



Consumer Lending Compliance Guidebook

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Tom LeDuc



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Project LEAP is a Credit Union National Association (CUNA) educational initiative supported by the CUNA Mutual Group and the American Association of Credit Union Leagues. It will help credit unions succeed in a rising rate environment by coordinating national and state training, research, and publishing resources on strategies that strengthen credit union bottom lines. Project LEAP will link CUNA and League products and programs addressing overall growth strategies. Its focus will be on asset/liability issues, sales and service and identifying and implementing successful strategies to build membership and grow consumer loan portfolios

tion of the *Rules and Regulations*, which defines a real estate-related loan as “any loan made to finance or refinance the purchase, construction, improvement, repair, or maintenance of a dwelling.”

These types of loans are beyond the scope of this book, so we only mention 701.31 here.

Truth in Lending

Truth in Lending and Reg Z affect various aspects of the member lending process and have a direct impact on the manner in which credit unions advertise member loans.

Reg Z defines the term *advertisement* as:

A commercial message in any medium that promotes, directly or indirectly, a credit transaction.

Reg Z has slightly different rules regarding the advertising of member credit, depending on whether the loan is open-end or closed-end.

Open-end credit means member credit extended by a credit union under a plan in which:

- The creditor reasonably contemplates repeated transactions.
- The creditor may impose a finance charge from time to time on an unpaid balance.
- The amount of credit that may be extended to the member during the term of the loan (up to the limit set by the credit union) is generally made available to the extent that any outstanding balance is repaid.

Examples of open-end credit include credit card accounts, home equity loans, overdraft protection loans, and other lines of credit.

The definition in Reg Z of *closed-end credit* is any member credit that is not open-end credit.

When planning an ad for your credit union’s loan products, you must first determine whether the ad will promote open-end or closed-end credit (or both). The type of loan determines which parts of Reg Z must be complied with before the ad campaign kicks off.

The general rule for advertising a loan under Reg Z can be stated as follows: If the advertisement includes *trigger terms*, it must also include certain disclosures.

Trigger term is not a term used anywhere in Reg Z (although it does appear in the Official Staff Commentary), but it is a useful way to describe the feature, because it “triggers” additional disclosures. The trigger terms are different for open-end vs. closed-end credit, and some terms are actually both trigger terms *and* required disclosures.

Advertising Open-End Credit

The provisions in Reg Z addressing the advertisement of open-end credit are found in Section 226.16.

This section first requires that if an ad for credit states specific credit terms, it shall state only terms that actually are or will be arranged or offered by the credit union. That means, if your ad states that you will be giving members interest-free lines of credit, you must be giving members interest-free lines of credit.

If the open-end credit ad includes “trigger terms,” it must also include certain disclosures. Open-end credit trigger terms are specified in Reg Z as “any of the terms required to be disclosed under §226.6.” Section 226.6 contains the initial disclosure requirements – the disclosures that must be given to members when an open-end loan is opened. Section 226.6 requires more disclosures than the “finance charge” (Section 226.6(a)) and “any other charges” (Section 226.6(b)). Section 226.6 includes other disclosure requirements in subsections (c), (d), and (e). However, the Official Staff Commentary to Reg Z says “the phrase ‘the terms required to be disclosed under 226.6’ refers to the terms in section 226.6(a) and 226.6(b).”

Therefore, the trigger terms for open-end credit are any of the following:

1. The finance charge, including:
 - the periodic rate and the corresponding APR;
 - a statement of when the finance