



## Banker's Compliance Consulting

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**NOTE: Due to the delay of the final regulations, we have changed the dates for the USA PATRIOT Act seminars. These seminars will be held in June 2003. Please see our Upcoming Events page for dates and locations.**

### ***Compliance News...***

#### ***Regulation B (Equal Credit Opportunity) makes some changes . . .***

Recently, the Federal Reserve Board approved a final rule amending Regulation B, which implements the Equal Credit Opportunity Act (ECOA). The final rule is effective April 15, 2003. However, to allow time for any necessary operational changes, the mandatory compliance date is April 15, 2004. Let's look at some of the changes:

##### SELF-TESTING

Probably the most significant change is now lenders may choose to collect government monitoring information (race, sex, etc) on non-mortgage loans in conjunction with a self-test. The key word here is "self-test." Prior to collecting the information, the bank must identify how the information will be used for a self-test of the ECOA. The idea is for a lender to undertake this self-test process for the purpose of creating an additional tool for measuring and improving their levels of compliance with the ECOA and Regulation B. The final rule provides that the self-test information collected will be privileged, meaning it will not be available to examiners or to applicants in a lawsuit against a lender involving an alleged ECOA or Regulation B violation. Lenders who gather this information must disclose to the applicants that providing the information is optional, it is being collected to monitor for compliance with the ECOA, it will not be used in making the credit decision and, when applicable, the information may be noted based on visual information or surname.

##### GOVERNMENT MONITORING INFORMATION

Another key change to the final rule requires when lenders collect government monitoring information (whether collecting for a self-test or for the usual Reg. B requirements), they must collect it in accordance with the new standards as set forth by the U.S. Office of Management and Budget (OMB) in regards to race and ethnicity. Changes include 5 racial designations, the option to choose more than one racial designation, a separate ethnicity option and the elimination of the "Other" option. Your bank's loan applications and short collection forms will need to be updated prior to April 15, 2004. Please see the following page, which shows the form titled, "Request for Information for Government Monitoring Purposes" for guidance on what the new form should look like.

##### JOINT CREDIT

Often creditors will treat the submission of joint financial statements as an application for joint credit. This practice is no longer allowed pursuant to the final rule. The rule now requires other evidence of intent to apply for joint credit rather than the mere submission of joint financial information. For example, getting the applicants' signatures or initials on a credit application affirming their intent to apply for joint credit is recommended. Please refer to page 3, which contains the first page of the model credit application form taken from Appendix B of the new Regulation B. At the top of the form, you will see that it has been revised to include a section for the applicants to initial which shows their intent to apply for joint credit. The regulation suggests that your applications include similar designations. Alternatively, you must find another way to designate individual vs. joint applications.

There are other minor revisions and clarifications in the final rule. To view the Federal Reserve Board's press release and final notice, go to the following website: <http://www.federalreserve.gov/boarddocs/press/bcreg/2003/20030305/>

# REQUEST FOR INFORMATION FOR GOVERNMENT MONITORING PURPOSES

Date: \_\_\_\_\_

Applicant's Name _____  Address _____  Date of Credit Application _____	(Lenders Name & Address)
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To The Applicant(s):

The following information is requested by the Federal Government for certain types of loans related to a dwelling in order to monitor the lender's compliance with equal credit opportunity, fair housing, and home mortgage disclosure laws. You are not required to furnish this information, but are encouraged to do so. You may select one or more designations for "Race." The law provides that a lender may neither discriminate on the basis of this information, or on whether you choose to furnish it. However, if you choose not to furnish the information and you have made this application in person, under Federal regulations this lender is required to note ethnicity, race, and sex on the basis of visual observation or surname. If you do not wish to furnish this information, please check below.

<b>APPLICANT</b>	<b>CO-APPLICANT</b>
<input type="checkbox"/> I do not wish to furnish this information  <b>ETHNICITY:</b> <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino  <b>RACE:</b> <input type="checkbox"/> American Indian, Alaskan Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White  <b>SEX</b> <input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> I do not wish to furnish this information  <b>ETHNICITY:</b> <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino  <b>RACE:</b> <input type="checkbox"/> American Indian, Alaskan Native <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White  <b>SEX</b> <input type="checkbox"/> Male <input type="checkbox"/> Female

Please return this form to the Lender at the address listed above.

CREDIT APPLICATION

IMPORTANT: Read these Directions before completing this Application.

- Check Appropriate Box
If you are applying for an individual account in your own name and are relying on your own income or assets and not the income or assets of another person as the basis for repayment of the credit requested, complete only Sections A and D.
If you are applying for a joint account or an account that you and another person will use, complete all Sections, providing information in B about the joint applicant or user.

We intend to apply for joint credit.
Applicant
Co-Applicant

- If you are applying for an individual account, but are relying on income from alimony, child support, or separate maintenance or on the income or assets of another person as the basis for repayment of the credit requested, complete all Sections to the extent possible, providing information in B about the person on whose alimony, support, or maintenance payments or income or assets you are relying.

SECTION A—INFORMATION REGARDING APPLICANT

Full Name (Last, First, Middle): Birthdate: / /
Present Street Address: Years there:
City: State: Zip: Telephone:
Social Security No.: Driver's License No.:
Previous Street Address: Years there:
City: State: Zip:
Present Employer: Years there: Telephone:
Position or title: Name of supervisor:
Employer's Address:
Previous Employer: Years there:
Previous Employer's Address:
Present net salary or commission: \$ per No. Dependents: Ages:

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.

Alimony, child support, separate maintenance received under: court order written agreement oral understanding

Other income: \$ per Source(s) of other income:

Is any income listed in this Section likely to be reduced in the next two years?
Yes (Explain in detail on a separate sheet.) No

Have you ever received credit from us? When? Office:

Checking Account No.: Institution and Branch:

Savings Account No.: Institution and Branch:

Name of nearest relative not living with you: Telephone:

Relationship: Address:

SECTION B—INFORMATION REGARDING JOINT APPLICANT, USER, OR OTHER PARTY (Use separate sheets if necessary.)

Full Name (Last, First, Middle): Birthdate: / /
Relationship to Applicant (if any):
Present Street Address: Years there:
City: State: Zip: Telephone:
Social Security No.: Driver's License No.:
Present Employer: Years there: Telephone:
Position or title: Name of supervisor:
Employer's Address:
Previous Employer: Years there:
Previous Employer's Address:
Present net salary or commission: \$ per No. Dependents: Ages:

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.

Alimony, child support, separate maintenance received under: court order written agreement oral understanding

Other income: \$ per Source(s) of other income:

Is any income listed in this Section likely to be reduced in the next two years?
Yes (Explain in detail on a separate sheet.) No

Checking Account No.: Institution and Branch:

Savings Account No.: Institution and Branch:

Name of nearest relative not living with Joint Applicant, User, or Other Party: Telephone:

Relationship: Address:

SECTION C—MARITAL STATUS

(Do not complete if this is an application for an individual account.)

- Applicant: Married Separated Unmarried (including single, divorced, and widowed)
Other Party: Married Separated Unmarried (including single, divorced, and widowed)



## **Banker's Compliance Consulting Q & A Forum...**

***Q: We are a large bank for CRA purposes and a HMDA reporting bank. Do we report applicable loans on both our HMDA and CRA data?***

A: No. The general rule would be if a loan is a HMDA reportable loan, it will not be a CRA reportable loan. This is to avoid double reporting. One exception exists; however, for a community development loan secured by multifamily real estate (5+). In this instance, the loan would be reported as both HMDA (purchase, improvement, refinance) and CRA.

***Q: We are wanting to change some of the terms on our open-end lines of credit. This includes overdraft protection and Home Equity Lines of Credit. Are we required to notify the customer of these changes?***

A: Yes and No. Regulation Z states, if you are changing a term required to be disclosed under Section 226.6 (which governs the initial note) or increasing a minimum periodic payment, the institution must provide fifteen days advance written notice prior to the effective date of the change. If the change is agreed to by the customer, or if the periodic rate or finance charge is increased due to default or delinquency, the consumer must still be notified in writing. However, the notice only needs to be provided some time prior to the effective date of the change.

***Q: Our bank is refinancing a 1<sup>st</sup> and 2<sup>nd</sup> lien secured by the borrower's home into one loan. Do we need to provide the right of rescission?***

A: Maybe. If both the notes to be refinanced are currently held by the bank and no new money (cash out) will be disbursed, then the right of rescission does not apply. However, if the loans are held by another lender or new money is being advanced, then right of rescission must be given.

## Upcoming Events...

Mark your calendars!



Don't miss these upcoming events...

## 2003 Banker's Compliance Consulting's Seminars

### USA PATRIOT Act (USAPA)

#### Customer Information Program

This seminar will focus on the Section 326 of the USA PATRIOT Act (USAPA). We will cover the requirements of the Customer Identification Program (CIP). This will include writing your policy, developmental procedures and recordkeeping procedures. You will know what constitutes acceptable documents and non-documentary verification. You will also receive a detailed analysis of each component of the CIP. We will provide examples of when this regulation applies and how to implement these procedures.

June 24

June 25

June 26

Grand Island, NE

Sioux Falls, SD

Omaha, NE

With Video Broadcast to:  
Norfolk & North Platte, NE

With Video Broadcast to:  
Rapid City, SD

### Advanced Compliance Seminar

#### Deposit Operations – Day 1

#### Lending – Days 2-3

This seminar will focus on the latest regulatory changes. "Hot Topics" will include the USA PATRIOT Act (CIP), HOEPA, HMDA and OFAC. It is designed to meet the needs of those involved in consumer compliance regulations and provides a higher-level instruction of compliance for the intermediate to experienced compliance officer or others responsible for managing the compliance duties. We will provide examples of when a regulation applies, what disclosures are needed and the timing requirements.

April 22, 23, 24

Denver, CO

Radisson Graystone Castle

83 E 120th Avenue

E-mail us at [consultants@bankerscompliance.com](mailto:consultants@bankerscompliance.com) for additional information or to register for upcoming seminars.

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