

**Question:** Do the adverse action rules apply to any type of loans, or just consumer transactions?

**Answer:** The ECOA adverse action rules apply to all credit transactions, commercial as well as consumer. The FCRA adverse action notice requirements apply whenever you obtain a consumer report, without regard to whether the report is for a consumer or a business purpose loan.

**Question:** Please comment on the need for the date the notice is prepared for mailing. In other words is a date necessary and why?

**Answer:** Neither ECOA nor FCRA require a date on the adverse action notice. A date is not listed as a required element of either notice. However, you do have timing limits for sending the notice and for that purpose, it would be a good idea to have a date somewhere to demonstrate compliance.

**Question:** If an applicant applies for a credit card and does not qualify for the higher limit the customer wants but is eligible for a lower limit and does not accept it, does an adverse action letter have to be sent? Is the verbiage supposed to refer to the fact that the customer declined the lower amount?

**Answer:** In this situation, the lower limit is a counteroffer which the applicant did not accept. You must send an adverse action notice. The reasons for adverse action are not that the customer declined the lower amount. The reasons that you must provide are the reasons why you would not approve the amount originally requested.

**Question:** I understand that you should use more than one reason for denial on an adverse action notice. Is this true?

**Answer:** There is no definitive number of reasons. Instead, the regulation requires that you give all the prin-

ciple and specific reasons. In some cases there may be only one reason while in others there may be two, three or more reasons. The only number cap for providing reasons is that you don't have to give more than four.

**Question:** Since HMDA requires 3 reasons for denial to be reported on the LAR, and Reg B allows up to 4 reasons, how do we determine which 3 to report?

**Answer:** HMDA reportable reasons are not determined by how many reasons you provided in your adverse action notice. However, for the best HMDA accuracy, you should report the top three reasons on the LAR. The fact that there was an additional reason on the adverse action notice is not a reflection on HMDA compliance.

**Question:** What if you don't have four reasons for denial? Can you list two or three?

**Answer:** The regulation requires that you give all the specific and principle reasons but you do not need to provide more than four reasons. In many situations one or two reasons would constitute all of the specific and principle reasons.

**Question:** Our unsecured credit uses a general criteria of a credit score greater than 650. Can this be the only reason in which the loan is denied if lets say the applicant has a 645 score and no other stand-out denial reasons?

**Answer:** The credit score, by itself, is not an acceptable reason for denial. When the credit score is below your acceptable level, you must provide the reasons from the credit score. This would usually be the reasons provided with the score by the credit bureau.

**Question:** If we order property appraisals from our own approved appraiser list and do not accept appraisals provided by a mortgage applicant, is it ok for us to list 'unacceptable appraisal' as a reason for adverse action on a declined mortgage application?

**Answer:** Yes, if the applicant has insisted that you use his or her appraisal and refuses to pay for an independent appraisal that you order.

**Question:** If the borrower requests a loan amount that equates to a 80% LTV but we will only give a loan amount to equate to a 75% LTV, does this require adverse action and is it a counteroffer?

**Answer:** Regulation B considers it adverse action if you offer the type of credit the applicant requested. In this situation, the applicant requested a type of loan that you offer but wanted terms that you do not offer. The term, loans limited to 75% LTV, would be your reason for adverse action.

**Question:** In the case of incomplete application is this HMDA reportable (ex. loan amount not given from client to lender)?

**Answer:** When determining what is reportable under HMDA, the HMDA rules control. How the application would be classified under Regulation B is not determinative. The question for HMDA is whether there was an application.

**Question:** Is the extension of the actual credit sufficient for an approval notice?

**Answer:** Yes. Providing the credit instrument – a check, card, or transfer – constitutes notice.

**Editors Note:** These Q&As were derived from Lucy Griffin's recent BOL Learning Connect webinar "Adverse Action Notices". You can purchase the complete webinar on CD-Rom at the Banker Store: [www.BankersOnline.com/store/Product\\_info.php?products\\_id=1151](http://www.BankersOnline.com/store/Product_info.php?products_id=1151) Visit BOL Learning Connect for information about upcoming webinars [www.bollearningconnect.com](http://www.bollearningconnect.com)