002.107(a)(18) or (19).
- (d) **Notice.** In order to satisfy the exception set forth in paragraph (c) of this section, a financial institution shall provide a notice to each applicant whose responses will be accessed, informing the applicant that one or more employees or officers involved in making determinations concerning the covered application may have access to the applicant's responses to the financial institution's inquiries regarding whether the applicant is a minority-owned business, a women-owned business, or an LGBTQI+-owned business, and regarding the ethnicity, race, and sex of the applicant's principal owners. The financial institution shall provide the notice required by this paragraph (d) when making the inquiries required under § 1002.107(a)(18) and (19) and together with the notices required pursuant to § 1002.107(a)(18) and (19).

§ 1002.109 Reporting of data to the Bureau.

- (a) **Reporting to the Bureau —**
 - (1) **Annual reporting.**
 - (i) On or before June 1 following the calendar year for which data are compiled and maintained as required by § 1002.107, a covered financial institution shall submit its small business lending application register in the format prescribed by the Bureau.
 - (ii) An authorized representative of the covered financial institution with knowledge of the data shall certify to the accuracy and completeness of the data reported pursuant to this paragraph (a).
 - (iii) When the last day for submission of data prescribed under paragraph (a)(1) of this section falls on a Saturday or Sunday, a submission shall be considered timely if it is submitted on the next succeeding Monday.
 - (2) **Reporting by subsidiaries.** A covered financial institution that is a subsidiary of another covered financial institution shall complete a separate small business lending application register. The subsidiary shall submit its small business lending application register, directly or through its parent, to the Bureau.

(3) **Reporting obligations where multiple financial institutions are involved in a covered credit transaction.** Where it is necessary for more than one financial institution to make a credit decision in order to approve a single covered credit transaction, only the last covered financial institution with authority to set the material terms of the covered credit transaction is required to report the application. Financial institutions report the actions of their agents.

(b) **Financial institution identifying information.** A financial institution shall provide each of the following with its submission:

(1) Its name.

(2) Its headquarters address.

(3) The name and business contact information of a person that the Bureau or other regulators may contact about the financial institution's submission.

(4) Its Federal prudential regulator, if applicable.

(5) Its Federal Taxpayer Identification Number (TIN).

(6) Its Legal Entity Identifier (LEI).

(7) Its Research, Statistics, Supervision, and Discount identification (RSSD ID) number, if applicable.

(8) Parent entity information, if applicable, including:

(i) The name of the immediate parent entity;

(ii) The LEI of the immediate parent entity, if available;

(iii) The RSSD ID number of the immediate parent entity, if available;

(iv) The name of the top-holding parent entity;

(v) The LEI of the top-holding parent entity, if available; and

(vi) The RSSD ID number of the top-holding parent entity, if available.

(9) The type of financial institution that it is, indicated by selecting the appropriate type or types of institution from the list provided.

(10) Whether the financial institution is voluntarily reporting covered applications from small businesses.

(c) **Procedures for the submission of data to the Bureau.** The Bureau shall make available a Filing Instructions Guide, containing technical instructions for the submission of data to the Bureau pursuant to this section, as well as any related materials, at <https://www.consumerfinance.gov/data-research/small-business-lending/filing-instructions-guide/>.

§ 1002.110 Publication of data and other disclosures.

(a) **Publication of small business lending application registers and associated financial institution information.** The Bureau shall make available to the public generally the data reported to it by financial institutions pursuant to § 1002.109, subject to deletions or modifications made by the Bureau if the Bureau determines that the deletion or modification of the data would advance a privacy interest. The Bureau shall make such data available on an annual basis.

- (b) **Publication of aggregate data.** The Bureau may compile and aggregate data submitted by financial institutions pursuant to § 1002.109, and make any compilations or aggregations of such data publicly available as the Bureau deems appropriate.
- (c) **Statement of financial institution's small business lending data available on the Bureau's website.** A covered financial institution shall make available to the public on its website, or otherwise upon request, a statement that the covered financial institution's small business lending application register, as modified by the Bureau pursuant to § 1002.110(a), is or will be available from the Bureau. A financial institution shall use language provided by the Bureau, or substantially similar language, to satisfy the requirement to provide a statement pursuant to this paragraph (c).
- (d) **Availability of statements.** A covered financial institution shall make the notice required by paragraph (c) of this section available to the public on its website when it submits a small business lending application register to the Bureau pursuant to § 1002.109(a)(1), and shall maintain the notice for as long as it has an obligation to retain its small business lending application registers pursuant to § 1002.111(a).
- (e) **Further disclosure prohibited —**
 - (1) **Disclosure by a financial institution.** A financial institution shall not disclose or provide to a third party the information it collects pursuant to § 1002.107(a)(18) and (19) except to further compliance with the Act or this part or as required by law.
 - (2) **Disclosure by a third party.** A third party that obtains information collected pursuant to § 1002.107(a)(18) and (19) for the purpose of furthering compliance with the Act or this part is prohibited from any further disclosure of such information except to further compliance with the Act or this part or as required by law.

§ 1002.111 Recordkeeping.

- (a) **Record retention.** A covered financial institution shall retain evidence of compliance with this subpart, which includes a copy of its small business lending application register, for at least three years after the register is required to be submitted to the Bureau pursuant to § 1002.109.
- (b) **Certain information kept separate from the rest of the application.** A financial institution shall maintain, separately from the rest of the application and accompanying information, an applicant's responses to the financial institution's inquiries pursuant to this subpart regarding whether an applicant for a covered credit transaction is a minority-owned business, a women-owned business, and/or an LGBTQI+-owned business under § 1002.107(a)(18), and regarding the ethnicity, race, and sex of the applicant's principal owners under § 1002.107(a)(19).
- (c) **Limitation on personally identifiable information in certain records retained under this section.** In reporting a small business lending application register pursuant to § 1002.109, maintaining the register pursuant to paragraph (a) of this section, and maintaining a separate record of information pursuant to paragraph (b) of this section, a financial institution shall not include any name, specific address, telephone number, email address, or any other personally identifiable information concerning any individual who is, or is connected with, an applicant, other than as required pursuant to § 1002.107 or paragraph (b) of this section.

§ 1002.112 Enforcement.

- (a) **Administrative enforcement and civil liability.** A violation of section 704B of the Act or this subpart is subject to administrative sanctions and civil liability as provided in sections 704 (15 U.S.C. 1691c) and 706 (15 U.S.C. 1691e) of the Act, where applicable.

- (b) **Bona fide errors.** A bona fide error in compiling, maintaining, or reporting data with respect to a covered application is one that was unintentional and occurred despite the maintenance of procedures reasonably adapted to avoid such an error. A bona fide error is not a violation of the Act or this subpart. A financial institution is presumed to maintain procedures reasonably adapted to avoid such errors with respect to a given data field if the number of errors found in a random sample of the financial institution's submission for the data field does not equal or exceed a threshold specified by the Bureau for this purpose in appendix F to this part. However, an error is not a bona fide error if either there is a reasonable basis to believe the error was intentional or there is evidence that the financial institution does not or has not maintained procedures reasonably adapted to avoid such errors.
- (c) **Safe harbors —**
- (1) **Incorrect entry for application date.** A financial institution does not violate the Act or this subpart if it reports on its small business lending application register an application date that is within three business days of the actual application date pursuant to § 1002.107(a)(2).
- (2) **Incorrect entry for census tract.** An incorrect entry for census tract is not a violation of the Act or this subpart if the financial institution obtained the census tract by correctly using a geocoding tool provided by the FFIEC or the Bureau.
- (3) **Incorrect entry for NAICS code.** An incorrect entry for a 3-digit NAICS code is not a violation of the Act or this subpart, provided that the financial institution obtained the 3-digit NAICS code by:
- (i) Relying on an applicant's representations or on an appropriate third-party source, in accordance with § 1002.107(b), regarding the NAICS code; or
- (ii) Identifying the NAICS code itself, provided that the financial institution maintains procedures reasonably adapted to correctly identify a 3-digit NAICS code.
- (4) **Incorrect determination of small business status, covered credit transaction, or covered application.** A financial institution that initially collects data regarding whether an applicant for a covered credit transaction is a minority-owned business, a women-owned business, or an LGBTQI+-owned business, and the ethnicity, race, and sex of the applicant's principal owners pursuant to § 1002.107(a)(18) and (19) but later concludes that it should not have collected such data does not violate the Act or this regulation if the financial institution, at the time it collected this data, had a reasonable basis for believing that the application was a covered application for a covered credit transaction from a small business pursuant to §§ 1002.103, 1002.104, and 1002.106, respectively. A financial institution seeking to avail itself of this safe harbor shall comply with the requirements of this subpart as otherwise required pursuant to §§ 1002.107, 1002.108, and 1002.111 with respect to the collected data.

§ 1002.113 Severability.

If any provision of this subpart, or any application of a provision, is stayed or determined to be invalid, the remaining provisions or applications are severable and shall continue in effect.

§ 1002.114 Effective date, compliance date, and special transitional rules.

- (a) **Effective date.** The effective date for this subpart is August 29, 2023.
- (b) **Compliance date.** The dates by which covered financial institutions are initially required to comply with the requirements of this subpart are as follows:

- (1) A covered financial institution that originated at least 2,500 covered credit transactions for small businesses in each of calendar years 2022 and 2023 shall comply with the requirements of this subpart beginning July 18, 2025.
- (2) A covered financial institution that is not subject to paragraph (b)(1) of this section and that originated at least 500 covered credit transactions for small businesses in each of calendar years 2022 and 2023 shall comply with the requirements of this subpart beginning January 16, 2026.
- (3) A covered financial institution that is not subject to paragraphs (b)(1) or (2) of this section and that originated at least 100 covered credit transactions for small businesses in each of calendar years 2022 and 2023 shall comply with the requirements of this subpart beginning October 18, 2026.
- (4) A financial institution that did not originate at least 100 covered credit transactions for small businesses in each of calendar years 2022 and 2023 but subsequently originates at least 100 such transactions in two consecutive calendar years shall comply with the requirements of this subpart in accordance with § 1002.105(b), but in any case no earlier than October 18, 2026.

(c) **Special transitional rules –**

- (1) **Collection of certain information prior to a financial institution's compliance date.** A financial institution as described in paragraphs (b)(1), (2), or (3) of this section is permitted, but not required, to collect information regarding whether an applicant for a covered credit transaction is a minority-owned business, a women-owned business, and/or an LGBTQI+-owned business under § 1002.107(a)(18), and the ethnicity, race, and sex of the applicant's principal owners under § 1002.107(a)(19) beginning 12 months prior to its applicable compliance date as set forth in paragraphs (b)(1), (2), or (3) of this section. A financial institution collecting such information pursuant to this paragraph (c)(1) must do so in accordance with the requirements set out in §§ 1002.107(a)(18) and (19), 1002.108, and 1002.111(b) and (c).
- (2) **Determining which compliance date applies to a financial institution that does not collect information sufficient to determine small business status.** A financial institution that is unable to determine the number of covered credit transactions it originated for small businesses in each of calendar years 2022 and 2023 for purposes of determining its compliance date pursuant to paragraph (b) of this section, because for some or all of this period it does not have readily accessible the information needed to determine whether its covered credit transactions were originated for small businesses as defined in § 1002.106(b), is permitted to use any reasonable method to estimate its originations to small businesses for either or both of the calendar years 2022 and 2023.
- (3) **Alternative time period for determining compliance dates.** A financial institution is permitted to use its originations of covered credit transactions in each of calendar years 2023 and 2024 in lieu of calendar years 2022 and 2023 as specified in paragraphs (b) and (c)(2) of this section.

[88 FR 35528, May 31, 2023, as amended at 89 FR 55029, July 3, 2024; 89 FR 76713, Sept. 19, 2024]

Appendix A to Part 1002—Federal Agencies To Be Listed in Adverse Action Notices

The following list indicates the Federal agency or agencies that should be listed in notices provided by creditors pursuant to § 1002.9(b)(1). Any questions concerning a particular creditor may be directed to such agencies. This list is not intended to describe agencies' enforcement authority for ECOA and Regulation B. Terms that are not defined in the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in the International Banking Act of 1978 (12 U.S.C. 3101).

1. ***Banks, savings associations, and credit unions with total assets of over \$10 billion and their affiliates:*** Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552. Such affiliates that are not banks, savings associations, or credit unions also should list, in addition to the Bureau: Federal Trade Commission, Consumer Response Center, 600 Pennsylvania Avenue NW, Washington, DC 20580.
2. To the extent not included in item 1 above:
 - a. ***National Banks, Federal savings associations, and Federal branches and Federal agencies of foreign banks:*** Office of the Comptroller of the Currency, Customer Assistance Group, P.O. Box 53570, Houston, TX 77052.
 - b. ***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:*** Federal Reserve Consumer Help Center, P.O. Box 1200, Minneapolis, MN 55480.
 - c. ***Nonmember Insured Banks, Insured State Branches of Foreign Banks, and Insured State Savings Associations:*** Division of Depositor and Consumer Protection, National Center for Consumer and Depositor Assistance, Federal Deposit Insurance Corporation, 1100 Walnut Street, Box #11, Kansas City, MO 64106.
 - d. ***Federal Credit Unions:*** National Credit Union Administration, Office of Consumer Financial Protection (OCFP), 1775 Duke Street, Alexandria, VA 22314.
3. ***Air Carriers:*** Assistant General Counsel for Office of Aviation Consumer Protection, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.
4. ***Creditors Subject to Surface Transportation Board:*** Office of Public Assistance, Governmental Affairs, and Compliance, Surface Transportation Board, 395 E Street SW, Washington, DC 20423.
5. ***Creditors Subject to Packers and Stockyards Act:*** Nearest Packers and Stockyards Division Regional Office.
6. ***Small Business Investment Companies:*** Associate Administrator, Office of Capital Access, United States Small Business Association, 409 Third Street SW, Suite 8200, Washington, DC 20416.
7. ***Brokers and Dealers:*** Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.
8. ***Federal Land Banks, Federal Land Bank Associations, Federal Intermediate Credit Banks, and Production Credit Associations:*** Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.
9. ***Retailers, Finance Companies, and All Other Creditors Not Listed Above:*** Federal Trade Commission, Consumer Response Center, 600 Pennsylvania Avenue NW, Washington, DC 20580.

[88 FR 58065, Aug. 25, 2023]

Appendix B to Part 1002—Model Application Forms

1. This appendix contains four model credit application forms, each designated for use in a particular type of consumer credit transaction as indicated by the bracketed caption on each form. The first sample form is intended for use in open-end, unsecured transactions; the second for closed-end, secured transactions; the third for closed-end transactions, whether unsecured or secured; and the fourth in transactions involving community property or occurring in community property States. This appendix also contains a data collection model form for collecting information concerning an applicant's ethnicity, race, and sex

that complies with the requirements of § 1002.13(a)(1)(i)(A) and (ii). Appendix B to 12 CFR part 1003 provides a data collection model form for collecting information concerning an applicant's ethnicity, race, and sex that complies with the requirements of § 1002.13(a)(1)(i)(B) and (ii). All forms contained in this appendix are models; their use by creditors is optional.

2. The use or modification of these forms is governed by the following instructions. A creditor may change the forms: by asking for additional information not prohibited by § 1002.5; by deleting any information request; or by rearranging the format without modifying the substance of the inquiries. In any of these three instances, however, the appropriate notices regarding the optional nature of courtesy titles, the option to disclose alimony, child support, or separate maintenance, and the limitation concerning marital status inquiries must be included in the appropriate places if the items to which they relate appear on the creditor's form.
3. If a creditor uses an appropriate appendix B model form, or modifies a form in accordance with the above instructions, that creditor shall be deemed to be acting in compliance with the provisions of paragraphs (b), (c) and (d) of § 1002.5 of this part.

[Open-end, unsecured credit]

CREDIT APPLICATION

IMPORTANT: Read these Directions before completing this Application.

- Check
Appropriate
Box
- ☐ If you are applying for an individual account in your own name and are relying on your own income or assets and not the income or assets of another person as the basis for repayment of the credit requested, complete only Sections A and D.
- ☐ If you are applying for a joint account or an account that you and another person will use, complete all Sections, providing information in B about the joint applicant or user.

We intend to apply for joint credit.

Applicant

Co-Applicant

- ☐ If you are applying for an individual account, but are relying on income from alimony, child support, or separate maintenance or on the income or assets of another person as the basis for repayment of the credit requested, complete all Sections to the extent possible, providing information in B about the person on whose alimony, support, or maintenance payments or income or assets you are relying.

SECTION A—INFORMATION REGARDING APPLICANT

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

Present Street Address: _____ Years there: _____

City: _____ State: _____ Zip: _____ Telephone: _____

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

Previous Street Address: _____ Years there: _____

City: _____ State: _____ Zip: _____

Present Employer: _____ Years there: _____ Telephone: _____

Position or title: _____ Name of supervisor: _____

Employer's Address: _____

Previous Employer: _____ Years there: _____

Previous Employer's Address: _____

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

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

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

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

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

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

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

Checking Account No.: _____ Institution and Branch: _____

Savings Account No.: _____ Institution and Branch: _____

Name of nearest relative not living with you: _____ Telephone: _____

Relationship: _____ Address: _____

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

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

Relationship to Applicant (if any): _____

Present Street Address: _____ Years there: _____

City: _____ State: _____ Zip: _____ Telephone: _____

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

Present Employer: _____ Years there: _____ Telephone: _____

Position or title: _____ Name of supervisor: _____

Employer's Address: _____

Previous Employer: _____ Years there: _____

Previous Employer's Address: _____

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

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

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

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

[Open-end, unsecured credit]

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

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

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

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

(Credit References)	Date Paid
1.	\$
2.	

Are you a co-maker, endorser, or guarantor on any loan or contract?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If "yes" for whom?	To whom?
Are there any unsatisfied	Yes <input type="checkbox"/>	If "yes" to whom owed?	
Have you been declared bankrupt in the last 14 years?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If "yes" where?	Year
Other Obligations	(For liabilities not otherwise disclosed)		

[Closed-end, secured credit]

CREDIT APPLICATION

IMPORTANT: Read these Directions before completing this Application.

- Check Appropriate Box
- ☐ If you are applying for individual credit in your own name and are relying on your own income or assets and not the income or assets of another person as the basis for repayment of the credit requested, complete Sections A, C, D, and E, omitting B and the second part of C.
 - ☐ If this is an application for joint credit with another person, complete all Sections, providing information in B about the joint applicant.

We intend to apply for joint credit.

Applicant

Co-Applicant

- ☐ If you are applying for individual credit, but are relying on income from alimony, child support, or separate maintenance or on the income or assets of another person as the basis for repayment of the credit requested, complete all Sections to the extent possible, providing information in B about the person on whose alimony, support, or maintenance payments or income or assets you are relying.

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

SECTION A—INFORMATION REGARDING APPLICANT

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

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

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

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

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

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

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

Checking Account No.: _____ Institution and Branch: _____

Savings Account No.: _____ Institution and Branch: _____

Name of nearest relative not living with you: _____ Telephone: _____

Relationship: _____ Address: _____

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

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

Relationship to Applicant (if any): _____

Present Street Address: _____ Years there: _____

City: _____ State: _____ Zip: _____ Telephone: _____

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

Present Employer: _____ Years there: _____ Telephone: _____

Position or title: _____ Name of supervisor: _____

Employer's Address: _____

Previous Employer: _____ Years there: _____

Previous Employer's Address: _____

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

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

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

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

[Closed-end, secured credit]

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

ASSETS OWNED (use separate sheet if necessary.)

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

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

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

(Credit References)	Date Paid
1.	\$
2.	

Are you a co-maker, endorser, or guarantor on any loan or contract?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If "yes" for whom?	To whom?
Are there any unsatisfied judgments against you?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Amount \$	If "yes" to whom owed?
Have you been declared bankrupt in the last 14 years?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If "yes" where?	Year
Other Obligations—(E.g., liability to pay alimony, child support, separate maintenance. Use separate sheet if necessary.)			

SECTION E— SECURED CREDIT (Briefly describe the property to be given as security.)

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

Name

Address

[Closed-end, unsecured/secured credit]

CREDIT APPLICATION

IMPORTANT: Read these Directions before completing this Application.

Check
Appropriate
Box

- ☐ If you are applying for individual credit in your own name and are relying on your own income or assets and not the income or assets of another person as the basis for repayment of the credit requested, complete only Sections A and D. If the requested credit is to be secured, also complete the first part of Section C and Section E.
- ☐ If you are applying for joint credit with another person, complete all Sections except E, providing information in B about the joint applicant. If the requested credit is to be secured, then complete Section E.

We intend to apply for joint credit.

Applicant

Co-Applicant

- ☐ If you are applying for individual credit, but are relying on income from alimony, child support, or separate maintenance or on the income or assets of another person as the basis for repayment of the credit requested, complete all Sections except E to the extent possible, providing information in B about the person on whose alimony, support, or maintenance payments or income or assets you are relying. If the requested credit is to be secured, then complete Section E.

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

SECTION A—INFORMATION REGARDING APPLICANT

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

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

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

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

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

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

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

Checking Account No.: _____ Institution and Branch: _____

Savings Account No.: _____ Institution and Branch: _____

Name of nearest relative not living with you: _____ Telephone: _____

Relationship: _____ Address: _____

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

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

Relationship to Applicant (if any): _____

Present Street Address: _____ Years there: _____

City: _____ State: _____ Zip: _____ Telephone: _____

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

Present Employer: _____ Years there: _____ Telephone: _____

Position or title: _____ Name of supervisor: _____

Employer's Address: _____

Previous Employer: _____ Years there: _____

Previous Employer's Address: _____

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

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

[Closed-end, unsecured/secured credit]

SECTION C—MARITAL STATUS

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

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

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

ASSETS OWNED (use separate sheet if necessary.)

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

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

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

(Credit References)						Date Paid
1.			\$			
2.						

Are you a co-maker, endorser, or guarantor on any loan or contract?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If "yes" for whom?	To whom?
Are there any unsatisfied judgments against you?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Amount \$	If "yes" to whom owed?
Have you been declared bankrupt in the last 14 years?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If "yes" where?	Year

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

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

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

Name

Address

[Community property]

CREDIT APPLICATION
IMPORTANT: Read these Directions before completing this Application.

Check
Appropriate
Box

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

If you intend to apply for joint credit, please initial here. _____
Applicant _____ Co-Applicant _____

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

SECTION A—INFORMATION REGARDING APPLICANT

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

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

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

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

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

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

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

Checking Account No.: _____ Institution and Branch: _____

Savings Account No.: _____ Institution and Branch: _____

Name of nearest relative
not living with you: _____ Telephone: _____

Relationship: _____ Address: _____

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

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

Relationship to Applicant (if any): _____

Present Street Address: _____ Years there: _____

City: _____ State: _____ Zip: _____ Telephone: _____

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

Present Employer: _____ Years there: _____ Telephone: _____

Position or title: _____ Name of supervisor: _____

Employer's Address: _____

Previous Employer: _____ Years there: _____

Previous Employer's Address: _____

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

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

[Community property]

SECTION C—MARITAL STATUS

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

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

ASSETS OWNED (use separate sheet if necessary.)

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

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

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

(Credit References)	Date Paid
1.	\$
2.	

Are you a co-maker, endorser, or guarantor on any loan or contract?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If "yes" for whom?	To whom?
Are there any unsatisfied judgments against you?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Amount \$	If "yes" to whom owed?
Have you been declared bankrupt in the last 14 years?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If "yes" where?	Year

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

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

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

DATA COLLECTION MODEL FORM
INFORMATION FOR GOVERNMENT MONITORING PURPOSES

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

APPLICANT:

☐ I do not wish to furnish this information

Ethnicity

☐ Hispanic or Latino
☐ Not Hispanic or Latino

Race

☐ American Indian or Alaska Native
☐ Asian
☐ Black or African American
☐ Native Hawaiian or Other Pacific Islander
☐ White

Sex

☐ Female
☐ Male

CO-APPLICANT:

☐ I do not wish to furnish this information

Ethnicity

☐ Hispanic or Latino
☐ Not Hispanic or Latino

Race

☐ American Indian or Alaska Native
☐ Asian
☐ Black or African American
☐ Native Hawaiian or Other Pacific Islander
☐ White

Sex

☐ Female
☐ Male

[76 FR 79445, Dec. 21, 2011, as amended at 82 FR 45694, 45695, Oct. 2, 2017]

Appendix C to Part 1002—Sample Notification Forms

1. This Appendix contains ten sample notification forms. Forms C-1 through C-4 are intended for use in notifying an applicant that adverse action has been taken on an application or account under §§ 1002.9(a)(1) and (2)(i) of this part. Form C-5 is a notice of disclosure of the right to request specific reasons for adverse action under §§ 1002.9(a)(1) and (2)(ii). Form C-6 is designed for use in notifying an applicant, under § 1002.9(c)(2), that an application is incomplete. Forms C-7 and C-8 are intended for use in connection with applications for business credit under § 1002.9(a)(3). Form C-9 is designed for use in notifying an applicant of the right to receive a copy of appraisals under § 1002.14. Form C-10 is designed for use in notifying an applicant for nonmortgage credit that the creditor is requesting applicant characteristic information.
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 was considered in the credit decision). 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. Optional language in Forms C-1 through C-5 may be used to direct the consumer to the entity that provided the credit score for any questions about the credit score, along with the entity's contact information. Creditors may use or not use this additional language without losing the safe harbor, since the language is optional.

3. The sample forms are illustrative and may not be appropriate for all creditors. They were designed to include some of the factors that creditors most commonly consider. If a creditor chooses to use the checklist of reasons provided in one of the sample forms in this appendix and if reasons commonly used by the creditor are not provided on the form, the creditor should modify the checklist by substituting or adding other reasons. For example, if "inadequate down payment" or "no deposit relationship with us" are common reasons for taking adverse action on an application, the creditor ought to add or substitute such reasons for those presently contained on the sample forms.
4. If the reasons listed on the forms are not the factors actually used, a creditor will not satisfy the notice requirement by simply checking the closest identifiable factor listed. For example, some creditors consider only references from banks or other depository institutions and disregard finance company references altogether; their statement of reasons should disclose "insufficient bank references," not "insufficient credit references." Similarly, a creditor that considers bank references and other credit references as distinct factors should treat the two factors separately and disclose them as appropriate. The creditor should either add such other factors to the form or check "other" and include the appropriate explanation. The creditor need not, however, describe how or why a factor adversely affected the application. For example, the notice may say "length of residence" rather than "too short a period of residence."
5. A creditor may design its own notification forms or use all or a portion of the forms contained in this Appendix. Proper use of Forms C-1 through C-4 will satisfy the requirement of § 1002.9(a)(2)(i). Proper use of Forms C-5 and C-6 constitutes full compliance with §§ 1002.9(a)(2)(ii) and 1002.9(c)(2), respectively. Proper use of Forms C-7 and C-8 will satisfy the requirements of §§ 1002.9(a)(2)(i) and (ii), respectively, for applications for business credit. Proper use of Form C-9 will satisfy the requirements of § 1002.14 of this part. Proper use of Form C-10 will satisfy the requirements of § 1002.5(b)(1).

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 the consumer reporting agency and used it in making our credit decision. Your credit score is a number that reflects the information in your consumer report. Your credit score can change, depending on how the information in your consumer 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 consumer report, as a key factor]

[If you have any questions regarding your credit score, you should contact [entity that provided the credit score] at:

Address: _____

[[Toll-free] Telephone number: _____]

____ 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 the consumer reporting agency and used it in making our credit decision. Your credit score is a number that reflects the information in your consumer report. Your credit score can change, depending on how the information in your consumer 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 consumer report, as a key factor]

[If you have any questions regarding your credit score, you should contact [entity that provided the credit score] at:

Address: _____

[[Toll-free] Telephone number: _____]

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

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

Date

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

[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 Consumer 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]

[Information about Your Credit Score]

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

[If you have any questions regarding your credit score, you should contact [entity that provided the credit score] at:

Address: _____

[Toll-free] Telephone number: _____]

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 the consumer reporting agency and used it in making our credit decision. Your credit score is a number that reflects the information in your consumer report. Your credit score can change, depending on how the information in your consumer 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 consumer report, as a key factor]

[If you have any questions regarding your credit score, you should contact [entity that provided the credit score] at:

Address: _____

[Toll-free] Telephone number:_____]

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 the consumer reporting agency and used it in making our credit decision. Your credit score is a number that reflects the information in your consumer report. Your credit score can change, depending on how the information in your consumer 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 consumer report, as a key factor]

[If you have any questions regarding your credit score, you should contact [entity that provided the credit score] at:

Address: _____

[Toll-free] Telephone number: _____]

Sincerely,

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

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

Creditor's name

Address

Telephone number

Date

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

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

Sincerely,

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

Creditor's name

Creditor's address

Date

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

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

Sincerely,

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

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

Creditor's name

Creditor's address

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

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

Form C-9—Sample Disclosure of Right To Receive a Copy of Appraisals

We may order an appraisal to determine the property's value and charge you for this appraisal. We will promptly give you a copy of any appraisal, even if your loan does not close.

You can pay for an additional appraisal for your own use at your own cost.

[In your letter, give us the following information:]

Form C-10—Sample Disclosure About Voluntary Data Notation

We are requesting the following information to monitor our compliance with the Federal Equal Credit Opportunity Act, which prohibits unlawful discrimination. You are not required to provide this information. We will not take this information (or your decision not to provide this information) into account in connection with your application or credit transaction. The law provides that a creditor may not discriminate based on this information, or based on whether or not you choose to provide it. [If you choose not to provide the information, we will note it by visual observation or surname].

[76 FR 79445, Dec. 21, 2011, as amended at 78 FR 7248, Jan. 31, 2013]

Appendix D to Part 1002—Issuance of Official Interpretations

1. **Official Interpretations.** Interpretations of this part issued by officials of the Bureau provide the protection afforded under section 706(e) of the Act. Except in unusual circumstances, such interpretations will not be issued separately but will be incorporated in an official commentary to the regulation, which will be amended periodically.
2. **Requests for Issuance of Official Interpretations.** A request for an official interpretation should be in writing and addressed to the Assistant Director, Office of Regulations, Division of Research, Monitoring, and Regulations, Bureau of Consumer Financial Protection, 1700 G Street, NW., Washington, DC 20552. The request should contain a complete statement of all relevant facts concerning the issue, including copies of all pertinent documents.
3. **Scope of Interpretations.** No interpretations will be issued approving creditors' forms or statements. This restriction does not apply to forms or statements whose use is required or sanctioned by a government agency.

[76 FR 79445, Dec. 21, 2011, as amended at 88 FR 16538, Mar. 20, 2023]

Appendix E to Part 1002—Sample Form for Collecting Certain Applicant-Provided Data Under Subpart B

Sample data collection form

Federal law requires that we request the following information to help ensure that all small businesses applying for loans and other kinds of credit are treated fairly and that communities' small business credit needs are met.

One or more employees or officers involved in making a determination concerning your application may have access to the information provided on this form. However, **FEDERAL LAW PROHIBITS DISCRIMINATION** on the basis of your answers on this form. Additionally, we cannot discriminate on the basis of whether you provide this information.

While you are not required to provide this information, we encourage you to do so. Importantly, our staff are not permitted to discourage you in any way from responding to these questions. **Filling out this form will help to ensure that ALL small business owners are treated fairly.**

Business ownership status	Number of principal owners
<p>Please indicate the business ownership status of your small business. For the purposes of this form, your business is a minority-owned, women-owned, or LGBTQI+-owned business if one or more minorities,* women, or LGBTQI+ individuals (i) directly or indirectly own or control more than 50 percent of the business AND (ii) receive more than 50 percent of the net profits/losses of the business.</p> <p>What is your business ownership status? <i>(Check one or more of the options below)</i></p> <div><input type="checkbox"/> Minority-owned business</div> <div><input type="checkbox"/> Women-owned business</div> <div><input type="checkbox"/> LGBTQI+-owned business</div> <div><div>– or –</div></div> <div><input type="checkbox"/> None of these apply</div> <div><div>– or –</div></div> <div><input type="checkbox"/> I do not wish to provide this information</div>	<p>For purposes of this form, a principal owner is any individual who owns 25 percent or more of the equity interest of a business. A business might not have any principal owners if, for example, it is not directly owned by any individuals (i.e., if it is owned by another entity or entities) or if no individual directly owns at least 25 percent of the business.</p> <p>How many principal owners does your business have? <i>(Check one)</i></p> <div><input type="checkbox"/> 0</div> <div><input type="checkbox"/> 1</div> <div><input type="checkbox"/> 2</div> <div><input type="checkbox"/> 3</div> <div><input type="checkbox"/> 4</div>
<p><small>*Minority means Hispanic or Latino, American Indian or Alaska Native, Asian, Black or African American, or Native Hawaiian or Other Pacific Islander. A multi-racial or multi-ethnic individual is a minority for this purpose.</small></p>	

Demographic information about principal owners

As a reminder, applicants are not required to provide this information but are encouraged to do so. We cannot discriminate on the basis of any person's ethnicity, race, or sex/gender. Additionally, we cannot discriminate on the basis of whether you provide this information.

Please fill out one sheet for each principal owner.

1 Are you Hispanic or Latino?

i.e., What's your ethnicity? (Check one or more)

☐ **Hispanic or Latino**

- ☐ Cuban
- ☐ Mexican
- ☐ Puerto Rican
- ☐ Other Hispanic or Latino *(Please specify your origin, for example, Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, and so on):*

☐ **Not Hispanic or Latino**

– or –

☐ **I do not wish to provide my ethnicity**

2 What is your sex/gender?

(Please specify):

– or –

☐ **I do not wish to provide my sex/gender**

1 What is your race?

(Check one or more)

☐ **American Indian or Alaska Native** *(Please specify the name of your enrolled or principal tribe):*

☐ **Asian**

- ☐ Asian Indian
- ☐ Chinese
- ☐ Filipino
- ☐ Japanese
- ☐ Korean
- ☐ Vietnamese
- ☐ Other Asian *(Please specify your race, for example, Cambodian, Hmong, Laotian, Pakistani, Thai, and so on):*

☐ **Black or African American**

- ☐ African American
- ☐ Ethiopian
- ☐ Haitian
- ☐ Jamaican
- ☐ Nigerian
- ☐ Somali
- ☐ Other Black or African American *(Please specify your race, for example, Barbadian, Ghanaian, South African, and so on):*

☐ **Native Hawaiian or Other Pacific Islander**

- ☐ Guamanian or Chamorro
- ☐ Native Hawaiian
- ☐ Samoan
- ☐ Other Pacific Islander *(Please specify your race, for example, Fijian, Tongan, and so on):*

☐ **White**

– or –

☐ **I do not wish to provide my race**

[88 FR 35534, May 31, 2023]

Appendix F to Part 1002—Tolerances for Bona Fide Errors in Data Reported Under Subpart B

As set out in § 1002.112(b) and in comment 112(b)-1, a financial institution is presumed to maintain procedures reasonably adapted to avoid errors with respect to a given data field if the number of errors found in a random sample of a financial institution's data submission for a given data field do not equal or exceed the threshold in column C of the following table (Table 1, Tolerance Thresholds for Bona Fide Errors):

TABLE 1 TO APPENDIX F—TOLERANCE THRESHOLDS FOR BONA FIDE ERRORS

Small business lending application register count	Random sample size ⁹⁸⁶	Threshold (#)	Threshold (%)
(A)	(B)	(C)	(D)
100-130	47	3	6.4
131-190	56	3	5.4
191-500	59	3	5.1
501-100,000	79	4	5.1
100,001+	159	4	2.5

The size of the random sample, under column B, shall depend on the size of the financial institution's small business lending application register, as shown in column A of the Threshold Table.

The thresholds in column C of the Threshold Table reflect the number of unintentional errors a financial institution may make within a particular data field (e.g., the credit product data field within the credit type data point or the ethnicity data field for a particular principal owner within the ethnicity, race, and sex of principal owners data point) in a small business lending application register that would be deemed bona fide errors for purposes of § 1002.112(b).

For instance, a financial institution that submitted a small business lending application register containing 105 applications would be subject to a threshold of three errors per data field. If the financial institution had made two errors in reporting loan amount and two errors reporting gross annual income, all of these errors would be covered by the bona fide error provision of § 1002.112(b) and would not constitute a violation of the Act or this part. If the same financial institution had made four errors in reporting loan amount and two errors reporting gross annual income, the bona fide error provision of § 1002.112(b) would not apply to the four loan amount errors but would still apply to the two gross annual income errors.

Even when the number of errors in a particular data field do not equal or exceed the threshold in column C, if either there is a reasonable basis to believe that errors in that field were intentional or there is evidence that the financial institution did not maintain procedures reasonably adapted to avoid such errors, then the errors are not bona fide errors under § 1002.112(b).

For purposes of determining bona fide errors under § 1002.112(b), the term “data field” generally refers to individual fields. Some data fields may allow for more than one response. For example, with respect to information on the ethnicity or race of an applicant's principal owners, a data field may identify more than one race or more than one ethnicity for a given person. If one or more of the ethnicities or races identified in a data field are erroneous, they count as one (and only one) error for that data field.

[88 FR 35534, May 31, 2023]

[986] For a financial institution with fewer than 30 entries in its small business lending application register, the full sample size is the financial institution's total number of entries. The threshold number for such financial institutions remains three. Accordingly, the threshold percentage will be higher for financial institutions with fewer than 30 entries in their registers

Supplement I to Part 1002—Official Interpretations

Following is an official interpretation of Regulation B (12 CFR part 1002) issued by the Bureau of Consumer Financial Protection. References are to sections of the regulation or the Equal Credit Opportunity Act (15 U.S.C. 1601 *et seq.*).

Introduction

1. **Official status.** Section 706(e) of the Equal Credit Opportunity Act protects a creditor from civil liability for any act done or omitted in good faith in conformity with an interpretation issued by a duly authorized official of the Bureau. This commentary is the means by which the Bureau of Consumer Financial Protection issues official interpretations of Regulation B. Good-faith compliance with this commentary affords a creditor protection under section 706(e) of the Act.
2. **Issuance of interpretations.** Under appendix D to the regulation, any person may request an official interpretation. Interpretations will be issued at the discretion of designated officials and incorporated in this commentary following publication for comment in the FEDERAL REGISTER. Except in unusual circumstances, official interpretations will be issued only by means of this commentary.
3. **Comment designations.** The comments are designated with as much specificity as possible according to the particular regulatory provision addressed. Each comment in the commentary is identified by a number and the regulatory section or paragraph that it interprets. For example, comments to § 1002.2(c) are further divided by subparagraph, such as comment 2(c)(1)(ii)-1 and comment 2(c)(2)(ii)-1.

Section 1002.1—Authority, Scope, and Purpose

1(a) Authority and scope.

1. **Scope.** The Equal Credit Opportunity Act and Regulation B apply to all credit—commercial as well as personal—without regard to the nature or type of the credit or the creditor, except for an entity excluded from coverage of this part (but not the Act) by section 1029 of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5519). If a transaction provides for the deferral of the payment of a debt, it is credit covered by Regulation B even though it may not be a credit transaction covered by Regulation Z (Truth in Lending) (12 CFR part 1026). Further, the definition of creditor is not restricted to the party or person to

whom the obligation is initially payable, as is the case under Regulation Z. Moreover, the Act and regulation apply to all methods of credit evaluation, whether performed judgmentally or by use of a credit scoring system.

2. **Foreign applicability.** Regulation B generally does not apply to lending activities that occur outside the United States. The regulation does apply to lending activities that take place within the United States (as well as the Commonwealth of Puerto Rico and any territory or possession of the United States), whether or not the applicant is a citizen.
3. **Bureau.** The term *Bureau*, as used in this part, means the Bureau of Consumer Financial Protection.

Section 1002.2—Definitions

2(c) Adverse action.

Paragraph 2(c)(1)(i).

1. **Application for credit.** If the applicant applied in accordance with the creditor's procedures, a refusal to refinance or extend the term of a business or other loan is adverse action.

Paragraph 2(c)(1)(ii).

1. **Move from service area.** If a credit card issuer terminates the open-end account of a customer because the customer has moved out of the card issuer's service area, the termination is adverse action unless termination on this ground was explicitly provided for in the credit agreement between the parties. In cases where termination is adverse action, notification is required under § 1002.9.

2. **Termination based on credit limit.** If a creditor terminates credit accounts that have low credit limits (for example, under \$400) but keeps open accounts with higher credit limits, the termination is adverse action and notification is required under § 1002.9.

Paragraph 2(c)(2)(ii).

1. **Default—exercise of due-on-sale clause.** If a mortgagor sells or transfers mortgaged property without the consent of the mortgagee, and the mortgagee exercises its contractual right to accelerate the mortgage loan, the mortgagee may treat the mortgagor as being in default. An adverse action notice need not be given to the mortgagor or the transferee. (See comment 2(e)-1 for treatment of a purchaser who requests to assume the loan.)
2. **Current delinquency or default.** The term adverse action does not include a creditor's termination of an account when the accountholder is currently in default or delinquent on that account. Notification in accordance with § 1002.9 of the regulation generally is required, however, if the creditor's action is based on a past delinquency or default on the account.

Paragraph 2(c)(2)(iii).

1. **Point-of-sale transactions.** Denial of credit at point of sale is not adverse action except under those circumstances specified in the regulation. For example, denial at point of sale is not adverse action in the following situations:
 - i. A credit cardholder presents an expired card or a card that has been reported to the card issuer as lost or stolen.
 - ii. The amount of a transaction exceeds a cash advance or credit limit.
 - iii. The circumstances (such as excessive use of a credit card in a short period of time) suggest that fraud is involved.
 - iv. The authorization facilities are not functioning.
 - v. Billing statements have been returned to the creditor for lack of a forwarding address.
2. **Application for increase in available credit.** A refusal or failure to authorize an account transaction at the point of sale or loan is not adverse action except when the refusal is a denial of an application, submitted in accordance with the creditor's procedures, for an increase in the amount of credit.

Paragraph 2(c)(2)(v).

1. **Terms of credit versus type of credit offered.** When an applicant applies for credit and the creditor does not offer the credit terms requested by the applicant (for example, the interest rate, length of maturity, collateral, or amount of downpayment), a denial of the application for that reason is adverse action (unless the creditor makes a counteroffer that is accepted by the applicant) and the applicant is entitled to notification under § 1002.9.

2(e) Applicant.

1. **Request to assume loan.** If a mortgagor sells or transfers the mortgaged property and the buyer makes an application to the creditor to assume the mortgage loan, the mortgagee must treat the buyer as an applicant unless its policy is not to permit assumptions.

2(f) Application.

1. **General.** A creditor has the latitude under the regulation to establish its own application process and to decide the type and amount of information it will require from credit applicants.

2. **Procedures used.** The term "procedures" refers to the actual practices followed by a creditor for making credit decisions as well as its stated application procedures. For example, if a creditor's stated policy is to require all applications to be in writing on the creditor's application form, but the creditor also makes credit decisions based on oral requests, the creditor's procedures are to accept both oral and written applications.
3. **When an inquiry or prequalification request becomes an application.** A creditor is encouraged to provide consumers with information about loan terms. However, if in giving information to the consumer the creditor also evaluates information about the consumer, decides to decline the request, and communicates this to the consumer, the creditor has treated the inquiry or prequalification request as an application and must then comply with the notification requirements under § 1002.9. Whether the inquiry

or prequalification request becomes an application depends on how the creditor responds to the consumer, not on what the consumer says or asks. (See comment 9-5 for further discussion of prequalification requests; see comment 2(f)-5 for a discussion of preapproval requests.)

4. **Examples of inquiries that are not applications.** The following examples illustrate situations in which only an inquiry has taken place:
 - i. A consumer calls to ask about loan terms and an employee explains the creditor's basic loan terms, such as interest rates, loan-to-value ratio, and debt-to-income ratio.
 - ii. A consumer calls to ask about interest rates for car loans, and, in order to quote the appropriate rate, the loan officer asks for the make and sales price of the car and the amount of the downpayment, then gives the consumer the rate.
 - iii. A consumer asks about terms for a loan to purchase a home and tells the loan officer her income and intended downpayment, but the loan officer only explains the creditor's loan-to-value ratio policy and other basic lending policies, without telling the consumer whether she qualifies for the loan.
 - iv. A consumer calls to ask about terms for a loan to purchase vacant land and states his income and the sales price of the property to be financed, and asks whether he qualifies for a loan; the employee responds by describing the general lending policies, explaining that he would need to look at all of the consumer's qualifications before making a decision, and offering to send an application form to the consumer.
5. **Examples of an application.** An application for credit includes the following situations:
 - i. A person asks a financial institution to "preapprove" her for a loan (for example, to finance a house or a vehicle she plans to buy) and the institution reviews the request under a program in which the institution, after a comprehensive analysis of her creditworthiness, issues a written commitment valid for a designated period of time to extend a loan up to a specified amount. The written commitment may not be subject to conditions other than conditions that require the identification of adequate collateral, conditions that require no material change in the applicant's financial condition or creditworthiness prior to funding the loan, and limited conditions that are not related to the financial condition or creditworthiness of the applicant that the lender ordinarily attaches to a traditional application (such as certification of a clear termite inspection for a home purchase loan, or a maximum mileage requirement for a used car loan). But if the creditor's program does not provide for giving written commitments, requests for preapprovals are treated as prequalification requests for purposes of the regulation.
 - ii. Under the same facts as above, the financial institution evaluates the person's creditworthiness and determines that she does not qualify for a preapproval.
6. **Completed application—diligence requirement.** The regulation defines a completed application in terms that give a creditor the latitude to establish its own information requirements. Nevertheless, the creditor must act with reasonable diligence to collect information needed to complete the application. For example, the creditor should request information from third parties, such as a credit report, promptly after receiving the application. If additional information is needed from the applicant, such as an address or a telephone number to verify employment, the creditor should contact the applicant promptly. (But see comment 9(a)(1)-3, which discusses the creditor's option to deny an application on the basis of incompleteness.)2(g) *Business credit*.

1. **Definition.** The test for deciding whether a transaction qualifies as business credit is one of primary purpose. For example, an open-end credit account used for both personal and business purposes is not business credit unless the primary purpose of the account is business-related. A creditor may rely on an applicant's statement of the purpose for the credit requested.

2(j) Credit.

1. **General.** Regulation B covers a wider range of credit transactions than Regulation Z (Truth in Lending). Under Regulation B, a transaction is credit if there is a right to defer payment of a debt—regardless of whether the credit is for personal or commercial purposes, the number of installments required for repayment, or whether the transaction is subject to a finance charge.

2(l) Creditor.

1. **Assignees.** The term creditor includes all persons participating in the credit decision. This may include an assignee or a potential purchaser of the obligation who influences the credit decision by indicating whether or not it will purchase the obligation if the transaction is consummated.

2. **Referrals to creditors.** For certain purposes, the term creditor includes persons such as real estate brokers, automobile dealers, home builders, and home-improvement contractors who do not participate in credit decisions but who only accept applications and refer applicants to creditors, or select or offer to select creditors to whom credit requests can be made. These persons must comply with § 1002.4(a), the general rule prohibiting discrimination, and with § 1002.4(b), the general rule against discouraging applications.

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

1. **Purpose of definition.** The definition under §§ 1002.2(p)(1)(i) through (iv) sets the criteria that a credit system must meet in order to use age as a predictive factor. Credit systems that do not meet these criteria are judgmental systems and may consider age only for the purpose of determining a “pertinent element of creditworthiness.” (Both types of systems may favor an elderly applicant. See § 1002.6(b)(2).)
2. **Periodic revalidation.** The regulation does not specify how often credit scoring systems must be revalidated. The credit scoring system must be revalidated frequently enough to ensure that it continues to meet recognized professional statistical standards for statistical soundness. To ensure that predictive ability is being maintained, the creditor must periodically review the performance of the system. This could be done, for example, by analyzing the loan portfolio to determine the delinquency rate for each score interval, or by analyzing population stability over time to detect deviations of recent applications from the applicant population used to validate the system. If this analysis indicates that the system no longer predicts risk with statistical soundness, the system must be adjusted as necessary to reestablish its predictive ability. A creditor is responsible for ensuring its system is validated and revalidated based on the creditor's own data.

3. **Pooled data scoring systems.** A scoring system or the data from which to develop such a system may be obtained from either a single credit grantor or multiple credit grantors. The resulting system will qualify as an empirically derived, demonstrably and statistically sound, credit scoring system provided the criteria set forth in paragraph (p)(1)(i) through (iv) of this section are met. A creditor is responsible for ensuring its system is validated and revalidated based on the creditor's own data when it becomes available.
4. **Effects test and disparate treatment.** An empirically derived, demonstrably and statistically sound, credit scoring system may include age as a predictive factor (provided that the age of an elderly applicant is not assigned a negative factor or value). Besides age, no other prohibited basis may be used as a variable. Generally, credit scoring systems treat all applicants objectively and thus avoid problems of disparate treatment. In cases where a credit scoring system is used in conjunction with individual discretion, disparate treatment could conceivably occur in the evaluation process. In addition, neutral factors used in credit scoring systems could nonetheless be subject to challenge under the effects test. (See comment 6(a)-2 for a discussion of the effects test).

2(w) Open-end credit.

1. **Open-end real estate mortgages.** The term “open-end credit” does not include negotiated advances under an open-end real estate mortgage or a letter of credit.

2(z) Prohibited basis.

1. **Persons associated with applicant.** As used in this part, prohibited basis refers not only to characteristics—the race, color, religion, national origin, sex, marital status, or age—of an applicant (or officers of an applicant in the case of a corporation) but also to the characteristics of individuals with whom an applicant is affiliated or with whom the applicant associates. This means, for example, that under the general rule stated in § 1002.4(a), a creditor may not discriminate against an applicant because of that person's personal or business dealings with members of a certain religion, because of the national origin of any persons associated with the extension of credit (such as the tenants in the apartment complex being financed), or because of the race of other residents in the neighborhood where the property offered as collateral is located.

2. **National origin.** A creditor may not refuse to grant credit because an applicant comes from a particular country but may take the applicant's immigration status into account. A creditor may also take into account any applicable law, regulation, or executive order restricting dealings with citizens (or the government) of a particular country or imposing limitations regarding credit extended for their use.
3. **Public assistance program.** Any Federal, state, or local governmental assistance program that provides a continuing, periodic income supplement, whether premised on entitlement or need, is “public assistance” for purposes of the regulation. The term includes (but is not limited to) Temporary Aid to Needy Families, food stamps, rent and mortgage supplement or assistance programs, social security and supplemental security income, and unemployment compensation. Only physicians, hospitals, and others to whom the benefits are payable need consider Medicare and Medicaid as public assistance.

Section 1002.3—Limited Exceptions for Certain Classes of Transactions

1. **Scope.** Under this section, procedural requirements of the regulation do not apply to certain types of credit. All classes of transactions remain subject to § 1002.4(a), the general rule barring discrimination on a prohibited basis, and to any other provision not specifically excepted.

3(a) Public-utilities credit.

1. **Definition.** This definition applies only to credit for the purchase of a utility service, such as electricity, gas, or telephone service. Credit provided or offered by a public utility for some other purpose—such as for financing the purchase of a gas dryer, telephone equipment, or other durable goods, or for insulation or other home improvements—is not excepted.

2. **Security deposits.** A utility company is a creditor when it supplies utility service and bills the user after the service has been provided. Thus, any credit term (such as a requirement for a security deposit) is subject to the regulation's bar against discrimination on a prohibited basis.
3. **Telephone companies.** A telephone company's credit transactions qualify for the exceptions provided in § 1002.3(a)(2) only if the company is regulated by a government unit or files the charges for service, delayed payment, or any discount for prompt payment with a government unit.

3(c) Incidental credit.

1. **Examples.** If a service provider (such as a hospital, doctor, lawyer, or merchant) allows the client or customer to defer the payment of a bill, this deferral of debt is credit for purposes of the regulation, even though there is no finance charge and no agreement for payment in installments. Because of the exceptions provided by this section, however, these particular credit extensions are excepted from compliance with certain procedural requirements as specified in § 1002.3(c).

3(d) Government credit.

1. **Credit to governments.** The exception relates to credit extended to (not by) governmental entities. For example, credit extended to a local government is covered by this exception, but credit extended to consumers by a Federal or state housing agency does not qualify for special treatment under this category.

Section 1002.4—General Rules

Paragraph 4(a).

1. **Scope of rule.** The general rule stated in § 1002.4(a) covers all dealings, without exception, between an applicant and a creditor, whether or not addressed by other provisions of the regulation. Other provisions of the regulation identify specific practices that the Bureau has decided are impermissible because they could result in credit discrimination on a basis prohibited by the Act. The general rule covers, for example, application procedures, criteria used to evaluate creditworthiness, administration of accounts, and treatment of delinquent or slow accounts. Thus, whether or not specifically prohibited elsewhere in the

regulation, a credit practice that treats applicants differently on a prohibited basis violates the law because it violates the general rule. Disparate treatment on a prohibited basis is illegal whether or not it results from a conscious intent to discriminate.

2. **Examples.**

- i. Disparate treatment would exist, for example, in the following situations:
 - A. A creditor provides information only on “subprime” and similar products to minority applicants who request information about the creditor's mortgage products, but provides information on a wider variety of mortgage products to similarly situated nonminority applicants.
 - B. A creditor provides more comprehensive information to men than to similarly situated women.
 - C. A creditor requires a minority applicant to provide greater documentation to obtain a loan than a similarly situated nonminority applicant.
 - D. A creditor waives or relaxes credit standards for a nonminority applicant but not for a similarly situated minority applicant.
- ii. Treating applicants differently on a prohibited basis is unlawful if the creditor lacks a legitimate nondiscriminatory reason for its action, or if the asserted reason is found to be a pretext for discrimination.

Paragraph 4(b).

1. **Prospective applicants.** Generally, the regulation's protections apply only to persons who have requested or received an extension of credit. In keeping with the purpose of the Act—to promote the availability of credit on a nondiscriminatory basis—§ 1002.4(b) covers acts or practices directed at prospective applicants that could discourage a reasonable person, on a prohibited basis, from applying for credit. Practices prohibited by this section include:
 - i. A statement that the applicant should not bother to apply, after the applicant states that he is retired.
 - ii. The use of words, symbols, models or other forms of communication in advertising that express, imply, or suggest a discriminatory preference or a policy of exclusion in violation of the Act.
 - iii. The use of interview scripts that discourage applications on a prohibited basis.
2. **Affirmative advertising.** A creditor may affirmatively solicit or encourage members of traditionally disadvantaged groups to apply for credit, especially groups that might not normally seek credit from that creditor.

Paragraph 4(c).

1. **Requirement for written applications.** Model application forms are provided in appendix B to the regulation, although use of a printed form is not required. A creditor will satisfy the requirement by writing down the information that it normally considers in making a credit decision. The creditor may complete an application on behalf of an applicant and need not require the applicant to sign the application.

2. **Telephone applications.** A creditor that accepts applications by telephone for dwelling-related credit covered by § 1002.13 can meet the requirement for written applications by writing down pertinent information that is provided by the applicant.
3. **Computerized entry.** Information entered directly into and retained by a computerized system qualifies as a written application under this paragraph. (See the commentary to § 1002.13(b), *Applications through electronic media and Applications through video.*)

Paragraph 4(d).

1. **Clear and conspicuous.** This standard requires that disclosures be presented in a reasonably understandable format in a way that does not obscure the required information. No minimum type size is mandated, but the disclosures must be legible, whether typewritten, handwritten, or printed by computer.
2. **Form of disclosures.** Whether the disclosures required to be on or with an application must be in electronic form depends upon the following:
 - i. If an applicant accesses a credit application electronically (other than as described under ii below), such as online at a home computer, the creditor must provide the disclosures in electronic form (such as with the application form on its Web site) in order to meet the requirement to provide disclosures in a timely manner on or with the application. If the creditor instead mailed paper disclosures to the applicant, this requirement would not be met.
 - ii. In contrast, if an applicant is physically present in the creditor's office, and accesses a credit application electronically, such as via a terminal or kiosk (or if the applicant uses a terminal or kiosk located on the premises of an affiliate or third party that has arranged with the creditor to provide applications to consumers), the creditor may provide disclosures in either electronic or paper form, provided the creditor complies with the timing, delivery, and retainability requirements of the regulation.

Section 1002.5—Rules Concerning Requests for Information

5(a) General rules.

Paragraph 5(a)(1).

1. **Requests for information.** This section governs the types of information that a creditor may gather. Section 1002.6 governs how information may be used.

5(a)(2) Required Collection of Information

1. **Local laws.** Information that a creditor is allowed to collect pursuant to a “state” statute or regulation includes information required by a local statute, regulation, or ordinance.

2. **Information required by Regulation C.** Regulation C, 12 CFR part 1003, generally requires creditors covered by the Home Mortgage Disclosure Act (HMDA) to collect and report information about the race, ethnicity, and sex of applicants for certain dwelling-secured loans, including some types of loans not covered by § 1002.13.
3. **Collecting information on behalf of creditors.** Persons such as loan brokers and correspondents 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 subpart B of this part, the Home Mortgage Disclosure Act, or another Federal or State statute or regulation requiring data collection.
4. **Information required by subpart B.** Subpart B of this part generally requires creditors that are covered financial institutions as defined in § 1002.105(b) to collect and report information about the ethnicity, race, and sex of the principal owners of applicants for certain small business credit, as well as whether the applicant is a minority-owned business, a women-owned business, or an LGBTQI+-owned business, as defined in § 1002.102(m), (s), and (l), respectively.

5(a)(4) Other Permissible Collection of Information

1. **Other permissible collection of information.** Information regarding ethnicity, race, and sex that is not required to be collected pursuant to Regulation C, 12 CFR part 1003, or subpart B of this part, may nevertheless be collected under the circumstances set forth in § 1002.5(a)(4) without violating § 1002.5(b). The information collected pursuant to 12 CFR part 1003 must be retained pursuant to the requirements of § 1002.12. The information collected pursuant to subpart B of this part must be retained pursuant to the requirements set forth in § 1002.111.

5(d) Other limitations on information requests.

Paragraph 5(d)(1).

1. **Indirect disclosure of prohibited information.** The fact that certain credit-related information may indirectly disclose marital status does not bar a creditor from seeking such information. For example, the creditor may ask about:
 - i. The applicant's obligation to pay alimony, child support, or separate maintenance income.
 - ii. The source of income to be used as the basis for repaying the credit requested, which could disclose that it is the income of a spouse.
 - iii. Whether any obligation disclosed by the applicant has a co-obligor, which could disclose that the co-obligor is a spouse or former spouse.
 - iv. The ownership of assets, which could disclose the interest of a spouse.

Paragraph 5(d)(2).