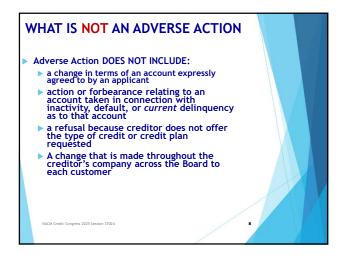
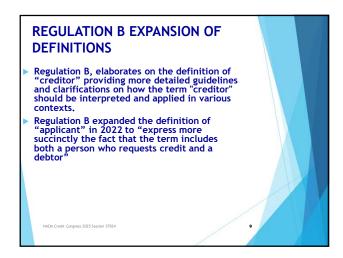


EQUAL CREDIT OPPORTUNITY ACT DEFINITIONS "Bureau" is the Consumer Financial Protection Bureau The term "credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefor. The term "creditor" means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit. The term "person" means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

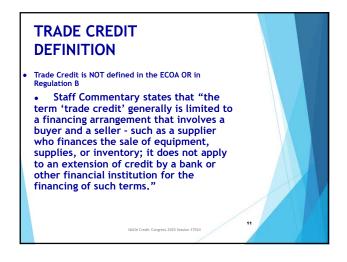
EQUAL CREDIT OPPORTUNITY ACT DEFINITIONS Creditor means a person who, in the ordinary course of business, regularly participates in a credit decision, including setting the terms of credit. The term includes a creditor's assignee, transferee, or subrogee who so participates. The term creditor also includes a person, who, in the ordinary course of business, regularly refers applicants or prospective applications to creditors, or selects or offers to select creditors to whom request for credit may be made

DEFINITIONS FROM REGULATION B Adverse Action means: refusal to grant credit in substantially the amount or on substantially the terms requested in an application an unfavorable change in the terms of an account that does not affect all or substantially all of a class of the creditor's accounts a refusal to increase the amount of credit available to an applicant who has asked for an increase a denial or revocation of credit





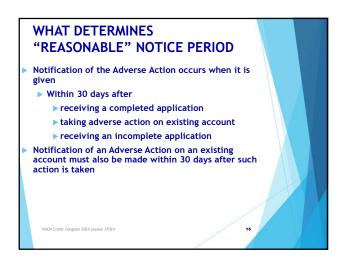


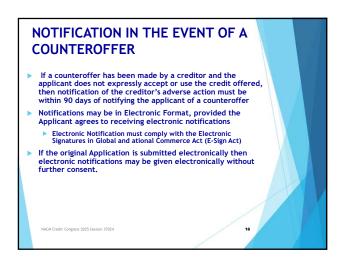




EQUAL CREDIT OPPORTUNITY ACT NOTICE Required ECOA Notice The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marrial status, age (provided the applicant has the capacity to enter into a binding contract;) because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law concerning this creditor is Federal Trade Commission, Consumer Response Center, 600 Pennsylvania Avenue NW, Washington, DC 20580. * *Note: Creditors subject to Packers and Stockyards Act will have to note provide the address of the nearest Packers and Stockyards Division Regional Office







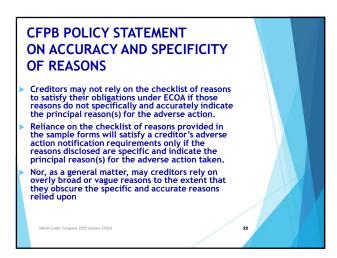
ELECTRONIC NOTIFICATION OKAY 12 CFR §202.4(d) provides: The disclosures required by this part that are required to be given in writing may be provided to the applicant in electronic form, subject to compliance with the consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) Both sides need to consent to Electronic format Where an application has been submitted in electronic form, then the disclosures may be given in electronic form without obtaining prior consent

CREDITOR MUST REMAIN ECOA COMPLIANT THROUGHOUT THE CREDIT RELATIONSHIP Advisory Opinion by the CFPB on May 18, 2022 stated, in pertinent part" Some creditors fail to acknowledge that ECOA and Regulation B plainly applies to circumstances that take place after an extension of credit has been granted including a revocation of credit or an unfavorable change in the terms of a credit arrangement:" "Some creditors fail to provide applicants with required notifications that include a statement of the specific reasons for the adverse action taken or disclose an applicant's right to such a statement." Creditors must comply with all aspects of the ECOA and Regulation B when credit is extended and at all future times if there is a refusal to further extend credit or where credit is terminated completely

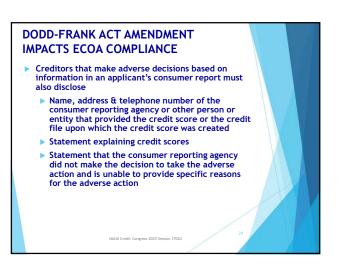


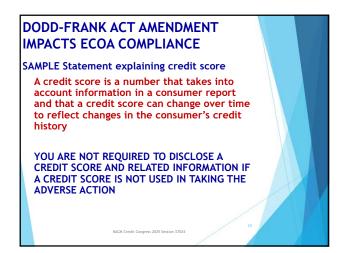
REASONS MUST BE PROVIDED When a request, in writing is received from the Applicant within 60 days of the Adverse Action notification a creditor must provide the reasons for the Adverse Action within 30 days from the date of the written request MACM Credit Congress, 20225 Seasons 37024

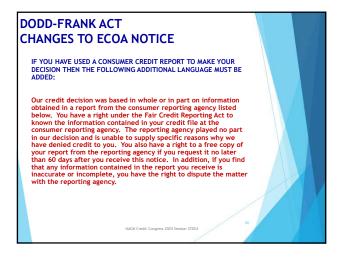


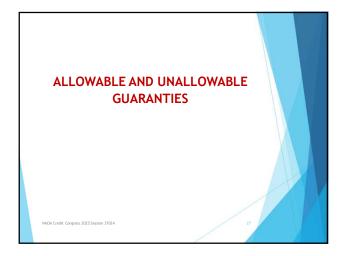


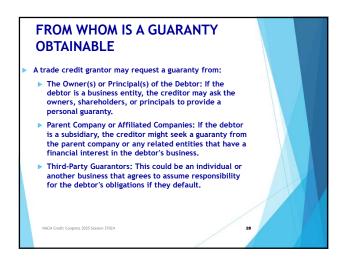




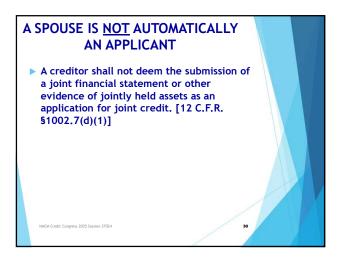


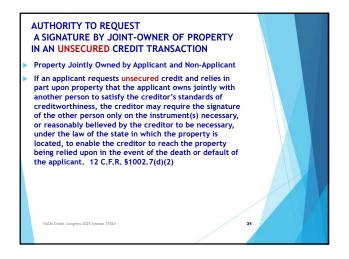


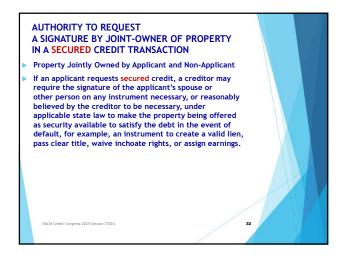


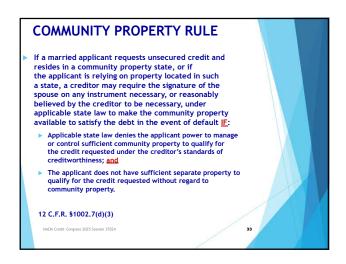


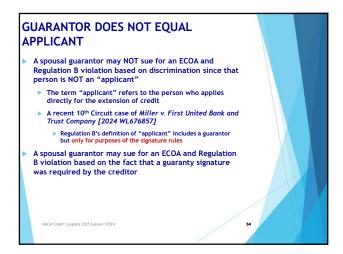


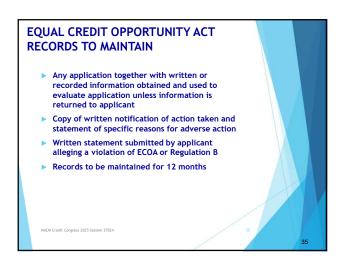


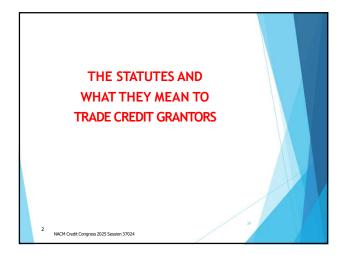


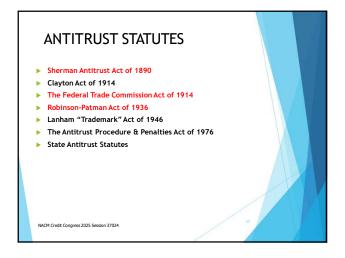




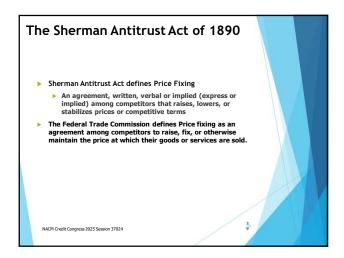




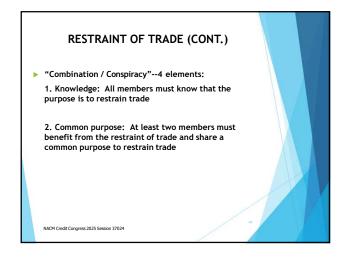




Prohibits contracts, combination and conspiracies in restraint of trade in interstate commerce or with foreign nations. Felony to conspire to restrain trade; or to monopolize (or attempt to monopolize).





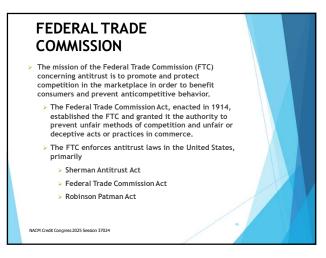


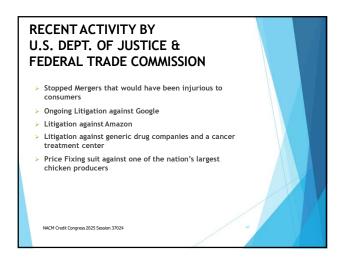




PRICE FIXING ISSUES • Discussion beyond a "mere announcement" • Agreement to maintain prices, with an enforcement mechanism (mfr./distrs.) • Agreement to fix or set payment terms

PRICE-FIXING [Examples provided by US Dept. of Justice] • Establish or adhere to price discounts • Hold prices firm • Eliminate or reduce discount • Adopt a standard formula for computing prices • Maintain certain price differentials between different types, sizes, or quantities of products • Adhere to a minimum fee or price schedule • Fix credit terms



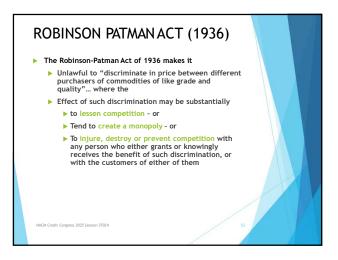


LEGAL ACTIONS WITHIN A SINGLE MANUFACTURERS' SECTOR In Re: Musical Instruments and Equipment Antitrust Litigation against NAMM, Guitar Center Inc & Stores, Fender, Yamaha, Gibson, Hoshino, & Kaman Alleged that Defendants shared a common motive to conspire, acted against their self-interest, simultaneously adopted substantially similar policies, all causing retail prices for guitars and guitar amplifiers to rise Court had to decide whether it was plausible that manufacturers agreed simultaneously without collusion 9th Circuit found no common motive but merely conscious parallelism

9th Circuit Ruling Mere participation in trade-organization meetings where information is exchanged and strategies are advocated does not suggest an illegal agreement SCOTUS ruling: Trade Associations often serve legitimate functions, such as providing information to industry members, conducting research to further the goals of the industry and promoting demand for products and services MACM Credit Congress 2025 Session 37024

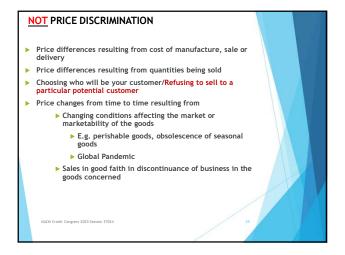


ROBINSON PATMAN ACT (1936) The Robinson-Patman Act was designed to prevent discriminatory practices adversely affecting free competitive enterprise, to preserve competition generally, and to protect small businesses which are usually unable to buy in quantity against large competitors. Equally unlawful for any person engaged in commerce to "knowingly induce or receive a discrimination in price"



ROBINSON PATMAN PRICE DISCRIMINATION No necessity for agreement, combination, association or conspiracy - only needs one entity At least two transactions must have occurred Price Discrimination includes: different price to different purchasers of physical goods inequitable discounts or rebates differences in terms and conditions of sale preferential credit terms [Credit Terms Equals Price] Simply speaking - makes it illegal to sell the same or similar products at different prices to competing purchasers when competition will be impacted





EXCHANGE OF CUSTOMER INFORMATION AND THE ANTITRUST LAWS [NOT JUST FOR CREDIT GROUP MEETINGS BUT AT ALL TIMES]

CREDIT TERMS = PRICE

Catalano Inc. v Target Sales (Supreme Court 1980)

"Extending interest-free credit for a period of time is equivalent to giving a discount equal to the value of the use of the purchase price for that period of time. Thus, credit terms must be characterized as an inseparable part of the price"

NACM Credit Congress 2025 Session 37024

TABOO DISCUSSIONS FAR BEYOND THE SHARING OF INFORMATION

- Discussions about whether to sell or not to sell to a financially troubled company
- Discussions about letters which vendors receive asking them to forebear actions or extend credit terms

NACM Credit Congress 2025 Session 3702

ANTITRUST COMPLIANCE ATALL TIMES

- Credit information exchanged by email (or fax) is under the same rules as that exchanged at credit group meetings
- A trade creditor should be cognizant that any credit information exchanged must be done in accordance with Federal Antitrust guidelines.
- ► Telephone exchange of information is NOT RECOMMENDED
 - ▶ There can be no discussions of any prices, terms, company policies or credit lines.
 - Remarks must be confined to present and completed transactions only, with no mention of any future plans of action.
 - All information exchanged is strictly confidential and not to be disclosed to anyone else

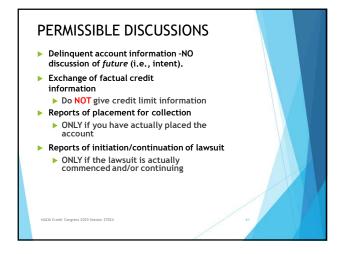
NACM Credit Congress 2025 Session 3702

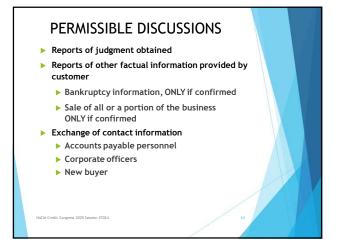
Independent

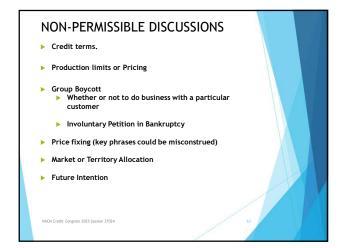
Exchange of Information Format

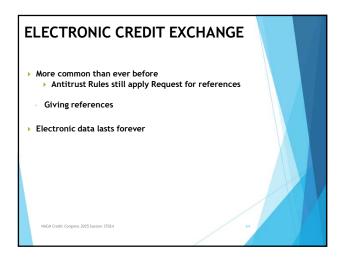
- ▶ If by email or fax, keep a copy of the request and the response
- Provide only the information requested
 - Do not volunteer additional information
- ▶ Do NOT give credit limit information

NACM Credit Congress 2025 Session 37024

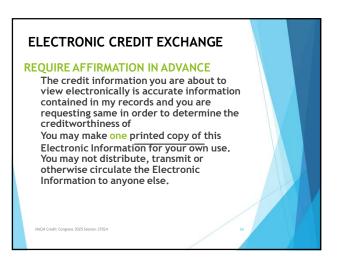


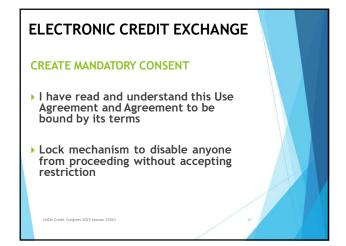


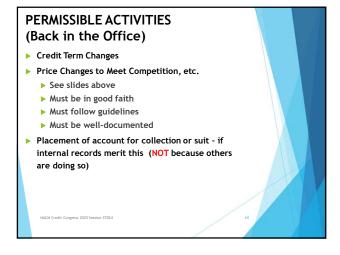


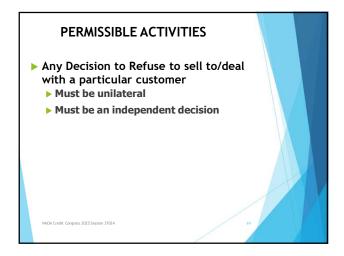


ELECTRONIC CREDIT EXCHANGE RECOMMENDED LANGUAGE ON ELECTRONIC TRANSMISSIONS This Credit Reference is provided at the request of ______ and is based upon information maintained in my file as a result of my company's experience with _____. No judgment or recommendation concerning credit decisions is given or implied by this information. The recipient must determine its own credit decision. The data contained in this report is for information purposes only.



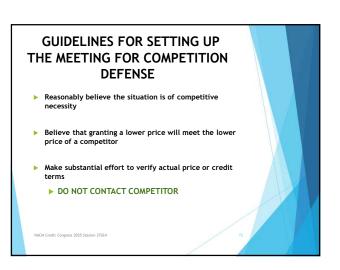












"GOOD FAITH" CRITERIA

- Seller must prove that it had good reason to believe in good faith that it was meeting a lower, different or better price (or credit term)
- Standard of proof is that of a prudent business person responding simply and fairly to what is reasonably believable

NACM Credit Congress 2025 Session 3702

WHEN ALL ELSE FAILS: CREATE AN INTERNAL RECORD

- > The date of competitor's offer
- > Name of competitor making offer
- Name of the Customer
- Terms and conditions of the offer
- Source of the Information
- A statement as to why you believe your source
- Details as to what investigation was conducted

NACM Credit Congress 2025 Session 37024

INTERNAL RECORD cont'd.

- Website or other medium where offer is stated
- > Terms and conditions of the offer
- > Investigation into customer to determine that it meets requirements for offer

NACM Credit Congress 2025 Session 37024

SUMMARY

- ► Compete vigorously
- ► Consider your market power
- Consult with counsel when specific problems occur
- ► Maintain your records

NACM Credit Congress 2025 Session 37024