

which a solicitation relates. The Board has not adopted this requirement because it may be overly burdensome. And since prescreened solicitations may be one aspect of a creditor's overall marketing program, reviewing a single component might not have provided the proper context. While creditors will be required to keep information relating to complaints about solicitations, creditors will not be required to store the information in a centralized database or set of files. Creditors will have the flexibility to retain such correspondence in any manner that would be reasonably accessible and understandable to examiners.

Burdens associated with the requirement to retain records relating to prescreened solicitations likely will be greater for large creditors than for small creditors, because large creditors are more active in this area. The number of small creditors affected by the recordkeeping requirement is unknown but is likely to be small.

The proposed rule would have required creditors to retain records for 25 months rather than 12 months for certain types of business credit. The Board has not adopted the proposed rule, based on its belief that the compliance burden would outweigh the benefits. For example, the use of electronic record storage for many business credit records is not as prevalent as the Board believed when it issued the proposal. Thus, no additional burden is imposed by the final rule.

In light of the purposes of the Equal Credit Opportunity Act, the Board believes it is not feasible to create different rules for large and small creditors.

List of Subjects in 12 CFR Part 202

Aged, Banks, Banking, Civil rights, Consumer protections, Credit, Discrimination, Federal Reserve System, Marital status discrimination, Penalties, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination.

For the reasons set forth in the preamble, 12 CFR part 202 is revised as follows:

PART 202—EQUAL CREDIT OPPORTUNITY ACT (REGULATION B)

Regulation B (Equal Credit Opportunity)

Sec.

- 202.1 Authority, scope and purpose.
- 202.2 Definitions.
- 202.3 Limited exceptions for certain classes of transactions.
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- 202.6 Rules concerning evaluation of applications.
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- 202.17 Enforcement, penalties and liabilities.
- Appendix A to Part 202—Federal Enforcement Agencies
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- Appendix C to Part 202—Sample Notification Forms
- Appendix D to Part 202—Issuance of Staff Interpretations
- Supplement I to Part 202—Official Staff Interpretations

Authority: 15 U.S.C. 1691–1691f.

§ 202.1 Authority, scope and purpose.

(a) *Authority and scope.* This regulation is issued by the Board of Governors of the Federal Reserve System 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 regulation applies to all persons who are creditors, as defined in § 202.2(1). Information collection requirements contained in this regulation 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. 7100–0201.

(b) *Purpose.* The purpose of this regulation 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.

§ 202.2 Definitions.

For the purposes of this regulation, unless the context indicates otherwise, 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