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359



Office of Thrift Supervision

Department of the Treasury

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July 13, 2010

MEMORANDUM FOR: CHIEF EXECUTIVE OFFICERS

FROM:

Thomas A. Barnes, Deputy Director
Examinations, Supervision, and Consumer Protection

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SUBJECT:

Revised Truth in Lending Act (TILA) Open-End Credit
Examination Procedures

OTS has updated its examination guidance and procedures to address recent amendments to TILA by the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit CARD Act) and revisions to Regulation Z that became effective on July 1, 2010.¹ These interagency examination procedures for open-end credit reflect a risk-focused approach to comprehensive examinations.

The Credit CARD Act provisions and the amendments to Regulation Z were issued with several effective dates. The TILA examination handbook section has been revised in phases to ensure that examiners have current tools as the rules have become effective.² This revision addresses rules on deferred interest plans and changes in disclosure requirements. Key aspects of the attached procedures are set out below.

Deferred interest plans

Regulation Z restricts how issuers may advertise deferred interest plans, and requires more information on periodic statements for these plans. If an advertisement for a deferred interest offer has the terms “no interest,” “no payments,” “deferred interest,” “same as cash,” or similar terms, the advertisement must now also add “if paid in full.” In addition, every periodic

¹ The Board of Governors of the Federal Reserve System (“Board”) issued final rules to implement provisions of the Credit CARD Act that became mandatory on February 22, 2010 and July 1, 2010, see Truth in Lending Final Rule, 75 Fed. Register. 7658 (February 22, 2010).

² On August 22, 2009, creditors were required to increase the amount of notice consumers receive before increasing the credit card rate or making a significant change to the account's terms. See, CEO Letter #322, September 29, 2009. On February 22, 2010, additional rules were effective that made major changes in credit card practices, such as preventing unfair increases in interest rates and changes in terms, disclosure of the effect of making the minimum payment, requiring a 21-day period for making payments, requiring fairness in the timing and application of payments, required that issuers evaluate the consumer's ability to pay, restricted certain fees and interest charges, underwriting safeguards for young people and timely resolution of estates. See, CEO Letter #343, April 2, 2010. This current set of examination procedures addresses the changes that are mandatory on July 1, 2010. Finally, the provisions that will be effective on August 22, 2010, address the reasonableness and proportionality of penalty fees and charges and re-evaluation of rate increases. See, 74 Fed. Register 36077 (July 22, 2009); 75 Fed. Register 7658 (February 22, 2010).

statement during the deferred interest period must include the date by which the consumer must pay the balance in full to avoid paying finance charges.³

Formatting requirements

The requirement that disclosures be clear and conspicuous means that many required disclosures must be in a table format. The table format is restricted as to font size, headings, and content, and must be substantially similar to the samples in Appendix G to the rule. There are revised samples for application and solicitation disclosures, account opening disclosures, minimum payment warnings, periodic statements, checks accessing a credit card account, changes in terms, and penalty rate increases – all in a table format. There are additional requirements for the order and grouping of disclosures and where they should be placed on the page.

Timing of notices

When a home equity plan creditor freezes or reduces a credit line, it must provide written notice of the action, with specific reasons for the action, to each consumer who will be affected, no more than three business days after taking the action. If the creditor requires the consumer to request reinstatement of credit privileges, the notice must state that fact. Creditors must also provide consumers with a written notice of changes in significant terms in the home equity plan, or increases in the required minimum periodic payment at least 15 days before the change becomes effective. If the consumer agrees to the change, the creditor must provide the notice before the change takes effect.

For more information, please contact Suzanne McQueen, Consumer Regulations Analyst, at (202) 906-6459 or Suzanne.McQueen@ots.treas.gov. The revised Examination Handbook Section 1305 is available through the link provided below.

Link: [Examination Handbook Section 1305](#)

³ Regulation Z also provides that for deferred interest plans, the card issuer must allocate amounts that the consumer pays (over the minimum payment) to the deferred plan balance, during the last two billing cycles of the deferred interest plan, or as the consumer requests (12 C.F.R. §226.53(b)).