

Equal Credit Opportunity Act (ECOA)

The Equal Credit Opportunity Act (ECOA), which is implemented by Regulation B, applies to all creditors. When originally enacted, ECOA gave the Federal Reserve Board responsibility for prescribing the implementing regulation. The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) transferred this authority to the Consumer Financial Protection Bureau (CFPB or Bureau). The Dodd-Frank Act granted rule-making authority under ECOA to the CFPB and, with respect to entities within its jurisdiction, granted authority to the CFPB to supervise for and enforce compliance with ECOA and its implementing regulations.¹ In December 2011, the CFPB restated the Federal Reserve’s implementing regulation at 12 CFR Part 1002 (76 Fed. Reg. 79442)(December 21, 2011). In January 2013, the CFPB amended Regulation B to reflect the Dodd-Frank Act amendments requiring creditors to provide applicants with free copies of all appraisals and other written valuations developed in connection with all credit applications to be secured by a first lien on a dwelling. This amendment to Regulation B also requires creditors to notify applicants in writing that copies of all appraisals will be provided to them promptly.

The statute provides that its purpose is to require financial institutions and other firms engaged in the extension of credit to “make credit equally available to all creditworthy customers without regard to sex or marital status.” Moreover, the statute makes it unlawful for “any creditor to discriminate against any applicant with respect to any aspect of a credit transaction (1) on the basis of race, color, religion, national origin, sex or marital status, or age (provided the applicant has the capacity to contract); (2) because all or part of the applicant’s income derives from any public assistance program; or (3) because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.” The ECOA has two principal theories of liability: disparate treatment and disparate impact. Disparate treatment occurs when a creditor treats an applicant differently based on a prohibited basis such as race or national origin.² Disparate impact occurs when a creditor employs facially neutral policies or practices that have an adverse effect or impact on a member of a protected class unless it meets a legitimate business need that cannot reasonably be achieved by means that are less disparate in their impact.³

In keeping with the broad reach of the statute’s prohibition, the regulation covers creditor activities before, during, and after the extension of credit. A synopsis of some of the more important points of Regulation B follows, and an examination program is provided for a more thorough review.

¹Sec.1071 of the Dodd-Frank Act added a new Sec. 704B to ECOA to require the collection of small business loan data. The amendment will be reflected in this document at a later date once it becomes effective.

²12 CFR Part 1002 Supp. I Sec. 1002.4(a)-1; 12 CFR Part 1002 Supp. I Sec. 1002.4(a)-1. “Disparate treatment” may be “overt” (when the creditor openly discriminates on a prohibited basis) or it may be found through comparing the treatment of applicants who receive different treatment for no discernable reason other than a prohibited basis. In the latter case, it is not necessary that the creditor acts with any specific intent to discriminate.

³12 CFR Part 1002 Supp. I Sec. 1002.6(a)-2.

For fair lending scoping and examination procedures, the CFPB is temporarily adopting the FFIEC Interagency Fair Lending Examination Procedures that are referenced in the examination program. However, in applying those procedures the CFPB takes into account that the Fair Housing Act (FHA), 42 U.S.C. 3601 *et seq.*, unlike ECOA, is not a “Federal consumer financial law” as defined by the Dodd-Frank Act for which the CFPB has supervisory authority.⁴

Applicability – 12 CFR 1002.2(e), 1002.2(f), 1002.2(j), 1002.2(l), 1002.2(m), and 1002.2(q)

Regulation B applies to all persons who, in the ordinary course of business, regularly participate in the credit decision, including setting the terms of the credit. The term “creditor” includes a creditor’s assignee, transferee, or subrogee who so participates. For purposes of discrimination or discouragement, 12 CFR 1002.4(a) and (b), the term creditor also includes a person who, in the ordinary course of business, regularly refers applicants or prospective applicants to creditors, or selects or offers to select creditors to whom requests for credit may be made.

Regulation B’s prohibitions apply to every aspect of an applicant’s dealings with a creditor regarding an application for credit or an existing extension of credit (including, but not limited to: information requirements; investigation procedures; standards of creditworthiness; terms of credit; furnishing of credit information; revocation, alteration, or termination of credit; and collection procedures). The regulation defines “applicant” as any person who requests or who has received an extension of credit from a creditor and includes any person who is or may become contractually liable regarding an extension of credit. Under Regulation B, an “application” means an oral or written request for an extension of credit made in accordance with procedures used by a creditor for the type of credit requested. “Extension of credit” means “the granting of credit in any form (including, but not limited to, credit granted in addition to any existing credit [,] the refinancing or other renewal of credit...or the continuance of existing credit without any special effort to collect at or after maturity).” Because the ECOA and Regulation B prohibit discrimination in any aspect of a credit transaction, a creditor violates the statute and regulation when discriminating against borrowers on a prohibited basis in approving or denying loan modifications. Moreover, as the definition of credit includes the right granted by a creditor to an applicant to defer payment of a debt, a loan modification is itself an extension of credit and subject to ECOA and Regulation B. Examples of loan modifications that are extensions of credit include, but are not limited to, the right to defer payment of a debt by capitalizing accrued

⁴ In addition to potential ECOA violations, an examiner may identify potential violations of the FHA through the course of an examination. The FHA prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and handicap (disability). The CFPB cooperates with the U.S. Department of Housing and Urban Development (HUD) to further the purposes of the FHA. If a potential FHA violation is identified, the examiner must consult with Headquarters to determine whether a referral to HUD or the U.S. Department of Justice and, if applicable, the creditor’s prudential regulator is appropriate.

interest and certain escrow advances, reducing the interest rate, extending the loan term, and/or providing for principal forbearance.⁵

Prohibited Practices – 12 CFR 1002.4

Regulation B contains two basic and comprehensive prohibitions against discriminatory lending practices:

- A creditor shall not discriminate against an applicant on a prohibited basis regarding any aspect of a credit transaction.
- A creditor shall not make any oral or written statement, in advertising or otherwise, to applicants or prospective applicants that would discourage, on a prohibited basis, a reasonable person from making or pursuing an application.

Note that the regulation is concerned not only with the treatment of persons who have initiated the application process, but also with lender behavior before the application is even taken. Lending officers and employees must be careful to take no action that would, on a prohibited basis, discourage a reasonable person from applying for a loan. For example, a creditor may not advertise its credit services and practices in ways that would tend to encourage some types of borrowers and discourage others on a prohibited basis. In addition, a creditor may not use prescreening tactics likely to discourage potential applicants on a prohibited basis. Instructions to loan officers or brokers to use scripts, rate quotes, or other means to discourage applicants from applying for credit on a prohibited basis are also prohibited.

The prohibition against discouraging applicants applies to in-person oral and telephone inquiries as well as to written applications. Lending officers must refrain from requesting prohibited information in conversations with applicants during the pre-interview phase (that is, before the application is taken) as well as when taking the written application.

To prevent discrimination in the credit-granting process, the regulation imposes a delicate balance between the creditor's need to know as much as possible about a prospective borrower with the borrower's right not to disclose information irrelevant to the credit transaction as well as relevant information that is likely to be used in connection with discrimination on a prohibited basis. To this end, the regulation addresses taking, evaluating, and acting on applications as well as furnishing and maintaining credit information.

Electronic Disclosures – 12 CFR 1002.4(d)

Disclosures required to be given in writing may be provided to the applicant in electronic form, generally subject to compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 *et seq.*).

⁵ See Federal Reserve Board Consumer Affairs Letter 09-13 (December 4, 2009) (<http://www.federalreserve.gov/boarddocs/caletters/2009/0913/caltr0913.htm>).

Rules for Taking Applications – 12 CFR 1002.5

Regulation B permits creditors to ask for any information in connection with a credit transaction, so long as they avoid certain clearly defined areas set forth in 12 CFR 1002.5, which include both the specific prohibited bases of discrimination and certain types of information that often relates to discrimination on a prohibited basis.

Applicant Characteristics

Creditors may not request or collect information about an applicant's race, color, religion, national origin, or sex. Exceptions to this rule generally involve situations in which the information is necessary to test for compliance with fair lending rules or is required by a state or federal regulatory agency or other government entity for a particular purpose, such as to determine eligibility for a particular program. For example, a creditor may request prohibited information:

- In connection with a self-test being conducted by the creditor (provided that the self-test meets certain requirements) (12 CFR 1002.15);
- For monitoring purposes in relation to credit secured by real estate (12 CFR 1002.13; the Home Mortgage Disclosure Act, 12 U.S.C. 2801 ("HMDA"); Home Affordable Modification Program ("HAMP")); or
- To determine an applicant's eligibility for special-purpose credit programs (12 CFR 1002.8(b), (c) and (d)).

Information about a Spouse or Former Spouse – 12 CFR 1002.5(c)

A creditor may not request information about an applicant's spouse or former spouse except under the following circumstances:

- The non-applicant spouse will be a permitted user of or joint obligor on the account. (NOTE: The term "permitted user" applies only to open-end accounts.)
- The non-applicant spouse will be contractually liable on the account.
- The applicant is relying on the spouse's income, at least in part, as a source of repayment.
- The applicant resides in a community property state, or the property upon which the applicant is relying as a basis for repayment of the credit requested is located in such a state.
- The applicant is relying on alimony, child support, or separate maintenance income as a basis for obtaining the credit.

Inquiries Concerning Marital Status – 12 CFR 1002.5(d)(1) and 1002.5(d)(3)

Individual Credit

When an applicant applies for individual credit, the creditor may not ask the applicant's marital status. There are two exceptions to this rule:

- If the credit transaction is to be secured, the creditor may ask the applicant's marital status. (This information may be necessary to determine what would be required to gain access to the collateral in the event of default.)
- If the applicant either resides in a community property state or lists assets to support the debt that are located in such a state, the creditor may ask the applicant's marital status. (In community property states, assets owned by a married individual may also be owned by the spouse, thus complicating the availability of assets to satisfy a debt in the event of default.)

Joint Credit

When a request for credit is joint (made by two or more individuals who will be primarily liable), the creditor may ask the applicant's marital status, regardless of whether the credit is to be secured or unsecured, but may use only the terms "married," "unmarried," and "separated." This requirement applies to oral as well as written requests for marital status information. "Unmarried" may be defined to include divorced, widowed, or never married, but the application must not be structured in such a way as to encourage the applicant to distinguish among these.

Alimony, Child Support, or Separate Maintenance Income – 12 CFR 1002.5(d)(2)

A creditor may ask if an applicant is receiving alimony, child support, or separate maintenance payments. However, the creditor must first disclose to the applicant that such income need not be revealed unless the applicant wishes to rely on that income in the determination of creditworthiness. An appropriate notice to that effect must be given whenever the creditor makes a general request concerning income and the source of that income. Therefore, a creditor either must ask questions designed to solicit only information about specific income (for example, "salary," "wages," "employment," or other specified categories of income) or must state that disclosure of alimony, child support, or separate maintenance payments is not required.

Residency and Immigration Status – 12 CFR 1002.5(e)

The creditor may inquire about the applicant's permanent residence and immigration status in the United States in determining creditworthiness.

Rules for Evaluating Applications – 12 CFR 1002.6

General Rule

A creditor may consider any information in evaluating applicants, so long as the use of the information does not have the *intent* or the *effect* of discriminating against an applicant on a prohibited basis. Generally, a creditor may not:

- Consider any of the prohibited bases, including age (providing the applicant is old enough, under state law, to enter into a binding contract) and the receipt of public assistance;
- Use child-bearing or child-rearing information, assumptions, or statistics to determine whether an applicant's income may be interrupted or decreased;
- Consider whether there is a telephone listing in the applicant's name (but the creditor may consider whether there is a telephone in the applicant's home); or
- Discount or exclude part-time income from an applicant or the spouse of an applicant.

Systems for Analyzing Credit

Regulation B neither requires nor endorses any particular method of credit analysis. Creditors may use traditional methods, such as judgmental systems that rely on a credit officer's subjective evaluation of an applicant's creditworthiness, or they may use more-objective, statistically developed techniques such as credit scoring.

Credit Scoring Systems

Section 1002.2(p) of Regulation B prescribes the standards that a credit scoring system must meet to qualify as an "empirically derived, demonstrably and statistically sound, credit system." All forms of credit analysis that do not meet the standards are automatically classified as "judgmental" systems. This distinction is important because creditors that use a "demonstrably and statistically sound" system may take applicant age directly into account as a predictive variable,⁶ whereas judgmental systems may do so only to determine a pertinent element of creditworthiness or to favor an elderly applicant.

Judgmental Evaluation Systems

Any system other than one that is empirically derived and demonstrably and statistically sound, is a judgmental system (including any credit scoring system that does not meet the prescribed technical standards). With limited exception, such a system may not take applicant age directly into account in evaluating creditworthiness. The act and the regulation permit a creditor to consider the applicant's age for the purpose of evaluating other applicant information that has a

⁶ This applies provided that the age of an elderly applicant is not assigned a negative factor or value.

demonstrable relationship to creditworthiness.⁷ Additionally, in any system of evaluating creditworthiness, a creditor may consider the age of an elderly applicant to favor the applicant in extending credit.

Rules for Extensions of Credit – 12 CFR 1002.7

Section 1002.7 of Regulation B provides a set of rules proscribing certain discriminatory practices regarding the creation and continuation of credit accounts.

Signature Requirements

The primary purpose of the signature requirements is to permit creditworthy individuals (particularly women) to obtain credit on their own. Two general rules apply:

- A creditor may not require a signature other than the applicant's or joint applicant's if under the creditor's standards of creditworthiness the applicant qualifies for the amount and terms of the credit requested.
- A creditor has more latitude in seeking signatures on instruments necessary to reach property used as security, or in support of the customer's creditworthiness, than it has in obtaining the signatures of persons other than the applicant on documents that establish the contractual obligation to repay.

When assessing the level of a creditor's compliance with the signature requirements, examiners should consult with the Examiner-in-Charge if any questions arise.

Special-Purpose Credit Programs – 12 CFR 1002.8

The ECOA and Regulation B allow creditors to establish special-purpose credit programs for applicants who meet certain eligibility requirements. Generally, these programs target an economically disadvantaged class of individuals and are authorized by federal or state law. Some are offered by not-for-profit organizations that meet certain IRS guidelines, and some by for-profit organizations that meet specific tests outlined in 12 CFR 1002.8.

Examiners are encouraged, if an issue arises regarding such a program, to consult with Headquarters.

Notifications – 12 CFR 1002.9

A creditor must notify an applicant of action taken on the applicant's request for credit, whether favorable or adverse, within 30 days after receiving a completed application. Notice of approval may be expressly stated or implied (for example, the creditor may give the applicant the credit card, money, property, or services for which the applicant applied).

Notification of adverse action taken on an existing account must also be made within 30 days.

⁷ Judgmental systems may consider the amount and probable continuance of income. A planned reduction in income due to retirement may, for example, be considered.

Under at least two circumstances, the creditor need not comply with the 30-day notification rule:

- The creditor must notify an applicant of adverse action within 90 days after making a counteroffer unless the applicant accepts or uses the credit during that time.
- The creditor may not have to notify an applicant of adverse action if the application was incomplete and the creditor sent the applicant a notice of incompleteness that met certain requirements set forth in 12 CFR 1002.9(c).

Adverse Action Notice – 12 CFR 1002.9(a)(2)

A notification of adverse action must be in writing and must contain certain information, including the name and address of the creditor and the nature of the action that was taken. In addition, the creditor must provide an ECOA notice that includes the identity of the federal agency responsible for enforcing compliance with the act for that creditor. This notice is generally included on the notification of adverse action. The creditor must also either provide the applicant with the specific principal reason for the action taken or disclose that the applicant has the right to request the reason(s) for denial within 60 days of receipt of the creditor's notification, along with the name, address, and telephone number of the person who can provide the specific reason(s) for the adverse action. The reason may be given orally if the creditor also advises the applicant of the right to obtain the reason in writing upon request.

Incomplete Applications – 12 CFR 1002.9(c)

When a creditor receives an incomplete application, it may send one of two alternative notifications to the applicant. One is a notice of adverse action; the other is a notice of incompleteness. The notice of incompleteness must be in writing and must specify the information the creditor needs if it is to consider the application; it must also provide a reasonable period of time for the applicant to furnish the missing information.

Applications Submitted Through a Third Party – 12 CFR 1002.9(g)

When more than one creditor is involved in a transaction and adverse action is taken with respect to the application for credit by all the creditors involved, each creditor that took such action must provide a notice of action taken. The notification may be given by a third party; however, the notice must disclose the identity of each creditor on whose behalf the notice is given. If one of the creditors approves the application, the creditors that took adverse action need not provide notification.

Notification to Business Credit Applicants – 12 CFR 1002.9(a)(3)

The notification requirements for business credit applicants are different from those for consumer credit applicants and are more extensive if the business had gross revenues of

\$1,000,000 or less in the preceding fiscal year. Extensions of trade credit, credit incident to a factoring agreement, and similar types of credit are subject to the same rules as those that apply to businesses that had gross revenues of more than \$1,000,000.

Generally, a creditor must comply with the same notification requirements for business credit applicants with gross revenues of \$1,000,000 or less as it does for consumer credit applicants. However, the creditor has more options when dealing with these business credit applicants. First, the creditor may tell the business credit applicant orally of the action taken. Second, if the creditor chooses to provide a notice informing the business credit applicant of the right to request the reason for action taken, it may, rather than disclose the reason itself, provide the notice at the time of application. If the creditor chooses to inform the applicant of the right to request a reason, however, it must provide a disclosure with an ECOA notice that is in retainable form and that gives the applicant the same information that must be provided to consumer credit applicants when this option is used (see 12 CFR 1002.9(a)(2)(ii)). Finally, if the application was made entirely over the phone, the creditor may provide an oral statement of action taken and of the applicant's right to a statement of reasons for adverse action.

The notification requirements for business credit applicants with gross revenues of more than \$1,000,000 are relatively simple. The creditor must notify the applicant of the action taken within a reasonable time period. The notice may be oral or in writing; a written statement of the reasons for adverse action and the ECOA notice need be provided only if the applicant makes a written request within 60 days of the creditor's notification of the action taken.

Designation of Accounts – 12 CFR 1002.10(a)

A creditor that furnishes credit information to a consumer reporting agency must designate:

- Any new account to reflect the participation of both spouses if the applicant's spouse is permitted to use or is contractually liable on the account; and
- Any existing account to reflect the participation of both spouses within 90 days after receiving a written request to do so from one of the spouses.

If a creditor furnishes credit information to a consumer reporting agency, the creditor must furnish the information in the name of the spouse about whom the information was requested.

Record Retention – 12 CFR 1002.12

Applications

In general, a creditor must preserve all written or recorded information connected with an application for 25 months (12 months for business credit) after the date on which the creditor informed the applicant of action taken on an application or of incompleteness of an application.

Prohibited Information

A creditor may retain information in its files that it may not use in evaluating applications. However, the information must have been obtained inadvertently or in accordance with federal or state law or regulation.

Existing Accounts

A creditor must preserve any written or recorded information concerning adverse action on an existing account as well as any written statement submitted by the applicant alleging a violation of the ECOA or Regulation B. This evidence must be kept for 25 months (12 months for business credit).

Prescreened Solicitations

The 25-month retention rule also applies when a creditor makes an offer of credit to potential customers. In such cases, the creditor must retain for 25 months following the date of the solicitation:

- The text of any prescreened solicitation;
- The list of criteria the creditor used to select potential recipients of the solicitation; and
- Any correspondence related to complaints (formal or informal) about the solicitation.

Rules on Providing Appraisals and Other Valuations – 12 CFR 1002.14

Providing appraisals and other valuations – 12 CFR 1002.14(a)(1)

Regulation B requires that creditors provide applicants with a copy of all appraisals and other written valuations⁸ developed in connection with an application for credit to be secured by a first lien on a dwelling. A creditor shall provide the copy of each such appraisal or other written valuation promptly upon completion, or at least three business days prior to consummation of the transaction (for closed-end credit) or account opening (for open-end credit), whichever is earlier. An applicant may waive the timing requirement and agree to receive any copy at or before consummation or account opening, except where otherwise prohibited by law. Any such waiver must be obtained at least three business days prior to consummation or account opening, unless the waiver pertains solely to the applicant's receipt of a copy of an appraisal or other written valuation that contains only clerical changes from a previous version provided to the applicant or other written valuation provided to the applicant three or more business days prior to

⁸ Regulation B defines a valuation as “any estimate of the value of a dwelling developed in connection with an application for credit”. 12 CFR 1002.14(b)(3). Additionally, examples of valuations can be found in the Official Interpretations of Regulation B at 1002.14(b)(3)(i) – (v).

consummation or account opening. If the applicant provides a waiver and the transaction is not consummated or the account is not opened, the creditor must provide these copies no later than 30 days after the creditor determines consummation will not occur or the account will not be opened.

Disclosure – 12 CFR 1002.14(a)(2)

A creditor shall mail or deliver a notice in writing of the applicant's right to receive a copy of all written appraisals or valuations developed in connection with the application, no later than the third business day after the creditor receives an application for credit that is to be secured by a first lien on a dwelling. A special timing rule applies if an application for credit is not to be secured by a first lien on a dwelling at the time of application, but the creditor later determines that it will be secured by such a lien. In that case the creditor shall mail or deliver the same disclosure in writing no later than the third business day after determining that the loan is to be secured by a first lien on a dwelling. If the disclosure required under 12 CFR 1002.14(a)(2) accompanies an application accessed by the applicant in electronic form, it may be provided in electronic form on or with the application form, without regard to the consumer consent or other provisions of the E-Sign Act. (15 U.S.C. 7001 *et seq.*). See 12 CFR 1002.4(d)(2).

Reimbursement – 12 CFR 1002.14(a)(3)

A creditor shall not charge an applicant for providing a copy of appraisals and/or other written valuations, but may require applicants to pay a reasonable fee to reimburse the creditor for the cost of the appraisal or other written valuation unless otherwise provided by law.⁹

Withdrawn, Denied, or Incomplete Applications – 12 CFR 1002.14(a)(4)

The requirements to provide copies of appraisals and other written valuations developed in connection with an application for credit to be secured by a first lien on a dwelling apply whether credit is extended or denied or if the application is incomplete or withdrawn.

Copies in Electronic Form – 12 CFR 1002.14(a)(5)

Required copies of appraisals and other written valuations may be provided to the applicant in electronic form, subject to compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 *et seq.*).

Incentives for Self-Testing and Self-Correction – 12 CFR 1002.15

⁹ Creditors are required to provide copies of appraisals or valuations even if the consumer does not pay the reasonable fee.

A self-test, as discussed in 12 CFR 1002.15 of Regulation B, must meet two criteria. First, it must be a program, practice, or study that a lender designs and uses specifically to determine the extent or effectiveness of its compliance with the regulation. Second, the results of the self-test must create data or factual information that is otherwise not available and cannot be derived from loan or application files or other records related to credit transactions. The findings of a self-test that is conducted voluntarily by a creditor and that meets the conditions set forth in 12 CFR 1002.15 are privileged against discovery or use by (1) a government agency in any examination or investigation related to the ECOA or Regulation B or (2) a government agency or an applicant in any legal proceeding involving an alleged violation of the ECOA or Regulation B. Privileged information includes the report or results of the test; data or other information created by the test; and any analysis, opinions, or conclusions regarding the results of the test.

To qualify for the privilege, appropriate corrective action is required when the results of a self-test show that it is more likely than not that there has been a violation of the ECOA or Regulation B.¹⁰ The privilege does not cover information about whether a test was conducted; the methodology, scope, time period, or dates covered by the test; loan or application files or other business records; and information derived from such files and records, even if aggregated, summarized, or reorganized.

Enforcement, Penalties, and Liabilities – 12 CFR 1002.16

In addition to actual damages, the Act provides for punitive damages of up to \$10,000 in individual lawsuits and up to the lesser of \$500,000 or 1 percent of the creditor's net worth in class action suits. Successful complainants are also entitled to an award of court costs and attorney's fees.

A creditor is not liable for failure to comply with the notification requirements of 12 CFR 1002.9 or the reporting requirements of 12 CFR 1002.10 if the failure was caused by an inadvertent error and the creditor, after discovering the error (1) corrects the error as soon as possible and (2) begins compliance with the requirements of the regulation. "Inadvertent errors" include mechanical, electronic, and clerical errors that the creditor can show (1) were not intentional and (2) occurred despite the fact that the creditor maintains procedures reasonably adapted to avoid such errors. Similarly, failure to comply with 12 CFR 1002.6(b)(6), 1002.12, and 1002.13 is not considered a violation if it results from an inadvertent error and the creditor takes the corrective action noted above. Errors involving 12 CFR 1002.12 and 1002.13 may be corrected prospectively by the creditor.

REFERENCES

Laws

12 U.S.C. 1691 *et seq.* Equal Credit Opportunity Act

¹⁰ 12 CFR 1002.15(c)

CFPB Consumer Laws and Regulations

ECOA

Regulations

Consumer Financial Protection Bureau Regulation (12 CFR)

Part 1002

Equal Credit Opportunity (Regulation B)

Equal Credit Opportunity Act

Examination Procedures

Exam Date:	[Click&type]
Prepared By:	[Click&type]
Reviewer:	[Click&type]
Docket #:	[Click&type]
Entity Name:	[Click&type]

- To determine whether the creditor has established policies, procedures, and internal controls to ensure that it is in compliance with the Equal Credit Opportunity Act (ECOA) and its implementing Regulation B.
- To determine whether the creditor discriminated against members of one or more protected classes in any aspect of its credit operations.
- To determine whether the creditor is in compliance with those requirements of ECOA that are set forth in Regulation B.

NOTE: This document refers throughout to the Interagency Fair Lending Examination Procedures (“IFLEP”). When applying those procedures, it is important to keep in mind that the Fair Housing Act, unlike ECOA, is not a “Federal consumer financial law” for which the CFPB has supervisory authority.

Section A: ECOA / REGULATION B COMPLIANCE MANAGEMENT / RISK ASSESSMENT EXAMINATION PROCEDURES

A. Examination Objective & Purpose

- To determine whether the creditor has established policies, procedures and internal controls to ensure that it is in compliance with the ECOA and Regulation B. The intensity and scope of the current ECOA / Regulation B examination will depend in part on the adequacy of the creditor’s compliance management program.

B. Examination Procedures

1. Review the creditor’s overall compliance management program. Following the *Compliance Management Review* procedures in the *CFPB’s Supervision/Examination Manual*; verify that the ECOA and Regulation B compliance is effectively integrated into the creditor’s compliance management program.
2. Consult Part II (“*Compliance Management Review*”) of the IFLEP and apply the *Compliance Management Analysis Checklist* in the IFLEP Appendix.

NOTE: When performing 1 and 2 above, pay special close attention to the creditor’s compliance management policies and procedures with respect to the following:

- Does any aspect of the creditor’s credit operations appear to vary by any of the prohibited bases? Examples: (i) The creditor establishes most of its branches in predominately non-

minority neighborhoods and does not have a presence in nearby minority neighborhoods; or (ii) Spanish and English advertisements emphasize different credit products.

- Do the creditor's underwriting or pricing guidelines contain any unusual criteria that could have a possibly negative disparate impact on a protected class? (e.g., underwriting or price models that use ZIP codes.
- Are the creditor's policies, procedures, or guidelines vague or unduly subjective with respect to (i) underwriting; (ii) pricing; (iii) referring applicants to subsidiaries, affiliates, or lending channels within the creditor; (iv) classifying applicants as "prime" or "sub-prime" borrowers; or (v) deciding what kinds of alternative loan products should be offered or recommended to applicants?
- Does the creditor allow exceptions to its underwriting, pricing, or product recommendation policies and procedures to be made subjectively or without clear guidance? Even if the policies and procedures are clear, does the creditor make a large number of such exceptions?
- Does the creditor give its employees significant discretion to decide what products to offer or the price to offer, including both interest rates and fees?
- Does any employee receive incentives depending, directly or indirectly, on the terms or conditions of the credit product sold or the price (including both interest rates and fees) charged?
- Does the creditor rely on third parties, such as brokers, for a significant part of its credit operations?

These factors create conditions under which the risk of fair lending violations may be increased. Whether any particular factor constitutes a fair lending violation requires consideration of the particular facts and circumstances at issue.

C. Examiner's Compliance Management / Risk Assessment Examination Summary, Recommendation and Comments

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Section B: FAIR LENDING EXAMINATION PROCEDURES**A. Examination Objective & Purpose**

- To determine whether the creditor discriminated against members of one or more protected classes in any aspect of its credit operations.

B. Pre-Examination Procedures – Data Request¹

1. For mortgages, determine if the CFPB has received all the data typically used by creditors in pricing and underwriting decisions.² If not, in consultation with Headquarters, request from the creditor all relevant data in electronic format.
2. For non-mortgage products, in consultation with Headquarters, request from the creditor all relevant data in electronic format.

NOTE: It may take a significant amount of time for the creditor to produce data and for Headquarters to review it. Data requests should be sent out as early as practicable to ensure the incorporation of all analyses in the examination.

C. Pre-Examination Procedures – Scoping

No single fair lending examination can reasonably be expected to scrutinize every aspect of an institution's credit operations. The purpose of pre-examination scoping is to help examiners target areas with the highest fair lending risk.

The examiners, together with Headquarters, should use statistical analyses whenever appropriate to scope fair lending examinations in addition to following the procedures in Part I of the IFLEP (*"Examination Scope Guidelines"*).

1. Review any preliminary data screens provided by Headquarters to identify possible examination focal points.³
2. Review information from previous compliance examinations that could inform potential focal points of the current examination.
3. Follow the steps in the *Examination Scope Guidelines*. Inform Headquarters of the information you gathered about the creditor. Consult Headquarters to determine what additional information would be helpful to improve data analyses and refine scoping.
4. Together with Headquarters, finalize the scope and intensity of the fair lending examination.

¹ If it is decided that statistical methods will not be used in the examination, this step can be skipped.

² For some creditors, the CFPB routinely requests additional mortgage data fields beyond the HMDA data. For these creditors, the examiners will likely not have to make any pre-examination mortgage data requests.

³ A focal point is a combination of loan product(s), market(s), decision center(s), time frame and prohibited basis to be analyzed during the fair lending examination.

D. Examination Procedures

The IFLEP's examination procedures (Part III) are focused on conducting comparative file reviews and not statistical analysis. It is important to supplement the IFLEP examination procedures whenever statistical analysis is involved.

1. When statistical analysis is not part of the examination, follow Part III of the IFLEP to examine the creditor. Working with Headquarters, assess possible violations, and follow Part IV of the IFLEP, Steps 1–3, when discussing results with the creditor and reviewing all responses.
2. When statistical analysis is part of the examination, examiners should work closely with Headquarters to do the following:
 - a. Follow Part III of the IFLEP to examine the creditor, including conducting comparative file reviews as appropriate.
 - b. Integrate creditor-specific information into statistical models. Follow Part III.A of the IFLEP to verify the accuracy of the data. To the extent HMDA data is used, apply the HMDA / Regulation C examination procedures to verify data integrity. For non-mortgage data, consult with Headquarters on how to verify data integrity. If the most recent Compliance Management review indicates that the creditor does not have adequate policies and procedures in place to ensure data integrity, increase the sample size for the data verification.
 - c. Assess possible violations, and follow Part IV of the IFLEP, Step 1, to discuss results with the creditor, including sharing our statistical analyses with the creditor and asking for comments and explanations.
 - d. Review the creditor's response. Follow Part IV of the IFLEP, Steps 2–3. If necessary, in consultation with Headquarters, refine our statistical models and re-analyze.
3. Consult with Headquarters to reach the final conclusions. Follow Part IV of the IFLEP, Steps 4–5.

E. Examiner's Fair Lending Examination Summary, Recommendation and Comments

[Click&type]

Section C: REGULATION B EXAMINATION CHECKLIST**A. Examination Objective & Purpose**

- To determine whether the creditor is in compliance with those requirements of ECOA that are set forth in Regulation B.

B. Examination Procedures

The ECOA and its implementing Regulation B not only prohibit discrimination in credit transactions, but also set forth additional requirements, such as requiring adverse action notices in appropriate circumstances. Thus, not all items on the checklist relate to discrimination. Some items on the checklist, however, do reflect a possible fair lending violation even though they are not stated in those terms.

Accordingly, depending on the general risk profile of the creditor and the Section A Compliance Management/Risk Assessment, not all items on the checklist need be included in every fair lending exam. Examiners should consult with Headquarters to determine which sections of this checklist should be completed in an examination.

The checklist, supporting documentation for any apparent violations, and management response should be included in the work papers. In consultation with Headquarters, the Examiner-in-Charge, and the Regional Manager, request that the management responsible for the transactions provide a response on any apparent violations.

A “No” answer indicates a possible exception or deficiency and should be explained in the work papers.⁴ If a line item is not applicable within the area you are reviewing, indicate “NA.”

⁴ If the violation of 12 CFR 1002.6(b)(6), 1002.9, 1002.10, 1002.12, or 1002.13 results from an inadvertent error, namely a mechanical, electronic, or clerical error that the creditor demonstrates was not intentional and occurred notwithstanding the maintenance of procedures reasonably adapted to avoid such errors, there is no violation. On discovering an inadvertent error under 12 CFR 1002.9 and 1002.10, the creditor must correct it as soon as possible; inadvertent errors under 12 CFR 1002.12 and 1002.13 must be corrected prospectively. To determine whether an error is inadvertent, you should consult with the Examiner-in-Charge.

CFPB

Examination Procedures

ECOA

All citations are to Regulation B, 12 CFR Part 1002.

	Yes	No	Basis of Conclusion
Prohibited Practices	☐	☐	[Click&type]
Discrimination	☐	☐	[Click&type]
<i>See Section B: Fair Lending Examination Procedures</i>	☐	☐	[Click&type]
Discouragement	☐	☐	[Click&type]
<i>Obtain and review marketing and advertising materials (including signs or other displays), prescreened solicitations, and the criteria used to determine the potential recipients of the particular solicitation, scripts, and interview forms used for pre-application interviews and for taking applications, and rate sheets and product information used in discussing available types of credit with applicants. Conduct loan agent interviews to determine whether they show an understanding of the regulatory requirements.</i>	☐	☐	[Click&type]
1. Does the creditor not make any oral or written statements, in advertising or otherwise, to applicants or prospective applicants that would discourage on a prohibited basis a reasonable person from making or pursuing an application? (12 CFR 1002.4(b))	☐	☐	[Click&type]
2. Does the creditor not use statements that the applicant should not bother to apply based on a prohibited basis (e.g., you shouldn't bother to apply because you are retired)? (12 CFR Part 1002, Supp. I, Comment 1002.4(b)-1(i))	☐	☐	[Click&type]
3. Does the creditor not use words, symbols, models or other forms of communication in advertising that express, imply, or suggest a discriminatory preference or a policy of exclusion in violation of the ECOA? (Comment 1002.4(b)-1(ii))	☐	☐	[Click&type]
4. Does the creditor not use scripts that discourage applications on a prohibited basis? (Comment 1002.4(b)-1(iii))	☐	☐	[Click&type]
5. Are the criteria used for prescreened solicitations not discriminatory on a prohibited basis? (12 CFR 1002.4(a), (b))	☐	☐	[Click&type]

	Yes No	Basis of Conclusion
6. Does the text of any prescreened solicitations avoid statements that would tend to discourage, on a prohibited basis, a reasonable person from making or pursuing an application? (12 CFR 1002.4(b))	☐ ☐	[Click&type]
Rules for Taking Applications⁵		
<i>Obtain and review application forms (including scripts for telephone applications and screen shots of online applications), disclosures, a sample of loan files,⁶ creditor policies and procedures and audits pertaining to the taking of applications, and training materials. Conduct loan officer interviews to determine whether they show an understanding of the regulatory requirements and that policies and procedures are consistently applied.</i>		
7. Does the creditor use written applications for credit that is primarily for the purchase or refinancing of dwellings that are occupied or to be occupied by the applicant as a principal residence and where the credit will be secured by the dwellings? (12 CFR 1002.4(c), 1002.13(a))	☐ ☐	[Click&type]
8. If the creditor collects information (in addition to information required for government monitoring purposes, such as 12 CFR 1002.13, HMDA, and HAMP) on the race, color, religion, national origin, or sex of the applicant or any other person in connection with a credit transaction for purposes of a “self-test”:		
a. Does the creditor meet the “self-test” requirements of 12 CFR 1002.15 (see Checklist Items 70–71)?	☐ ☐	[Click&type]

⁵ A creditor may obtain information that is otherwise restricted to determine eligibility for a special purpose program, as provided in 12 CFR 1002.8(b), (c), and (d). To the extent there is an appropriately established and administered special purpose program under which any otherwise restricted information was requested, obtaining such information should not constitute a violation, and Headquarters and the Examiner-in-Charge should be consulted.

⁶ To the extent the institution maintains any information in its files that is prohibited by the ECOA or Regulation B for use in evaluating applications, that information may be retained if it was obtained (a) prior to March 23, 1977; (b) from consumer reporting agencies, an applicant, or others without the specific request of the creditor; or (c) as required to monitor compliance with the ECOA and Regulation B or other federal or state statutes or regulations. (12 CFR 1002.12(a))

	Yes	No	Basis of Conclusion
b. Does the creditor disclose to the applicant, orally or in writing, when requesting the information that: (1) the applicant is not required to provide the information; (2) the creditor is requesting the information to monitor its compliance with the federal ECOA; (3) Federal law prohibits the creditor from discriminating on the basis of this information, or on the basis of an applicant's decision not to furnish the information; and (4) if applicable, certain information will be collected based on visual observation or surname if not provided by the applicant or other person? (12 CFR 1002.5(b)(1))	☐	☐	[Click&type]
9. If a designation of title, such as Ms., Miss, Mrs., or Mr. is requested on an application form, does the form disclose that such designation is optional, and does the application form otherwise use only terms that are neutral as to sex? (12 CFR 1002.5(b)(2))	☐	☐	[Click&type]
10. Does the creditor only request any information concerning the spouse or former spouse of an applicant when:			
a. The spouse will be permitted to use the account;	☐	☐	[Click&type]
b. The spouse will be contractually liable on the account;	☐	☐	[Click&type]
c. The applicant is relying on the spouse's income as a basis for repayment of the credit requested;	☐	☐	[Click&type]
d. The applicant resides in a community property state or is relying on property located in such a state as a basis for repayment of the credit requested; or	☐	☐	[Click&type]
e. The applicant is relying on alimony, child support, or separate maintenance payments from a spouse or former spouse as a basis for repayment of the credit requested? (12 CFR 1002.5(c)(2))	☐	☐	[Click&type]

	Yes	No	Basis of Conclusion
11. In the case of applications for individual unsecured credit, does the creditor inquire about the applicant's marital status only when the applicant resides in a community property state or is relying on property located in such a state as a basis for repayment of the credit requested? (12 CFR 1002.5(d)(1))	☐	☐	[Click&type]
12. In the case of applications for other than individual unsecured credit, are the creditor's inquiries into marital status limited to the terms "married," "unmarried," and "separated" (a creditor may explain that the category "unmarried" includes single, divorced, and widowed persons)? (12 CFR 1002.5(d)(1))	☐	☐	[Click&type]
13. If the creditor inquires whether income stated in an application is derived from alimony, child support, or separate maintenance payments, does the creditor also disclose to the applicant that such income need not be revealed if the applicant does not want the creditor to consider the information in determining the applicant's creditworthiness? (12 CFR 1002.5(d)(2))	☐	☐	[Click&type]
14. Does the creditor not inquire about birth control practices, intentions concerning the bearing or rearing of children, or capability to bear children? (A creditor may inquire about the number and ages of an applicant's dependents or about dependent-related financial obligations or expenditures, provided such information is requested without regard to sex, marital status, or any other prohibited basis.) (12 CFR 1002.5(d)(3))	☐	☐	[Click&type]
Rules for Evaluating Applications			
<i>Obtain and review policies and procedures, training materials, a sample of loan files, audits pertaining to evaluating, and pricing applications for credit (including, but not limited to those regarding loan servicing, modifications, collections, and loss mitigation), and information regarding statistical models used in credit evaluations. Conduct loan underwriter interviews to determine whether they show an understanding of the regulatory requirements and that policies and procedures are consistently applied.</i>			

	Yes	No	Basis of Conclusion
15. To the extent that a creditor takes into account an applicant's age (assuming that the applicant has the capacity to enter into a binding contract), determine whether the creditor uses age in an empirically derived, demonstrably and statistically sound, credit scoring system or a judgmental system. (12 CFR 1002.2(p))			
a. In an empirically derived, demonstrably and statistically sound, credit scoring system, is age a predictive variable and is the age of an elderly applicant (62 or older) not assigned a negative factor or value? (12 CFR 1002.6(b)(2)(ii))	☐	☐	[Click&type]
b. In a judgmental system of evaluating creditworthiness, is the applicant's age considered only for the purpose of determining a pertinent element of creditworthiness? (12 CFR 1002.6(b)(2)(iii))	☐	☐	[Click&type]
c. Except as set forth in Checklist Item 15(b) above (use for pertinent element of creditworthiness), in any system for evaluating creditworthiness, is the age of an applicant 62 or older considered only to favor him or her in extending credit? (12 CFR 1002.6(b)(2)(iv))	☐	☐	[Click&type]
16. Does the creditor only take into account whether an applicant's income derives from any public assistance program in a judgmental system of evaluating creditworthiness and only for the purpose of determining a pertinent element of creditworthiness? (12 CFR 1002.6(b)(2)(iii))	☐	☐	[Click&type]
17. When evaluating creditworthiness, does the creditor not make assumptions or use aggregate statistics relating to the likelihood that any category of persons will bear or rear children or will, for that reason, receive diminished or interrupted income in the future? (12 CFR 1002.6(b)(3))	☐	☐	[Click&type]
18. Does the creditor not take into account whether there is a telephone listing in the name of an applicant for consumer credit? (12 CFR 1002.6(b)(4))	☐	☐	[Click&type]

	Yes No	Basis of Conclusion
19. Does the creditor count, and not discount or exclude from consideration, the income of an applicant or the spouse of an applicant because of a prohibited basis? (12 CFR 1002.6(b)(5)) (A creditor may consider the amount and probable continuance of any income in evaluating an applicant's creditworthiness.)	☐ ☐	[Click&type]
20. Does the creditor consider income derived from part-time employment, alimony, child support, separate maintenance payments, retirement benefits, or public assistance on an individual basis, and not on the basis of aggregate statistics? (Comment 1002.6(b)(5)-1)	☐ ☐	[Click&type]
21. Does the creditor count, and not discount or exclude from consideration, the income of an applicant or the spouse of an applicant because the income is derived from part-time employment, is an annuity, pension, or other retirement benefit, or comes from multiple income streams? (12 CFR 1002.6(b)(5), Comment 1002.6(b)(5)-4) (A creditor may consider the amount and probable continuance of any income in evaluating an applicant's creditworthiness.)	☐ ☐	[Click&type]
22. When an applicant relies on alimony, child support, or separate maintenance payments in applying for credit, does the creditor consider such payments as income to the extent that they are likely to be consistently made? (12 CFR 1002.6(b)(5))	☐ ☐	[Click&type]
23. To the extent the creditor considers credit history in evaluating the creditworthiness of similarly qualified applicants for a similar type and amount of credit, in evaluating an applicant's creditworthiness, does the creditor consider:	☐ ☐	[Click&type]
a. The credit history, 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? (12 CFR 1002.6(b)(6)(i))	☐ ☐	[Click&type]

	Yes	No	Basis of Conclusion
b. On the applicant's request, any information that the applicant may present that tends to indicate the credit history being considered by the creditor does not accurately reflect the applicant's creditworthiness? (12 CFR 1002.6(b)(6)(ii))	☐	☐	[Click&type]
c. On the applicant's request, 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? (12 CFR 1002.6(b)(6)(iii))	☐	☐	[Click&type]
24. Does the creditor not deny credit in whole or in part based on the country an applicant is from? (Comment 1002.2(z)-2))	☐	☐	[Click&type]
25. Are married and unmarried applicants evaluated by the same standards? (12 CFR 1002.6(b)(8))	☐	☐	[Click&type]
26. In evaluating joint applicants, are joint applicants treated in the same manner regardless of the existence, absence, or likelihood of a marital relationship between the parties? (12 CFR 1002.6(b)(8))	☐	☐	[Click&type]
27. Does the creditor not consider race, color, religion, or sex (or an applicant's or other person's decision not to provide the information) in any aspect of a credit transaction? (12 CFR 1002.6(b)(1), (9))	☐	☐	[Click&type]
Rules for Extensions of Credit			
<i>Obtain and review policies and procedures, training materials, a sample of loan files, closing instructions on a sample of loans, and audits pertaining to extensions of credit (including, but not limited to signature requirements and account management). Conduct loan officer and closing agent interviews to determine whether they show an understanding of the regulatory requirements and that policies and procedures are consistently applied.</i>			
28. Does the creditor not refuse to grant an individual account to a creditworthy applicant on a prohibited basis? (12 CFR 1002.7(a))	☐	☐	[Click&type]

	Yes No	Basis of Conclusion
29. Does the creditor not refuse to 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? (12 CFR 1002.7(b))	☐ ☐	[Click&type]
30. With respect to applicants who are contractually liable on an existing open-end account, does the creditor on the basis of the applicant's reaching a certain age or retiring or on the basis of a change in the applicant's name or marital status, not require reapplication (except as permitted by 12 CFR 1002.7(c)(2), see Checklist Item 31), change the terms of the account, or terminate the account, unless there is evidence of the applicant's inability or unwillingness to repay? (12 CFR 1002.7(c)(1))	☐ ☐	[Click&type]
31. To the extent the creditor requires reapplication for an open-end account on the basis of a change in the marital status of an applicant who is contractually liable:		
a. Does it do so only when (1) the original credit granted was based in whole or in part on the income of the applicant's spouse; and (2) the creditor has information available to it indicating that the applicant's income may not support the amount of credit currently available; and	☐ ☐	[Click&type]
b. Does it allow the account holder full access to the account under the existing contract terms while the reapplication is pending? (12 CFR 1002.7(c)(2), Comment 1002.7(c)(2)-1)	☐ ☐	[Click&type]
32. For joint applications, is there evidence of an intent to apply for joint credit at the time of application? (The creditor shall not deem the submission of a joint financial statement or other evidence of jointly held assets as an application for joint credit.) (12 CFR 1002.7(d)(1), Comment 1002.7(d)(1)-3)	☐ ☐	[Click&type]

	Yes No	Basis of Conclusion
33. Does the creditor allow an applicant who is individually creditworthy to obtain credit without a spouse's or other person's signature (other than as a joint applicant)? (12 CFR 1002.7(d)(1), Comment 1002.7(d)(1)-1)	☐ ☐	[Click&type]
34. Does the creditor require a signature of an applicant's spouse or other person, other than a joint applicant, on any credit instrument in only the following circumstances and based only on existing forms of ownership and not on the possibility of a subsequent change (Comment 1002.7(d)(2)-1(i)):	☐ ☐	[Click&type]
a. If an applicant requests unsecured credit and relies in part upon property that the applicant owns jointly with another person to satisfy the creditor's standards of creditworthiness, the creditor requires the signature of the other person only on the instrument(s) necessary, or reasonably believed by the creditor to be necessary, under the law of the state in which the property is located, to enable the creditor to reach the property being relied upon in the event of the death or default of the applicant. (12 CFR 1002.7(d)(2))	☐ ☐	[Click&type]
b. If a married applicant requests unsecured credit and resides in a community property state, or if the applicant is relying on property located in such a state, the creditor requires the signature of the spouse only on any instrument necessary, or reasonably believed by the creditor to be necessary, under applicable state law to make the community property available to satisfy the debt in the event of default and (1) applicable state law denies the applicant power to manage or control sufficient community property to qualify for the credit requested under the creditor's standards of creditworthiness; and (2) the applicant does not have sufficient separate property to qualify for the credit requested without regard to community property. (12 CFR 1002.7(d)(3))	☐ ☐	[Click&type]

	Yes	No	Basis of Conclusion
c. If an applicant requests secured credit, the creditor requires the signature of the applicant's spouse or other person only on those instruments necessary, or reasonably believed by the creditor to be necessary, under applicable state law to make the property being offered as security available to satisfy the debt in the event of default (for example, an instrument to create a valid lien, pass clear title, waive inchoate rights, or assign earnings). (12 CFR 1002.7(d)(4))	☐	☐	[Click&type]
35. Does the creditor refrain from routinely requiring a non-applicant joint owner to sign an instrument (such as a quitclaim deed) that would result in the forfeiture of the joint owner's interest in the property? (Comment 1002.7(d)(2)-1(ii)(C))	☐	☐	[Click&type]
36. In those situations when under the creditor's standards of creditworthiness, the personal liability of an additional party is necessary to support the credit requested, does the creditor allow the applicant to have either his or her spouse or someone other than his or her spouse to serve as the additional party? (12 CFR 1002.7(d)(5))	☐	☐	[Click&type]
37. If a borrower's creditworthiness is reevaluated when a credit obligation is renewed, does the creditor determine whether an additional party is still warranted and, if not warranted, release the additional party? (Comment 1002.7(d)(5)-3)	☐	☐	[Click&type]
38. Does the creditor not refuse to extend credit and not terminate an account because credit life, health, accident, or disability insurance is not available because of the applicant's age? (12 CFR 1002.7(e))	☐	☐	[Click&type]
Special-Purpose Credit Programs			
<i>Inquire as to whether the creditor offers a special-purpose credit program.</i>			

	Yes No	Basis of Conclusion
39. To the extent an issue arose regarding a special-purpose credit program, were the Examiner-in-Charge and Headquarters consulted? In the Basis of Conclusion section, describe the issue, the office (and person) consulted at Headquarters, and the resolution. If not applicable, please note in the Basis of Conclusion.	☐ ☐	[Click&type]
Notifications		
<i>Obtain and review policies and procedures, training materials, a sample of loan files, and audits pertaining to notifications (including, but not limited to those that pertain to prequalification and preapproval processes, incomplete applications, counteroffers, loan modifications, and those that apply when there are third parties or multiple creditors). Conduct loan officer interviews to determine whether they show an understanding of the regulatory requirements and that policies and procedures are consistently applied.</i>		
Consumer Credit		
40. With respect to consumer credit , the creditor appropriately notified applicants as follows:		
a. Within 30 days after receiving a completed application, the creditor notified applicants concerning the creditor's approval of, counteroffer to, or adverse action on the application (<i>unless</i> the parties contemplated that the applicant would inquire about the status, the application was approved, and the applicant failed to inquire within 30 days after applying, in which case the creditor may treat the application as withdrawn). (12 CFR 1002.9(a)(1)(i) and 1002.9(e))	☐ ☐	[Click&type]

	Yes	No	Basis of Conclusion
b. Within 30 days after taking adverse action on an incomplete application, the creditor notified applicants of the adverse action in writing (<i>unless</i> written notice of incompleteness is provided within 30 days of receipt of the incomplete application, specifying the information needed, designating a reasonable period of time for the applicant to provide the information, and informing the applicant that failure to provide the information requested will result in no further consideration being given to the application), (12 CFR 1002.9(a)(1)(ii) and 1002.9(c))	☐	☐	[Click&type]
c. Within 30 days after taking adverse action on an existing account, the creditor notified applicants of the adverse action in writing; (12 CFR 1002.9(a)(1)(iii))	☐	☐	[Click&type]
d. Within 90 days after notifying the applicant of a counteroffer, if the applicant does not expressly accept or use the credit offered, the creditor notified applicants of the adverse action taken in writing (unless the counteroffer was accompanied by the notice of adverse action on the credit terms originally sought) (12 CFR 1002.9(a)(1)(iv), Comment 1002.9(a)(1)-6)	☐	☐	[Click&type]
41. With respect to consumer credit , the creditor's notifications given to an applicant when an adverse action is taken are in writing, capable of being retained, and contain all of the following:	☐	☐	[Click&type]
a. A statement of the action taken;	☐	☐	[Click&type]
b. The name and address of the creditor;	☐	☐	[Click&type]
c. A statement of the provisions of Section 701(a) of the ECOA; ⁷	☐	☐	[Click&type]

⁷ This statement must be substantially similar to the following: "The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is [name and address as specified by the appropriate agency listed in appendix A of this regulation]." (12 CFR 1002.9(b)(1))

	Yes No	Basis of Conclusion
d. The name and address of the federal agency that administers compliance with respect to the creditor; and	☐ ☐	[Click&type]
e. Either: i. A statement of specific reasons for the action taken that is specific and indicates the principal reason(s) for the adverse action (Statements that the adverse action was based on the creditor's internal standards or policies or that the applicant, joint applicant, or similar party failed to achieve a qualifying score on the creditor's credit scoring system are insufficient); <i>or</i> ii. A disclosure (which contains the name, address, and telephone number of the person or office from which the statement of reasons can be obtained) of the applicant's right to a statement of specific reasons within 30 days, if the statement is requested within 60 days of the creditor's notification (and if, the creditor chooses to provide the reasons orally, the creditor shall also disclose the applicant's right to have them confirmed in writing within 30 days of receiving the applicant's written request for confirmation). (12 CFR 1002.4(d)(1) and 1002.9(a)(2), (b)(1), (b)(2))	☐ ☐	[Click&type]

	Yes No	Basis of Conclusion
<i>Small Business Credit</i>		
42. Except for transactions conducted entirely by phone, in connection with business credit for businesses with gross revenues of \$1 million or less in the preceding fiscal year or to start a new business (Comment 1002.9(a)(3)-1) (other than an extension of trade credit, credit incident to a factoring agreement, or other similar types of business credit):		
a. Within 30 days after receiving a completed application, the creditor notified applicants concerning the creditor's approval of, counteroffer to, or adverse action on the application orally or in writing (<i>unless</i> the parties contemplated that the applicant would inquire about the status, the application was approved, and the applicant failed to inquire within 30 days after applying, in which case the creditor may treat the application as withdrawn). (12 CFR 1002.9(a)(1)(i), 1002.9(e), and 1002.9(a)(3)(i)(A))	☐ ☐	[Click&type]
b. Within 30 days after taking adverse action on an incomplete application, the creditor notified applicants of the adverse action orally or in writing (unless written notice of incompleteness is provided within 30 days of receipt of the incomplete application, specifying the information needed, designating a reasonable period of time for the applicant to provide the information, and informing the applicant that failure to provide the information requested will result in no further consideration being given to the application), (12 CFR 1002.9(a)(1)(ii), 1002.9(c)), and 1002.9(a)(3)(i)(A))	☐ ☐	[Click&type]
c. Within 30 days after taking adverse action on an existing account, the creditor notified applicants of the adverse action orally or in writing; (12 CFR 1002.9(a)(1)(iii) and 1002.9(a)(3)(i)(A))	☐ ☐	[Click&type]

	Yes	No	Basis of Conclusion
d. Within 90 days after notifying the applicant of a counteroffer, if the applicant does not expressly accept or use the credit offered, the creditor notified applicants of the adverse action orally or in writing (unless the counteroffer was accompanied by the notice of adverse action on the credit terms originally sought) (12 CFR 1002.9(a)(1)(iv), Comment 1002.9(a)(1)-6, and 12 CFR 1002.9(a)(3)(i)(A))	☐	☐	[Click&type]
43. Except for transactions conducted entirely by phone, in connection with business credit for businesses with gross revenues of \$1 million or less in the preceding fiscal year or to start a new business (Comment 1002.9(a)(3)-1) (other than an extension of trade credit, credit incident to a factoring agreement, or other similar types of business credit), the creditor's adverse action notices contained (orally or in writing):			
a. A statement of the action taken;	☐	☐	[Click&type]
b. The name and address of the creditor;	☐	☐	[Click&type]
c. A statement of the provisions of Section 701(a) of the ECOA; ⁸	☐	☐	[Click&type]
d. The name and address of the federal agency that administers compliance with respect to the creditor (namely, CFPB); and	☐	☐	[Click&type]

⁸ See supra note 7.

	Yes No	Basis of Conclusion
e. Either: i. A statement of specific reasons for the action taken (that is specific and indicates the principal reason(s) for the adverse action); <i>or</i> ii. Unless provided at the time of application, a written, capable of being retained, disclosure (which contains the name, address, telephone number of the person or office from which the statement of reasons can be obtained, and, if given at the time of application, a statement of the provisions of Section 701(a) of the ECOA⁹) of the applicant's right to a statement of specific reasons within 30 days, if the statement is requested within 60 days of the creditor's notification (and if, the creditor chooses to provide the reasons orally, the creditor shall also disclose the applicant's right to have them confirmed in writing within 30 days of receiving the applicant's written request for confirmation). (12 CFR 1002.9(a)(2), 1002.9(a)(3)(i)(A), 1002.9(a)(3)(i)(B), and 1002.9(b)(1))	☐ ☐	[Click&type]
44. With respect to applications made entirely by telephone in connection with business credit for businesses with gross revenues of \$1 million or less in the preceding fiscal year or to start a new business (Comment 1002.9(a)(3)-1) (other than an extension of trade credit, credit incident to a factoring agreement, or other similar types of business credit), the creditor at least made an oral statement of the action taken and of the applicant's right to a statement of reasons for adverse action. (12 CFR 1002.9(a)(3)(i)(C))	☐ ☐	[Click&type]

⁹ See supra note 7.

	Yes No	Basis of Conclusion
Large Business Credit		
45. For businesses with gross revenues in excess of \$1 million in the preceding fiscal year, or for extensions of trade credit, credit incident to a factoring agreement or other similar types of business credit, did the creditor at least: a. Communicate the notification of action taken within a reasonable time orally or in writing, and b. In response to an applicant's written request for the reasons within 60 days of the creditor's notification, provide in writing the reasons for adverse action and a statement of the provisions of Section 701(a) of the ECOA¹⁰? (12 CFR 1002.9(a)(3)(ii))	☐ ☐	[Click&type]
All Credit Transactions		[Click&type]
46. Within 30 days after receiving an application that is incomplete regarding matters than an applicant can complete, does the creditor (a) notify the applicant of adverse action (in the manner appropriate for the type of credit – business or consumer), or (b) send a written notice to the applicant specifying the information needed, designating a reasonable period of time for the applicant to provide the information, and informing the applicant that failure to provide the information requested will result in no further consideration being given to the application? (Although the creditor may inform the applicant orally of the need for additional information, if the application remains incomplete it must provide either notice within the specified time period.) (12 CFR 1002.9(c))	☐ ☐	[Click&type]

¹⁰ See supra note 7.

	Yes No	Basis of Conclusion
47. When declining a request for a modification of a loan, does the creditor always provide an adverse action notice when the consumer is not delinquent or in default? (12 CFR 1002.9(a)(1); see Federal Reserve Board Consumer Affairs Letter 09-13 (December 4, 2009) (http://www.federalreserve.gov/boarddocs/caletters/2009/0913/caltr0913.htm)).	☐ ☐	[Click&type]
48. When an application involves multiple applicants, does the creditor provide notification of action to the primary applicant, when one is readily apparent? (12 CFR 1002.9(f))	☐ ☐	[Click&type]
49. When an application is made on behalf of an applicant by a third party to multiple creditors, including the creditor, and no credit is offered or if the applicant does not expressly accept or use the credit offered, does the creditor provide the appropriate adverse action notice either directly or through the third party (disclosing the identify of each creditor on whose behalf the notice is given)? (12 CFR 1002.9(g))	☐ ☐	[Click&type]
Designation of Accounts		
<i>Obtain and review policies and procedures, training materials, and audits pertaining to the designation of accounts on furnishing them to credit reporting agencies, as well as a sample of information reported to the credit reporting agencies.</i>		
50. To the extent the creditor furnishes consumer credit information, does it designate any new account to reflect the participation of both spouses if the applicant's spouse is permitted to use or is contractually liable on the account (other than as a guarantor, surety, endorser, or similar party) (12 CFR 1002.10(a), Comment 1002.10-1)	☐ ☐	[Click&type]

	Yes	No	Basis of Conclusion
51. To the extent the creditor furnishes consumer credit information, does it designate any existing account to reflect the participation of both spouses if the applicant's spouse is permitted to use or is contractually liable on the account (other than as a guarantor, surety, endorser, or similar party) within 90 days after receiving a written request to do so from one of the spouses? (12 CFR 1002.10(a), Comment 1002.10-1)	☐	☐	[Click&type]
52. To the extent the creditor furnishes consumer credit information to a consumer reporting agency concerning accounts designated to reflect the participation of both spouses, does the creditor furnish the information in a manner that enables the consumer reporting agency to provide access to the information in the name of each spouse? (12 CFR 1002.10(b), Comment 1002.10-1)	☐	☐	[Click&type]
53. To the extent the creditor furnishes consumer credit information in response to inquiries about accounts designated to reflect the participation of both spouses, does the creditor furnish the information in the name of the spouse about whom the information is requested? (12 CFR 1002.10(c), Comment 1002.10-1)	☐	☐	[Click&type]

	Yes No	Basis of Conclusion
Record Retention		
<i>Obtain and review policies and procedures, training materials, audits, a sample of loan files, relevant third-party contracts, and other records required to be retained (e.g., information relating to prescreened offers of credit and self-tests) that pertain to record retention (including but not limited to record retention schedules, retention of documents relating to prescreened offers of credit, and retention of documents relating to any self-tests). Inquire into whether there is any enforcement action or investigation involving the creditor.</i>		
54. Does the creditor retain for 25 months (12 months for business credit regarding businesses with gross revenues of \$1 million or less in the previous fiscal year, except an extension of trade credit, credit incident to a factoring agreement, or other similar types of business credit) after the date that the creditor notifies an applicant of action taken or of incompleteness, an original or copy of the following:	☐ ☐	[Click&type]
a. The application and any other written or recorded information used in evaluating the application that is not returned to the applicant at the applicant's request? (12 CFR 1002.12(b)(1)(i))	☐ ☐	[Click&type]
b. Any information required to be obtained concerning characteristics of the applicant to monitor compliance with the ECOA and Regulation B or other similar law, such as the Home Mortgage Disclosure Act or Home Affordable Modification Program? (12 CFR 1002.12(b)(1)(i))	☐ ☐	[Click&type]
c. A copy of the notification of action taken, if written, or any notation or memorandum by the creditor, if made orally? (12 CFR 1002.12(b)(1)(ii)(A))	☐ ☐	[Click&type]
d. A statement of specific reasons for adverse action, if written, or any notation or memorandum by the creditor, if made orally? (12 CFR 1002.12(b)(1)(ii)(B))	☐ ☐	[Click&type]

	Yes	No	Basis of Conclusion
e. Any written statement submitted by the applicant alleging a violation of the ECOA or Regulation B? (12 CFR 1002.12(b)(1)(iii))	☐	☐	[Click&type]
55. Does the creditor retain for 25 months (12 months for business credit regarding businesses with gross revenues of \$1 million or less in the previous fiscal year, except an extension of trade credit, credit incident to a factoring agreement, or other similar types of business credit) after the date that the creditor notifies an applicant of adverse action regarding an existing account, an original or copy of the following:			
a. Any written or recorded information concerning the adverse action? (12 CFR 1002.12(b)(2)(i))	☐	☐	[Click&type]
b. Any written statement submitted by the applicant alleging a violation of the ECOA or Regulation B? (12 CFR 1002.12(b)(2)(ii))	☐	☐	[Click&type]
56. Does the creditor retain for 25 months (12 months for business credit regarding businesses with gross revenues of \$1 million or less in the previous fiscal year, except an extension of trade credit, credit incident to a factoring agreement, or other similar types of business credit) after the date the creditor receives an application for which 1002.9's notification requirements do not apply (<i>e.g.</i> , when an application is expressly withdrawn, or an application is submitted to more than one creditor on behalf of the applicant, and the application is approved by one of the other creditors) all written or recorded information in its possession concerning the applicant, including any notation of action taken? (12 CFR 1002.12(b)(3), Comment 1002.12(b)(3)-1)	☐	☐	[Click&type]

	Yes No	Basis of Conclusion
57. If the creditor has actual notice that it is under investigation or is subject to an enforcement proceeding for an alleged violation of the ECOA or Regulation B by the Attorney General of the United States or by the CFPB or other enforcement agency charged with monitoring the creditor's compliance with the ECOA and Regulation B, or if it has been served with notice of an action filed pursuant to Section 706 of the ECOA, did the creditor retain the foregoing information identified in Checklist Items 54–56 until final disposition of the matter (unless an earlier time is allowed by order of the agency or court). (12 CFR 1002.12(b)(4))	☐ ☐	[Click&type]
58. For business credit from businesses with gross revenues of more than \$1 million in the previous fiscal year, or an extension of trade credit, credit incident to a factoring agreement, or other similar types of business credit, does the creditor retain records for at least 60 days after notifying the applicant of the action taken, or for 12 months if the applicant requests in writing during the 60-day time period the reasons for adverse action or that records be retained? (12 CFR 1002.12(b)(5))	☐ ☐	[Click&type]
59. If the creditor conducts a self-test pursuant to 12 CFR 1002.15:		
a. Does the creditor retain for 25 months after the self-test is completed, all written or recorded information about the self-test?	☐ ☐	[Click&type]
b. If the creditor has actual notice that it is under investigation or is subject to an enforcement proceeding for an alleged violation, or if it has been served with notice of a civil action, does the creditor retain the information until final disposition of the matter (unless an earlier time is allowed by the appropriate agency or court order)? (12 CFR 1002.12(b)(6))	☐ ☐	[Click&type]

	Yes No	Basis of Conclusion
60. For prescreened solicitations, does the creditor retain for 25 months (12 months for business credit except regarding businesses with gross revenues of more than \$1 million in the previous fiscal year, or an extension of trade credit, credit incident to a factoring agreement, or other similar types of business credit) after the date on which an offer of credit was made to potential customers: (a) the text of any prescreened solicitation; (b) the list of criteria the creditor used both to determine the potential recipients of the particular solicitation and to determine who will actually be offered credit; and (c) any correspondence related to complaints (formal or informal) about the solicitation? (12 CFR 1002.12(b)(7), Comment 1002.12(b)(7)-2)	☐ ☐	[Click&type]
Information for Monitoring Purposes as to Applications from Natural Persons		
<i>Obtain and review policies and procedures, training materials, a sample of loan files, quality control reports, and audits pertaining to information gathered for monitoring. Conduct loan officer interviews to determine whether they show an understanding of the regulatory requirements and that policies and procedures are consistently applied.</i>		
61. With respect to applications for credit that are primarily for the purchase or refinancing of dwellings (as defined in 12 CFR 1002.13(a)(2)) that are occupied or to be occupied by the applicant as a principal residence where the credit will be secured by the dwelling, ¹¹ does the creditor request (but not require) either on the application form or on a separate form that refers to the application (12 CFR 1002.13(b)) the following information regarding the applicant:		

¹¹ Examiners should ensure that the institution limits its requests for government monitoring information under this section to only these loans, except as permitted by 12 CFR 1002.5(a)&(b) (see Checklist Item 8) or as required by HMDA (reaching home purchase loans, home improvement loans, refinancings, and (optionally) home equity lines of credit made in whole or in part for the purpose of home improvement or home purchase), or other governmental program or directive such as the Home Affordable Modification Program (HAMP).

	Yes	No	Basis of Conclusion
a. Ethnicity, using the categories “Hispanic or Latino,” and “Not Hispanic or Latino”; and race, using the categories “American Indian or Alaska Native,” “Asian,” “Black or African American,” “Native Hawaiian or Other Pacific Islander,” and “White,” and allowing applicants to select more than one racial designation? (12 CFR 1002.13(a)(1)(i), Comment 1002.13(b)-1)	☐	☐	[Click&type]
b. Sex? (12 CFR 1002.13(a)(1)(ii))	☐	☐	[Click&type]
c. Marital status, using the categories married, unmarried, and separated? (12 CFR 1002.13(a)(1)(iii))	☐	☐	[Click&type]
d. Age? (12 CFR 1002.13(a)(1)(iv))	☐	☐	[Click&type]
62. If an applicant chooses not to provide the requested information or any part of it, does the creditor note that on the monitoring form and note on the form, to the extent possible, the ethnicity, race, and sex of the applicant(s) on the basis of visual observation or surname? (12 CFR 1002.13(b))	☐	☐	[Click&type]
63. If the creditor receives applications by mail, telephone, or electronic media and it is not evident on the face of an application how it was received, does the creditor indicate on the form or other application record how it was received? (Comment 1002.13(b)-3(iii))	☐	☐	[Click&type]
64. Does the creditor inform applicant(s) (a) that the information regarding ethnicity, race, sex, marital status, and age is being requested by the federal government for the purpose of monitoring compliance with federal statutes that prohibit creditors from discriminating against applicants on those bases; and (b) that if the applicant(s) chooses not to provide the information, the creditor is required to note the ethnicity, race and sex on the basis of visual observation or surname? (12 CFR 1002.13(c))	☐	☐	[Click&type]

	Yes No	Basis of Conclusion
Appraisal Reports		
<i>Obtain and review policies and procedures, training materials, a sample of loan files, and audits pertaining to providing appraisal reports. Conduct loan officer interviews to determine whether they show an understanding of the regulatory requirements and that policies and procedures are consistently applied.</i>		

	Yes No	Basis of Conclusion
65. With respect to applications for credit to be secured by a first lien on a dwelling, in the absence of a waiver, does the creditor: a. Provide copies of all appraisals and other written valuations developed in connection with the application for credit promptly upon completion, or three business days prior to consummation of the transaction (for closed-end-credit) or at, or before, account opening (for open-end credit), whichever is earlier, whether credit is granted or denied or the application is withdrawn; <u>or</u> b. If the creditor obtains a waiver of the timing requirements that is not otherwise prohibited by law, does the creditor: i. Obtain the waiver at least three business days prior to consummation or account opening (except in the case of waivers pertaining solely to the applicant's receipt of a copy of an appraisal or other written valuation that contains only clerical changes from a previous version of the appraisal or other written valuation provided to the applicant three or more business days prior to consummation or account opening); ii. Provide the applicant a copy of the appraisal or other valuation at or before consummation or account opening, where the loan is consummated or the account is opened; and iii. Where the loan is not consummated or the account is not opened, provide the applicant with copies no later than 30 days after determining the consummation will not occur or the account will not be opened? (12 CFR 1002.14(a))	☐ ☐	[Click&type]

	Yes	No	Basis of Conclusion
66. With respect to applications for credit to be secured by a first lien on a dwelling, does the creditor refrain from charging an applicant for providing required copies of appraisals and other written valuations? (A creditor may charge a reasonable fee to reimburse for the cost of the appraisal or other written valuation unless otherwise provided by the law but a creditor <u>may not</u> charge an applicant for providing a copy of appraisals and other written valuations.) (12 CFR 1002.14(a)(3))	☐	☐	[Click&type]
Disclosures			
<i>Obtain and review policies and procedures, training materials, and a sample of loan files, audits related to disclosures, and disclosures.</i>			
67. With respect to applications for credit to be secured by a first lien on a dwelling, does the creditor mail or deliver a written notice of the applicant's right to receive a copy of all written appraisals developed in connection with the application no later than the third business day after the creditor receives the application for credit; or if the creditor determines that credit was not to be secured by a first lien on a dwelling at the time of application but later determined the credit will be secured by a first lien on a dwelling, does the creditor mail or deliver the same written notice no later than the third business day after such determination? (12 CFR 1002.14(a)(2))	☐	☐	[Click&type]
68. Are the creditor's written disclosures that are required by Regulation B clear, conspicuous, and except for those required by 12 CFR 1002.5 (self-tests) and 1002.13 (monitoring), in a form the applicant can retain? (12 CFR 1002.4(d))			
69. Are those disclosures that are required to be in writing that are made in electronic form provided in compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce (E-Sign) Act, where applicable? (12 CFR 1002.4(d)(2))	☐	☐	[Click&type]

	Yes No	Basis of Conclusion
70. If an applicant accesses a credit application electronically from a place other than the creditor's office, did the creditor provide the disclosures in a timely manner on or with the application, namely in electronic form (such as with the applications form on its website)? (Comment 1002.4(d)-2)	☐ ☐	[Click&type]
Voluntary Self-Tests		
<i>Identify whether the creditor purports to conduct self-tests. If so, request and review information required to be maintained under 12 CFR 1002.12(b)(6), including but not limited to information regarding its design and expected outputs, corrective actions, the methodology used or the scope of the self-test, the time period covered by the self-test, the dates it was conducted, and entities to whom it was disclosed.</i>		
71. To the extent the creditor conducts voluntary self-tests:		
a. Is the program, practice or study (1) designed and used specifically to determine the extent or effectiveness of the creditor's compliance with the ECOA or Regulation B; and (2) resulting in data or factual information that is not available and cannot be derived from loan or application files or other records related to credit transactions; and	☐ ☐	[Click&type]
b. Has the creditor taken or is it taking appropriate and timely corrective action when the self-test shows that it is more likely than not that a violation occurred (even though no violation has been formally adjudicated), namely action that is reasonably likely to remedy the cause and effect of a likely violation by identifying the policies and practices that are the likely cause of the violation and assessing the extent and scope of any violation? (12 CFR 1002.15(a)(2), (b)(1), (c), Comment 1002.15(a)(2)-2)	☐ ☐	[Click&type]

	Yes No	Basis of Conclusion
72. To the extent the creditor is claiming that the self-test privilege applies:		
a. Is the creditor providing information that is not privileged, including (a) information about whether the creditor conducted a self-test, the methodology used or the scope of the self-test, the time period covered by the self-test, or the dates it was conducted; (b) loan and application files or other business records related to credit transactions, and information derived from such files and records, even if the information has been aggregated, summarized, or reorganized to facilitate analysis; and (c) the creditor's property appraisal reports, minutes of loan committee meetings, analysis performed as part of processing or underwriting a credit application, or other documents reflecting the basis for a decision to approve or deny an application, loan policies or procedures, underwriting standards, and broker compensation records? (12 CFR 1002.15(b)(3), Comments 1002.15(b)(1)(ii)-2 and 1002.15(b)(3)(ii)-1)	☐ ☐	[Click&type]
b. Has the creditor not voluntarily disclosed any part of the report or results, or any other privileged information, as a self-test, to an applicant, government agency, or the public? (12 CFR 1002.15(d)(2)(i))	☐ ☐	[Click&type]
c. Has the creditor not disclosed any part of the report or results, or any other information privileged as a self-test, as a defense to charges that the creditor has violated the ECOA or Regulation B? (12 CFR 1002.15(d)(2)(ii))	☐ ☐	[Click&type]
d. Has the creditor produced written or recorded information about the self-test that is required to be retained by 12 CFR 1002.12(b)(6)? (12 CFR 1002.15(d)(2)(iii))	☐ ☐	[Click&type]

	Yes No	Basis of Conclusion
e. As applicable, has the creditor provided the self-test report, results, and any other information privileged under Regulation B in order to determine a penalty or remedy for a violation of the ECOA or Regulation that has been adjudicated or admitted? (12 CFR 1002.15(d)(3))	☐ ☐	[Click&type]

Examiner's Overall Summary, Recommendations, and Comments

[Click&type]