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Federal Agencies Continue Retreat on Special Purpose Credit Programs (SPCPs)

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Federal agencies have withdrawn a key source of regulatory assurance for lenders regarding the offering of special purpose credit programs (SPCPs). On August 25, 2026, the FDIC, NCUA, OCC, CFPB, HUD, DOJ, and FHFA jointly rescinded the February 22, 2022 “Interagency Statement on Special Purpose Credit Programs Under the Equal Credit Opportunity Act and Regulation B,” effective immediately.

What the 2022 Statement Provided

The 2022 statement encouraged creditors to develop SPCPs that “meet the credit needs of specified classes of persons” and sought to reassure institutions that such programs could be permissible. That assurance rested on two principal foundations: a prior version of Regulation B that permitted certain programs to use race, color, national origin, or sex as a common characteristic under specified conditions, and a contemporaneous HUD interpretation concluding that qualifying SPCPs generally would not violate the Fair Housing Act (FHA).

Why the Agencies Rescinded It

Both foundations have changed. The CFPB amended Regulation B in April 2026, including provisions governing SPCPs, and HUD’s earlier interpretation is no longer in effect. Those amendments, which we covered in CFPB Finalizes Major Regulation B Overhaul: Disparate Impact Out, Discouragement Narrowed, and SPCPs Restricted, removed the effects test from Regulation B, narrowed the prohibition on discouragement, and barred for-profit creditors from using race, color, national origin, or sex as a common characteristic for new originations on or after July 21, 2026. The agencies now state that the prior framework cannot be reconciled with the text of ECOA and the FHA, which prohibit discrimination based on protected characteristics. They also cite U.S. Supreme Court precedent subjecting race-based policies to heightened scrutiny and rejecting a generalized desire to remedy societal discrimination as a sufficient justification.

The rescission also reflects the administration's broader directives to reduce federal regulation, review agency actions for legal authority and policy alignment, under Executive Orders 14192 and 14219, as well as Executive Orders 14151, 14173, and 14281 to end federal DE&I programs and unlawful preferences and promote merit-based, nondiscriminatory treatment.

This action follows related withdrawals by HUD and the CFPB. HUD withdrew its December 2021 FHEO statement and Office of General Counsel guidance on SPCPs in September 2025, and the CFPB withdrew its 2020 SPCP advisory opinion in June 2026.

The rescission also follows the FTC's August 7, 2026 policy statement abandoning disparate impact and "unfair discrimination" theories. Taken together with the Regulation B rule, these actions mean that every federal source of encouragement for SPCPs issued between 2020 and 2022 has now been withdrawn or superseded.

What This Means for Creditors

The agencies' message is direct: creditors should not rely on the 2022 Interagency Statement or related withdrawn guidance when designing or administering SPCPs. Every program must comply with the current text of ECOA and Regulation B and, where applicable, the FHA.

For institutions with an existing or planned SPCP, the rescission calls for a fresh review of the program's legal basis, written plan, eligibility criteria, and administration. In particular:

SPCPs remain permissible in principle, but the withdrawn statement no longer provides support for eligibility criteria based on race, color, national origin, or sex.

Reevaluate each program under the current text of ECOA, Regulation B, and the FHA rather than the withdrawn guidance.

Review whether the written plan and supporting analysis satisfy current requirements and accurately reflect the program's design and purpose.

Give particular attention to race- or sex-conscious criteria, which are likely to receive heightened scrutiny.

Bottom Line

The rescission does not eliminate SPCPs, but it removes a significant source of regulatory comfort and signals a stricter supervisory posture, consistent with the broader federal retreat from effects-based fair lending enforcement at the CFPB and the FTC. Institutions that relied on the 2022 statement's assumptions should review their programs now to ensure compliance with the new SPCP requirements and all other applicable laws.

If you have questions about how this rescission will impact your organization, please contact Chris Friedman, Leslie Sowers, and Shelby Lomax or your Husch Blackwell attorney.