



December 15, 2025

Acting Director Russell Vought
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Public Comment on Equal Credit Opportunity Act (Regulation B), Docket No. CFPB-2025-0039

[Beneficial State Foundation](#) appreciates the opportunity to comment on the proposed amendments to Regulation B implementing the Equal Credit Opportunity Act. As a nonprofit that works directly with financial institutions to expand credit access, we write from practical experience regarding how these proposed changes would affect both lenders and the communities they serve.

We respectfully assert that the Bureau's proposed changes will make it harder to advance ECOA's core purpose: making credit available to all qualified applicants without discrimination. We recommend that the Bureau:

1. Maintain disparate impact analysis as a framework that enables lenders and regulators to identify where facially neutral policies may create unintended barriers to credit access;
2. Preserve the current discouragement standard focused on whether creditor conduct would discourage a reasonable person;
3. Maintain appropriate flexibility for institutions to develop Special Purpose Credit Programs that address documented credit access gaps; and
4. Provide clear guidance that assists lenders in understanding how to expand access responsibly while meeting fair lending obligations.

Our Work and Perspective

Since 2007, Beneficial State Foundation has equipped and connected leaders across the banking industry to create financial wellbeing for all. Through our Underwriting for Racial Justice (URJ) Lender Pilot Program, 18 mission-aligned lenders — including geographically diverse banks, credit unions, and community development financial institutions (CDFIs) — are actively reimagining how credit is assessed. This work has provided insight into how lenders use fair lending frameworks and why the tools this rule proposes to eliminate matter for both sound lending and financial inclusion.

Removal of a Critical Diagnostic Tool

The proposed elimination of disparate impact analysis would significantly limit the CFPB's ability to enforce fair lending laws. Disparate impact analysis provides regulators with a framework to

address lending policies that produce discriminatory outcomes regardless of intent — precisely the type of barriers that persist in credit markets despite decades of enforcement. Without disparate impact, enforcement would depend on proving intentional discrimination, which is difficult to establish and rarely documented. Lenders could maintain facially neutral policies that systematically disadvantage protected classes without regulatory recourse.

Many of the lenders we work with use disparate impact analysis to understand where underwriting models might create unnecessary barriers and overlook borrowers who are likely to repay. For example, through this analysis, a lender might observe higher denial rates for certain neighborhoods. They can then examine whether rigid requirements — such as requiring credit scores when rental payment history would be equally predictive — exclude qualified borrowers. The lender can then refine their model, expanding their customer base with borrowers who have strong repayment capacity while maintaining portfolio quality.

Under the proposed rule, such analysis becomes voluntary rather than a regulatory expectation. This will create inconsistent practices where some institutions proactively address barriers while others face no obligation to do so. Ultimately, this fragmented market would leave consumers' access to credit dependent on which lender they approach rather than their actual capacity to repay.

Narrow Discouragement Standards

The proposed amendments would restrict prohibited discouragement to statements that "a creditor knows or should know" would cause a reasonable person to believe the creditor would deny their application based on protected characteristics. The proposal also clarifies that business practices such as branch location decisions or geographically targeted marketing do not constitute discouragement.

In practice, discouragement often operates through systemic patterns rather than explicit statements. Under the proposed standard, a lender could discourage applications from protected classes through decisions about where to locate branches, advertise, and engage with communities, without making any explicit statement meeting the proposed threshold. We recommend maintaining the current framework's focus on whether creditor conduct would discourage a reasonable person regardless of any individual creditor's intention — which better aligns with how discouragement actually operates in credit markets.

Undercutting Special Purpose Credit Programs

The proposed restrictions rest on the Bureau's preliminary finding that "fifty years of legal prohibitions against credit discrimination have substantially reshaped credit markets" such that Special Purpose Credit Programs (SPCPs) are no longer necessary. The Bureau states it is "not aware of any credit markets in which consumers would be 'effectively denied credit' because of their race, color, national origin, or sex."

This finding does not align with current market data. Federal Reserve data demonstrates that Black and Hispanic mortgage applicants face rejection at rates [nearly twice](#) that of white

applicants with similar financial profiles. When approved, borrowers of color consistently pay [higher interest rates](#) even when controlling for income, credit score, and down payment size.

The Bureau's proposed evidentiary standard would require creditors to prove for each SPCP participant that “it is the fact of protected class membership that is causing program participants to be unable to obtain credit.” This conflates systemic barriers with individual discriminatory intent. Credit exclusion operates through interconnected factors: limited prior credit history due to historical banking deserts, lower wealth accumulation resulting from discriminatory policies, and underwriting models calibrated on data reflecting these patterns. A lender cannot practically disentangle the protected characteristic from the systemic patterns that historical discrimination created.

SPCPs have allowed lenders to address documented disparities through targeted programs. The proposed rule would effectively eliminate these programs by creating an unattainable evidentiary standard. The CFPB's rationale — that SPCPs “discriminate against ineligible individuals” — ignores how these programs typically function. Most SPCPs operate as overlays to standard credit products, providing additional underwriting flexibility for eligible applicants. Applicants who don't meet SPCP eligibility criteria remain eligible for the standard product and are not harmed by the existence of the SPCP.

Regulatory Clarity Enables Innovation

The changes cited above would significantly affect underwriting innovation. Under the proposed framework, lenders pursuing these innovations would face substantial uncertainty about whether efforts to expand access could create compliance risks. The institutions we work with seek clarity on how to confidently serve diverse markets while complying with regulatory requirements. They require practical guidance that facilitates responsible innovation, not restrictions that limit their ability to serve borrowers.

In summary, we recommend CFPB not adopt the provisions of the proposed rule on Equal Credit Opportunity Act (Regulation B). Beneficial State Foundation welcomes the opportunity to provide additional data from our work and to engage constructively on approaches that advance both fair lending and financial inclusion.

Sincerely,

Erin Kilmer Neel
Executive Director
Beneficial State Foundation
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