

Mac, which are in the process of making revisions to their forms. Creditors may continue to use the current model form until the Board publishes a revised form that reflects the new ethnicity and racial designations.

Section 202.14—Rules on Providing Appraisal Reports

The rules previously contained in § 202.14, Enforcement, Penalties, and Liabilities, have been moved to § 202.17. Section 202.14 now contains the rules from former § 202.5a. There are no revisions to this section.

Section 202.15—Incentives for Self-testing and Self-correction

Technical revisions have been made to § 202.15(d)(1).

Section 202.16—Requirements for Electronic Communication

Section 202.16 now contains the rules from former § 202.17. Section 202.16 contains an interim final rule published in April 2001, incorporating the requirements of the Electronic Signatures in Global and National Commerce Act (the E-Sign Act) into Regulation B for disclosures provided by electronic communication (66 FR 17779, April 4, 2001). The interim final rule is republished for convenience; the Board lifted the mandatory compliance date for the interim final rule in August 2001 (66 FR 41439, August 8, 2001). Any substantive revisions to the interim final rule for § 202.16—as well as for other electronic disclosures under Regulations E, M, Z, and DD—will be made at a future date.

Section 202.17—Enforcement, Penalties, and Liabilities

Section 202.17 now contains the rules from former § 202.14. Technical revisions have been made to § 202.17(a) and (b). Proposed revisions to § 202.17(c) have not been adopted.

17(c) Failure of Compliance

The Board proposed to delete the third sentence of § 202.17(c) to conform with the proposal to remove the general prohibition against data notation. Consistent with the Board's decision to retain the general prohibition in § 202.5 against noting applicants' personal characteristics in nonmortgage credit transactions, except for the purpose of conducting a self-test, the proposed revision has not been adopted. Section 202.17(c) is retained in its current form.

Appendix A to Part 202—Federal Enforcement Agencies

Appendix A has been revised to reflect changes in the names and addresses of some agencies.

Appendix B to Part 202—Model Application Forms

Technical revisions have been made to the introductory paragraphs. As proposed, the "Residential Loan Application" has been replaced with an updated "Uniform Residential Loan Application" (Freddie Mac 65/Fannie Mae 1003). Also, the first four model forms have been revised to clarify the guidance in the official staff commentary in comment 7(d)(1)–3 concerning how to evidence applicants' intent to apply for joint credit.

Appendix C—Sample Notification Forms

Appendix C has been revised in the final rule, consistent with the Board's decision to retain the general prohibition in § 202.5 against notation of applicants' personal characteristics for nonmortgage credit except for the purpose of conducting a self-test. New model form C–10 is added to provide the disclosure requirements for creditors that request applicants' race, ethnicity, and other such characteristics for conducting a self-test under § 202.15.

A number of commenters suggested revisions to the sample forms, such as using consistent language for all references to the Fair Credit Reporting Act, and adding or rearranging adverse action reasons. Some of these suggestions are adopted, with no substantive change intended.

Appendix D—Issuance of Staff Interpretations

There are no revisions to this section.

V. Summary of Revisions to the Commentary

Major revisions to the commentary include clarifying that the definition of application includes certain preapproval requests (§ 202.2(f)); providing an exception from the requirement to provide a notice of incompleteness for preapprovals that constitute applications (§ 202.9(c)(1)); and clarifying the record retention requirements for prescreened solicitations (§ 202.12(b)(7)). The commentary also clarifies when an inquiry about credit becomes an application for credit (§§ 202.2(f) and 202.9).

VI. Section-by-Section Analysis

The following discussion addresses the commentary revisions section-by-

section. Technical and non-substantive revisions generally are not separately discussed. Proposed amendments to several provisions of the staff commentary relating to the definition of "adverse action" are not being adopted at this time in order to allow the Board to solicit supplemental comment.

Section 202.1—Authority, Scope and Purpose

There are no revisions to this section.

Section 202.2—Definitions

Revisions have been made to comments in § 202.2(f) concerning the definition of application; and § 202.2(l) concerning the definition of creditor. A technical revision has been made to a comment in § 202.2(z).

2(c) Adverse Action

Proposed comments 2(c)(1)(i)–2; 2(c)(1)(ii)–1; 2(c)(2)(i)–1; 2(c)(2)(ii)–3; and a revision to 2(c)(2)(ii)–2 are not being adopted at this time. These interpretations will be reviewed and reissued for additional public comment.

2(f) Application

A technical change (replacing "established" with "used") has been made to comment 2(f)–2 to conform the comment to the technical change in the definition of application in § 202.2(f) of the regulation.

Comments 2(f)–3 and –5 have been adopted as proposed with some modifications. Comment 2(f)–3 clarifies that prequalification requests are subject to the same test applicable to inquiries. In addition, the term "applicant" has been changed to "consumer." Using "applicant" presumes that an application exists, while the point of the comment is that, in the case of an inquiry or prequalification request, an application may or may not exist depending upon the circumstances. Also, cross-references have been added in comment 2(f)–3, referencing comment 9–5, which provides a more detailed discussion of when a prequalification request becomes an application, and new comment 2(f)–5, which clarifies when a request for a preapproval constitutes an application.

The treatment of inquiries and prequalification requests, on the one hand, and certain preapproval requests, on the other, now differs for purposes of determining whether an application exists. Comment 2(f)–5 clarifies this difference. As discussed in the supplementary information to § 202.2(f) of the regulation, the Board proposed to include within the definition of application a request for a preapproved loan under procedures in which a