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FEDERAL DEPOSIT INSURANCE CORPORATION

5 CFR Part 3202

RINs 3064–AA07, 3209–AA16

Supplemental Financial Disclosure Requirements for Employees of the Federal Deposit Insurance Corporation

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation, with the concurrence of the Office of Government Ethics (OGE), is removing an interim supplemental financial disclosure regulation for FDIC employees, that has supplemented the OGE executive branch wide financial disclosure regulation, 5 CFR part 2634. In light of the OGE determination that agencies that obtain written approval from OGE for supplemental financial disclosure forms are not required to have supplemental financial disclosure regulations, the FDIC has determined that its supplemental financial disclosure regulation is no longer needed. This is consistent with the goals of the FDIC's regulation review project on eliminating unnecessary regulations pursuant to Section 303 (a) of the Riegle Community Development and Regulatory Improvement Act of 1994. The substance of the eliminated regulation will be continued in the FDIC internal written procedure that existed before the part 3202 regulation was established.

EFFECTIVE DATE: October 30, 1996.

FOR FURTHER INFORMATION CONTACT: Richard M. Handy, Assistant Executive Secretary (Ethics), Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429; telephone: (202) 898–7271.

SUPPLEMENTARY INFORMATION: On July 26, 1993, the FDIC, with the concurrence of OGE, published an interim rule on supplemental financial disclosure requirements for FDIC employees, with a 60-day public comment period. 58 FR 39625–39628. No comments were received in response to the 1993 publication.

The FDIC's interim supplemental financial disclosure regulation, which has been codified at 5 CFR part 3202, has supplemented OGE's Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture regulation, which is codified at 5 CFR part 2634. Section 3202.101 describes financial disclosure reports filing requirements, their custody and confidentiality. Section 3202.102 describes the printing of confidential financial disclosure forms in three parts with an FDIC identification number. Section 3202.103 describes confidential reports of employee interest in FDIC-insured depository institutions. Section 3202.104 describes confidential reports of employee indebtedness. Section 3202.105 describes confidential statements of employee credit card obligation in insured state nonmember banks.

At the time that the FDIC's part 3202 regulation was established in 1993, it was thought that a regulation would be necessary in order to allow the FDIC to continue to use the supplemental financial disclosure forms that it had previously used in connection with the disclosures discussed above. Since then, OGE has determined that agencies that obtain written approval from OGE for their supplemental forms are not required to have supplemental financial disclosure regulations. This is consistent with the goals of the FDIC's regulation review project on eliminating unnecessary regulations pursuant to Section 303 (a) of the Riegle Community Development and Regulatory Improvement Act of 1994. The FDIC will continue the substance of the part 3202 regulation in its pre-existing internal written procedures, with appropriate updating revisions, once the regulation is eliminated. Reliance on the internal written procedures alone will allow the FDIC to adapt its disclosure requirements more easily to organizational changes that periodically occur than if the regulation remains in place. The FDIC previously obtained OGE's approval of its supplemental forms which are incorporated into the FDIC's internal written procedures. Therefore, with OGE concurrence, the FDIC has determined that it is appropriate to remove its part 3202 regulation.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553 (a) (2) and (b), the FDIC Board of Directors has found that good cause exists for waiving the regular notice of proposed rulemaking as to this final rule removal action. This action is being taken because it is in the public interest that the part 3202 regulation which concerns matters of agency organization, practice and procedure be removed. The regulation is not needed at this time because the matters in the regulation are covered adequately by internal written FDIC procedures, as approved in pertinent part by the OGE.

Regulatory Flexibility Act

Because no general notice of proposed rulemaking was published prior to this final rule, the requirements of the Regulatory Flexibility Act for an initial and final regulatory flexibility analysis do not apply (5 U.S.C. 601(2)).

Paperwork Reduction Act

This final rule removal action does not contain any information collections as defined by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). Therefore, no material has been submitted to the Office of Management and Budget.

List of Subjects in 5 CFR Part 3202

Administrative practice and procedure, Conflict of interests, Financial disclosure, Government employees, Privacy, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, and in accordance with its authority under 5 U.S.C. 7301 and 5 CFR 2634.103, the Board of Directors of the Federal Deposit Insurance Corporation, with the concurrence of the Office of Government Ethics, is amending chapter XXII of title 5 of the Code of Federal Regulations as follows:

PART 3202—[REMOVED]

1. Part 3202 is removed.

By Order of the Board of Directors.

Dated at Washington, D.C. this 10th day of September, 1996.

Jerry L. Langley,

Executive Secretary.

Concurred in this 23d day of September, 1996.

Stephen D. Potts,

Director, Office of Government Ethics.

[FR Doc. 96–25009 Filed 9–27–96; 8:45 am]

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FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Regulation B; Docket No. R–0910]

Equal Credit Opportunity

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; official staff interpretation.

SUMMARY: The Board is revising its official staff commentary to Regulation B (Equal Credit Opportunity). The commentary applies and interprets the requirements of Regulation B and substitutes for individual staff interpretations. The revisions to the commentary provide guidance on issues that the Board has been asked to clarify, including credit scoring and spousal signature rules.

DATES: *Effective date.* September 30, 1996.

Compliance date. Compliance is optional until October 31, 1996.

FOR FURTHER INFORMATION CONTACT: Jane Jensen Gell, Sheilah A. Goodman, or Natalie E. Taylor, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or 452–2412. For users of the Telecommunications Device for the Deaf, contact Dorothea Thompson at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

I. Background

The Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1691–1691f, makes it unlawful for creditors to discriminate in any aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, or age (provided the applicant has the capacity to contract), because all or part of an applicant's income derives from public assistance, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. This statute is implemented by the Board's Regulation B (12 CFR Part 202). The Board also has an official staff commentary (12 CFR Part 202 (Supp. I)) that interprets the regulation. The commentary provides general guidance to creditors in applying Regulation B to various credit transactions, and is updated periodically to address significant questions that arise.

II. Summary of Revisions to the Commentary

In December 1995 (60 FR 67097, December 28, 1995), the Board proposed amendments to the staff commentary to Regulation B. The Board received approximately 70 comments on the proposal. The majority of the comments were from financial institutions and their attorneys. Overall, commenters generally favored the proposed amendments, although they raised a number of technical issues. Opposition to the proposal mostly addressed the comment pertaining to the use of age scorecards. After reviewing the comment letters, and upon further analysis, the Board has modified its interpretation regarding scorecards and some other portions of the update, as discussed below.

Section 202.2—Definitions

2(p) Empirically Derived and Other Credit Scoring Systems

Comment 2(p)–2, as proposed, clarified that the performance of a credit scoring system should be monitored to ensure its predictive ability. Commenters were concerned that, by use of the term ''monitor,'' the proposal required a continuous analysis, which would be costly and disruptive to their operations. The comment, as adopted, provides that creditors must periodically review their systems to ensure predictive ability, but are not required to review their systems on a continuous basis. The Board believes the required frequency depends upon a variety of factors such as changes in the local economy, and shifts in the lender's customer base. However, creditors must review their systems when evidence suggests that the systems are no longer predicting risk as intended.

Commenters also asked the Board to clarify the responsibility for revalidation if the creditor did not develop the system. A creditor is responsible for any system that it uses, including its revalidation, but may use a third party to perform the revalidation. In accordance with section 202.2(p)(2), if the system is developed using borrowed credit experience, the initial validation and any subsequent revalidation must be based on the creditor's own data when it becomes available.

Section 202.5—Rules Concerning Taking of Applications

5(e) Written Applications

Comment 5(e)–3 is adopted as proposed.

Section 202.6—Rules Concerning Evaluation of Applications

6(b) Specific Rules Concerning Use of Information

6(b)(2)

Comment 6(b)(2)–2 is revised to address the use of age in a credit scoring system. Under the ECOA and Regulation B, if a creditor chooses to consider age by assigning a value to an applicant's age, the age of elderly applicants must not be assigned a negative value. Thus, a credit scoring system must ensure that the age of applicants 62 or older is assigned a factor, value, or weight that is at least as favorable as the factor, value, or weight assigned to the age of any other class of applicants.

Proposed Commentary

In December 1995, the Board proposed adding a comment which specified that, in an age-based scorecard system, creditors could satisfy the requirement of not assigning a negative factor or value by scoring an elderly applicant under the applicable scorecard and, if the applicant did not qualify, by rescoring the applicant under scorecards for other age-based groups. The proposal was consistent with informal opinions given by the Board's staff regarding the need for creditors using age scorecards to comply with the ''negative factor or value'' limitation established by the ECOA.

Commenters raised numerous questions about the Board's proposal. For example, some commenters noted that the regulation addresses the treatment of the elderly as a class in a credit scoring system, rather than the treatment of a single elderly applicant who is declined under the applicable scorecard but might be approved when rescored under a card developed for another age class. Other commenters expressed concern that rescoring an elderly applicant on models that were not developed using data for elderly persons would invalidate an otherwise ''empirically derived, demonstrably and statistically sound'' credit scoring system. Some commenters noted that implementing the proposed requirement would be costly because of the systems and procedural changes that would be required, and that increased costs would not be balanced by commensurate benefits to the elderly. Numerous commenters believed the proposed