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<PREAMB>

<AGENCY TYPE='S'>CONSUMER FINANCIAL PROTECTION
BUREAU
<CFR>12 CFR Part 1002
<DEPDOC>[Docket No. CFPB–2025–0039]
<RIN>RIN 3170–AB54
<SUBJECT>Equal Credit Opportunity Act
(Regulation B)

<HD2>Correction

In proposed rule document 2025-19864, appearing on pages 50901 - 50923 in the issue of Thursday, November 13, 2025, make the following correction to conform with the rule document as it was submitted by the Bureau on November 7, 2025:

The regulatory text beginning on page 50920, in the third column, in the 3rd line, should read as follows:

<LSTSUB><HED>List of Subjects in

12 CFR Part 1002.

Banks, banking, Civil rights, Consumer protection, Credit, Credit unions, Marital status discrimination, National banks, Penalties, Religious discrimination, Reporting and recordkeeping requirements, Savings associations, Sex discrimination.</LSTSUB>

<HD1>Authority and Issuance

For the reasons set forth in the preamble, the Bureau proposes to amend Regulation B, 12 CFR part 1002, as set forth below:

<PART><HED>PART 1002—EQUAL CREDIT OPPORTUNITY ACT (REGULATION B)
<AMDPAR>1. The authority citation for part 1002 continues to read as follows:

<AUTH><HED>Authority: <P>12 U.S.C. 5512, 5581; 15 U.S.C. 1691b. Subpart B is also issued under 15 U.S.C. 1691c-2.

<SUBPART><HED>SUBPART A—GENERAL

<REGTEXT TITLE=' 12 ' PART=' 1002 '><AMDPAR>2. Amend § 1002.4 by revising paragraph (b) to read as follows:

<SECTION><SECTNO>§ 1002.4 <SUBJECT>General rules.

* * * * *

(b) Discouragement. A creditor shall not make any oral or written statement, in advertising or otherwise, directed at applicants or prospective applicants that the creditor knows or should know would cause a reasonable person to believe that the creditor would deny, or would grant on less favorable terms, a credit application by the applicant or prospective applicant

because of the applicant or prospective applicant's prohibited basis characteristic(s). For purposes of this paragraph (b), oral or written statements are spoken or written words, or visual images such as symbols, photographs, or videos.

* * * * *

<AMDPAR>3. Amend § 1002.6 by revising paragraph (a) to read as follows:

<SECTION><SECTNO>§ 1002.6 <SUBJECT>Rules concerning evaluation of applications.

(a) General rule concerning use of information. Except as otherwise provided in the Act and this part, a creditor may consider any information obtained, so long as the information is not used to discriminate against an applicant on a prohibited basis. The Act does not provide that the "effects test" applies for determining whether there is discrimination in violation of the Act.

* * * * *

<AMDPAR>4. In § 1002.8, revise paragraphs (a)(3)(i) and (ii), the heading of paragraph (b), and paragraphs (b)(2) and (c), and add paragraphs (b)(3) and (4), to read as follows:

<SECTION><SECTNO>§ 1002.8 <SUBJECT>Special purpose credit programs.

(a) * * *

(3) * * *

(i) * * *

(A) Identifies the class of persons that the program is designed to benefit;

(B) Sets forth the procedures and standards for extending credit pursuant to the program;

(C) Provides evidence of the need for the program;

(D) Explains why, under the organization's standards of creditworthiness, the class of persons would not receive such credit in the absence of the program; and

(E) When the persons in the class are required to share one or more common characteristics that would otherwise be a prohibited basis, explains why meeting the special social needs addressed by the program:

(1) Necessitates that its participants share the specific common characteristics that would otherwise be a prohibited basis; and

(2) Cannot be accomplished through a program that does not use otherwise prohibited bases as participant eligibility criteria; and

(ii) The program is established and administered to extend credit to a class of persons who, under the organization's standards of creditworthiness, would not receive such credit.

(b) Controlling provisions—

* * * * *

(2) Common characteristics. A program described in paragraphs (a)(2) or (a)(3) of this section qualifies as a special purpose credit program only if it was established and is administered so as not to discriminate against an applicant on any prohibited basis; however, except as provided in paragraphs (b)(3) and (b)(4) of this section, all program participants may be required to share one or more common characteristics that would otherwise be a prohibited basis so long as the program was not established and is not administered with the purpose of evading the requirements of the Act or this part.

(3) Prohibited common characteristics. A special purpose credit program described in paragraph (a)(3) of this section shall not use the race, color, national origin, or sex, or any combination thereof, of the applicant, as a common characteristic or factor in determining eligibility for the program.

(4) Otherwise prohibited bases in for-profit programs. Subject to paragraph (b)(3) of this section, a special purpose credit program described in paragraph (a)(3) of this section may require its participants to share one or more common characteristics that would otherwise be a prohibited basis only if the for-profit organization provides evidence for each participant who receives credit through the program that in the absence of the program the participant would not receive such credit as a result of those specific characteristics.

(c) Special rule concerning requests and use of information. If participants in a special purpose credit program described in paragraph (a) of this section are required to possess one or more common characteristics that would otherwise be a prohibited basis and if the program otherwise satisfies the requirements of paragraphs (a) and (b) of this section, a creditor may request and consider information regarding the common characteristic(s) in determining the applicant's eligibility for the program.

* * * * *

<AMDPAR>5. Amend § 1002.15 by revising paragraph (d)(1)(ii) to read as follows:

<SECTION><SECTNO>§ 1002.15 <SUBJECT> Incentives for self-testing and self-correction.

(d) * * *

(1) * * *

(ii) By a government agency or an applicant in any proceeding or civil action in which a violation of the Act or this part is alleged.

* * * * *

<AMDPAR>6. In Supplement I to part 1002:

<AMDPAR>a. Under Section 1002.2—Definitions, revise Paragraph 2(p)(4), including the heading.

<AMDPAR>b. Under Section 1002.4—General Rules, revise Paragraph 4(b), including the heading.

<AMDPAR>c. Under Section 1002.6—Rules Concerning Evaluation of Applications, revise 6(a)—General rule concerning use of information, by revising Paragraph (6)(a)(2).

<AMDPAR>

d. Under Section 1002.8—Special Purpose Credit Programs, revise 8(a)—Standards for programs by revising Paragraph (8)(a)(5), revise 8(b)—Rules in other sections by revising the heading and adding Paragraph (8)(b)(2), revise 8(c)—Special rule concerning requests and use of information by revising Paragraph (8)(c)(2).

The revisions and additions read as follows:

Supplement I to Part 1002—Official Interpretations

* * * * *

Section 1002.2—Definitions

* * * * *

2(p) Empirically derived and other credit scoring systems.

* * * * *4. Disparate treatment. An empirically derived, demonstrably and statistically sound, credit scoring system may include age as a predictive factor (provided that the age of an elderly applicant is not assigned a negative factor or value). Besides age, no other prohibited basis may be used as a variable. Generally, credit scoring systems treat all applicants objectively and thus avoid problems of disparate treatment. In cases where a credit scoring system is used in conjunction with individual discretion, disparate treatment could conceivably occur in the evaluation process.

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Section 1002.4—General Rules

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Paragraph 4(b).

1. Discouragement. Generally, the regulation's protections apply only to persons who have requested or received an extension of credit. In keeping with the purpose of the Act—to promote the availability of credit on a nondiscriminatory basis—§ 1002.4(b) prohibits creditors from making oral or written statements directed at applicants or prospective applicants that the creditor knows or should know would cause a reasonable person to believe that the creditor would deny their credit application, or would grant it on less favorable terms, because of their prohibited basis characteristic(s). For purposes of § 1002.4(b), encouraging statements directed at one group of consumers cannot discourage other consumers who were not the intended recipients of the statements.

i. Statements prohibited by § 1002.4(b) include:

A. A statement that the applicant should not bother to apply, after the applicant states that he is retired.

B. Statements directed at the general public that express a discriminatory preference or a policy of exclusion against consumers based on one or more prohibited basis characteristics in violation of the Act.

C. The use of interview scripts that discourage applications on a prohibited basis.

ii. Statements not prohibited by § 1002.4(b) include:

A. Statements directed at one group of consumers, encouraging that group of consumers to apply for credit.

B. Statements in support of local law enforcement.

C. Statements recommending that, before buying a home in a particular neighborhood, consumers investigate, for example, the neighborhood's schools, its proximity to grocery stores, and its crime statistics.

D. Statements encouraging consumers to seek out resources to develop their financial literacy.

* * * * *

Section 1002.6—Rules Concerning Evaluation of Applications

6(a) General rule concerning use of information. 1. General. When evaluating an application for credit, a creditor generally may consider any information obtained. However, a creditor may not consider in its evaluation of creditworthiness any information that it is barred by § 1002.5 from obtaining or from using for any purpose other than to conduct a self-test under § 1002.15.

2. Disparate treatment. The Act prohibits practices that discriminate on a prohibited basis regarding any aspect of a credit transaction. The Act does not provide for the prohibition of practices that are facially neutral as to prohibited bases, except to the extent that facially neutral criteria function as proxies for protected characteristics designed or applied with the intention of advantaging or disadvantaging individuals based on protected characteristics.

* * * * *

Section 1002.8—Special Purpose Credit Programs

8(a) Standards for programs.

1. Determining qualified programs. The Bureau does not determine whether individual programs qualify for special purpose credit status, or whether a particular program benefits an "economically disadvantaged class of persons." The agency or creditor administering or offering the loan program must make these decisions regarding the status of its program.

2. Compliance with a program authorized by Federal or state law. A creditor does not violate Regulation B when it complies in good faith with a regulation promulgated by a government agency implementing a special purpose credit program under § 1002.8(a)(1). It is the agency's responsibility to promulgate a regulation that is consistent with Federal and state law.

3. Expressly authorized. Credit programs authorized by Federal or state law include programs offered pursuant to Federal, state, or local statute, regulation or ordinance, or pursuant to judicial or administrative order.

4. Creditor liability. A refusal to grant credit to an applicant is not a violation of the Act or regulation if the applicant does not meet the eligibility requirements under a special purpose credit program.

5. Determining need. In designing a special purpose credit program under § 1002.8(a)(3), a for-profit organization must determine that the program will benefit a class of people who would otherwise be denied credit. This determination can be based on a broad analysis using the organization's own research or data from outside sources, including governmental reports and studies. For example, a creditor might design new products to reach consumers who would not meet its traditional standards of creditworthiness due to such factors as credit inexperience or the use of credit sources that may not report to consumer reporting agencies. Or, a bank could review Home Mortgage Disclosure Act data along with demographic data for its assessment area.

6. Elements of the program. The written plan must contain information that supports the need for the particular program. The plan also must either state a specific period of time for which the program will last, or contain a statement regarding when the program will be reevaluated to determine if there is a continuing need for it.

8(b) Controlling provisions.

1. Applicability of rules. A creditor that rejects an application because the applicant does not meet the eligibility requirements (common characteristic or financial need, for example) must nevertheless notify the applicant of action taken as required by § 1002.9.

2. Use of common characteristics. Section 1002.8(b)(2) permits a creditor to determine eligibility for a special purpose credit program using one or more common characteristics that would otherwise be a prohibited basis only so long as that section's requirements, the requirements of § 1002.8(b)(3) and (4), and the other requirements of this part are satisfied. Under § 1002.8(b)(2), once the characteristics of the program's class of participants are established, the creditor is prohibited from discriminating among potential participants on a prohibited basis.

8(c) Special rule concerning requests and use of information.

1. Request of prohibited basis information. This section permits a creditor to request and consider certain information that would otherwise be prohibited by §§ 1002.5 and 1002.6 to determine an applicant's eligibility for a particular program.

2. Example. An example of a program under which the creditor can ask for and consider information about a prohibited basis is an energy conservation program to assist the elderly, for which the creditor must consider the applicant's age.