

## 6(b)(2)

Technical revisions have been made to comments 6(b)(2)–2 and –3, with no substantive change intended. A technical amendment to comment 6(b)(2)–6 reflects the change in the name of the Aid to Families with Dependent Children program.

## 6(b)(5)

Comments 6(b)(5)–1, –3, and –4 have been revised for clarity, with no substantive change intended.

## 6(b)(8)

New comment 6(b)(8)–1 incorporates a portion of former comment 6(b)(1)–1 and clarifies that a creditor may consider the marital status of an applicant or joint applicant to ascertain its rights and remedies under state law for the particular extension of credit.

*Section 202.7—Rules Concerning Extensions of Credit*

Revisions have been made in comments to § 202.7(d)(1).

## 7(d)(1)

Comment 7(d)(1)–1, adopted substantially as proposed, clarifies that when an applicant is individually creditworthy, a creditor may not require the signature of any person besides the applicant on a credit instrument. A cross-reference has been added to note the special rule under comment 7(d)(6)–1 for guarantors of closely held corporations.

Comment 7(d)(1)–3 provides guidance on how to evidence applicants' intent to apply for joint credit. The proposed rule clarified that creditors must document in some manner a person's intent to become jointly liable for a credit obligation, and provided examples. Some commenters expressed concern that the Board is requiring written applications for business credit. Other commenters believed that the best method to evidence intent is to require written applications. A few commenters asked that the Board afford creditors the flexibility to determine how to evidence intent for joint credit.

Written applications for business credit are not required, nor has the Board proposed to require such applications. While creditors are required to have documentation evidencing intent to apply for joint credit, creditors have the flexibility to determine the methods used to establish intent. The comment has been adopted substantially as proposed, with revisions for clarity. First, the comment clarifies that evidence of intent must be provided at the time of application. Accordingly, a creditor could not use

the fact that two parties signed the note, for example, as evidence of intent to be jointly liable at the time of application. Second, the examples in the proposed rule have been revised to provide greater clarity. Consistent with providing greater clarity in the examples, some of the model forms in Appendix B have been modified slightly to reflect this guidance.

*Section 202.8—Special Purpose Credit Programs*

Minor revisions have been made in comments to § 202.8(a). Proposed revisions to comments in § 202.8(c) and (d) have not been adopted.

## 8(a) Standards for Programs

Comment 8(a)–5 adds an example of how creditors designing a special purpose credit program may determine need, and has been adopted as proposed.

## 8(c) Special Rule Concerning Requests and Use of Information

Proposed revisions to comment 8(c)–1 have not been adopted, reflecting the Board's decision to retain the general prohibition under § 202.5 against the collection of applicant characteristic information, except for the purpose of conducting a self-test. Technical revisions have been made for clarity.

## 8(d) Special Rule in the Case of Financial Need

Proposed revisions to comment 8(d)–1 have not been adopted, reflecting the Board's decision to retain the general prohibition under § 202.5 against the collection of applicant characteristic information, except for the purpose of conducting a self-test. Technical revisions have been made for clarity.

*Section 202.9—Notifications*

Revisions have been made in comments to §§ 202.9, 202.9(b)(2), 202.9(c), and 202.9(g). In comment 9–5 concerning prequalifications, the discussion of preapprovals has been removed as proposed, and certain preapproval requests are now treated differently from prequalification requests, as clarified in comments 2(f)–3 and 2(f)–5. Also, in response to public comments, language has been added to clarify that a creditor may tell consumers not only the maximum amount they may borrow under various loan programs, but also the rates and other terms available, without turning prequalification requests into applications for credit.

Some commenters suggested adding language to clarify that the specific information that a creditor may evaluate

about a consumer in a prequalification includes credit information. The Board believes that the language in the comment as revised is sufficiently broad to cover credit information. Creditors should bear in mind, however, that unless an application for credit has been made by the consumer, or the creditor has written instructions from the consumer to obtain a credit report, a permissible purpose for obtaining a credit report on the consumer may not exist under the Fair Credit Reporting Act.

9(b) Form of ECOA Notice and Statement of Specific Reasons

## 9(b)(2)

Comment 9(b)(2)–7 has been adopted as proposed with minor revisions for clarity. The proposed comment clarified that in a combined credit scoring and judgmental system where an applicant is neither approved nor denied based on the first component of the system but is denied based on the second component, the adverse action reasons must come from both components of the system. Several commenters found the comment confusing. These commenters believed that the proposed language of the comment contradicts the general rule of the comment that the reasons for denial must come from the component of the system the applicant failed. The comment, however, is intended to address several distinct situations.

The comment applies when applications are automatically denied based on the first component, for example the credit scoring component, and are not forwarded to the judgmental component. In those cases, the adverse action reasons must come solely from the credit scoring component. The comment also applies when applications pass the credit scoring system, are automatically forwarded to the judgmental component, and are denied based on the judgmental component. In those cases, the adverse action reasons must come solely from the judgmental component. These examples are consistent with the rule that the reasons for denial must come from the component the applicant failed.

The amendments to the comment apply when a creditor utilizes a scorecard with “gray bands,” meaning that the applicant's score does not pass or fail the credit scoring component but falls within a range where referral to an analyst for judgmental review is required. If credit is denied, the adverse action reasons must come from both the credit scoring component and the judgmental component of the system.