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## EQUAL CREDIT OPPORTUNITY ACT (REGULATION B)

### DEFINITIONS

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#### **Definitions (Section 202.2)**

For the purposes of Regulation B, unless the context indicates otherwise, the following definitions apply.

#### **Account**

An extension of credit. When employed in relation to an account, the word use refers only to open-end credit.

#### **Act**

The Equal Credit Opportunity Act (title VII of the Consumer Credit Protection Act).

#### **Adverse action**

(1)(i) a refusal to grant credit in substantially the amount or on substantially the terms requested in an application unless the creditor makes a counteroffer (to grant credit in a different amount or on other terms) and the applicant uses or expressly accepts the credit offered;

(ii) a termination of an account or an unfavorable change in the terms of an account that does not affect all or a substantial portion of a class of the creditor's accounts; or

(iii) a refusal to increase the amount of credit available to an applicant who has made an application for an increase.

(2) Adverse action does not include:

(i) a change in the terms of an account expressly agreed to by an applicant;

(ii) any action or forbearance relating to an account taken in connection with inactivity, default, or delinquency as to that account;

(iii) a refusal or failure to authorize an account transaction at a point of sale or loan, except when the refusal is a termination or an unfavorable change in the terms of an account that does not affect all or a substantial portion of a class of the creditor's accounts, or when the refusal is a denial of an application for an increase in the amount of credit available under the account;

(iv) a refusal to extend credit because applicable law prohibits the creditor from extending the credit requested; or

(v) a refusal to extend credit because the creditor does not offer the type of credit or credit plan requested.

(3) An action that falls within the definition of both paragraphs (1) and (2) is governed by paragraph (2).

#### **Age**

Refers only to the age of natural persons and means the number of fully elapsed years from the date of an applicant's birth.

**Applicant**

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. For purposes of section 202.7(d), the term includes guarantors, sureties, endorsers and similar parties.

**Application**

An oral or written request for an extension of credit that is made in accordance with procedures established by a creditor for the type of credit requested. The term does not include the use of an account or line of credit to obtain an amount of credit that is within a previously established credit limit. A completed application means an application in connection with which a creditor has received all the information that the creditor regularly obtains and considers in evaluating applications for the amount and type of credit requested (including, but not limited to, credit reports, any additional information requested from the applicant, and any approvals or reports by governmental agencies or other persons that are necessary to guarantee, insure, or provide security for the credit or collateral). The creditor shall exercise reasonable diligence in obtaining such information.

**Business credit**

Refers to extensions of credit primarily for business or commercial (including agricultural) purposes, but excluding extensions of credit of the types described in section 202.3(a), (b), and (d).

**Consumer credit**

Credit extended to a natural person primarily for personal, family, or household purposes.

**Contractually liable**

Expressly obligated to repay all debts arising on an account by reason of an agreement to that effect.

**Credit**

The right granted by a creditor to an applicant to defer payment of a debt, incur debt and defer its payment, or purchase property or services and defer payment therefore.

**Credit card**

Any card, plate, coupon book, or other single credit device that may be used from time to time to obtain money, property, or services on credit.

**Creditor**

A person who, in the ordinary course of business, regularly participates in the decision of whether or not to extend credit--The term includes a creditor's assignee, transferee, or subrogee who so participates. For purposes of sections 202.4 and 202.5(a) the term 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. A person is not a creditor regarding any violation of the

act or this regulation committed by another creditor unless the person knew or had reasonable notice of the act, policy, or practice that constituted the violation before becoming involved in the credit transaction. The term does not include a person whose only participation in a credit transaction involves honoring a credit card.

**Credit transaction**

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).

**Discriminate against an applicant** means to treat an applicant less favorably than other applicants.

**Elderly**

Age 62 or older.

**Empirically derived and other credit scoring systems.**

(1) A credit scoring system is a system that evaluates an applicant's creditworthiness mechanically, based on key attributes of the applicant and aspects of the transaction, and that determines, alone or in conjunction with an evaluation of additional information about the applicant, whether an applicant is deemed creditworthy. To qualify as an empirically derived, demonstrably and statistically sound, credit scoring system, the system must be

(i) based on data that are derived from an empirical comparison of sample groups or the population of creditworthy and non-creditworthy applicants who applied for credit within a reasonable preceding period of time;

(ii) developed for the purpose of evaluating the creditworthiness of applicants with respect to the legitimate business interests of the creditor utilizing the system (including, but not limited to, minimizing bad debt losses and operating expenses in accordance with the creditor's business judgment);

(iii) developed and validated using accepted statistical principles and methodology; and

(iv) periodically revalidated by the use of appropriate statistical principles and methodology and adjusted as necessary to maintain predictive ability.

(2) A creditor may use an empirically derived, demonstrably and statistically sound, credit scoring system obtained from another person or may obtain credit experience from which to develop such a system. Any such system must satisfy the criteria set forth in paragraph (1) (i) through (iv) of this section; if the creditor is unable during the development process to validate the system based on its own credit experience in accordance with paragraph (1) of this section, the system must be validated when sufficient credit experience becomes available. A system that fails this validity test is no longer an empirically derived, demonstrably and statistically sound, credit scoring system for that creditor.

**Extend credit and extension of credit**

The granting of credit in any form (including, but not limited to, credit granted in addition to any existing credit or credit limit; credit granted pursuant to an open-end credit plan; the refinancing or other renewal of credit, including the issuance of a new credit card in place of an expiring credit card or in substitution for an existing credit card; the consolidation of two or more obligations; or the continuance of existing credit without any special effort to collect at or after maturity).

**Good faith**

Honesty in fact in the conduct or transaction.

**Inadvertent error**

A mechanical, electronic, or clerical error that a creditor demonstrates was not intentional and occurred notwithstanding the maintenance of procedures reasonably adapted to avoid such errors.

**Judgmental system of evaluating applicants**

Any system for evaluating the creditworthiness of an applicant other than an empirically derived, demonstrably and statistically sound, credit scoring system.

**Marital status**

The state of being unmarried, married, or separated, as defined by applicable state law. The term "unmarried" includes persons who are single, divorced, or widowed.

**Negative factor or value, in relation to the age of elderly applicants**, means utilizing a factor, value, or weight that is less favorable regarding elderly applicants than the creditor's experience warrants or is less favorable than the factor, value, or weight assigned to the class of applicants that are not classified as elderly and are most favored by a creditor on the basis of age.

**Open-end credit**

Credit extended under a plan under which a creditor may permit an applicant to make purchases or obtain loans from time to time directly from the creditor or indirectly by use of a credit card, check, or other device.

**Person**

A natural person, corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

**Pertinent element of creditworthiness, in relation to a judgmental system of evaluating applicants**, means any information about applicants that a creditor obtains and considers and that has a demonstrable relationship to a determination of creditworthiness.

**Prohibited basis**

Race, color, religion, national origin, sex, marital status, or age (provided that the applicant has the capacity to enter into a binding contract); the fact that all or part of the applicant's income derives from any public assistance program; or the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act or any state law upon which an exemption has been granted by the Board.

**State**

Any state, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.