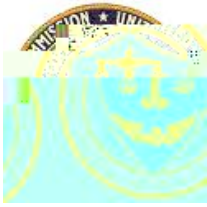


UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580



Division of Financial Practices

February 21, 2019

Patrice Alexander Ficklin, Assistant Director  
Fair Lending & Equal Opportunity  
Bureau of Consumer Financial Protection  
1700 G Street, N.W.  
Washington, D.C. 20552

Dear Ms. Ficklin:

This letter responds to your request for information concerning the Federal Trade Commission's (Commission or FTC) enforcement activities related to compliance with Regulation B and the Equal Credit Opportunity Act (ECOA).<sup>1</sup> You request this information for use in preparing the Bureau of Consumer Financial Protection's (CFPB) 2018 Annual Report to Congress. Specifically, you ask for information concerning the FTC's activities with respect to Regulation B during 2018. We are pleased to provide the requested information below.<sup>2</sup>

### **I. FTC Role in Administering and Enforcing Regulation B**

The Dodd-Frank Act, signed into law on July 21, 2010, substantially restructured the financial services law enforcement and regulatory system. Among other things, the Act made important changes to ECOA and other consumer laws, such as giving the CFPB rulemaking and enforcement authority for ECOA. Under the Act, the FTC retained its authority to enforce the ECOA and Regulation B. In addition, the Act gave the Commission the authority to enforce any CFPB rules applicable to entities within the FTC's jurisdiction, which include most providers of financial services that are not banks, thrifts, or federal credit unions.<sup>3</sup> In accordance with the

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<sup>1</sup> ECOA is at 15 U.S.C. § 1691 *et seq.*; the CFPB's Regulation B is at 12 C.F.R. Part 1002; the Federal Reserve Board's (Board) Regulation B is at 12 C.F.R. Part 202.

<sup>2</sup> A copy of this letter is being provided to the Board's Division of Consumer and Community Affairs, in connection with its responsibility for some aspects of the Regulations after the transfer date of July 21, 2011. Among other things, the Board retained responsibility for implementing Regulation B with respect to certain motor vehicle dealers, under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act or Act), Pub. L. 111-203, 124 Stat. 1376 (July 21, 2010). *See, e.g.*, Dodd-Frank Act, § 1029 and Subtitle H.

memorandum of understanding that the Commission and the CFPB entered into in January 2012 and reauthorized in 2015 and extended in 2018, and consistent with the Dodd-Frank Act, the Commission has been coordinating certain law enforcement, rulemaking, and other activities with the CFPB.<sup>4</sup>

## **II. Regulation B (ECOA)**

In 2018, the FTC engaged in research and policy development related to ECOA. Further, the Commission provided the public with business and consumer education materials to promote business compliance with the law and to help consumers protect themselves from noncompliant businesses. This letter provides information regarding some of the FTC's research and policy development and educational initiatives.<sup>5</sup>

### **A. Fair Lending: Research and Policy Development**

#### **Hearings on Competition and Consumer Protection in the 21st Century – Hearing Session 7: Algorithms, Artificial Intelligence, and Predictive Analytics (Nov. 13-14, 2018).**

In 2018, the FTC commenced a series of public hearings called FTC Hearings on Competition and Consumer Protection in the 21st Century.<sup>6</sup> The seventh session of these hearings examined competition and consumer protection issues associated with the use of algorithms, artificial intelligence, and predictive analytics in business decisions and conduct.<sup>7</sup> Among other topics, panelists discussed how issues of fairness, bias, and discrimination could impact use of these technologies and whether legal protections, such as the Equal Credit Opportunity Act, were adequate to address that area.<sup>8</sup>

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<sup>4</sup> See FTC, Press Releases, *Federal Trade Commission, Consumer Financial Protection Bureau Pledge to Work Together to Protect Consumers* (Jan. 23, 2012), available at <https://www.ftc.gov/opa/2012/01/ftccfpb.shtm>, and *FTC, CFPB Reauthorize Memorandum of Understanding*, Mar. 12, 2015, available at <https://www.ftc.gov/news-events/press-releases/2015/03/ftc-cfpb-reauthorize-memorandum-understanding>; see also *Extension of Memorandum of Understanding between the FTC and the CFPB* (May 2018), available at [Tftccfpb.shtm](https://www.ftc.gov/opa/2018/05/ftccfpb.shtm)

**Auto Buyer Study.** In 2018, the FTC continued work on a qualitative study of consumers' experiences in buying and financing automobiles at dealerships.<sup>9</sup> The study, which included in-depth consumer interviews and review of consumers' purchase and finance documents, is designed to assist the FTC by providing useful insights into consumer understanding of the automobile purchasing and financing process at dealerships.<sup>10</sup> Assessment and review of information pertaining to the study is currently continuing. While the results will not be generalizable to the U.S. population, the FTC believes that the information will offer meaningful information about the consumers' experiences, and help focus FTC initiatives in this area, including consumer education about the purchase and financing process and business education to foster compliance with the laws the FTC enforces, such as the FTC Act and ECOA.

**ECOA in the Military Area.** Protecting military consumers is a priority for the FTC. In 2018, the FTC's Military Task Force, comprised of a cross-section of agency representatives, continued work on military consumer protection issues.<sup>11</sup> The Task Force is part of the agency's



including those related to credit transactions to which Regulation B applies or relates. For example, the Commission released a business blog post about the FTC's Staff Perspective on its military consumer financial workshop, discussed above.<sup>14</sup> The blog noted the workshop's focus on the need for ongoing financial education at every stage of a military career, and observed that recent recruits may be away from home for the first time and managing their first paycheck. It also referenced FTC resources available for servicemembers and veterans to deal with the challenges of financial issues, including at [www.militaryconsumer.gov](http://www.militaryconsumer.gov), which includes tips on diverse topics, such as on borrowing and obtaining credit.

We hope that the information discussed above responds to your inquiry and will be useful in preparing the CFPB's Annual Report to Congress. Should you need additional assistance, please contact me at (202) 326-2972, or Carole Reynolds at (202) 326-3230.

Sincerely,

Malini Mithal  
Acting Associate Director  
Division of Financial Practices

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<sup>14</sup> Lesley Fair, *Front and center for military consumers*, FTC BUREAU OF CONSUMER PROTECTION BUSINESS CENTER BLOG (Feb. 2, 2018), available at <https://www.ftc.gov/news-events/blogs/business-blog/2018/02/front-center-military-consumers>.