



Final Rules to Implement Certain Dodd-Frank Requirements Delayed

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On Tuesday, March 15, 2011, the Board of Governors of the Federal Reserve System (the "Board") issued proposed amendments to its Regulation B (Equal Credit Opportunity) to incorporate new content requirements for adverse action notices, as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Act"). Comments were to have been received by May 16, 2011.

Generally, the purpose of the Equal Credit Opportunity Act ("ECOA") is to promote the availability of credit to all creditworthy applicants without regard to race, color, religion, and other similar considerations. ECOA applies to all credit, commercial as well as consumer, regardless of the type of credit or the type of creditor. The adverse action provisions of ECOA, as implemented by Section 202.9 of Regulation B, require notices to be sent when adverse action (e.g., denial of credit, or a counteroffer on less desirable terms) is taken by the creditor. Regulation B provides model forms of these notices in Appendix C to the regulation. Proper use of these model forms will satisfy the requirements of Section 202.9 of regulation B.

Section 1100F of the Act added new content requirements to the adverse action provisions of ECOA that require creditors to disclose the applicant's credit score, along with certain information regarding credit scores, if a credit score is used in taking adverse action on an application for credit. These revisions are effective July 21, 2011.

Final rules have not been issued by the Board. The draft final rule is in the approval stage as of June 23, 2011. The Board received a large volume of comments to the proposed rule. In response to these comments, the proposed final rule contains provisions not set forth in the proposed rule.

In addition, the final rule will not be effective until after the effective date of Section 1100F of the Act. Under the federal Administrative Procedures Act, certain final regulations are to become effective no fewer than 30 days after their publication in the Federal Register. Accordingly, unless the Board addresses this, there will be a period of time wherein creditors will have to comply with Section 1100F of the Act (which does not include model forms) without the benefit of the final regulations and model forms.

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