The Equal Credit Opportunity Act (ECOA) has two important features. First, it sets out a general rule that creditors cannot discriminate in any way against any applicant in any stage of a credit transaction on any of the following bases:

- Race;
- Color;
- Religion;
- National origin;
- Sex;
- Marital status;
- Age (provided the applicant is old enough to contract);
- Receipt of public assistance income; and
- Exercise of rights under the Consumer Credit Protection Act.\(^\text{15}\)

Second, the ECOA’s Regulation B sets out various procedural requirements that creditors must follow.\(^\text{16}\) These procedural requirements are intended to implement the Act’s prohibitions against discrimination.\(^\text{17}\) Restrictions include factors that may not be considered in determining creditworthiness, when an existing account may be closed, and ways in which information concerning spouses may be reported to credit reporting agencies. They limit what information can be sought in the application process, and they place restrictions on when a spouse can be required to co-sign an application. They provide for a required notice when action is taken on an application and a required notice as to an applicant’s right to a copy of any appraisal of the value of the applicant’s home.

Both the general rule against discrimination and the procedural requirements have a broad scope (with certain itemized exceptions).\(^\text{18}\) Any individual applying for credit or obligated to pay on a loan may bring an action against any creditor. Creditor is defined broadly to include those arranging and participating in loans. The ECOA applies not only to transactions involving multiple installments and to those involving a finance charge but to some simple deferrals of payment. The ECOA also applies not just to consumer credit but to business credit as well. Exceptions narrow the procedural requirements that apply to incidental consumer credit, utility credit, business credit, and securities credit.

ECOA remedies are actual damages, punitive damages (up to a maximum of $10,000 in an individual action), equitable relief, and attorney fees.\(^\text{19}\) Actions may be brought in federal or state court and may be brought on an individual or class basis.\(^\text{20}\) Creditor defenses are limited.\(^\text{21}\) Various federal agencies also have enforcement authority over ECOA violations.\(^\text{22}\)

Footnotes


16 See generally Chs. 5 [1], 6 [2], 9 [3], 10 [4], infra.


18 See § 2.2 [5], infra.

19 See § 11.8 [6], infra.

20 See § 11.5 [7], infra.
21 See § 11.9 [8], infra.

22 See Ch. 12 [9], infra.

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