

**EQUAL CREDIT OPPORTUNITY ACT
(REGULATION B)
(OMB CONTROL NUMBER: 3170-0013)**

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

The Equal Credit Opportunity Act (“ECOA”), 15 U.S.C. 1691 *et seq.*, implemented by the Bureau of Consumer Financial Protection’s (Bureau or CFPB) Regulation B, 12 CFR Part 1002, makes it unlawful to discriminate against any applicant, with respect to any aspect of a credit transaction, on the basis of sex, marital status, race, color, religion, national origin, age, or other prohibited bases under ECOA. To aid in implementation of this prohibition, the statute and regulation subject creditors to various mandatory disclosure requirements, notification provisions informing applicants of action taken on their credit applications, credit history reporting, monitoring rules, and recordkeeping requirements. These requirements are triggered by specific events and creditors must provide disclosures within the time periods established by the statute and regulation.

Recordkeeping/Collection of Information

Section 1002.12(b) of Regulation B requires creditors to retain records relating to consumer credit applications for 25 months from the date that the applicant is notified of the action taken on the application or, where notice is not required, for 25 months from the date of the application. When a creditor takes adverse action on an existing account, the creditor must retain records for 25 months after the applicant is notified of the action taken. Records of business credit applications generally must be retained for 12 months, with certain exceptions. Regulation B also requires creditors who have been informed that they are the subject of an investigation regarding their compliance with ECOA to retain such records until the agency or a court informs them that retention is no longer necessary. Regulation B also requires creditors to retain certain prescreened solicitation materials for 25 months after the date on which an offer of credit is made to potential customers (12 months for business credit, with certain exceptions). Moreover, Regulation B requires creditors to retain all written or recorded information about a self-test (including corrective action), as defined in § 1002.15 of Regulation B, for 25 months after a self-test has been completed (and longer under some circumstances).

Section 1002.13 of Regulation B requires that creditors who receive applications for certain mortgage credit requests, as part of the application process, obtain information about the applicant’s race/national origin, sex, marital status, and age. The applicant is asked but not required to supply the information. If the applicant chooses not to provide the information or any part of it, the creditor must note that fact on the form and must note the applicant’s race/national origin and sex, to the extent that it is possible to determine these characteristics based on a visual observation or a surname. The creditor is required to inform the applicant that the information is

sought by the federal government to help monitor compliance with federal statutes that prohibit creditors from discriminating against applicants based on the above-noted factors.

Disclosure

Subpart A of Section 1002.9 of Regulation B requires creditors to notify an applicant of action taken within specified time periods. A notification given to a consumer credit applicant when adverse action is taken must be in writing, whereas a business credit applicant may be notified of the action taken orally or in writing. An adverse action notification must generally contain: a statement of the action taken; the name and address of the creditor; a statement describing the antidiscrimination provisions of ECOA; the name and address of the federal agency that administers compliance with ECOA and Regulation B as to the creditor; and either a statement of specific reasons for the action taken or a notice of the applicant's right to obtain such a statement.

In part, § 1002.10 of Regulation B requires creditors that furnish credit information to consumer reporting agencies to designate new accounts to reflect the participation of both spouses, if the applicant's spouse is permitted to use or is contractually liable on the account.

Section 1002.13(c) of Regulation B requires the creditor to inform the applicant that ethnicity, race, sex, marital status, and age are being requested by the Federal government for the purpose of monitoring compliance. The creditor shall also inform the applicant that he or she has the option of not providing the information, and that if the applicant chooses to not provide it, the creditor is required to note it by visual observation or surname.

In connection with a credit application that is to be secured by a first lien on the dwelling, § 1002.14 of Regulation B requires that creditors provide applicants a copy of the appraisal report or other written valuation prepared in connection with an application. The material must be furnished free of charge and promptly upon completion, or no later than three business days prior to consummation of the transaction (closed-end credit) or account opening (open-end credit), whichever is earlier.

Under §§ 1002.5(b) and 1002.15 of Regulation B, creditors that collect applicant characteristics for purposes of conducting a self-test under Regulation B must disclose, orally or in writing:

- (i) The applicant will not be required to provide the information;
- (ii) The creditor is requesting the information to monitor its compliance with the Federal Equal Credit Opportunity Act;
- (iii) 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
- (iv) If applicable, certain information will be collected based on visual observation or surname if not provided by the applicant or other person.

Proposed subpart B. Proposed subpart B would add new disclosure requirements to Regulation B.

Proposed § 1002.108 would implement the requirement in section 1071 that certain data collected (regarding whether the applicant is a minority-owned or women-owned business, and the ethnicity, race, and sex of the applicant's principal owners) be shielded from underwriters and certain other persons; the Bureau refers to this as the "firewall." Pursuant to proposed § 1002.108(c), this prohibition would not apply to an employee or officer if the financial institution determines that it is not feasible to limit that employee's or officer's access to an applicant's responses to the financial institution's inquiries regarding the applicant's protected demographic information, and the financial institution provides a notice to the applicant regarding that access. The notice must be provided to each applicant whose information will be accessed or, alternatively, the financial institution could provide the notice to all applicants whose information could be accessed. The Bureau is proposing sample language that a financial institution could use in providing this notice.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

Subpart A (existing Regulation B)

The Bureau and other agencies use recordkeeping information to compare accepted and rejected applicants in order to determine whether applicants are treated less favorably on the basis of race, sex, age, or other prohibited bases under ECOA. Voluntarily collected self-test records (including for corrective action) are used by creditors to identify potential violations and reflect their efforts to correct the problem. Absent the Regulation B requirement that creditors retain monitoring information, the agencies' ability to detect unlawful discrimination and enforce the ECOA would be significantly impaired.

The adverse action notice requirement apprises applicants of their rights under ECOA and of the basis for a creditor's decision. Applicants use their copy of the appraisal to review (and possibly challenge) the accuracy and/or fairness of the information contained within, and to determine the role that the appraisal played in the credit decision. The self-testing disclosure explains to applicants why a creditor is collecting information and clarifies that applicants are not required to provide the information.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.

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Subpart A (existing Regulation B). The disclosures required by existing Regulation B may be provided to the consumer 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.* Use of such electronic communications is consistent with the Government Paperwork Elimination Act (GPEA), Title XVII of Pub. L. 105-277, codified at 44 U.S.C. 3504 note. The E-Sign Act and GPEA serve to reduce businesses' compliance burden related to federal requirements, including Regulation B, by enabling creditors to utilize more efficient electronic media for disclosures and compliance.

Regulation B also permits creditors to retain records on any method that reproduces records accurately, including digitally. Creditors need only retain enough information to reconstruct the required disclosure or other records. Most creditors use technology solutions to calculate the required information and generate the mandated disclosures, thereby limiting the burden on these entities.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item A.2 above.

Subpart A of Regulation B. For the most part, the information collections in Regulation B do not duplicate other regulations. There is some overlap with the Fair Credit Reporting Act (FCRA) for disclosure and retention of certain information, but they focus on populations which are not necessarily the same, and Regulation B is necessary to avoid circumvention by creditors of ECOA. Additionally, there is some overlap with HMDA for collection of certain information, although in 2017 the Bureau updated Regulation B to ensure consistency among regulations and facilitate compliance with Regulation B and Regulation C by financial institutions.

The appraisals information collection does duplicate, in part, two other Federal requirements. Specifically, the information collection requirement duplicates in part the Truth in Lending Act requirement to provide free copies of written appraisals for higher-risk mortgages. See 15 U.S.C. 1639(h). In addition, the requirement also duplicates in part the National Credit Union Administration's (NCUA) regulation requiring national credit unions to provide copies of appraisal reports to loan applicants upon request. See 12 CFR 701.31(c)(5). However, where Regulation B and a duplicative requirement apply, a creditor need only provide an applicant one copy of each appraisal and other written valuation to comply with all Truth in Lending Act, ECOA, and the NCUA requirements in order to minimize burden.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

Subpart A of Regulation B. ECOA and existing Regulation B accord special treatment to creditors that receive fewer than 150 applications each year. Section 1002.9(d) of the Regulation states that such creditors may provide required notices to rejected applicants orally rather than in writing. Where fewer written records are required to be created, the recordkeeping burden is correspondingly reduced. In addition, § 1002.3(c) of the Regulation exempts providers of

incidental credit, such as a doctor or lawyer who allows a patient or client to defer payment of a bill, as well as public utilities credit and securities credit from many requirements including notifications under § 1002.9 of the Regulation and recordkeeping. Additionally, as noted above, the Bureau has taken steps to minimize the situations in which creditors would need to provide copies of multiple versions of the same appraisal or other written valuation.

6. Describe the consequence to federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If the notification of action taken requirement were eliminated, applicants could be deprived of the right to receive timely notice of the creditor's decision, the reasons for any adverse action by the creditor, and notification of the applicants' rights under ECOA. Eliminating the requirement that creditors provide a copy of the appraisal report or notice of its availability would greatly impair applicants' ability to assess the valuation's impact on the creditor's decision and to challenge it in a timely fashion. Eliminating or changing the requirement to collect information about an applicant's protected characteristics would impair the ability of the Bureau and others seeking to enforce compliance with ECOA to take action against creditors that may engage in unlawful discrimination. Eliminating the self-test disclosure (which can be made orally or in writing) could disadvantage consumers who may then not understand the purpose of the information being collected, or their option not to provide it. Finally, eliminating the credit history reporting requirement regarding spouses with shared accounts would undermine the goal of affording both spouses the benefit of that shared credit history in seeking further credit.

The current record retention period of 25 months supports the need for sufficient time to bring enforcement actions regarding ECOA issues. If the retention period were shortened, applicants who sue under ECOA, and administrative agencies that enforce ECOA, might find that the records needed to prove ECOA violations no longer exist.

This information is not collected by the federal government. The burdens on respondents are the minimum necessary to comply with the statute, and to assist borrowers in obtaining information with respect to application decisions.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**

- **requiring the use of statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

The collections of information in these rules are consistent with the applicable guidelines contained in 5 CFR 1320.5(d)(2).

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection-of-information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

In accordance with 5 CFR §1320.8(d)(1), the Bureau has published a notice in Federal Register that provides the public 60 calendar days to comment on the extension of reporting requirements contained within OMB Control No. 3170-0013.¹ No comments were received.

Also, in accordance with 5 CFR §1320.5(a)(1)(iv), the Bureau has also published a notice in the Federal Register providing the public 30 days to comment on reporting requirements contained within this information collection request.²

9. Explain any decision to provide any payments or gifts to respondents, other than remuneration of contractors or grantees.

¹ 87 FR 31538 (published on 5/24/2022).

² 87 FR 49810 (published on 8/12/2022).

No payments or gifts are provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

Some recordkeeping requirements contain private information about credit applicants. Such information is protected by the Right to Financial Privacy Act, 12 U.S.C. 3401 et seq. There is no part Regulation B that mandates information collection by the Bureau, and this information is used exclusively to ensure compliance with ECOA, and that creditors are not discriminating against applicants.

To the extent that information covered by a recordkeeping requirement is “confidential information” pursuant to 12 CFR 1070.2(f), the confidentiality provisions of the Bureau’s rules on Disclosure of Records and Information, 12 CFR Part 1070, would apply.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

Sensitive information asked of applicants by creditors is either (for example) mandated for mortgage loan applications or optionally used for self-tests. The information collected is used to ensure compliance with ECOA, and that creditors are not discriminating against applicants.

12. Provide estimates of the hour burden of the collection of information.

Collection of Information	Number of Respondents	Frequency	Number of Responses	Response Time (Hours)	Burden (Hours)
Notice of Action 12 CFR 1002.9	472,000	180 ¹	84,732,500	0.0042	355,877
Furnishing of Credit Information 12 CFR 1002.10	136,000	424	57,614,000	0.0042	241,979
Record Retention 12 CFR 1002.12	472,000	180	84,732,500	0.0042	355,877
Information Collected for Monitoring Purposes	2,100	4,934	10,361,500	0.0167	173,037

¹ 179.52.

12 CFR 1002.13(a) & (b)					
Disclosure or Intent of Information Collected for Monitoring Purposes 12 CFR 1002.13(c)	2,100	4,934	10,361,500	0.0042	43,518
Copy of Appraisal 12 CFR 1002.14(a) (1) & (3)	2,100	4,934	10,361,500	0.0083	86,000
Disclosure of Self-Test Inquiries	1,900	396	752,500	0.0042	3,161
TOTAL	188,800		258,916,000		1,259,448

The Bureau and Federal Trade Commission (FTC) share enforcement authority for those non-depository institutions subject to the Bureau’s Regulation B. The Bureau assumes burden for half of all non-depository institutions (excluding the burden for motor vehicle dealers for which the FTC assumes burden). The Bureau estimates that there are about 460,000 non-depository institutions and about 55 percent of burden can be attributed to non-depository institutions. The Bureau estimates about 12,000 depository institutions and assumes the burden of 167 depository institutions with more than \$10 billion in assets. Approximately 188,800 of the total 472,000 potential respondents over whom the Bureau has purview.

To calculate labor costs, the Bureau applies a market rate of \$31 (the rounded hourly mean wage for loan officers in BLS).¹ Staff anticipates that the above requirements necessitate ongoing, regular training so that lenders stay current and have a clear understanding of federal mandates. This training would be a small portion of the ordinary training that employees receive apart from that associated with collecting information toward comply with Regulation B.

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

Many lenders generally have some necessary equipment for other business purposes. The additional one-time costs associated with coming into compliance with the proposed rule are detailed below. The Bureau believes that the cost of printing and copying needed to comply with Regulation B is minimal, as many disclosures can be sent electronically.

¹ Hourly rate labor costs are the median hourly wages from the Bureau of Labor and Statistics (BLS) for affected occupational groups. Occupational groups for the PRA burden of regulation G are defined as loan officers (<http://www.bls.gov/ooh/business-and-financial/loan-officers.htm#tab-5>) as of February 2019.

14. Provide estimates of the annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 into a single table.

As the Bureau does not collect any information under existing Regulation B, there are no costs to the Bureau associated with this information collection.

15. Explain the reasons for any program changes or adjustments.

The Bureau is making no program changes to this information collection. However, the Bureau is adjusting the burden estimate of OMB Control Number 3170-0013. Specifically, the number of responses increased from 86,666,000 to 258,916,000 (an increase of 198%). This increase is due entirely to a reexamination and re-estimation of response rates. There is also a small increase of the annual time burden from 1,220,992 to 1,259,448 (an increase of 3%). This is also due to reexamination of the same requirements with no program changes imposed.

ICR Summary of Burden					
	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Previously Approved
Annual Number of Responses	258,916,000	0	0	176,250,000	86,666,000
Annual Time Burden (Hours)	1,259,448	0	0	38,456	1,220,992
Annual Cost Burden (\$)	0	0	0	0	0

16. For collections of information whose results will be published, outline plans for tabulations, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

There are no plans to provide any publications based on the information collection of this regulation.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

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The OMB control number and expiration date associated with this Paperwork Reduction Act (PRA) submission will be displayed on the Federal government's electronic PRA docket at www.reginfo.gov, as well as on the relevant information collection instruments.

18. Explain each exception to the certification statement.

The Bureau certifies that this collection of information is consistent with the requirements of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3) and is not seeking an exemption to these certification requirements.