

COMMENTS OF THE ELECTRONIC PRIVACY INFORMATION CENTER

to the

Consumer Financial Protection Bureau

on

Proposed Rule on Equal Credit Opportunity Act (Regulation B)

Docket No. CFPB-2025-0039

December 15, 2025

I. Introduction

The Electronic Privacy Information Center (EPIC) submits these comments in response to the Consumer Financial Protection Bureau (CFPB or the Bureau)'s Proposed Rule Prohibition on the Equal Credit Opportunity Act (ECOA), or Regulation B, published on November 13, 2025.¹

EPIC is a public interest research center in Washington, D.C., established in 1994 to secure the fundamental right to privacy in the digital age for all people through advocacy, research, and litigation.² EPIC has long advocated for privacy rights and robust safeguards to protect consumers, including in the financial sector. EPIC has previously called on the CFPB to strengthen privacy protections and consumer rights. We filed comments supporting the CFPB's proposed Fair Credit Reporting Act (FCRA) regulations, recommending the inclusion of provisions that would ensure personal data can only be collected, used, or disclosed as necessary to fulfill purposes consistent

¹ Proposed Rule: Equal Credit Opportunity Act (Regulation B), Consumer Financial Protection Bureau (Nov. 13, 2025).

² *About Us*, EPIC, <https://epic.org/about/> (2025).

with the reasonable expectations of consumers.³ EPIC also filed comments in support of the CFPB's proposed rules banning the inclusion of medical debt on credit reports. Recently, EPIC filed comments urging the Bureau to maintain the strong protections included in the Personal Financial Data Rights Rule.⁴ EPIC has fought for greater transparency and oversight with respect to how companies collect, use, and disseminate personal data.⁵ In 2020, EPIC filed comments in response to the CFPB's Request for Information on ECOA, encouraging the Bureau to strengthen enforcement to safeguard the rights of consumers.⁶

As set forth below, we strongly oppose the CFPB's proposed rules regarding Regulation B, which implements the Equal Credit Opportunity Act (ECOA). The proposed rules would weaken important consumer protections against discrimination in lending

II. EPIC Opposes the CFPB's Proposed Rule Amending Regulation B

At its core, ECOA promotes fairness in lending. The Bureau's proposed rules would obliterate ECOA's protections against discrimination in consumer lending. Not only are the proposed rules inconsistent with legal precedent and legislative history, but they would also be extremely harmful to consumers, further entrenching economic inequity.

³ EPIC, Comments on CFPB Request for Information Regarding Data Brokers and Other Business Practices Involving the Collection and Sale of Consumer Information, 88 Fed. Reg. 16,951 (Jul. 14, 2023); *cf.* Consumer Reps. & EPIC, *How the FTC Can Mandate Data Minimization Through a Section 5 Unfairness Rulemaking* (2022), https://epic.org/wp-content/uploads/2022/01/CR_Epic_FTCDDataMinimization_012522_VF.pdf.

⁴ *EPIC and Coalition Urge the CFPB to Maintain Personal Financial Data Rights*, EPIC (Oct. 22, 2025), <https://epic.org/epic-and-coalition-urge-the-cfpb-to-maintain-personal-financial-data-rights/>.

⁵ *See, e.g.*, Big Data: Privacy Risks and Needed Reforms in the Public and Private Sectors: Hearing Before the H. Comm. on House Admin., 117th Cong. 53 (2022), <https://epic.org/documents/hearing-on-big-data-privacy-risks-and-needed-reforms-in-the-public-and-private-sectors/> (statement of Caitriona Fitzgerald, Deputy Director, EPIC); EPIC, Comments on CFPB Inquiry into Big Tech Payment Platforms, 86 Fed. Reg. 61,182 (Dec. 21, 2021), <https://epic.org/documents/epic-comments-on-cfpb-inquiry-into-big-tech-payment-platforms/>.

⁶ *See, e.g.*, EPIC, Comments on CFPB Request for Information on the Equal Credit Opportunity Act and Regulation B, 85 Fed. Reg. 46600 (Oct. 2, 2020), <https://epic.org/wp-content/uploads/apa/comments/EPIC-CFPB-Oct2020-AI-ML.pdf>.

Financial institutions are increasingly using artificial intelligence (AI) systems and other technologies for credit underwriting, compliance monitoring, fraud detection, and more. As EPIC highlighted in our 2020 comment to the CFPB in response to the Bureau’s Request for Information on ECOA,⁷ the use of AI systems by financial institutions raises significant concerns about bias, transparency, and accountability. AI systems and other technologies can replicate and magnify existing biases against protected classes. For example, advertising technologies, tenant screening systems, and dynamic pricing tools can be used to target or exclude certain applicants, further deny housing and credit opportunities, or increase housing costs. The proposed rules would make it more difficult to challenge discriminatory AI systems, exposing consumers to illegal discrimination without recourse. The CFPB has a legal obligation under ECOA to ensure that financial institutions are not using technological tools that exacerbate discrimination and harm against consumers. Instead of eliminating key enforcement tools, we urge the Bureau to establish more robust oversight processes to evaluate AI systems and other technologies used by financial institutions, especially when those systems are involved in making lending decisions.

The proposed rules will expose consumers to technology-boostered harms, and the proposed rules are also inconsistent with legal precedent and the purpose of ECOA. The proposed rules would remove disparate impact from ECOA, narrow the rules on “discouragement,” and limit the use of “special purpose credit programs.” Federal courts, including the U.S. Supreme Court, have routinely upheld the “disparate impact” theory of discrimination. Federal agencies such as the Department of Justice and the CFPB have relied on Regulation B’s definition of “discouragement” when entering into dozens of court-approved settlements to resolve allegations of redlining. ECOA and Regulation B have long permitted lenders to use special purpose credit programs to promote access to credit

⁷ *Id.*

among historically marginalized communities. All three of these legal tools have been used to defend consumers against violations of ECOA's prohibition on lending discrimination and to increase access to credit for marginalized communities. Further, these tools promote business opportunities for lenders. The CFPB's proposals run afoul of ECOA's purpose, which is to protect Americans from unfair lending practices. The proposed rules are illegal, harmful, and must be rejected.

III. Conclusion

We oppose the CFPB's proposed rules on Regulation B, and we urge the Bureau to reject the proposed rules. In this comment and our previous engagements with the Bureau, we have advocated for strong consumer rights and privacy protections. This rule would undermine those interests and lead to serious consumer harm. We appreciate this opportunity to comment, and we are eager to engage with the Bureau further on this topic. If you have any questions, please contact EPIC Counsel Caroline Kracson (kracson@epic.org).

Respectfully Submitted,

/s/ John Davisson

John Davisson
Director of Litigation
davisson@epic.org

/s/ Caroline Kracson

Caroline Kracson
Counsel
kracson@epic.org

ELECTRONIC PRIVACY
INFORMATION CENTER (EPIC)
1519 Hampshire Ave. NW
Washington, DC 20036
202-483-1140 (tel)
202-483-1248 (fax)