

## **New Reg Z Open-end Credit Rules Issued**

The Federal Reserve Board released January 12, 2010 a new final rule amending Regulation Z dealing with the Credit Card Act amendments which Congress enacted last year. The final rule becomes effective February 22, 2010 as to certain provisions as required by the Credit Card Act. However most of the changes under the final rule will not become effective until July 1, 2010, which was the original effective date for the new open-end (not home secured) credit rules adopted back in January 2009.

*New requirements effective February 22, 2010.* Some of the changes going into effect February 22, 2010 include:

- The use of the term “fixed” in referring to an APR in a tabular disclosure is prohibited unless the creditor also specifies a time period that the rate will be fixed or if no such time period is provided, that the creditor will not increase the rate while the plan is open. 12 CFR 226.5(a)(2)(iii).
- The timing requirements for periodic statements in connection with grace periods. If the creditor offers a grace period during which the creditor does not impose a finance charge if the balance is repaid by a certain due date, the creditor must deliver the periodic statement at least 21 days prior to the date on which the grace period expires. This new rule will apply to all open-end (not home secured) credit, not just credit cards. The 21-day period between mailing the periodic statement and the payment due date is already required but that just applies to credit cards. 12 CFR 226.5(b)(2).
- In connection with credit card accounts, card issuers must include on each periodic statement the payment due date (which will have to be the same day of the month for each billing cycle) and the amount of any late payment fee or increased APR that may be imposed as a result of a late payment. If a range of fees may be assessed, the card issuer may state the range of fees or the highest fee (or both the lowest and highest fee at the issuer’s option). 12 CFR 226.7(b)(11). These disclosures must appear on the front of the first page of the periodic statement in close proximity to each other. 12 CFR 226.7(b)(13).
- The repayment disclosures on credit card periodic statements. These repayment disclosures basically tell the cardholder how long it would take to pay off the outstanding balance if the cardholder makes only the minimum payment each month. 12 CFR 226.7(b)(12). These disclosures are quite complicated.

- On periodic statements, the due date, late payment fee and APR, ending balance, minimum payment due, and the repayment disclosures must be grouped together. 12 CFR 226.7(b)(13).
- All of the new change-in-terms rules under Section 226.9(c)(2) become effective February 22, 2010, except for the format requirements pertaining to change-in-terms notices. This means that beginning on this date a creditor changing the term of an open-end (not home secured) credit account, including overdraft protection lines of credit and unsecured lines of credit, must provide at least 45 days' advance written notice prior to changing the terms of the required disclosures. This 45-day advance notice requirement currently applies to just credit card accounts. The Federal Reserve has also revised the information that must be disclosed in change-in-terms notices.
- The new disclosures required upon renewal of a credit card account. Currently card issuers are allowed to provide the renewal disclosures on or with the periodic statement that includes the annual fee. Under the new rule, effective February 22, 2010, card issuers will have to provide the renewal disclosures at least 30 days or one billing cycle before the annual fee is posted to the account. Renewal disclosures will be required even if the card issuer does not impose an annual fee but has changed any term of a cardholder's account required to be disclosed under Sections 226.6(b)(1) and (b)(2) (certain account-opening disclosures) that has not been previously disclosed to the cardholder. 12 CFR 226.9(e).
- The penalty rate notices under Section 226.9(g) dealing with rate increases due to a consumer's default or delinquency. The penalty rate notice will be required at least 45 days prior to the effective date of the increase. However the format requirements for penalty rate notices under Section 226.9(g)(3)(ii) will not apply until July 1, 2010. 12 CFR 226.9(g).
- Under certain circumstances, cardholders will have the right to reject specific types of changes in terms and card issuers will have to notify cardholders of this right in connection with the change-in-terms notice. The rules on how a cardholder may go about rejecting the change in terms will go into effect February 22, 2010. 12 CFR 226.9(h).
- The new rules on payments under Section 226.10, including the right to set a cut-off hour no earlier than 5 p.m. on the payment due date. Creditors will be permitted to impose reasonable requirements for payments, such as the requirement to send payments to one particular address, such as a post office box. Generally card issuers that are financial institutions will have to treat an in-person payment made at a branch as received on the date on which the cardholder makes the payment if it is received prior to the close of business of that branch. This means card issuers will not be permitted to impose a cut-off time earlier than the close of business for such in-person payments. 12 CFR 226.10.
- The rules requiring the timely settlement of estate debts in connection with credit cards. 12 CFR 226.11(c).

- The restrictions on advertising an APR as fixed unless the ad states the time period that the rate will be fixed and that the rate will not increase during that period, or if no such period is provided, the rate will not increase while the account is open. 12 CFR 226.16(f).

- A number of new rules regarding credit card accounts have been added to Regulation Z. 12 CFR 226.61-226.58. These include the new opt-in rule before assessing an overlimit fee (Section 226.56), the restrictions on marketing credit cards to college students on campus (Section 226.57) and the new requirement to post credit card agreements on the card issuer's website and on the Federal Reserve's website (Section 226.58).

***Other provisions effective July 1, 2010.*** With respect to the remaining aspects of the Fed's new final rule, the mandatory compliance date will be July 1, 2010. Most of these provisions are the ones adopted by the FRB back in January 2009. This will include for example the new account-opening disclosures required under Section 226.6 (including the new account-opening table) for all open-end (not home secured) credit, the new periodic statement requirements (including grouping fees and interest separately) under Section 226.7, and the rules governing advertising promotional rates on all open-end (not home secured) credit under Section 226.16(g).

***Upcoming Telephone Briefing.*** For BCG members, we will be covering this final rule at an upcoming BCG Monthly Telephone Briefing (formerly known as the BCG Telephone Chapter Meeting). Stay tuned for the exact date and time.