

## § 707.7

(1) *Annual percentage yield earned.* The “annual percentage yield earned,” using that term as calculated according to the rules in appendix A of this part.

(2) *Amount of dividends.* The dollar amount of dividends earned (accrued or paid and credited) on the account. The dollar amount of any extraordinary dividends earned during the statement period shall be shown as a separate figure.

(3) *Fees imposed.* Fees required to be disclosed under § 707.4(b)(4) of this part that were debited from the account during the statement period. The fees must be itemized by type and dollar amounts. Except as provided in § 707.11(a)(1) of this part, when fees of the same type are imposed more than once in a statement period, a credit union may itemize each fee separately or group the fees together and disclose a total dollar amount for all fees of that type.

(4) *Length of period.* The total number of days in the statement period, or the beginning and ending dates of the period.

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[58 FR 50445, Sept. 27, 1993, as amended at 59 FR 59899, Nov. 21, 1994; 61 FR 114, Jan. 3, 1996; 64 FR 66356, Nov. 26, 1999; 66 FR 33163, June 21, 2001; 70 FR 72898, Dec. 8, 2005]

## § 707.7 Payment of dividends.

(a) *Permissible methods*—(1) *Balance on which dividends are calculated.* Credit unions shall calculate dividends on the full amount of principal in an account for each day by use of either the daily balance method or the average daily balance method. Credit unions shall calculate dividends by use of a daily rate of at least  $\frac{1}{365}$  of the dividend rate. In a leap year a daily rate of  $\frac{1}{366}$  of the dividend rate may be used.

(2) *Determination of minimum balance to earn dividends.* A credit union shall use the same method to determine any minimum balance required to earn dividends as it uses to determine the balance on which dividends are calculated. A credit union may use an additional method that is unequivocally beneficial to the member.

(b) *Compounding and crediting policies.* This section does not require credit

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unions to compound or credit dividends at any particular frequency.

(c) *Date dividends begin to accrue.* Dividends shall begin to accrue not later than the day specified in section 606 of the Expedited Funds Availability Act (12 U.S.C. 4005) and implementing Regulation CC (12 CFR part 229). Dividends shall accrue on funds until the day funds are withdrawn.

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[58 FR 50445, Sept. 27, 1993, as amended at 61 FR 114, Jan. 3, 1996]

## § 707.8 Advertising.

(a) *Misleading or inaccurate advertisements.* An advertisement must not:

(1) Be misleading or inaccurate or misrepresent a credit union's account agreement; or

(2) Refer to or describe an account as “free” or “no cost” or contain a similar term if any maintenance or activity fee may be imposed on the account. The word “profit” must not be used in referring to dividends or interest paid on an account.

(b) *Permissible rates.* If an advertisement states a rate of return, it shall state the rate as an “annual percentage yield,” using that term. (The abbreviation “APY” may be used provided the term “annual percentage yield” is stated at least once in the advertisement.) The advertisement shall not state any other rate, except that the “dividend rate,” using that term, may be stated in conjunction with, but not more conspicuously than, the annual percentage yield to which it relates.

(c) *When additional disclosures are required.* Except as provided in paragraph (e) of this section, if the annual percentage yield is stated in an advertisement, the advertisement shall state the following information, to the extent applicable, clearly and conspicuously:

(1) *Variable rates.* For variable-rate accounts, a statement that the rate may change after the account is opened.

(2) *Time annual percentage yield is offered.* For interest-bearing accounts and dividend-bearing term share accounts, the period of time the annual percentage yield will be offered, or a

statement that the annual percentage yield is accurate as of a specified date. For dividend-bearing accounts other than term share accounts, a statement that the annual percentage yield is accurate as of the last dividend declaration date. In the event that disclosure of an annual percentage yield as of the last dividend declaration date might be inaccurate because of known or contemplated dividend rate changes, the credit union may disclose the prospective annual percentage yield. Such prospective annual percentage yield may be disclosed either in lieu of, or in addition to, the dividend rate and annual percentage yield as of the last dividend declaration date.

(3) *Minimum balance.* The minimum balance required to earn the advertised annual percentage yield. For tiered-rate accounts, the minimum balance required for each tier shall be stated in close proximity and with equal prominence to the applicable annual percentage yield.

(4) *Minimum opening deposit.* The minimum deposit required to open the account, if it is greater than the minimum balance necessary to earn the advertised annual percentage yield.

(5) A statement that fees could reduce the earnings on the account.

(6) *Features of term share accounts.* For term share accounts:

(i) *Time requirements.* The term of the account.

(ii) *Early withdrawal penalties.* A statement that a penalty will or may be imposed for early withdrawal.

(iii) *Required dividend payouts.* For noncompounding term share accounts with a stated maturity greater than one year that do not compound dividends on an annual or more frequent basis, that require dividend payouts at least annually, and that disclose an APY determined in accordance with section E of appendix A of this part, a statement that dividends cannot remain on account and that payout of dividends is mandatory.

(d) *Bonuses.* Except as provided in paragraph (e) of this section, if a bonus is stated in an advertisement, the advertisement shall state the following information, to the extent applicable, clearly and conspicuously:

(1) The “annual percentage yield,” using that term;

(2) The time requirements to obtain the bonus;

(3) The minimum balance required to obtain the bonus;

(4) The minimum balance required to open the account, if it is greater than the minimum balance necessary to obtain the bonus; and

(5) When the bonus will be provided.

(e) *Exemption for certain advertisements*—(1) *Certain media.* If an advertisement is made through one of the following media, it need not contain the information in paragraphs (c)(1), (c)(2), (c)(4), (c)(5), (c)(6)(ii), (d)(4) and (d)(5) of this section:

(i) Broadcast or electronic media, such as television or radio;

(ii) Outdoor media, such as billboards; or

(iii) Telephone response machines.

(2) *Indoors signs.* (i) Signs inside the premises of a credit union (or the premises of a share or deposit broker) are not subject to paragraphs (b), (c), (d) or (e)(1) of this section.

(ii) If a sign exempted by paragraph (e)(2) of this section states a rate of return, it shall:

(A) State the rate as an “annual percentage yield,” using that term or the term “APY.” The sign shall not state any other rate, except that the dividend rate may be stated in conjunction with the annual percentage yield to which it relates.

(B) Contain a statement advising members to contact an employee for further information about applicable fees and terms.

(3) *Newsletters.* (i) Newsletters sent by a credit union to existing members only are not subject to paragraphs (b), (c), (d) or (e)(1) of this section.

(ii) If a newsletter exempted by paragraph (e)(3) of this section states a rate of return, it shall:

(A) State the rate as an “annual percentage yield,” using that term or the term “APY.” The newsletter shall not state any other rate, except that the dividend rate may be stated in conjunction with the annual percentage yield to which it relates.

(B) Contain a statement advising members to contact an employee for

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further information about applicable fees and terms.

(f) *Additional disclosures in connection with the payment of overdrafts.* Credit unions that promote the payment of overdrafts in an advertisement must include in the advertisement the disclosures required by § 707.11(b) of this part.

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[58 FR 50445, Sept. 27, 1993, as amended at 59 FR 13436, Mar. 22, 1994; 61 FR 114, Jan. 3, 1996; 63 FR 71575, Dec. 29, 1998; 70 FR 72898, Dec. 8, 2005]

### § 707.9 Enforcement and record retention.

(a) *Administrative enforcement.* Section 270 of TISA (12 U.S.C. 4309) contains the provisions relating to administrative sanctions for failure to comply with the requirements of TISA and this part.

(b) *Civil liability.* Section 271 of TISA (12 U.S.C. 4310) contains the provisions relating to civil liability for failure to comply with the requirements of TISA and this part; Section 271 is repealed effective September 30, 2001.

(c) *Record retention.* A credit union shall retain evidence of compliance with this regulation for a minimum of two years after the date disclosures are required to be made or action is required to be taken.

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[58 FR 50445, Sept. 27, 1993, as amended at 59 FR 13436, Mar. 22, 1994; 61 FR 114, Jan. 3, 1996; 63 FR 71575, Dec. 29, 1998]

### § 707.10 Electronic communication.

(a) *Definition.* Electronic communication means a message transmitted electronically between a credit union and a member in a format that allows visual text to be displayed on equipment, for example, a personal computer monitor.

(b) *General rule.* In accordance with the Electronic Signatures in Global and National Commerce Act (the E-Sign Act) (15 U.S.C. 7001 *et seq.*) and the rules of this part, a credit union may provide by electronic communication any disclosure required by this part to be in writing.

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(c) *When consent is required.* Under the E-Sign Act, a credit union must obtain a member's affirmative consent when providing disclosures related to a transaction. For purposes of this requirement, the disclosures required under §§ 707.4(a)(2) and 707.8 are deemed not to be related to a transaction.

(d) *Address or location to receive electronic communication.* A credit union that uses electronic communication to provide disclosures required by this part must:

(1) Send the disclosure to the member's electronic address; or

(2) Make the disclosure available at another location such as an Internet web site; and

(i) Alert the member of the disclosure's availability by sending a notice to the member's electronic address (or to a postal address, at the credit union's option). The notice must identify the account involved (if applicable) and the address of the Internet web site or other location where the disclosure is available; and

(ii) Make the disclosure available for at least 90 days from the date the disclosure first becomes available or from the date of the notice alerting the member of the disclosure, whichever comes later.

(3) Exceptions. A credit union need not comply with paragraph (d)(2)(ii) of this section for disclosures required under § 707.4(a)(2), and need not comply with paragraphs (d)(2)(i) and (ii) of this section for disclosures required under § 707.8.

(e) *Redelivery.* When a disclosure provided by electronic communication is returned to a credit union undelivered, the credit union must take reasonable steps to attempt redelivery using information in its files.

(f) *Entities other than a credit union.* A person other than a credit union that is required to comply with this part may use electronic communication in accordance with the requirements of this section, as applicable.

[66 FR 33163, June 21, 2001]

### § 707.11 Additional disclosure requirements for credit unions advertising the payment of overdrafts.

(a) *Periodic statement disclosures—(1) Disclosure of Total Fees.* (i) Except as