

CFPB Affirms Compliance with ECOA Adverse Action Notice Requirements

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On May 26, the CFPB [published](#) a circular affirming that federal anti-discrimination laws require companies to explain to consumers the specific reason a credit application was denied, even if the creditor is relying on complex algorithms.

The circular explains that some creditors rely on credit decisions based on the outputs from complex algorithms, sometimes called “black-box” models. Oftentimes the creditor may not understand or know the reasoning of the algorithm. Nevertheless, the CFPB makes clear that ECOA requires the creditor to supply a specific explanation to an applicant that has been denied credit. CFPB Director Rohit Chopra added that this “right is not diminished simply because a company uses a complex algorithm that it doesn’t understand.” Additionally, the circular makes clear that creditors cannot be in compliance with the ECOA if using these black-box models means that they are unable to provide the required explanations.

Putting It Into Practice: In this circular, the CFPB affirmed that noncompliance with ECOA based on the mere fact that the technology they use to evaluate credit applications is too complicated, too opaque in its decision-making, or too new, is not justified. Therefore, it is crucial for creditors to understand and supply the reasoning of the algorithms used to avoid becoming the next target of a CFPB enforcement action.

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