



June 15, 2007

Fed Requests Comments on Open-End Credit Rules under Regulation Z, the Truth in Lending Act

(MAJOR PROPOSAL)

EXECUTIVE SUMMARY

- The Federal Reserve Board (Fed) has issued proposed amendments to the open-end credit rules under Regulation Z, changes specifically applying to credit cards and merchant-specific credit plans.
- The Fed plans to review Regulation Z in stages over the next year or so. The open-end rules are the subject of the first stage of this review. The Fed will then review the Regulation Z closed-end rules, which apply to automobile loans, mortgages, and other loans with payments over a fixed period of time. The review of the closed-end rules will also include home equity lines of credit (HELOCs).
- The proposal includes comprehensive changes to the format, timing, and content requirement for five main types of open-end credit disclosures that are required under Regulation Z, the Truth in Lending Act (TILA). These include credit card application and solicitation disclosures, account-opening disclosures, periodic statements, change-in-term notices, and advertising provisions.
- One significant issue is that the Fed is proposing to require credit unions that use open-end multi-featured loan products to provide additional closed-end disclosures for subaccounts that are created to finance specific items. CUNA and CUNA Mutual will be reviewing this closely and will work with the Fed to address this issue.

Comments on the proposal are due by October 12, 2007. Please submit your comments to CUNA by September 27, 2007. Please feel free to fax your responses to CUNA at 202-638-7052; e-mail them to Senior Vice President and Deputy General Counsel Mary Dunn at mdunn@cuna.com or to Senior Assistant General Counsel Jeff Bloch at jbloch@cuna.com; or mail them to Mary or Jeff in

c/o CUNA's Regulatory Advocacy Department, 601 Pennsylvania Avenue, NW, South Building, 6th Floor, Washington, DC 20004. **If commenting directly to the Fed, you must refer to Docket No. R-1286.** You may also contact us if you would like a copy of the proposal or you may access it on the Internet at the following address:

<http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo.gov/2007/pdf/07-2656.pdf>

BACKGROUND

TILA is intended to promote the informed use of consumer credit by providing for disclosures about its terms and cost. TILA requires lenders to disclose the cost of credit as a dollar amount and as an annual percentage rate (APR) in a uniform manner. This uniformity is intended to assist consumers in comparison-shopping for credit. Regulation Z implements TILA, which contains official staff commentary that interprets the regulation and provides guidance in applying the regulation to specific transactions.

The proposal focuses on changes to the open-end credit rules under Regulation Z, which differ somewhat from the rules that apply to closed-end, or installment, loans. Open-end credit generally refers to a revolving line of credit, such as a credit card account in which repeated transactions are expected, the available credit is replenished as unpaid balances are repaid, and finance charges are assessed on unpaid balances. This also includes "charge cards" that typically require balances to be paid in full at the end of each billing cycle.

This proposal is part of the Fed's long-term plan of reviewing all of the Regulation Z requirements, which began in late 2004. The Fed is currently reviewing the rules for open-end products, such as credit cards, and will then review the rules for closed-end products, such as mortgages and automobile loans. Prior to this proposal, the Fed issued two advance notices of proposed rulemaking (ANPRs) to solicit comments on open-end credit issues. The Fed reviewed these comments as part of the process of developing the proposed rule. Click below for CUNA's comments in response to these two ANPRs:

http://www.cuna.org/download/cl_032805.pdf

http://www.cuna.org/download/cl_121605.pdf

DESCRIPTION OF THE PROPOSED RULE AND CHANGES TO THE OFFICIAL STAFF COMMENTARY

I. Definitions

Billing Cycle – Billing cycles are required to be equal and no longer than a quarter of a year. This will be revised to allow variance for the first billing cycle, based on when the account is opened.

Charge Cards – This will clarify that the credit card late payment and minimum payment disclosure requirements that are outlined in the 2005 changes to the bankruptcy law (Bankruptcy Act) will not apply to charge cards.

Open-end Credit – The Fed is proposing to change its position with regard to the open-end multi-featured loan programs that credit unions offer. This change will apply to the individual loans extended under this program in which these additional loans are separately evaluated. For these individual loans, the proposal will now require that closed-end disclosures be provided, unless the credit line is generally replenished to the extent the borrower repays the outstanding balances so that he or she may continue to borrow under the plan without having to obtain separate approval for each advance. The creditor would still have the right to periodically verify credit information and to adjust the credit limit and terms if the borrower's creditworthiness has deteriorated, but this could not be done each time a borrower requests credit under a multi-featured loan program. This change will not impact home equity lines of credit (HELOCs).

II. Exempt Transactions

Business Credit – Extension of credit for business purposes is not covered under Regulation Z. The proposal will clarify that the determination of whether credit is for business purposes will be determined when the account is made. This means that transactions made for business purposes will be covered under Regulation Z if made on a credit card intended for consumer purposes at the time it was open. Conversely, consumer transactions on a business purpose card will not be covered under Regulation Z.

Employee-Sponsored Retirement Plans - The proposal will exempt credit extended under employee-sponsored retirement plans from the TILA and Regulation Z requirements.

III. Finance Charge Issues

Under the proposal, any transaction fee on a credit card plan will be a finance charge, regardless of whether the issuer in its capacity as a financial institution imposes the same or a lesser charge on withdrawals of funds from an account, such as a checking or savings account. For example, this would include a fee for

a foreign transaction and a fee imposed for taking a cash advance from an automated teller machine (ATM).

The same rules for determining if the cost of debt cancellation coverage is a finance charge will also apply to debt suspension coverage. The costs will be considered a finance charge, unless the creditor discloses the costs, indicates in writing that the insurance is voluntary, and receives a written indication that the consumer wants to purchase the insurance. To exclude the cost of debt suspension coverage as a finance charge, the creditor will also be required to inform the consumer, as applicable, that the payment obligation is only suspended and interest will continue to accrue. The Fed will provide model clauses and sample language for these disclosures.

Debt cancellation and debt suspension coverage will now cover events beyond those permitted now, which includes life, accident, health, or loss-of-income, and the cost will still be excluded as a finance charge. This expansion will apply if two or more events are covered for a single charge and at least one of the events is an accident or loss of life, health, or income. These changes will also apply to closed-end credit.

The requirements for debt cancellation and debt suspension coverage apply if it is “written in connection with” the credit. Under the proposal, this will be expanded to include insurance that is sold throughout the life of the open-end credit plan. This means consumers must receive the cost disclosures and information that the purchase is voluntary, regardless of when the insurance is purchased. This expansion will not apply to closed-end loans.

For telephone sales, creditors may provide the disclosures orally and receive the consumer’s request for the insurance orally if the creditor maintains evidence of compliance and mails written information within three days of the sale. The creditor may not use leading questions or “negative consent” as a means to obtain the oral request from the consumer. “Skip payment” arrangements will not be covered under the provisions that apply to debt suspension coverage.

Applications fees that are charged to all applicants are not considered finance charges. As outlined in more detail below with regard to the changes in account-opening disclosures, the proposal will require disclosure of all fees paid in order to receive the credit, regardless of whether they are considered a “finance charge.” This will include application fees, which will now be included in the new account summary table that the creditor will provide when the account is opened.

IV. General Disclosure Requirements

In general, all charges imposed as part of the credit plan must be disclosed before they are imposed. The proposal will still require certain charges to be disclosed in writing at account opening and before being increased or introduced

later. Other charges imposed as part of the plan may be disclosed orally at any relevant time before the consumer becomes obligated to pay the charge.

The proposal will require that certain information be provided in a table. This table would be included with account-opening disclosures, checks that access credit card accounts, change-in-terms notices, and in disclosures when a rate is increased due to delinquency, default, or as a penalty. This table would be similar to the “Schumer box” that is included with credit card solicitations and applications. The proposal would require that all these tables be in 10-point font. The official staff commentary will make clear that all open-end credit disclosures and other required communications must be “clear and conspicuous.”

For oral disclosures that will now be permitted, the “clear and conspicuous standard will require that they be provided in a volume and speed that the consumer can hear and understand. These oral disclosures may be provided for any disclosure that is not required to be provided at the time the account is opened.

All disclosures must use consistent terminology. “Grace period” must be the term used when referring to the time payments may be made without interest, and “penalty APR” must now be the term used when an interest rate is increased, due to events such as late payment or exceeding the credit limit.

If debt cancellation or debt suspension coverage is required and included in the table, the term “required” must be used and the specific program must be identified by name. An APR may only be described as “fixed” in the table only if that rate will be in effect unconditionally until the expiration of a specific time period. If no time period is indicated, the term “fixed may only be used if the rate remains in effect unconditionally until the account is closed.

The current requirement that the terms “finance charge” and “annual percentage rate” be more conspicuous does not apply to the table that is included in credit card solicitations and applications. This exception to the conspicuous requirement will also now apply to the new tables that will be required for account-opening disclosures, checks that access credit card accounts, change-in-terms notices, and in disclosures when a rate is increased due to delinquency, default, or as a penalty. Below is more information with regard to these new disclosure requirements.

V. Timing of Disclosures

Account-Opening Disclosures

When a balance transfer option is offered in connection with a credit card offer, some creditors may disclose a range of rates that may apply to the transfer, depending on the consumer’s creditworthiness. The proposal will require the

creditor to provide the actual rate and other terms that will apply in advance to allow the consumer to review those terms before the transfer is completed.

As mentioned above, the proposal will exempt certain fees from the requirement that they be disclosed in writing before the first transaction is made on the account, although they will have to be disclosed before they are imposed. These would include fees to obtain documentary evidence, and these fees may continue to be disclosed at the time the account is opened. Fees to expedite payment or delivery of a credit card would also have to be disclosed before they are imposed, even though these were previously excluded from the TILA requirements.

Periodic Statements

Creditors do not need to send periodic statements if “delinquency collection proceedings have been instituted.” The official staff commentary will be revised to indicate that collection proceedings entails a filing of a court action or other adjudicatory process with a third party, but does not include the assigning of the debt to a debt collector. The proposal will clarify that creditors must continue to comply with the open-end credit rules when they enter into workout arrangements for delinquent accounts, such as by continuing to send periodic statements, unless the debt is converted to a closed-end transaction.

VI. Credit and Charge Card Applications

General Description of Changes

The proposal includes a number of revisions to the format and content of application and disclosure requirements. These include type size requirements, placement of information within the “Schumer box” or table, use of cross-references to related information, and use of boldface for certain key terms. Information on penalty APRs and the reasons they may be triggered will be more noticeable and information would be added as to how long the penalty APR would be in effect.

The account-opening disclosures must also include a table that is similar, but not identical to the table used for applications and solicitations. One difference is that the account-opening table will require information on billing error rights. Although they are not identical, creditors will be permitted to use the account-opening table in the applications and solicitations as the means in which to comply with these new disclosure requirements.

Definition of Solicitation

A solicitation is defined as “an offer by the card issuer to open a credit card account that does not require the consumer to complete an application.” The

Fed proposes to include “firm offers of credit,” as defined in the Fair Credit Reporting Act, within the definition of “solicitation.” The official staff commentary will also clarify that “invitations to apply” will not be considered a “solicitation,” unless this contact includes an application form.

Form of Disclosures and the Table Format

Currently, fees for late payment, exceeding the credit limit, balance transfers and cash advances are not required to be included in the table. The proposal will now require this information to be disclosed in the table. When a table format is used, issuers must disclose in bold text the APRs that are required to be disclosed, any discounted initial rate permitted to be disclosed, and any fee amounts or percentages required to be disclosed, except for any maximum limits on fee amounts. The proposal includes model samples that show the rates and fees that are disclosed.

The Bankruptcy Act requires that credit card solicitations provided in electronic form must contain the same disclosures as those sent by mail. Under the proposal, this will also apply to credit card applications that are provided in electronic form. The proposal will also provide guidance to the Bankruptcy Act provision that requires that the electronic disclosures must be “readily accessible to consumers in close proximity” to an electronic application or solicitation by providing the following examples:

- When the disclosures appear on the screen when the application or reply form appears.
- When they are located on the same web “page” as the application or reply form without necessarily appearing on the initial screen, if the form contains a clear and conspicuous reference to the location of the disclosures and indicates that they contain rate, fee, and other cost information.
- When they are posted on a website and the application or solicitation reply form is linked to the disclosures in a manner that can not be bypassed.

The proposal also incorporates other provisions of the electronic disclosure proposal that was issued earlier this year. This includes the requirement that disclosures must be provided electronically if the consumer accesses the application or solicitation electronically. However, a link to the disclosures on the website would not be permitted if the application or solicitation is received in the mail. The proposal also includes examples of how to present these electronic disclosures.

Certain Fees that Vary By State

Under the proposal, returned payment fees will be listed in the new table that will be included in the application or solicitation. A range of fees may be included instead if the amount varies from State to State.

Annual Percentage Rate

The proposal will reduce the font size of the purchase APR from 18 to 16-point type. Other disclosures in the table must be in 10-point type. The periodic rate, which is the rate that is imposed for a day, month, or other subdivision of a year, can still be included in the application or solicitation, but it can no longer be included in the table.

Information about the current value of the index or the amount of the margin for variable APRs will also no longer be allowed in the table. Card issuers will only be allowed to indicate that the rate varies and the type of index used, such as the “prime rate,” without any other details with regard to the index. This information must be included with the applicable APR. The proposal includes a model form and samples as to how to disclose this information. Information about rate floors and ceilings will also not be permitted to be included in the table, although this information may be included elsewhere.

If the card issuer provides a discounted rate in the table, it must also use the term “introductory” in immediate proximity to the listing of the initial discounted rate. Placing this within the same phrase as each mention of the discounted rate will be sufficient, but will not be required. Issuers may also use the term “intro” instead of “introductory.”

For penalty APRs, the proposal will require issuers to include within the table a brief description of the events that may result in the penalty APR. This must be disclosed in the same row of the table. The model form and samples provide guidance regarding this description.

The issuer must also specify the balances to which the penalty rate applies and how long the rate will apply, including if the rate will apply indefinitely. This description should be brief and, again, the model form and samples provide guidance regarding this description. Issuers must also include a description of the circumstances in which the discounted initial rate may be revoked. This will also be included in the table with the other penalty rate information.

For issuers that do not offer a specific rate because it will depend on the consumer’s creditworthiness, the proposal will clarify that the issuer must disclose the possible rates that may apply and a statement that the rate will depend on creditworthiness. The rates may be disclosed as either specific rates or as a range of rates. The model forms and samples provide guidance on this disclosure.

The Fed is proposing to group APRs together in the table and fees together in the table, rather than grouping APRs and fees together, such as grouping them together for cash advances and balance transfers. However, if a rate and fee both apply to a balance transfer or cash advance, the card issuer must disclose

that a fee applies when disclosing the rate and then must cross reference the fee.

Fees for Issuance or Availability

For credit cards that include periodic fees, such as annual or maintenance fees, the proposal will require disclosure of the periodic fee and how frequently it is imposed. For one-time fees, creditors will be required to disclose that this is a one-time charge. Application fees that are charged regardless of whether the consumer receives the credit will also need to be disclosed. These fees will be disclosed in the table.

Minimum Finance Charge

The proposal will require card issuers to disclose in the table a brief description of the minimum finance charge to give consumers information as to when this charge will be imposed. The model form and samples provide guidance on how to disclose this information.

Transaction Charges

Under the proposal, fees for transactions in a foreign country may not be disclosed in the table. This information will be included in the account-opening summary table.

Grace Period

Creditors will be required to disclose briefly the conditions on the applicability of the grace period. For example, indicating it applies if the balance is paid in full. The official staff commentary will provide guidance regarding this description.

Balance Computation Method

Under the proposal, the reference to the balance computation method will no longer be included in the table. This information must be included directly below the table.

Cash Advance Fee

All transaction fees will now be considered finance charges under the proposal. This will now include all cash advance fees.

Returned Payment Fee

A fee imposed when a payment is returned will now be disclosed in the table.

Cross References from Fees to Penalty Rates

Under the proposal, if a penalty rate is imposed for any of the reasons that a penalty fee would be imposed, the disclosure of the fee must disclose that a penalty rate may apply and there must be a cross reference to the penalty rate. The model form and samples provide guidance on this disclosure.

Required Insurance, Debt Cancellation or Debt Suspension Coverage

If debt cancellation or debt suspension coverage is required, then the fee must be disclosed in the table. There must also be a cross-reference to where the consumer may find more information about this insurance coverage, if the additional information is included with the application or solicitation. The model form and samples provides guidance on this disclosure.

Payment Allocation

Certain disclosures will have to be made if the card issuer:

- Offers a discounted initial rate on a balance transfer or cash advance that is lower than the rate on purchases.
- Offers a grace period on purchases.
- Allocates payments to the lower rate balance first.

In these situations, the issuer must disclose in the table that:

- The discounted initial rate applies only to balance transfers or cash advances, as applicable, but not to purchases.
- The payments will be allocated to the balance transfer or cash advance, as applicable, before being allocated to any purchase balance.
- The consumer will incur interest on the purchase balance until the entire balance is paid, including the transferred or cash advance balance, as applicable.

These disclosures will only be required if the discounted rate applies to a balance transfer or cash advance that the consumer can request as part of accepting the offer for credit. This does not apply to discounted rates for subsequent balance transfers or checks that access the account. The official staff commentary will provide examples as to when these disclosures would be given. The model form and samples provide guidance on providing these disclosures.

Available Credit

Subprime credit cards often assess substantial fees when the account is opened. These are billed on the first statement and substantially reduce the available credit. The proposal will require disclosure in the table of the amount of available credit, after deducting these mandatory fees or security deposit, if the fees or

security deposit equal 25% of the minimum credit available. The model form and samples provide guidance on providing these disclosures.

Reference to the Fed's Website for Additional Information

Under the proposal, the table must include a reference to the Fed's website and that the website provides educational materials on shopping for and using credit card accounts.

Direct Mail and Electronic Applications

The proposal will require that variable rates on applications and solicitations that are mailed to consumers must be accurate within 60 days before they are mailed. For electronic applications and solicitations, the variable rate disclosed must have been in effect within 30 days before being sent electronically to the consumer or displayed on a website. All other terms must be updated when they are changed. This change was included in the electronic disclosure proposal that the Fed issued earlier this year.

Telephone Applications and Solicitations

For oral disclosures provided in connection with oral applications, creditors currently have the option of providing the disclosures in writing within 30 days in a table format, if there is no fee imposed for the use of the card or it is not imposed until the card is used. The official staff commentary will be revised to require the table to indicate that the consumer is not required to accept the card or pay the fee, unless the card is used.

For these written disclosures, creditors will no longer have the option of estimating the variable APR. Creditors will continue to have the option of providing the APR "in effect at the time the disclosures are mailed or delivered," but the proposal will require this to be updated on a monthly basis. For oral disclosures, the variable rate must be the one in effect at that time. The other terms, for both the oral and written disclosures, must be accurate at the time they are given or mailed.

Applications and Solicitations Made Available to the General Public

Currently, card issuers are permitted to give a narrative description of the account opening disclosures in connection with "take-one" applications and solicitations. The proposal will now require a table for certain disclosures, such as key rates and fees. Issuers may use the account-opening summary table that is being proposed. The proposal will require the disclosures be accurate as of the date of printing. For variable APRs, this would mean accurate within 30 days before printing.

In-Person Applications and Solicitations

The proposal will address the disclosures that are provided with “in-person” applications and solicitations, such as when a financial institution offers a preapproved credit card when he or she opens an account. These will be in the form of a table and must follow the rules for accuracy that apply to direct mail or “take-one” applications and solicitations.

V. Account Opening Disclosures

General Description of Changes

The proposed changes to the account-opening disclosures will not impact HELOCs, as they will be addressed when the Fed proposes changes to the closed-end credit rules, as those changes will address all home-secured loans.

For open-end plans that are not home-secured, the proposal will require a table with a summary of key terms to be provided before the account is opened and will reform how and when cost disclosures are made. This will be similar to the table used for credit card applications and solicitations. Disclosures that are typically lengthy or complex and less often used, such as how variable rates are calculated, will not be in the table but will be integrated with the account agreement terms. The proposal includes a model form and samples for these new disclosures. These changes will affect credit card accounts, traditional overdraft credit plans, personal lines of credit and revolving plans offered by retailers without a credit card.

Currently, TILA requires disclosure of “finance charges” and “other charges.” However, this has created confusion and uncertainty, as these terms have broad and flexible definitions. The proposal will address these concerns by:

- Requiring that all charges imposed as part of an open-end plan be disclosed before they are imposed, regardless of whether they have been considered “finance charges” or “other charges.”
- Specifying precisely the important costs that must be disclosed in writing at the time the account is opened. This includes interest rates, annual fees, and late payment or over-the-credit limit fees.
- Permitting the disclosures of all other charges that are imposed as part of the credit plan either at account opening or orally at any other time before the consumer agrees to pay the charge. This includes fees to expedite payment or to provide an additional card.

The result of these changes will be that certain costs currently excluded from TILA coverage will now be disclosed, although they could be disclosed orally at a later time. This will include the fees for expedited payment or for expedited delivery of the card.

Specific Changes Affecting Open-end Credit Plans

Currently, Regulation Z creates two categories of charges that need to be disclosed, specifically “finance charges” and “other charges.” The proposal will replace this with a single category of all “charges that are imposed as part of the open-end credit plan.” The proposal will identify those charges that would be considered to be imposed as part of the plan. These include finance charges, penalty charges, taxes, and charges for voluntary credit insurance, debt cancellation or debt suspension coverage.

The charges to be disclosed will also include any charge in which the payment, or nonpayment, affects the consumer’s access to the credit plan, the duration of the plan, the amount of credit extended, the period for which the credit is extended and the timing or method of billing. Examples include application fees, participation fees, fees to expedite card delivery, and fees to expedite payment.

The proposal also provides examples of charges that would not be considered imposed as part of the plan. One example would be charges imposed on a cardholder by an institution other than the card issuer for the use of the other institution’s ATM.

The proposal will list those specific charges that must be disclosed in writing at account opening. They must also be disclosed in writing before they are increased or newly introduced. All other fees that would have to be disclosed would not have to be disclosed in writing at account opening. They could be provided orally at any relevant time in the future before the consumer agrees to or becomes obligated to pay the charge.

Creditors will continue to be required to explain the balance computation methods, which are the methods used to determine the balance to which the rates would apply. Under the proposal, the creditor would name the balance computation method that is used and then refer consumers to the account opening disclosures for an explanation of this method.

For variable APRs, the rate disclosed would have to be the rate in effect within 30 days before the disclosures are provided. Creditors will no longer be able to provide an estimate. In describing how a variable rate is determined, creditors would also have to disclose the applicable margin, if any.

Under the proposal, creditors will be required to disclose how existing balances would be affected by rate changes that do not result from changes in an index or formula, such as the expiration of an introductory rate or imposition of a penalty rate. For example, a creditor will have to disclose if a penalty rate applies to the outstanding balance for purchases, as well as existing balance transfers that were transferred at a low rate. If the rate increase is due to an increased margin,

creditors will have to disclose the increase. The highest margin may be stated if more than one applies.

As noted above, the summary of account opening disclosures will be provided in a table format, which will be based on the format and content requirements for the table that will be provided with the direct mail applications for credit and charge cards. The proposal includes a model form.

Here is additional information with regard to specific aspects of the account-opening disclosures:

- Rates - The periodic rates, index, and margin values will not be included in the table. These would still be disclosed as part of the account opening disclosures, such as in the credit agreement. As noted above, a range or list of possible APRs could be disclosed in the application or solicitation. However, the account opening disclosure must include the specific APRs that will apply to the account.
- Fees – The proposal provides a specific list of fees that will be disclosed in the table. These include charges that the consumer would incur without the creditor otherwise being able to disclose the cost in advance of the consumer’s action that triggers the costs. These include cash advance and late payment fees, as well as fees for transactions in a foreign currency. Such fees would have to be provided in writing before the first transaction and when they are increased or newly introduced.
- Grace Period – For all balances on the account, in addition to those for purchases, the proposal will require the creditor to explain whether there is a grace period and how long it will last.
- Credit Insurance and debt cancellation or debt suspension coverage – If credit insurance, debt cancellation, or debt suspension coverage is required, the cost would have to be disclosed, along with a reference to the portion of the account-opening materials in which more information about the product may be located.
- Payment allocation – The account-opening table will have a payment allocation disclosure as to how payments will be allocated if the consumer transfers balances at a low rate and then makes purchases on the account. This is similar to the information required in the table that will be provided with the credit card applications and solicitations.
- Available credit – If the credit card issuer requires fees for the credit or a security deposit that is at least 25% of the minimum credit offered, then the issuer must disclose in the table an example of the amount of credit available after the fees or security deposit is deducted.
- Website reference – Credit card issuers will be required to provide a reference to the Fed’s website for additional information about shopping and using credit cards.
- Balance computation methods – The proposal will require the issuer to identify the balance computation method used, which will be beneath the table, along with a statement that an explanation of the method is provided in

the account agreement or disclosure statement. If the method is not one of the commonly used methods that are currently identified in Regulation Z, then the creditor would need to provide a brief explanation instead of the name of the method.

- Billing error rights – This information about billing rights and how to exercise them will also be located directly below the table.

VI. Periodic Statements

General Description of Changes

The proposed changes to the periodic statements will not impact HELOCs, as they will be addressed when the Fed proposes changes to the closed-end credit rules, which will address all home-secured loans. The proposal will change how interest and fees are disclosed in the periodic statement and will change the change-in-terms requirements. The proposal will also offer two alternatives for disclosing the “effective” APR, which is the APR that incorporates finance charges. One will change this disclosure and the other alternative will eliminate the disclosure. Model language and forms will be provided to illustrate the proposed revisions.

Credits

The proposal will require credits and payments to be grouped together. Model language is included that illustrates this new format.

Periodic Rates

The proposal will eliminate the requirement to disclose the periodic interest rate on the periodic statements. The APR that is disclosed would have to be labeled as the “annual percentage rate.” Model forms are provided that illustrate this new requirement. Promotional rates may only be disclosed on the periodic statement if the rate actually applied during the billing period.

Balance on which Finance Charge is Computed

Under the proposal, creditors will no longer be required to include an explanation of how the finance charge may be verified for creditors who use a daily balance method. The balance will now be referred to as “balances subject to interest rate.” The current guidance about disclosing which periodic rates attributable to interest and other finance charges will be eliminated.

As for the disclosure of the balance computation method, the creditor has the following options:

- Provide an explanation.

- Identify the name of the balance computation method and provide a toll-free telephone number in which consumers may obtain more information from the creditor as to how the balance and finance charges are determined.

The creditor must provide a brief explanation if it uses a method that is not currently identified in Regulation Z.

Charges Imposed

The proposal will require creditors to disclose all charges “imposed as part of an open-end plan.” This will be broader than the current standard for disclosing “finance charges” and “other charges,” but it is the Fed’s understanding that creditors currently disclose all the charges that will be required under the proposal. These charges will now be disclosed under the labels of “interest charges” and “fees.”

Interest charges will be itemized by type of transaction and a total interest charge for the statement period will also be disclosed. Finance charges will be identified as “fees” and no longer combined with interest costs. These fees, as well as fees that are considered “other charges” under current rules, will be grouped together and a total of all fees for the statement period will be disclosed. The periodic statement will disclose the total amount of interest charges and fees for both the statement period and the year-to-date. The official staff commentary will provide guidance on how to disclose the year-to-date totals at the end of the calendar year. The proposed rule includes model samples to illustrate these new disclosures requirements.

The Fed is proposing two alternatives for disclosing the “effective” APR, which is the APR that incorporates certain charges. The first approach tries to improve consumer understanding of this rate and reduce uncertainty as to how to make this calculation. The second approach would eliminate the requirement to disclose the effective APR.

For the first alternative, the proposal includes uniform terminology and formatting with regard to the disclosure of the effective APR and the fees that are included in the computation. The fees and charges to be disclosed include:

- Interest charges.
- Minimum charges imposed if the interest that would have applied is smaller than the minimum charge.
- Charges relating to a specific transaction.
- Charges related to required credit insurance or debt cancellation and debt suspension coverage.
- Charges based on the account balances, account activity or inactivity, or the amount of credit available.

Finance charges related to opening the account, and a finance charge not imposed more often than annually as a condition to continuing or renewing the

account, will not be included in the effective APR calculation. Currently creditors are exempt from disclosing the effective APR when the finance charge does not exceed 50 cents during a billing cycle. This will be adjusted to \$1.

The effective APR will be labeled the “Fee-Inclusive APR” and creditors will indicate that effective APRs are “APRs that you paid this period when transactions or fixed fees are taken into account as well as interest.” Again, the proposal will provide the specific and exclusive list of finance charges that will be used to calculate the effective APR.

An effective APR will be disclosed for each feature, such as purchases and cash advances, in a table format. A composite effective APR for two or more features will no longer be permitted. The effective APRs will appear in a table, by feature, with the total interest to be labeled as “interest charges,” and the total of the fees included in the effective APR to be labeled as “transaction and fixed charges.” Each fee included within the effective APR will be labeled as either a “transaction” or “fixed” fee. Transaction fees will be disclosed in the list of transactions. Creditors will not have to disclose the effective APR if it is the same as the corresponding APR, which would be the case if the only finance charge is interest. In these situations, creditors will also not need to label fees as “transaction” or “fixed” fees. Model forms are provided to illustrate these disclosures and creditors will have to use these models or disclosures that are substantially similar.

Two kinds of charges, when used to calculate the effective APR, will be grouped under the standard purchase feature of the account. These would be 1) charges relating to specific purchase transactions; and 2) minimum, fixed, and other non-interest charges not related to a specific transaction. If there are other types of purchase features, such as promotional purchase features, then the minimum, fixed or other non-interest charges would be grouped with other charges relating to the balance on the standard purchase feature. A minimum charge will be disclosed as a fee, rather than interest, and will be grouped with other fees related to standard purchases and used to calculate the effective APR with respect to the standard purchase feature.

The second alternative will eliminate the effective APR. Under this alternative, the proposal will require disclosure of the nominal interest rate and fees in a manner designed to be more understandable and comparable among financial institutions.

Address for Notice of Billing Errors

Consumers who allege billing errors must do so in writing. The official staff commentary will be revised to indicate that the creditor must inform the consumer that notifying the creditor by email or through the website will not preserve these billing rights, unless the creditor agrees to consider notices by electronic means

as “written” notices. If the creditor does agree, then the notification only needs to indicate that using the telephone does not preserve these rights.

Due Dates – Late Payment Costs

The Bankruptcy Act requires creditors that charge a late payment fee to disclose on the periodic statement the payment due date or, if different, the earliest date on which the late-payment fee may be charged, as well as the amount of the fee. Neither HELOCs nor charge cards will be required to comply with this requirement.

Creditors will not be required to disclose informal “courtesy periods” that are not part of the credit agreement. Also, the due date provided under the terms of the agreement is the date that must be disclosed, not a different date, such as when creditors are required by state or other law to delay, for a period of time, a late payment fee if the payment is received after the due date.

The proposal will require creditors to disclose any cut-off time for receiving payments in close proximity to each reference of the due date, if the cut-off time is before 5 PM on the due date. This information must also be in close proximity to the minimum payment and ending balance. If these cut-off times vary by method of payment, such as by check or electronically, then the earliest time must be disclosed, without specifying the payment method to which it applies.

The proposal will require that the amount of the late payment fee must be in close proximity to the due date. If the fee is based on outstanding balances, the proposal will permit creditors to disclose either the fee that would apply to the specific balance, or the highest fee, such as “up to” a certain dollar amount. The proposal will also require creditors to disclose any increased rate that may apply if the payment is received after the due date. If the increased rate differs, based on whether it is based on the loss of a promotional rate or imposition of a penalty, only the highest rate that could apply would be disclosed. This increased APR will be disclosed in close proximity to the fee and due date.

Minimum Payments

The Bankruptcy Act requires disclosure on the effects of making only minimum payments, which will be on the front of the periodic statement in a prominent location. This includes the following:

- A warning statement that making minimum payments will increase the interest and time it takes to repay the balance.
- A hypothetical example of how long it will take to pay the balance if only minimum payments are made.
- A toll-free telephone number that the consumer may call to obtain an estimate of the time it would take the repay the actual account balance. The Fed will prepare a table that would be used to provide this estimate information. The

Fed will also maintain for two years a toll-free number for financial institutions that have assets of \$250 million or less.

Here is the information that must be provided to consumers who use the toll-free number:

- The generic repayment estimate.
 - The APR on which the generic repayment estimate is calculated.
 - The assumptions that only minimum payments are made and no other amounts are added to the balance.
 - That the repayment is an estimate, and the actual repayment time may differ.
- Other information, such as the assumptions used to make this estimate, may be provided but only after providing the above, required information. Information about negative amortization would also have to be provided, if applicable.

Alternatively, the creditor may use the toll-free number to provide the actual number of months it will take to repay the outstanding balance, instead of the estimate provided by the Fed. Under this alternative, the creditor would not be required to provide the hypothetical example on the periodic statement but, would instead, need only provide the warning statement, along with the toll-free telephone number. The card issuer could also provide this actual repayment disclosure on the periodic statement. If this is done, the proposal will eliminate the requirement to provide the warning statement, the hypothetical example, or the toll-free telephone number.

All applicable APRs will need to be used in making this calculation, except for promotional APRs. The outstanding balance to use will be the one as of the closing date of the last billing cycle.

Arrangements would also need to be made to have a consumer talk to an individual if he or she cannot use the automated device through which the information is provided. Once the consumer indicates that he or she is requesting the repayment information, the issuer cannot provide advertising or marketing information until the information is provided.

Under the proposal, these minimum payment provisions will only apply to credit cards. They will not apply to other types of open-end credit, such as charge cards, HELOCs, open-end reverse mortgages, overdraft lines of credit, and other personal lines of credit, regardless of whether they can be accessed by a credit card device.

The Bankruptcy Act provides specific language for issuers to use when disclosing the hypothetical example on the periodic statement. The proposal will make the following changes to this hypothetical example:

- The payoff time will be expressed in years, instead of months, and will be rounded to the nearest full year.

- The hypothetical example includes a minimum payment formula, such as the payments being two or five percent of the balance. The proposal will eliminate the disclosure of this formula.
- Style changes to make these examples easier to understand.

The proposal will exempt credit card accounts from these minimum payment requirements if there is a fixed repayment period for the account that is specified in the account agreement and the required minimum payments will amortize the balance within the fixed repayment period. The proposal will also exempt issuers from these minimum payment requirements for a particular billing cycle if the consumer has paid the entire balance in full for the previous two billing cycles. In these situations, the consumer would receive these disclosures after not paying in full for one billing cycle. Card issuers will have the option to provide these disclosures to all cardholders, even those that fall under this exemption.

VII. Subsequent Disclosure Requirements

Statement of Billing Rights

Creditors are currently required to provide a billing error rights statement annually. The proposal will change the model forms that are used to provide this information.

Disclosures for Credit Card Checks

The proposal will require certain information to be disclosed each time checks are mailed to consumers that can be used to access a credit card account. This will not affect HELOCs. As under current rules, this would not be required if the checks are mailed within 30 days of the account-opening disclosures, as long as the finance charge terms are the same.

These disclosures will be on the front of the page that contains these checks. They will be in the form of a table and will include the following key terms:

- Any discounted initial rate and when that rate will expire.
- The type of rate that will apply after any discounted initial rate, such as the purchase and cash advance rate, and what that rate will be.
- Transaction fees for using the checks.
- Any grace period that applies. If none, then an indication that interest will apply immediately.

Any variable rate disclosed will be considered accurate if it was in effect within 30 days of when the disclosure was given. Model language is provided with regard to these disclosures.

Change in Terms

The proposal includes the following changes with regard to the requirement to provide change-in-terms notices:

- The circumstances in which these notices are provided will expand to include increases to late-payment fees and over-the-credit-limit fees. This only applies to changes to these terms, not to when these fees are applied to the account.
- The notice will need to be sent at least 45 days in advance. This is an increase from the 15-day period that currently applies. Under the proposal, certain disclosures do not have to be provided at the time the account is opened and may be disclosed later, and orally, at the relevant time in which the information will be useful, such as when the consumer elects the service that would trigger this charge. Change-in-terms notification for terms not required to be in the account opening table could also be provided orally or in writing at the relevant time.
- The proposal will include format changes to these disclosure requirements that are provided in writing. The information will be in the form of a summary table, similar to the account-opening tables. If included with periodic statements, the table must be on the front and precede the transaction information. The proposal includes model forms and samples that illustrate this requirement.

The proposal will also require the following additional information in the change-in-terms notices, which must be above the summary table:

- A statement that changes are being made to the account.
- A statement that the consumer may opt-out of these changes, along with a reference to additional information about this opt-out right.
- The date the changes will be effective.
- If applicable, an indication that additional information about the changes may be found in the notice.
- If the rate is changing, other than the penalty rate, a statement that if a penalty rate applies, the new rate described does not apply until the account balance is no longer subject to the penalty rate.

Under the proposal, if a creditor decreases the credit limit, advance notice must be provided before an over-the-limit fee or penalty rate may be imposed solely as a result of the consumer exceeding the decreased credit limit. This notice must be provided in writing or orally at least 45 days prior to imposing the fee or penalty rate.

Increase in Rates Due to Delinquency or Default or Penalty Pricing

The proposal will require creditors to provide 45 days advance notice when a rate is increased due to the consumer's delinquency or default, including delinquency or default with other creditors, or if a rate is increased as a penalty for one or

more events specified in the account agreement, such as late payment or exceeding the credit limit. The proposal includes model forms and samples that illustrate this requirement.

This notice must include the following information, which must be on the front of the first page:

- A statement that the delinquency, default or penalty rate has been triggered.
- The date as of which the delinquency, default or penalty rate will be applied.
- The circumstances under which the delinquency, default or penalty rate will cease to apply, or that this will remain in effect for a potentially infinite time period.
- A statement as to which balances the delinquency, default or penalty will apply.

Disclosures upon Renewal of Credit or Charge Card

Creditors may currently delay the renewal notice that they have to provide if they charge an annual or periodic fee, provided they reverse the fee if the consumer chooses to terminate the account. The proposal includes model language that creditors may use when providing this notice.

VIII. Prompt Crediting of Payments

For payments made through the creditor's website, the official staff commentary will be revised to indicate that the date of receipt will be the date when the consumer authorizes the creditor to debit the consumer's account electronically, not the date on which the consumer gives the instruction for the payment.

IX. Treatment of Credit Balances – Account Termination

Currently, creditors must take action to refund credit balances in excess of \$1. The official staff commentary will be revised to indicate that the creditor may comply with the requirement by providing the refund upon receipt of a consumer's oral or electronic request.

The Bankruptcy Act prohibits creditors from terminating open-end accounts before its expiration date solely because the consumer has not incurred a finance charge. The official staff commentary will clarify that it is the credit agreement that determines the expiration date, not the credit card. If there is no expiration date, then the creditor may not terminate the account if the consumer does not incur a finance charge.

This does not prohibit termination based on inactivity for three or more consecutive months. The proposal will indicate that an account is inactive if there has been no extension of credit, such as by purchase, cash advance, or balance transfer, and the account has no outstanding balance.

X. Special Credit Card Provisions

Liability of Cardholder for Unauthorized Use

Currently, TILA limits a cardholder's liability for an unauthorized use of a credit card to no more than \$50 for transactions occurring prior to notifying the card issuer that an unauthorized use has or may occur. The official staff commentary will clarify that if a cardholder gives a credit card to another person and that person exceeds the given authority, the cardholder will be liable for the transactions unless the cardholder notifies the creditor that the use of the card is no longer authorized. The commentary will also indicate that an unauthorized use will include circumstances in which a person has obtained the card or initiated a transaction through robbery or fraud. These situations will also apply to debit cards under Regulation E.

The official commentary will also clarify that the liability limitations do not apply to checks that access a credit card account. The consumer will still be able to assert the billing error protections, if applicable.

Currently, a cardholder may only be held liable when the card itself or some other sufficient means of identifying the cardholder is presented. The official staff commentary will clarify that providing the 3 or 4 digit number on the back of the card when conducting a transaction does not meet this requirement, such as when this information is provided for transactions conducted by telephone or on the Internet. The proposal will also revise the model clauses that may be used to explain the consumer's liability for unauthorized use.

XI. Billing Error Resolution Process

The proposal will clarify the following with regard to the billing error resolution process:

- The billing error provisions apply to purchases using a third-party payment intermediary, such as a person-to-person Internet payment services.
- A creditor must complete its investigation within the required timeframes and may not reverse the credits that have been made once this time has expired.
- A creditor may not deduct any portion of a disputed amount or related charges when a cardholder uses an automatic payment service offered directly by the creditor.

The official staff commentary will also clarify that prior notice to the merchant is not required before the consumer can assert a billing error based on the good and service not being accepted or delivered as agreed. Billing error notices may be submitted electronically provided the creditor has stated in the billing rights statement that it will accept these notices electronically, along with providing information as to how the consumer may submit the notices in this manner.

Under current rules, the card issuer is prohibited from deducting any part of the disputed amount or related charges from a cardholder's deposit account that is held by the card issuer. The proposal will extend this to automatic deductions from the consumer's account when the consumer has enrolled in the card issuer's automatic payment plan. However, this would not apply to a consumer who has enrolled in a third-party bill payment service that is not offered by the card issuer.

If, after investigation, it is determined that the consumer still owes some or all of the disputed amount, the official staff commentary will clarify that the consumer will be given time to pay the disputed amount without incurring additional interest that will be equal to the grace period that he she would have had to pay this amount if it was not disputed.

The official staff commentary currently indicates that credit extended incidental to an electronic fund transfer that is not extended under an agreement between the consumer and the financial institution is governed solely by the error resolution process in Regulation E. This will be clarified to indicate that this applies to overdraft privilege plans that are not subject to Regulation Z.

XII. Advertisements

Currently, additional disclosures are required if certain "trigger" terms are used. For home-equity advertisements, this includes "negative" terms, such as "no interest" and "no annual fee." The proposal will apply these requirements for negative trigger terms to all open-end credit plans.

Advertisements for open-end plans that are established to finance the purchase of goods and services may reference minimum monthly payments. For these types of advertisements, the proposal will also require additional information, in equal prominence, as to the time period required to pay the balance and the total dollar amount if only minimum payments are made.

The Bankruptcy Act requires that the term "introductory," or "intro," must be used clearly and conspicuously in immediate proximity to any mention of an introductory rate in applications or solicitations, as well as in the accompanying promotional materials. Placing this term within the same phrase of each listing of the introductory rate will be acceptable for purposes of complying with this requirement.

The time when the rate expires and the rate that will then apply must also be disclosed in a prominent location closely proximate to the first mention of the introductory rate. A range of rates that will apply after the introductory period may also be listed if the rate will depend on the consumer's creditworthiness. Including this information within the same paragraph as the first listing of the

introductory rate will be acceptable for purposes of complying with this requirement. Under the proposal, the “first listing” will be the most prominent listing of the introductory rate on the front of the first page of the document. The largest type size may be considered the “most prominent” listing, although the Fed recognizes there may be other means in which to make this determination.

For multi-page documents, the first listing should apply solely to the “principal promotional document,” which includes the solicitation letter, unless the introductory rate is not listed in that document. If that rate appears in other documents, then this “closely proximate” requirement will apply to each separate document that lists the introductory rate. These requirements do not include envelopes or banner advertisements and pop-up advertisements that are linked to an electronic application or solicitation.

These introductory rate requirements will apply to all promotional materials that accompany card applications and solicitations that are offered by direct mail, electronically, as well as those available publicly. They will also apply to advertisements for open-end plans that do not accompany the application or solicitation.

The proposal will use the term “introductory rate” as opposed to “temporary rate,” and the term will be used broadly to include any rate of interest applicable to an open-end plan for an introductory period if that rate is less than the one that will apply after the introductory period. This includes, for example, introductory periods of one year or more and would cover both variable and nonvariable-rate plans.

Television and radio advertisements will still be required to disclose the APR that applies to the credit plan. However, these advertisements may provide a toll-free telephone number that consumers may use to receive other disclosures, such as minimum payments and annual fees.

The proposal will prohibit the using of the term “fixed,” or similar term, in an advertisement to describe the APR, unless the rate will remain in effect until the expiration of the advertised period. Examples of similar terms covered under this requirement include “unchanging” or “permanent.” If no time period is advertised, then these terms may not be used unless the rate will remain in effect until the credit plan is terminated.

XII. Appendices

The proposal will change the model forms and samples that are used with open-end credit. Specific formatting changes are being proposed for the tables that are included with the account opening disclosures and with the credit card applications and solicitations. These include font size (10-point, except 16-point for the purchase APR), as well as requiring adequate spacing between the lines

and between the paragraphs. The proposal also includes additional model forms and samples for periodic statements, as well as appendices that provide guidance to creditors with regard to providing the minimum payment information as required under the Bankruptcy Act.

QUESTIONS TO CONSIDER REGARDING THE REGULATION Z PROPOSAL

(The Fed has specifically requested comment on most of the issues raised in these questions.)

- The Fed is proposing to require credit unions that use open-end multi-featured loan products to provide additional closed-end disclosures for subaccounts that are created to finance specific items. How will this change impact your lending operations and do you believe this change is necessary to protect your members?
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- The Fed recognizes that creditors will need sufficient time to implement the numerous revisions that will likely be adopted. How long should the implementation period be for the changes outlined in this proposal?
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- The proposal will increase the notification period for change in terms from 15 to 45 days, including notices for increased rates due to delinquency, default, or penalties. Would a shorter time period than 45 days be adequate?
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- In general, Regulation Z applies to consumer credit extended to residents (including resident aliens) of a state. Is further guidance on this scope of coverage needed?
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- Currently, the definition of “credit card” includes “coupon book,” which is not defined and the Fed is not aware of credit devices that would be considered a “coupon book.” Should this reference to “coupon book” be deleted?
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- The proposed rule is not intended to impact HELOCs, which will be addressed when the Fed reviews the Regulation Z rules for closed-end credit, as that review will include all home-secured credit. What impact will this proposal have on HELOCs?
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- The proposal adopts a simple rule that any transaction fee on a credit card plan will be a “finance” charge, regardless of whether the issuer in its capacity as a financial institution imposes the same or lesser charge on withdrawal of funds from an asset account, such as a checking or savings account. Will this approach facilitate compliance and consumer understanding, without unintended consequences?
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- The official staff commentary provides examples of charges in comparable cash transactions that are not “finance” charges. One example is discounts available to a particular group because they meet certain criteria, such as being members of an organization or having accounts at a specific institution. Is this example useful or should it be deleted as unnecessary?
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- The proposal provides guidance on debt suspension coverage, which is comparable to debt cancellation agreements. Is additional guidance needed?
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- The proposal will exempt telephone sales of credit insurance, debt cancellation, and debt suspension agreements from the requirement to obtain a written signature or initials from the consumer. Tapes or other evidence of consent, along with written disclosures that are sent later, would be required in order to provide safeguards. Do you agree with this approach?
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- Are there circumstances in which creditors should be permitted to provide cost disclosures in electronic form to consumers who have not affirmatively consented to receive electronic disclosures, such as when consumers seek to make online online payments and the creditor imposes a fee for this service?
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- The Fed had considered a proposal to prohibit the terms “finance charge” and “annual percentage rate” from being disclosed more conspicuously than other required disclosures, except when the regulation so requires. This is to address criticism that emphasizing certain terms has caused confusion. However, the Fed has found it difficult to do this without creating detailed exceptions. Should the Fed continue to pursue such an approach?
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- Creditors are currently not required to send periodic statements for accounts that are determined to be “uncollectible.” This term is not defined. Is more guidance needed in this area?
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- The proposal clarifies that creditors entering into workout arrangements for delinquent open-end plans without converting the debt to a closed-end transaction comply with the rules if they follow the rules and procedures under the open-end credit provisions of Regulation Z. Is additional guidance needed, such as establishing a safe harbor for when the open-end plan is deemed satisfied and replaced with a closed-end obligation?
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- Currently, if creditors provide a grace period, they must then send statements at least 14 days before the grace period ends. Should the Fed recommend to Congress that this 14-day period be increased in order to give consumers more time to pay? If so, what should this time period be?
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- For late-payment, over-the-limit, cash advance or balance transfer fees, a range of fees may be disclosed on applications and solicitations if these fees vary from state to state. The proposal will add returned payment fees to this list. Are there other fees that should be included that may vary, such as fees for required insurance or debt cancellation and debt suspension coverage? Disclosing a range for these fees will not be permitted for account-opening disclosures. Does this present problems and how can this be resolved?
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- For applications and solicitations, a range of rates or a number of specific rates may be listed if the actual rate will depend on the consumer's creditworthiness. Alternatively, should creditors also be permitted to only list the highest rate that may apply? Should this alternative also be permitted when disclosing the rate that will apply after the introductory rate, as required under the Bankruptcy Act?
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- Under the proposal, creditors must provide a disclosure regarding the amount of credit available after fees or a security deposit that is required for the issuance of the credit is deducted, if the amount is 25% or more of the credit limit. Do you agree with this threshold? Should other fees be included when determining this threshold?
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- The Fed is proposing to include on its website additional information on credit cards. What information should this include?
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- The current rules that apply to charge cards address circumstances in which the card issuer and the person extending the credit are not the same. The proposal will delete these provisions because they are obsolete. Do you agree?
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- The current rules list four balance computation methods that may be disclosed without explanation. These include: 1) average daily balance; 2) two-cycle average daily balance; 3) adjusted balance; and 4) previous balance. Should this list be revised?
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- Creditors are required to explain on account-opening disclosures the method used to determine the balance to which rates apply. Model clauses are provided that explain these methods. Should the clauses for “adjusted balance” and “previous balance” be deleted as obsolete? Should all the model clauses be eliminated since creditors may no longer use them?
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- The proposal provides format and disclosure requirements for tables for both applications/solicitations and account-opening disclosures. They are similar, but not identical. Should they be identical in order to facilitate compliance?
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- For periodic statements, transactions would be grouped by type, and fee and interest rate charge totals will be located with the transactions. Are there alternative approaches that would provide creditors more flexibility in grouping related information together on the periodic statement? Are alternatives needed to the proposed requirements to segregate transactions and credit, such as when the financial institution provides on a single periodic statement the activity for a consumer's checking account and an overdraft line of credit?
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- Do you agree with the proposal to eliminate the disclosure of the periodic rate on the periodic statement? Will this change benefit consumers?
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- The proposal will clarify that promotional APRs would not have to be disclosed on the periodic statement if the consumer is not accessing the credit that is covered under the promotional rate. Should this approach also apply to HELOCs?
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- With regard to the disclosure of the “effective” APR, which includes certain fees, one proposed approach is to impose uniform terminology and formatting requirements, as well as specify exactly which fees are to be included. What are the costs and benefits of such an approach? The other proposed approach is to eliminate the requirement to disclose the “effective” APR. Do you prefer this approach?
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- The proposal will eliminate the requirements under the Bankruptcy Act to provide a warning and a hypothetical example on the credit card statement about the effects of making minimum payments if the creditor provides on the statement the actual number of months it will take for the consumer to repay the actual balance by making minimum payments. Do you agree with this approach and what other incentives can the Fed provide to encourage card issuers to provide this actual information, as opposed to hypothetical examples?
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- The proposal will require the maintenance of a toll-free telephone number that will provide generic repayment estimates based on the minimum payment formula that applies to most of the issuer’s accounts. Is more guidance needed, such as which formula to apply if two or more formulas apply to an equal number of accounts?
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- For credit card products in which no new accounts are being opened and in which existing accounts are closed to new transactions, the Fed is considering a partial exemption from the minimum payment requirements by allowing this information to be included in an insert with the statement, since the computer systems for these accounts are being phased out. Is such an exemption needed and what would the costs be of redesigning the old computer systems to provide these disclosures?
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- Another exemption is being considered for accounts that are purchased by the creditor within the last eighteen months. Is this needed, since the creditor may be able to use the systems used by the selling card issuer until these purchased accounts are converted to the purchaser's systems?
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- For credit card checks, the proposal will require disclosure of the actual interest rate and fees that will apply. How burdensome will this be? Are other alternatives preferable, such as providing a reference to the type of rate that will apply, along with a toll-free telephone number that the consumer may use to obtain the specific rate information? Are there other credit devices or features that should also be covered under these disclosure requirements?
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- The proposal will clarify that if a cardholder gives a credit card to another person and that person exceeds the given authority, the cardholder will be liable for the transactions unless the cardholder notifies the creditor that the use of the card is no longer authorized. The proposal will also indicate that an unauthorized use will include circumstances in which a person has obtained the card or initiated a transaction through robbery or fraud. Are these clarifications necessary or do you believe these would be covered under the current interpretation of "unauthorized use?"
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- TILA currently prohibits card issuers from taking any action to offset the cardholder's credit card indebtedness against the funds that the cardholder has on deposit with the issuer. Card issuers may obtain a consensual security interest in these funds on deposit if the consumer agrees and it is disclosed in the account-opening disclosures. This must be a security interest that could be obtainable and enforceable by creditors generally. The official staff commentary provides examples of how to meet this requirement. Is more guidance needed in this area?
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- Currently, card issuers may not deduct a disputed amount from a deposit account held by the issuer. The proposal would extend this to automatic deductions from the deposit account in which the consumer has enrolled in the issuer's automatic payment plan. Are there any operational issues that may arise when implementing the system changes needed to comply with this change?
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- Do you have other comments on any of the proposed revisions that you support or may oppose? Do you have comments on the revised model forms and sample language that is included in the proposal?
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