

Consumer Law

Eric M. Fink
Elon Law School
Winter 2020

Student: _____

Points: _____

Problem Set 2

Problem 7.1

Time Limits

- Bankruptcy
 - 10 years. 15 USC §1681c(a)(1)
- Foreclosure
 - 7 years limit
 - Judicial foreclosure. 15 USC §1681c(a)(2) (civil suit/judgment)
 - Non-Judicial foreclosure. 15 USC §1681c(a)(5) (“other adverse information”)
- Mortgage Account
 - 7 years limit. 15 USC §1681c(a)(5) (“Accounts placed for collection or charged to profit and loss”)
 - Time period begins 180 days after delinquency preceding collection, charge-off, or similar action. 15 USC §1681c(c)(1)
- Revolving Credit Account
 - No time limit (because not adverse information).
 - Report must indicate account was voluntarily closed by the consumer. 15 USC §1681c(e)
- Criminal Conviction
 - No time limit. 15 USC §1681c(a)(5)

Exemptions

- Use of report in connection with
 - credit transaction of \$150,000 or more
 - this doesn’t apply to the past transactions reported, but to the new transaction for which the report is used
 - life insurance of \$150,000 or more
 - employment with salary of \$75,000 or more

Problem 8.1

Coverage Under ECOA

- Applies only to “creditor” and “credit transaction”. 15 USC §1691(a)
 - Definitions of “creditor” and “credit”. 15 USC §1692a(d) & (e); 12 CFR §1002.2(l) & (m)
- Payments by check or debit card are not normally “credit transactions”.
 - But problem mentions overdraft protection, which is an extension of credit.

Violation

- Statute prohibits discrimination based on age. 15 USC §1691(a)(1)
- Use of age in evaluating applicants is prohibited, except as specified. 12 CFR §1002.6(b)(2)
- Age-based fee here doesn’t satisfy the permitted uses of age under 12 CFR §1002.6(b)(2).
 - Nothing to suggest “empirically based, demonstrably and statistically sound, credit scoring system”. 12 CFR §1002.6(b)(2)(ii); see definition in §1002.2(p).
 - And may not use age as negative factor for “elderly applicants”.
 - “elderly”: 62 or older. 12 CFR §1002.2(o)
 - Blanket imposition of fee is not “judgmental system”. 12 CFR §1002.6(b)(2)(iii)
 - Additional fee does not favor elderly applicants. 12 CFR §1002.6(b)(2)(iv)
- What about applicants aged 55-61?