

Cabinet News and Views

Informed analysis for the financial services industry



CFPB: Consumers Who Have Already Received Credit Are Protected by Fair Lending Laws



By **Mercedes Kelley Tunstall**
Partner | Financial Regulation

The Consumer Financial Protection Bureau (CFPB) [issued](#) an [advisory opinion](#) on May 9, confirming that for purposes of the Equal Credit Opportunity Act (“ECOA”) and its implementing regulation, Regulation B, the intended breadth of the provisions prohibiting discrimination on the basis of race, color, religion, national origin, sex, marital status and age is to cover not just applicants for credit, but also customers who have already been extended credit.

The CFPB states that this advisory opinion “is an interpretive rule issued under the Bureau’s authority to interpret ECOA and Regulation B,” which means that the opinion should be viewed as regulatory guidance and is not subject to public comment or rulemaking procedures. Read about the CFPB’s advisory opinion process [here](#).

This advisory opinion was deemed necessary by the CFPB because there are some district court opinions that have limited the meaning of “applicants” in ECOA and Regulation B to those whom have not yet received credit. When the definition of “applicant” is limited in that manner, then creditors could revoke or modify existing extensions of credit (such as credit card maximum credit limits) without having to comply with ECOA and Regulation B, which would require the creditor to send a statement of reasons for the action taken (or a notice describing how to receive a statement of reasons), thus allowing the borrower to assess whether there had been a mistake and what steps the borrower may need to take to safeguard available credit going forward. This advisory opinion is consistent with positions taken by the Federal Reserve since 1976, when ECOA became law.
