

## Adverse Action Notifications – Examiner Insights

Outlook Live Webinar – July 17, 2025

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## Webinar Overview

- This presentation will review the adverse action requirements of both the Equal Credit Opportunity Act (ECOA) and the Fair Credit Reporting Act (FCRA) and how these two laws
  - serve different purposes,
  - define adverse action,
  - are triggered (or require adverse action notices),
  - indicate who must receive the notice and when they must receive it,
  - state what content must be included in the notice, and
  - address special circumstances
- Review Common Violations
- Review Sound Practices
- Review Scenarios

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## Purpose of Adverse Action Notices

### Regulation B (Consumer and Business)

- Provide transparency to consumers and businesses regarding the underwriting process
- Protect against potential credit discrimination by requiring creditors to explain the reasons adverse action was taken

### FCRA (Consumer)

- Alert consumers that negative information was the basis for the adverse action

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## How is Adverse Action Defined?

### Regulation B (1002.2(c)(1)) (Consumer and Business)

- A refusal to grant credit in substantially the amount or on substantially the terms requested in an application (unless applicant accepts counteroffer);
- A termination of an account or an unfavorable change in the terms that does not affect all or substantially all of a class of the creditor's accounts; or
- A refusal to increase the amount of credit available to an applicant who has made an application for an increase

### FCRA (603(k)) (Consumer)

- For credit, FCRA incorporates Regulation B's definition
- But the FCRA definition also includes:
  - Denial of, or unfavorable changes to, a consumer's insurance policy
  - Denial of employment or other decisions adversely affecting current or prospective employees
  - Denial or other adverse changes to government license or benefit; and
  - Decisions adverse to a consumer's interest during account review or in response to a consumer-initiated transaction

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## What Triggers the Requirement for Adverse Action Notices?

### Regulation B (1002.9(a)(1)) (Consumer and Business)

- A creditor must provide notice if it has:
- Taken adverse action on a completed credit application;
  - Taken adverse action on an incomplete credit application;
  - Taken adverse action on an existing credit account; or
  - Made a counteroffer to an application for credit and the applicant does not accept the counteroffer

### FCRA (615(a)) (Consumer)

- For an FCRA adverse action, a person must provide notice if:
- Adverse action was taken based in whole or in part on information in a consumer report;
  - Consumer credit is denied or a charge for credit increased based on information obtained from third parties other than consumer reporting agencies; or
  - Adverse action was taken based on information furnished by a corporate affiliate of the person taking the action

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## When Are Adverse Action Notices Not Required?

### Regulation B (Consumer and Business)

- A creditor need not provide notice if:
- The transaction does not involve credit;
  - A credit applicant accepts a counteroffer;
  - A credit applicant expressly withdraws an application; or
  - The creditor approves a credit application, and both parties expect that the applicant will inquire about its status, but the applicant does not inquire within 30 days after application (approved application treated as withdrawn)

### FCRA (Consumer)

FCRA does not provide specific guidance on this

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## Who Must Receive Adverse Action Notices?

### Regulation B (1002.9(a)(1)) (Consumer and Business)

- Any applicant, including:
- Individuals applying for credit;
  - Businesses of all sizes; and
  - any person liable or who will become liable for the debt such as a co-applicant

Note: Guarantors are not "applicants" under Regulation B's definition of applicant. See § 1002.2(e); 76 FR 41590, [41597](https://www.federalreserve.gov/monetarypolicy/pr41590.htm) (July 15, 2011)

### FCRA (603(c)) (Consumer)

Any consumer defined as an individual, including co-applicants

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## Adverse Action Notices With Multiple Applicants?

### Regulation B (1002.9(f)) (Consumer and Business)

- Under Regulation B, if multiple applicants submit an application, creditors need only give notice to the primary applicant, if the primary applicant is readily apparent

### FCRA (Consumer)

- If multiple applicants submit an application, creditor must provide notice to all consumers against whom adverse action is taken, if action taken based on information in a consumer report
- If the applicants' credit scores were used in taking adverse action, each individual should receive a separate adverse action notice with the credit score and related disclosures associated with their individual consumer report
- An applicant should not receive credit score information about a co-applicant

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## Timing Requirements for Adverse Action Notices (Consumer)

### Regulation B (1002.9(a)(1))

For consumers, creditors must notify the applicant of adverse action within:

- 30 days after receiving a complete credit application;
- 30 days after receiving an incomplete credit application;
- 30 days after taking adverse action on an existing credit account; or
- 90 days after making a counteroffer to an application for credit if the applicant does not accept the counteroffer

### FCRA

- The FCRA does not have specific timing requirements for adverse action notices

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## Timing Requirements for Adverse Action Notices (Business)

### Regulation B (1002.9(a)(3))

- For businesses with gross annual revenues of \$1 million or less, ECOA requires notice be provided according to the same timing requirements applicable to consumers (see previous slide)
- For businesses with gross annual revenues greater than \$1 million, ECOA requires only that a creditor provide notice within a reasonable time

### FCRA

FCRA notices are not required for business applicants

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## Content Requirements for Adverse Action Notices Regulation B (Consumer) – 1002.9(a)(2)

- Consumer Applicants – Creditors must provide the adverse action notice in writing, which must include:
  - The creditor's name and address;
  - An ECOA antidiscrimination notice (ECOA notice) substantially similar to the one in 1002.9(b)(1);
  - The name and address of the creditor's primary regulator (Appendix A);
  - A statement of action taken by the creditor; and
  - Either a statement of the specific reasons for the action taken or a disclosure of the applicant's right to a statement of specific reasons and the name, address, and telephone number of the person or office from which this information can be obtained

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## Content Requirements for Adverse Action Notices Regulation B (Business)

- Business Applicants with gross annual revenues of \$1 million or less:
  - Option One: Follow the requirements for consumer applicants; or
  - Option Two (1002.9(a)(3)(i)(B)):
- At application, provide the applicant with a written disclosure that
  - Describes the right to receive written reasons (1002.9(a)(2)(iii)) for the denial within 30 days if requested within 60 days of the creditor's notification of action taken;
  - Provides the name, address, and telephone number of the person or office from which the statement of reasons can be obtained; and
  - Includes the ECOA notice
- When adverse action is taken, provide notice of the action either orally or in writing

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## Content Requirements for Adverse Action Notices Regulation B (Business) (continued)

- Business Applicants with gross annual revenues over \$1 million:
  - Option One: Follow the requirements for consumer applicants;
  - Option Two: Follow the requirements for business applicants with gross annual revenue of \$1 million or less; or
  - Option Three (1002.9(a)(3)(ii)):
- When adverse action is taken, provide oral or written notice of the action taken within a reasonable time of the action taken; and
- If the applicant makes a written request for denial reasons within 60 days of the creditor's notification, provide (1) a written statement of the reasons for adverse action and (2) the ECOA notice

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## Common Violation – Specific Reasons

- Common Violations
  - Statement of specific reasons for action taken (Regulation B)
    - Failure to provide accurate reasons
    - Ambiguous reasons
- Sound Practices
  - Implement appropriate policies and procedures, with sufficient detail to ensure adequate documentation of reasons for denial in making credit decisions
  - Ensure that updates for automated disclosure systems are received, tested, and correctly implemented
  - Develop and implement a strong training program, both for current regulations and any recent changes
  - Implement controls such as secondary review of all adverse action notices, a consistent process for delivering a combined adverse action notice to all consumer applicants, and regular and ongoing tracking of application status

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## Content Requirements for Adverse Action Notices FCRA (Consumer)

- Section 615(a) notice – adverse action based on information in a consumer report (FCRA adverse actions are not limited to credit)
  - Credit score disclosures if the credit score was a factor in taking adverse action
- Section 615(b)(1) notice – consumer credit denied or a charge for credit increased based on information obtained from third parties other than consumer reporting agencies
- Section 615(b)(2) notice – taking adverse action based on information obtained from an affiliate

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## Content Requirements for Adverse Action Notices FCRA (Consumer) (continued)

Adverse action notice based on information in a consumer report must include the following 615(a):

- Notice that adverse action was taken based on information obtained from a consumer reporting agency (CRA)
- A statement that the CRA did not make the credit decision and is unable to provide to the consumer the specific reasons why the adverse action was taken
- The consumer's right to:
  - Obtain a free copy of his or her consumer report from the CRA providing the information, if requested w/in 60 days
  - To dispute the accuracy or completeness of any information in a consumer report furnished by the CRA
- The name, address, and telephone number of CRA that furnished the report
- Credit score disclosures if the credit score was a factor in taking adverse action

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## FCRA Credit Score Disclosure (615(a))

- When creditor uses a credit score when taking adverse action, FCRA requires the following disclosures as part of the adverse action notice in addition to those identified on prior slide:
    - The consumer's numerical credit score used by the person in taking adverse action;
    - The range of possible credit scores;
    - All the key factors that adversely affected the credit score;
    - The date on which the credit score was created; and
    - The name of the person or entity providing the credit score or the information upon which score was created
- \*The FCRA credit score disclosure requirements also apply to non-credit transactions when adverse action is taken based in whole or in part on a credit score. See § 615(a)(2)(A); 76 FR 41590, [41597](#) (July 5, 2011)

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## Common Violations – FCRA Credit Score

- Common Violations
  - Failure to disclose credit score information (FCRA)
    - Narrow interpretation of credit score impact on adverse action
    - Limiting use of disclosure to only cases when a minimum credit score was established
- Sound Practices
  - Implement appropriate policies and procedures, with sufficient detail to ensure consistent use of credit scores are used in making credit decisions
  - Ensure that updates for automated disclosure systems are received, tested, and correctly implemented
  - Develop and implement a strong training program, both for current regulations and any recent changes
  - Implement controls such as secondary review of all adverse action notices, a consistent process for delivering a combined adverse action notice to all consumer applicants, and regular and ongoing tracking of application status

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## Special Circumstances – Counteroffers

- Regulation B imposes two notice requirements for counteroffers:
  - The creditor must send a notice with the terms of the counteroffer within 30 days after receiving a completed application ([1002.9\(a\)\(1\)\(i\)](#))
  - The creditor must send an adverse action notice for the counteroffer, if the applicant does not expressly accept or use the credit offered within 90 days of the initial counteroffer notice ([1002.9\(a\)\(1\)\(iv\)](#))
- Creditor may combine the adverse action notice for the original application along with the counteroffer, provided the combined notice is sent within 30 days after receiving the completed application (Sample Form C-4 in [Appendix C](#))

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## Special Circumstances – Incomplete Applications

- When a creditor receives an application that lacks sufficient information for a credit decision, the creditor has two options:
  - Deny the incomplete application within 30 days of receiving it and provide an adverse action notice specifying that an incomplete application is the reason for denial ([1002.9\(c\)\(1\)\(i\)](#))
  - Provide a notice of incompleteness within 30 days of receiving it, which must meet certain requirements ([1002.9\(c\)\(1\)\(iii\)](#))
    - Provides a [written notice](#) to applicant specifying information needed;
    - Designates a reasonable period of time to provide information; and
    - Informs applicant that application will not be further considered if requested information is not provided

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## Applicant's Response to Notice of Incompleteness

### Applicant's Response

Applicant provides information within designated time period



### Creditor's Obligation

Creditor must reevaluate application and, if denied, provide an adverse action notice within 30 days, including specific reasons for action taken or disclose that applicant has the right to request the reasons

Applicant provides information after specified deadline



Creditor may process application or require that applicant submit a new one

Applicant fails to respond to notice of incompleteness within specified time



No further notice obligations. The compliance obligations for the notice of incompleteness are satisfied; however, the record retention requirements in [1002.12\(b\)\(1\)](#) still apply

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## Common Violations – Incomplete Applications

### Common Violations

- Failure to provide timely notice for incomplete applications (Regulation B)
  - Application not identified as incomplete
  - Applicant not provided either 1) standard adverse action notice or 2) notice of incompleteness

### Sound Practices

- Develop and implement a strong training program
- Regular and ongoing tracking of application status, including counteroffers, e.g., through appropriately detailed pipeline reports

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## Special Circumstances – Inquiries & Prequalifications

- Whether an **inquiry** or **prequalification** request becomes an application depends on how the creditor responds to the consumer, not on what the consumer says or asks
- Regulation B (comment 2(f)-3) clarifies when an inquiry or prequalification becomes an application: "if in giving information to the consumer the creditor also evaluates information about the consumer, decides to decline the request, and communicates this to the consumer, the creditor has treated the inquiry or prequalification request as an application"

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## Special Circumstances - Preapprovals

- Regulation B ([comment 2\(f\)-5](#)) clarifies that certain preapproval programs are applications. For example, it would be deemed a preapproval where an applicant asks for a preapproval of a loan and the creditor has a program where after a comprehensive analysis of creditworthiness
  - 1) issues a written commitment;
  - 2) that is valid for a designated period of time
  - 3) to extend a loan up to a specified amount
- Requests for preapprovals where the program that does not meet these requirements are likely prequalifications (discussed previously)

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## Scenario #1

A bank denied a potential borrower's prequalification request based on a soft credit check, which the bank communicated to the potential borrower. Must the bank send an adverse action notice?

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## Scenario #1 Answer

Yes. Prequalifications *generally* do not constitute applications and thus do not trigger adverse action notice requirements. However, as noted in Regulation B (comment 9-5) if a bank evaluates information about the potential borrower, decides to decline a request, and communicates this to the potential borrower, the creditor has treated the prequalification request as an application and must then comply with the adverse action notice requirements.

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### Scenario #2

A customer applies for an increase to her line of credit limit, which the bank denies. Must the bank send an adverse action notice to the customer?

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### Scenario #2 Answer

Yes. Regulation B ([1002.2\(c\)\(1\)\(iii\)](#)) defines an adverse action to include "a refusal to increase the amount of credit available to an applicant who has made an application for an increase."

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### Scenario #3

A bank reduces a customer's credit limit on their line of credit due to the customer being delinquent on the credit account. Must the bank send an adverse action notice to the customer?

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### Scenario #3 Answer

No. Regulation B (1002.2(c)(2)(iii)) states that the term “adverse action” does not include “any action or forbearance relating to an account taken in connection with inactivity, default, or delinquency as to that account.”

If the bank reduced the customer’s credit limit because the customer moved out of the bank’s service area, for example, an adverse action notice *would* be required. Regulation B (1002.2(c)(1)(ii)) defines an “adverse action” to include “a termination of an account or an unfavorable change in the terms of an account that does not affect all or substantially all of a class of the creditor’s accounts”.

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### Scenario #4

A bank denies a line of credit application because the customer’s debt-to-income ratio exceeds the bank’s established limit. Which of the following denial reasons is sufficiently specific?

- A. Income insufficient for amount of credit requested
- B. Excessive obligations in relation to income
- C. Poor credit performance with us
- D. Value or type of collateral not sufficient
- E. Income insufficient for creditor’s internal standards or policies

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### Scenario #4 Answer

- B. Excessive obligations in relation to income

Answers A, C, and D do not accurately indicate the principal reason for the adverse action.

Answer E is insufficient. Regulation B (1002.9(b)(2)) specifies that “statements that the adverse action was based on the creditor’s internal standards or policies or that the applicant, joint applicant, or similar party failed to achieve a qualifying score on the creditor’s credit scoring system are insufficient”.

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### Scenario #5

An applicant submits a loan application, but it lacks sufficient data for the creditor to make a credit decision. The creditor provides a written notice of incompleteness to the applicant, which includes the information the applicant must provide. The applicant provides the necessary information within the timeframe designated on the notice. What must the creditor do next?

- A. The creditor must reevaluate the application information and, if denied, notify the applicant of adverse action within 30 days after receiving the *incomplete* credit application.
- B. The creditor must reevaluate the application information and, if denied, notify the applicant of adverse action within 30 days after receiving the *complete* credit application.
- C. The creditor may deny the application because it was initially incomplete.

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### Scenario #5 Answer

B. The creditor must reevaluate the application and, if denied, provide an adverse action notice within 30 days, including specific reasons for the action taken or disclose that the applicant has the right to request the reasons.

Regulation B (1002.9(c)(2)) states that "if the applicant supplies the requested information within the designated time period, the creditor shall take action on the application and notify the applicant" in accordance with 1002.9(a).

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### Scenario #6

The bank denies a loan application because a customer had a charged-off credit card from another institution (caused by nonpayment). How can the bank meet the regulatory requirement that the statement of action taken be specific and indicate the principal reasons for the adverse action?

- A. The bank can select the "foreclosure or repossession" reason listed on the model form.
- B. The bank can select the "poor credit performance with us" reason listed on the model form.
- C. The bank can select the "collection action or judgment" reason listed on the model form.
- D. The bank can manually add a reason input of "charge-off" and use it when applicable.

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### Scenario #6 Answer

D. The bank can manually add a reason input of “charge-off” and use it when applicable.

Institutions would utilize the “other, specify” reason on the model form when the other listed reasons do not accurately describe the reason for adverse action. Regulation B ([Appendix C-4](#)) states that “if the reasons listed on the forms are not the factors actually used, a creditor will not satisfy the notice requirements by simply checking the closest identifiable factor listed.” Bank management should train its staff on which reasons to use and when. Bank management should also implement reviews of adverse action notices that include ensuring that the bank accurately disclosed the reason(s) for adverse action.

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### Scenario #7

A customer asks a lender for car loan rates. The loan officer asks the customer for the make, model, and year of the vehicle and provides the customer with rates. Which of the below accurately describes this customer's interaction with the creditor?

- A. Preapproval
- B. Prequalification
- C. Inquiry
- D. Application

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### Scenario #7 Answer

C. Inquiry.

Regulation B ([comment 2\(f\)-4](#)) provides examples of inquiries that are not applications, including a situation where “a consumer calls to ask about loan terms and an employee explains the creditor's basic loan terms, such as interest rates, loan-to-value ratio, and debt-to-income ratio.”

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### Scenario #8

An applicant inquires with a bank about a home loan, including how much she may qualify for and loan program options. As a part of the inquiry, the applicant's credit is pulled. The bank sees a recent bankruptcy on her credit report and tells the applicant that it will not be able to approve a home loan because of the bankruptcy. Which of the below accurately describes this customer's interaction with the creditor?

- A. Preapproval
- B. Prequalification
- C. Inquiry
- D. Application

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### Scenario #8 Answer

D. Application.

Regulation B (comment 9-5) states that if in giving information to the consumer the creditor also evaluates information about the consumer, decides to decline a request, and communicates this to the consumer, the creditor has treated the inquiry or prequalification request as an application.

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### Scenario #9

An applicant inquires with a bank about a car loan, including how much she may qualify for. The lender tells the applicant the loan amount and rate for loan products the bank offers and explains the process of applying, including the information needed to make a credit decision. Which of the below accurately describes this customer's interaction with the creditor?

- A. Preapproval
- B. Prequalification
- C. Inquiry
- D. Application

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## Scenario #9 Answer

B. Prequalification or D. Inquiry

As explained in Regulation B (comments 2(f)-3 and 9-5), an inquiry or prequalification request becomes an application if the creditor evaluates information about the consumer and decides to decline the request. In this scenario, the creditor has not evaluated any information or advised the consumer of a credit decision.

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## Resources

- [Consumer Compliance Outlook](#) Articles
  - [Top Federal Reserve System Compliance Violations in 2023 Under the ECOA](#) (4<sup>th</sup> Issue 2024)
  - [Advanced Topics in Adverse Action Notices Under the ECOA](#) (4<sup>th</sup> Issue 2021)
  - [Adverse Action Notice Requirements Under the ECOA and the FCRA](#) (2<sup>nd</sup> Quarter 2013)
  - [View from the Field: Commonly Cited Compliance Violations in 2011](#) (1<sup>st</sup> Quarter 2012)
- [Fair Credit Reporting Act \(15 U.S.C. § 1681 et seq.\)](#) (Congress)
- [Fair Credit Reporting Act](#) (FTC Resource with §§ 601-629 references)

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## Questions?

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