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Equal Credit Opportunity Act

My last two columns have reviewed the government's focus to deter identity theft. Next up in the journey to review the regs is the Equal Credit Opportunity Act, or ECOA for short.

The Equal Credit Opportunity Act is the law. Regulation B is the rule based on the law that the Feds use to administer the law. The Reg can be updated and modified as the industry shifts and the market dictates its refreshing. The law can only be changed by an act of Congress (literally).

ECOA prohibits discrimination in credit transactions based on race, color, sex, marital status, religion, national origin, age, receipt of public assistance and good faith exercises of rights. It also prohibits discrimination against credit applicants based on their association with the above protected classes.

Dealer Responsibilities under Reg B

- Credit Applications – Dealer/creditors are prohibited from making statements to customers which would discourage them from submitting credit applications. In other words, don't tell a woman to bring her husband in before you will sell her a car.
- Application Evaluation – The customer's information must be evaluated and considered in a nondiscriminatory way. Don't be like the Sales Manager who once told me he could tell what a customer's credit was like from looking at him across the showroom floor.
- Adverse Action Notifications – A dealer must provide a customer with an Adverse Action Notice under certain circumstances. The Fair Credit Reporting Act also provides a requirement to send this notice.
- Record Retention – A dealer is obligated to retain certain records related to an extension of credit for 25 months. The Fair and Accurate Credit Transactions Act has a five year statute of limitations for a consumer to sue a dealer for pulling a credit report without permission, so dealers may want to keep these records for five years, not just the 25 month requirements under ECOA.
- Application for Credit – Customers must indicate whether they are applying for individual or joint credit. Most credit applications have a section for the customer to disclose this information. Most of the credit application aggregators require this disclosure before the credit application can be submitted to lenders. Dealers should make sure that this box is checked on the credit application and retained for the required period.

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