TRUTH IN LENDING ACT

(REGULATION Z)

REVIEW CONSIDERATIONS

Review Considerations

Applicable to Both Closed-End and Open-End Extensions of Credit

Review Area	Requirements / Recommendations
Policies / Procedures	Adopt a policy for implementing the TILA and Regulation Z. Ensure that comprehensive procedures are maintained and that actual practices are consistent with the procedures.
Coverage	Ensure a firm understanding of coverage requirements of Regulation Z. Basically, the regulation applies to any individual or business offering/extending credit if: 1. the credit is offered or extended to consumers; 2. the offering or extension of credit occurs regularly; 3. the credit is subject to a finance charge or is payable by a written agreement in more than four installments; and 4. the credit is primarily for personal, family, or household purposes.
Exempt Transactions include:	1. Business, commercial, agricultural, or organizational credit (unless tied to a credit card); 2. Credit over $25,000 not secured by real property or personal property used as principal dwelling; 3. Public utility credit; 4. Securities or commodities accounts in which credit is extended by a registered broker dealer; 5. Home fuel budget plans; and

	6. Student Loan Programs.
Finance Charge	Ensure that the concept of "Finance Charge" is clearly understood by appropriate employees. It represents the cost of consumer credit as a dollar amount, including any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or a condition of the extension of credit. It does not include any charge that would be payable in a comparable cash transaction. § 226.4 provides: (i) specific examples of finance charges; (ii) charges excluded from the finance charge; and (iii) insurance and debt cancellation coverage.
Calculations	In preparing disclosures, notices, periodic statements, and internal account records, ensure that all calculation devices are in proper working order and that employees are properly trained to use these devices. Also ensure that completed disclosures reflect the terms of the legal contract between the credit union and borrower. The most important of these calculations include: 1. "Annual Percentage Rate" as described in §s 226.14 and 226.22 (and Appendices F and J); 2. "Finance Charge" as described in § 226.4; and 3. Determination of account balances to which periodic rates apply.
General Disclosure Requirements	Disclosures must be made clearly and conspicuously in writing, in a form that the borrower may keep. The terms "finance charge" and "annual percentage rate," when required to be disclosed with a corresponding amount or percentage rate, must be more conspicuous than any other required disclosure. (For exceptions, see footnotes to §s 226.5(a) and 226.17(a)). Timing of disclosures depends upon the specific type of transaction disclosed.
Right of Rescission	In a credit transaction in which a security interest is or will be retained or acquired in a consumer's principal dwelling, any consumer with an ownership interest has the right to rescind

	(cancel) the transaction until midnight of the third business day following the latest of: 1. consummation of a closed-end transaction [§ 226.23(a)] or the opening of a credit plan for an open-end transaction (or one of the other triggering events described in § 226.15(a) including extending credit under the plan, adding or increasing a security interest in an existing plan, or increasing the credit limit on the plan); 2. delivery of all the material disclosures; or 3. delivery of the required rescission notice. Ensure that each person with the right to cancel a credit transaction is given two copies of the rescission notice and that no funds are disbursed until the rescission period has expired. §s 226.15 (open end) and 226.23 (closed end) include the content requirements for rescission notices that the credit union must deliver, the manner in which the right may be exercised, the effect of rescission, and the consumer's waiver of the right to rescind.
Advertising	Ensure that credit advertisements, including those found on or in newspapers, radio, television, Internet, brochures, and billboards comply with §s 226.16 (open end) and 226.24 (closed end) and: 1. state only those terms arranged or offered by the creditor (no "bait" advertising); 2. include all required disclosures when "triggering terms" are present; and 3. follow requirements for catalogs and multiple page advertisements.
Record Retention	Retain evidence of compliance with the regulation for two years after the date disclosures are required to be made or action is required to be taken.
Training	Provide initial and ongoing training to employees

	involved in the origination, processing or marketing of consumer credit as well as to any other personnel who may be involved in various functions that relate to consumer credit or residential real estate transactions.
Updating	Update policies, procedures, loan origination and operation manuals, and disclosure forms as necessary to reflect changes in the TILA and/or Regulation Z as well as changes in the hardware and/or software used to generate disclosures. Ensure effective notification and distribution of updated information.
Internal Review	Conduct an internal review or audit at least annually to assess compliance with the regulation and conformity of a credit union's practices with its policies and procedures. Correct errors detected during the review or audit.

Applicable to Open-End Credit.

Identification of "Open-End Credit"	Consumer credit extended by a creditor under a plan in which: 1. the creditor reasonably contemplates repeated transactions; 2. the creditor may impose a finance charge from time to time on an outstanding unpaid balance; and 3. the amount of credit extended to the consumer during the term of the plan is generally made available to the extent that any outstanding balance is repaid.
Disclosures Required in Connection with Credit or Charge Card Applications and Solicitations	The following items must be disclosed on or with an application or solicitation to open a credit or charge card account (in the form and manner described in §226.5a): 1. Annual Percentage Rate (APR); 2. Fees for issuance or availability; 3. Minimum finance charge;

	4. Transaction charges; 5. Grace period; 6. Balance-computation method; 7. Statement on charge card payments; 8. Cash-advance fee; 9. Late-payment fee; 10. Over-the-limit fee; and 11. Balance transfer fee.
Early Disclosures Required in Connection with Home-Equity Plan Applications	The following disclosures, as applicable, must be provided in connection with open-end credit plans secured by the consumer's dwelling (in the form and manner described in § 226.5b): 1. Statement about retention of disclosures; 2. Conditions for disclosed terms; 3. Security interest and risk to home; 4. Possible actions by creditor; 5. Payment terms; 6. APR; 7. Fees imposed by creditor; 8. Fees imposed by third parties to open plan; 9. Negative amortization; 10. Transaction requirements; 11. Tax implications; and 12. Disclosures for variable-rate plans. In addition, the "home equity brochure"

	published by the Federal Reserve Board (or suitable substitute) must be provided. Note the various limitations and other requirements imposed on home equity plans as reflected in § 226.5b (f), (g), and (h).
Initial Disclosures	The following disclosures must be delivered before the consumer becomes obligated under an open-end credit plan: 1. Finance charge: • When finance charges begin to accrue; • Periodic rates and corresponding APR; • Method used to determine the balance; • How finance charge determined. 2. Other charges; 3. Security interests acquired by creditor; 4. Statement of billing rights; and 5. Home-equity plan information. See §226.6(e) for details.
Periodic Statements	Periodic statements must contain the following information, as applicable: 1. Previous balance; 2. Identification of transactions (in accordance with § 226.8); 3. Credits (including amount and date); 4. Periodic rates to compute finance charges; 5. Balance used to compute finance charge; 6. Amount of finance charge; 7. APR; 8. Other charges; 9. Closing date of billing cycle; new balance;

	10. Free ride period; and 11. Address for notice of billing errors.
Subsequent Disclosures	Subsequent disclosures are required in connection with the following: 1. Statement of billing rights; 2. Adding certain supplemental credit devices and other features to the account; 3. Certain changes in terms; 4. Renewal of credit or charge card when fees imposed for renewal; or 5. Change in credit card account insurance provider. See § 226.9 for details concerning the content and timing of the disclosures (annually or on each periodic statement).
Prompt Crediting of Payment	Ensure that payments to the consumer's account are credited as of the day of receipt.
Liability of Cardholder for Unauthorized Use and Other Special Credit Card Provisions	A cardholder's liability for unauthorized use of a credit card may not exceed the lesser of $50 or the amount of money, property, labor, or services obtained by the unauthorized use before notification to the card issuer under § 226.12 (b)(3). Note also special credit card rules contained in § 226.12 relating to: 1. Right of cardholder to assert claims or defenses against card issuer; 2. Prompt crediting of refunds; and 3. Discounts and tie-in arrangements.
Billing Error Resolution	Ensure that billing error resolution procedures are correctly applied, as described in § 226.13. Note in particular: 1. Definition of "billing error";

	2. Explanation of "billing-error notice"; 3. Time period for resolution; 4. Rules pending resolution; 5. Procedures if billing error occurred as asserted; 6. Procedures if different or no billing error occurred; 7. Creditor's rights and duties after resolution; and 8. Relation to Electronic Fund Transfer Act and Regulation E.

Applicable to Closed End Credit

Identification of "Closed-End Credit"	Consumer credit other than "open-end credit" as defined above and in § 226.2(a)(20).
General Disclosure Requirements	Ensure that the following terms are disclosed in connection with closed-end transactions as described in § 226.18: 1. Identity of creditor; 2. Amount financed; 3. Itemization of amount financed; 4. Finance charge; 5. APR; 6. Variable rate information, when necessary; 7. Payment schedule; 8. Total of payments; 9. Demand feature, when applicable; 10. Total sale price, when applicable;

	11. Prepayment information; 12. Late payment information; 13. Security interest information; 14. Insurance, debt cancellation information; 15. Certain security interest charges; 16. Contract reference; 17. Assumption policy; and 18. Required deposit information. See also § 226.17 (c) and (d) concerning: • The basis of disclosures and use of estimates. • Transactions involving multiple creditors or consumers.
Early Disclosures for Certain Variable-Rate Transactions	In cases where the APR may increase after consummation in a transaction secured by the consumer's principal dwelling with a term greater than one year, § 226.19 requires that the following disclosures be provided: 1. Consumer Handbook on Adjustable Rate Mortgages published by the FRB and the Federal Home Loan Bank Board, or a suitable substitute. 2. Loan program disclosure for each variable rate program of interest to the consumer, containing the information described in § 226.19(b)(2).
Subsequent Disclosure Requirements	Ensure that appropriate disclosures, as described in § 226.20 are made for: 1. "Refinancings" – new disclosures are required when an existing obligation subject to Subpart C of Regulation Z is satisfied and replaced by a new obligation undertaken by the same consumer (§ 226.20(a)); and

	2. “Assumptions” – new disclosures are required when a creditor expressly agrees to accept a subsequent consumer as a primary obligor on an existing residential mortgage transaction (§ 226.20(b)). The new disclosures are based on the remaining obligation. Ensure that required disclosures are provided when adjusting the interest rate in a variable rate transaction subject to § 226.19(b), in the manner prescribed by § 226.20(c).