

June 3, 2022

Vol. XXXIV, No. 13

CFPB ADVISORY OPINION – COVERAGE OF FAIR LENDING LAWS

The Consumer Financial Protection Bureau (CFPB) has published an advisory opinion to affirm that the Equal Credit Opportunity Act (ECOA) bars lenders from discriminating against customers after they have received the loan, not just during the application process. The ECOA bans credit discrimination on the basis of race, color, religion, national origin, sex, marital status, and age. It also protects those who are receiving money from any public assistance program or exercising their rights under certain consumer protection laws.

The CFPB advisory opinion and accompanying analysis clarifies that the ECOA protects people from discrimination in all aspects of a credit arrangement. Among other things, the advisory opinion states that the ECOA:

- **Continues To Protect Borrows After They Have Applied for And Received Credit:** Lenders are prohibited from discriminating against borrowers with existing credit. For example, the ECOA prohibits lenders from lowering the credit limit of certain borrowers' accounts or subjecting certain borrowers to more aggressive collections practices on a prohibited basis, such as race.
- **Requires Lenders to Provide “Adverse Action Notices” To Borrowers with Existing Credit:** Adverse action notices explain why an unfavorable decision was made against a borrower. Credit applicants and borrowers receive these notices for reasons including that credit was denied, an existing account was terminated, or an account's terms were unfavorably changed. “Adverse action notices” discourage discrimination, and they help applicants and borrowers learn the reasons for creditor' decisions.

The foregoing Compliance Update is for informational purposes only and does not constitute legal advice. As a reminder, the NBA general counsel is the attorney for the Nebraska Bankers Association, not its member banks. The general counsel is available to assist members with finding resources to help answer their questions. However, for specific legal advice about specific situations, members must consult and retain their own attorney.