



ECOA Policy

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1. Introduction

[1] Purpose

The purpose of the Equal Credit Opportunity Act (ECOA) is to provide everyone an equal chance to obtain credit and to ensure that lenders treat each loan applicant and borrower fairly throughout each stage of the lending process (from product development and advertising through servicing).

[2] Prohibited Factors

ECOA and its implementing regulation, Regulation B, prohibit us from discriminating during any phase of our lending process on the basis of:

- *Race.* We may not treat applicants or borrowers differently because of their race. We may not inquire about the race of an applicant or any other person, except in connection with government monitoring (described below).
- *Color.* We may not treat applicants or borrowers differently because of their color. We may not inquire about the color of an applicant or any other person.
- *Religion.* We may not treat applicants or borrowers differently because of their religion. We may not inquire about the religion of an applicant or any other person.
- *National origin.* We may not inquire about the national origin of an applicant or any other person, except in connection with government monitoring (described below). We may ask about an applicant's permanent residence and immigration status, but we may not treat persons differently because of their country of origin without a legitimate business rationale, such as specific laws that make it difficult or impossible to collect a loan or foreclose on the collateral.
- *Sex.* We may not treat applicants or borrowers differently because of their sex. We may not inquire about the sex of an applicant, except in connection with government monitoring (described below). We may ask an applicant to designate a title on an application form, such as Mr., Mrs., Miss, or Ms.) if the form indicates the designation is optional.
- *Marital status.* We may not treat applicants or borrowers differently because they are or are not married. We may inquire about the applicant's marital status, but only using the terms "married;" "unmarried" and "separated" and only for government monitoring purposes (described below) and for the purpose of determining whose signatures are required on legal documents necessary to make the property securing the loan available to satisfy the debt in the event of default. This prohibition does not prevent us from asking certain important questions bearing on creditworthiness that may indirectly disclose marital status, such as asking about the applicant's obligation to pay alimony, child support, or separate maintenance; the source of income to be used as the basis for repaying the loan; whether any obligation disclosed by the applicant has a co-obligor; or the ownership of assets.
- *Age.* We may, and do, require that an applicant or borrower be at least 18 years of age. Otherwise, we may not treat applicants or borrowers differently because of their age.
- *Receipt of public assistance benefits.* "Public assistance" means payments such as social security, aid for dependent children, and other welfare benefits. We may not treat applicants or borrowers differently because they receive public assistance benefits. We may take into account the length of time the applicant or borrower is likely to remain eligible for the income and whether we can attach or garnish the income to pay the debt if the borrower defaults.
- *The fact that the consumer has in good faith exercised rights under ECOA or other federal consumer protection laws.* We may not treat an applicant or borrower differently because he or she has exercised legal rights under any consumer protection laws.



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Another federal law, the Fair Housing Act (discussed in Part 3, Section 3), also prohibits us from discriminating on the basis of several prohibited factors. To the above list, the Fair Housing Act adds:

- *Handicap*. "Handicap" means a physical or mental impairment that substantially limits one or more major life activities of the applicant or borrower, being regarded as having this impairment, or a record of having this impairment. Handicap does not include current illegal drug use or addiction or being a transvestite. We may not treat applicants or borrowers differently because of their handicap.
- *Familial status*. "Familial status" refers to one or more children under 18 residing with the applicant or borrower, the pregnancy of the applicant or borrower, or the applicant or borrower being in the process of securing legal custody of a child. We may not treat applicants or borrowers differently because of their familial status.

The factors on this list are referred to as "prohibited factors" or "prohibited bases." We are permitted to discriminate against applicants and borrowers on other bases, such as proposed loan-to-value ratios and credit histories, so long as the effect of our practice does not result in discrimination because of a prohibited factor.

[3] Association Rights

The prohibited factors apply not only to the applicant or borrower, but also to persons with whom the applicant associates. For example, we may not discriminate against an applicant because he or she associates with members of a particular religion, because of the race of the tenants living in the home being refinanced, or because of the national origin of other residents in the neighborhood where the property securing the loan is located.

Even if we do not intend to discriminate, we may be found to violate ECOA if the effect of our actions or policies is to discriminate on a prohibited basis. For example, discriminatory treatment would be found if we required a minority applicant to provide greater documentation to obtain a loan than a similarly situated nonminority applicant, or if we waived or relaxed our credit standards for a nonminority applicant but not for a similarly situated minority applicant.

2. Notice Requirements

ECOA requires us to notify applicants and borrowers at certain stages of the lending process. When more than one applicant or borrower is involved, we may satisfy the notice requirements by providing notice to only one of the applicants or borrowers. However, we should notify the primary applicant when one applicant appears to be the primary party interested in the loan.

We must take certain actions within 30 calendar days after we receive an application. ECOA also requires us to take action within 30 days after we receive a completed application. Both of these requirements are separately addressed below.

[1] Action Required After We Receive an Application

Our receipt of an "application" triggers ECOA's first notice requirements.

We receive an application when we receive an oral or written request for a mortgage loan made in accordance with the following procedure.



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We require an application, whether received on our standard written application, worksheet, electronic application, or other form, to contain the following minimum information:

- Name(s) of the applicant(s)
- Tax identification number(s) or social security number(s) for the applicant(s)
- The applicant's income
- The property address
- Loan amount
- An estimate of the value of the property

After we have received an application, at least one of the following actions must occur during the next 30 calendar days:

- *Approval.* We may approve the application. We should contact the customer as soon as possible after loan approval and promptly send a commitment letter.
- *Decline.* We may decline the application. We should contact the customer as soon as possible after we make our decision to decline the application. We also should promptly send a notice of adverse action in the form of Exhibit 3.1A.
- *Withdrawal.* The applicant may withdraw the application. If this happens, ECOA does not require us to provide any notice, but it is our policy to send a letter in the form of Exhibit 3.1B that acknowledges the withdrawal. If we approve a loan, but the loan does not close, then it is considered withdrawn. In this situation, too, we should send a letter in the form of Exhibit 3.1B acknowledging the withdrawal as soon as we become aware of the applicant's intent not to close.
- *Counteroffer.* We may make a counteroffer to the applicant (in other words, we may offer to make a loan to the applicant on different terms from those contained in the application). If the applicant rejects our counteroffer, we must send a notice of adverse action within 30 days of our receipt of a "completed application;" using a notice in the form of Exhibit 3.1A. (The meaning of a "completed application" is discussed in the section on Action Required After Receipt of a Completed Application.) If the applicant does not respond to our counteroffer, we must send a notice within 90 days of making the counteroffer in the form of Exhibit 3.1A.
- *Receipt of all required information from the applicant.* We may receive all the information we require from the applicant in order to complete the processing of the application. If the applicant provides all this information within this 30-calendar-day period, and none of the above situations apply, then any ECOA requirement that we provide a notice for is governed by the rules described below in the section Action Required After Receipt of a Completed Application.
- *Notice of incomplete application.* We deliver a notice of incomplete application (in the form of Exhibit 3.1D) to the applicant, specifying the information needed, a date by which the information must be received, and that failure to respond will result in no further consideration of the application.

[2] Action Required After Receipt of a Completed Application

After we have received a completed application, which means an application package including all the information we need to make a credit decision, we have 30 days to notify the applicant of:

- *Approval.* Our standard practice is to orally notify the applicant of approval, then to promptly send a commitment letter stating the terms of our approval.



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- *Decline.* This must be in writing in the form of Exhibit 3.1A.
- *A counteroffer.* Our standard practice is to orally notify the applicant of the counteroffer. If the counteroffer is not accepted, we must provide an adverse action notice in the form of Exhibit 3.1A within 90 calendar days after the counteroffer is made.

[3] Inquiries Not Considered Applications

We do not consider the following inquiry as application:

- Queries limited to questions about our current interest rates.

3. Copies Of Appraisal Reports

- See CSC-Higher Priced Loans & ECOA Valuation Rule Policy for guidance on this matter.

4. Recordkeeping

Our policy is to keep each application for 3 years for potential examination purposes.

5. Specific Rules Governing Our Treatment Of Applicants

ECOA and Regulation B include a number of specific rules governing our treatment of loan applicants.

[1] Child-Bearing

We may not inquire about an applicant's birth control practices or intention to have children. We may ask about the number and ages of an applicant's dependents or about an applicant's financial obligations or expenses relating to dependents, provided we do not ask for the information on a prohibited basis (e.g., provided we do not ask this question only of women or of married applicants).

[2] Alimony, Child Support, or Separate Maintenance

The applicant has the right to choose whether to reveal his or her receipt of alimony, child support, or separate maintenance. We may not ask whether an applicant receives this sort of payment unless the applicant chooses to count it as part of his or her income. In fact, whenever we ask about income, we must inform the applicant that he or she need not report the receipt of alimony, child support, or separate maintenance income unless he or she wants us to consider it in determining the applicant's creditworthiness. (Our standard application forms include a notice about this right.)

When an applicant chooses to rely on alimony, child support, or separate maintenance income, we are required to consider the payments as income to the extent they are likely to be consistently made. For example, we may review whether the payments are required by a written agreement or decree, the length of time the applicant has received them, whether they have been received regularly, the procedures available to enforce payment, and whether the person required to make the payments is creditworthy.



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We are entitled to, and do, ask about the source or sources of income an applicant will use as the basis for repaying the credit requested. This could disclose that some or all of the income is the income of a spouse.

We also are entitled to, and do, ask about the applicant's obligation to pay alimony, child support, or separate maintenance.

[3] Income

We may not discount or exclude income from consideration because it is derived from part-time employment or is an annuity, pension, or other retirement benefit. We may consider the amount and probable continuance of any income. We may consider the fact that an applicant has more than one source of earned income, such as a full-time and a part-time job or two part-time jobs. We may treat earned income from a secondary source differently from earned income from a primary source. However, we may not take into account the number of sources for protected income-retirement income, social security, alimony, child support, separate maintenance, part-time employment, or public assistance. Nor may we negatively treat the fact that an applicant's only income is derived from a part-time job.

[4] Government Monitoring

ECOA and other federal laws require us to collect government monitoring information for residential mortgage loans, despite some of the rules listed here. The government monitoring information includes:

- Race or national origin, using the categories American Indian or Alaskan Native, Asian or Pacific Islander, Black, White, Hispanic, Other (Specify).
- Sex.
- Marital status, using the categories married, unmarried and separated. Information about marital status is collected only for loans made primarily to purchase or refinance a primary residence that will secure the loan. For example, it is not collected in connection with loans secured by second homes, vacation homes, or loans for debt consolidation.
- Age.

We must ask, but may not require, applicants to supply this government monitoring information.

We must inform the applicants that the information is being requested by the federal government for the purpose of monitoring compliance with federal statutes that prohibit creditors from discriminating against applicants on the basis of race or national origin, sex, marital status, or age. If an applicant chooses not to supply it, we must note that fact on the application or on a separate form that refers to the application and we must inform the applicant that we are required to note the race or national origin on the basis of visual observation or surname. We then must note on the application, to the extent possible based on visual observation or surname, the race or national origin, and sex. (*Exception:* This notation requirement does not apply to applications taken by telephone, mail, or other electronic media that do not allow us to see the applicant. If it is not evident on the face of the application that we received it by mail, telephone, or other electronic media, we should indicate on the application form or other record how the application was received.)

[5] Spouse



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We may not request any information about a spouse or former spouse of an applicant, except:

- If the spouse will be permitted to use the account.
- If the spouse will be contractually liable on the account.
- If the applicant is relying on the spouse's income as a basis for repayment of the loan requested.
- If the applicant resides in a community property state or property on which the applicant is relying to repay the loan is located in a community property state.
- If the applicant is relying on alimony, child support, or separate maintenance payments from a spouse or former spouse to repay the loan requested.
- We may ask an applicant to list any account on which the applicant is liable or previously was liable and to provide the name and address in which the account is or was carried.

[6] Telephones

We may not take into account whether there is a telephone listing in the name of an applicant, but may take into account whether there is a telephone in the applicant's residence.

[7] Credit History

Because we consider credit history in evaluating creditworthiness, we must consider the credit histories, 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. On request, we must consider any information the applicant offers that tends to indicate the history we are considering does not accurately reflect the applicant's creditworthiness. Also, on request, we must consider 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.

[8] Names

We must 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.

[9] Signatures

We may not require the signature of an applicant's spouse or other person, other than a joint applicant (or co-applicant), if the applicant qualifies under our standards of creditworthiness- unless we believe the signature is necessary to make the property being relied on available in the event of default. Accordingly, we do not require non –applicants to sign our notes, but we require all persons having an interest in the property securing the loan to sign the security instrument.

[10] Cosigners

If the personal liability of another person is needed to support an applicant's creditworthiness, we may request a cosigner or guarantor or similar party. The applicant's spouse may serve as the additional party, but we may not require, and should not even suggest, the spouse to be the additional party.



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[11] Insurance/Age

We may not refuse to approve a loan because credit-related insurance is not available due to the applicant's age.

[12] Age

We may consider age only to determine an element of creditworthiness based on the particular facts and circumstances concerning the applicant—for example, to assess the significance of the length of employment (a young person may have just entered the job market) or the length of time at an address (an elderly applicant may recently have retired or moved from a long-term residence).

- We may consider the applicant's occupation and length of time to retirement to ascertain whether the applicant's income (including retirement income) will support the loan to its maturity.
- We may consider the adequacy of any security offered when the term of the loan exceeds the life expectancy of the applicant and the cost of realizing on the security could exceed the applicant's equity. For example, an elderly applicant might not qualify for a 5 percent down, 30-year mortgage loan but might qualify with a larger down payment or a shorter maturity.

[13] Reporting of Credit Information on Spousal Accounts

We must designate any loan or home equity credit line to reflect the participation of both spouses if the applicant's spouse is permitted to use or is contractually liable on the account. When we furnish credit information to a credit reporting agency concerning an account designated to reflect the participation of both spouses, we must furnish the information in a manner that enables the agency to provide access to the information in the name of each spouse. If we furnish credit information in response to an inquiry concerning one of these accounts, we must furnish the information in the name of the spouse about whom the information is requested.

6. Electronic Delivery Of Notifications

We may provide electronic notifications if we obtain the consumer's consent beforehand. Before obtaining consent, we must inform the consumer about the requirements set forth in the E-Sign Act, including:

- The right to have the notification provided on paper or in non-electronic form
- The right to have the notification provided in electronic form
- The right to withdraw consent, along with any conditions, consequences or fees in the event of withdrawal of consent
- Whether the consent applies only to the particular transaction or to categories of records that may be provided during the course of the relationship
- The procedures the consumer must use to withdraw consent and to update information needed to contact the consumer electronically
- How the consumer may, upon request, obtain a paper copy of an electronic record, and whether any fee will be charged for the copy
- A statement of the hardware and software requirements for access to and retention of the electronic records



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Then, the consumer must consent electronically, or confirm his or her consent electronically, in a manner that reasonably demonstrates that the consumer can access the notifications in the electronic form that will be used to provide them.

After consent, if a change in the hardware or software requirements creates a material risk that the consumer will not be able to access or retain a subsequent electronic record, we must provide the consumer with a statement of the revised hardware and software requirements and the right to withdraw consent without the imposition of any fees for withdrawal and without the imposition of any condition or consequence that was not disclosed before obtaining the consent. In addition, the consumer again must consent electronically, or confirm the consent electronically, in a manner that reasonably demonstrates that the consumer can access information in light of the hardware or software change.

7. Penalties

We are liable for up to \$10,000 in suits filed by individuals and \$500,000 in class action suits brought on behalf of an entire group of consumers who claim we violated ECOA. In addition, we may be held responsible for attorneys' fees and court costs, which often exceed the \$10,000 and \$500,000 limits.

An ECOA violation can lead to many penalties in addition to dollar liability. For example, if we evaluate financial information mentioned by a consumer and discourage him or her from submitting an application, without taking an application and entering it into our process flow, the following violations could occur because our standard procedures have not been followed:

- Violation of ECOA for not taking a written application. ECOA requires a home loan application to be in writing. (Our entering the application data in our computer system would suffice as a written application.)
- Violation of ECOA for not keeping the information used in making the credit decision for 25 months.
- Violation of ECOA (and HMDA) for not gathering the government monitoring information.
- Possible violation of HMDA for not reporting HMDA data (a penalty of up to \$1 million per day).
- Violation of ECOA for not giving a notice of adverse action.
- Violation of fair lending laws (ECOA and Fair Housing Act) if we discouraged the applicant on a prohibited basis.