

REGULATORY ALERT

**NATIONAL CREDIT UNION ADMINISTRATION
1775 DUKE STREET, ALEXANDRIA, VA 22314**

DATE: January 2001 **NO.:** 01-RA-01

TO: All Federal Credit Unions

SUBJECT: Regulation Z
Truth in Lending

The Board of Governors of the Federal Reserve System (FRB) has amended Regulation Z (Truth in Lending) to revise disclosure requirements for credit and charge card solicitations and applications. The amendments are intended to enhance the consumer's ability to notice and understand cost information generally provided in the form of a table.

As a result of this amendment:

- The annual percentage rate (APR) for purchases must be in at least 18-point type and must appear under a separate heading from other APRs.
- Penalty rates must appear inside the disclosure table, while any explanatory information regarding penalties must appear outside the table.
- The APRs for cash advances and balance transfers must be disclosed in the table, while balance transfer fees may be disclosed either in or outside of the table.
- The disclosure table must be on the same page as the application or solicitation reply form or elsewhere with a reference to the location on the application or reply form.

The revised rule provides guidance on: (1) disclosures being "prominently located," (2) the level of detail required or permitted in the table, and (3) requiring the information in the table be "readily noticeable," in addition to being reasonably understandable. Guidance is also provided for electronic communications.

Some credit unions expressed concern regarding the increased costs related to these requirements; however, *compliance is not mandatory until October 1, 2001*, permitting time for institutions to use up their existing stock of disclosures.

The FRB's amendment, with staff interpretations, is enclosed. A notice describing the FRB's action and the comments received is available on the FRB's web site (www.federalreserve.gov/boarddocs/press/boardacts/2000) or from their Public Affairs Department at (202) 452-3204.

Sincerely,

_____/s/_____
Yolanda T. Wheat
Chairwoman
National Credit Union Administration Board

Enclosure

PART 226 -- TRUTH IN LENDING (REGULATION Z)

1. The authority citation for part 226 continues to read as follows:

Authority: 12 U.S.C. 3806; 15 U.S.C. 1604 and 1637(c)(5).

Subpart B – Open-End Credit

2. Section 226.5 is amended by revising footnote 9, to read as follows:

§ 226.5 General disclosure requirements.

* * * * *

⁹ The terms need not be more conspicuous when used under §226.5a generally for credit and charge card applications and solicitations under §226.7(d) on periodic statements, under §226.9(e) in credit and charge card renewal disclosures, and under §226.16 in advertisements. (But see special rule for annual percentage rate for purchases, § 226.5a(b)(1).)

3. Section 226.5a is amended by:

- a. Revising paragraphs (a)(2)(ii), (a)(5), (b) introductory text and (b)(1) introductory text; and
- b. Adding a new paragraph (b)(11).

§ 226.5a Credit and charge card applications and solicitations .

* * * * *

(a) * * *

(2) Form of disclosures. * * *

(ii) The disclosures in paragraphs (b)(8) through (11) of this section shall be provided either in the table containing the disclosures in paragraphs (b)(1) through (7), or clearly and conspicuously elsewhere on or with the application or solicitation.

* * * * *

(a)(5) Certain fees that vary by state. If the amount of any fee referred to in paragraphs (b)(8) through (11) of this section varies from state to state, the card issuer may disclose the range of the fees instead of the amount for each state, if the disclosure includes a statement that the amount of the fee varies from state to state.

(b) Required disclosures. The card issuer shall disclose the items in this paragraph on or with an application or a solicitation in accordance with the requirements of paragraphs (c), (d), or (e) of this section. A credit card issuer shall disclose all applicable items in this paragraph except for paragraph (b)(7) of this section. A charge

card issuer shall disclose the applicable items in paragraphs (b)(2), (4), and (7) through (11) of this section.

(1) Annual percentage rate. Each periodic rate that may be used to compute the finance charge on an outstanding balance for purchases, a cash advance, or a balance transfer, expressed as an annual percentage rate (as determined by § 226.14(b)). When more than one rate applies for a category of transactions, the range of balances to which each rate is applicable shall also be disclosed. The annual percentage rate for purchases disclosed pursuant to this paragraph shall be in at least 18-point type, except for the following: a temporary initial rate that is lower than the rate that will apply after the temporary rate expires, and a penalty rate that will apply upon the occurrence of one or more specific events.

* * * * *

(11) Balance transfer fee. Any fee imposed to transfer an outstanding balance.

* * * * *

4. Appendix G to Part 226 is amended by:
 - a. Revising the table of contents at the beginning of the appendix;
 - b. Revising Model G-10(A); and
 - c. Removing Model G-10(B) and adding a new Sample G-10(B) in its place.

APPENDIX G TO PART 226 – OPEN-END MODEL FORMS AND CLAUSES

G-1 Balance-Computation Methods Model Clauses (§§ 226.6 and 226.7)

G-2 Liability for Unauthorized Use Model Clause (§ 226.12)

G-3 Long-Form Billing-Error Rights Model Form (§§ 226.6 and 226.9)

G-4 Alternative Billing-Error Rights Model Form (§ 226.9)

G-5 Rescission Model Form (When Opening an Account) (§ 226.15)

G-6 Rescission Model Form (For Each Transaction) (§ 226.15)

G-7 Rescission Model Form (When Increasing the Credit Limit) (§ 226.15)

G-8 Rescission Model Form (When Adding a Security Interest) (§ 226.15)

G-9 Rescission Model Form (When Increasing the Security) (§ 226.15)

G-10(A) Applications and Solicitations Model Forms (Credit Cards) (§ 226.5a(b))

G-10(B) Applications and Solicitations Sample (Credit Card) (§ 226.5a(b))

G-10(C) Applications and Solicitations Model Form (Charge Cards) (§ 226.5a(b))

G-11 Applications and Solicitations Made Available to General Public Model Clauses
(§ 226.5a(e))

G-12 Charge Card Model Clause (When Access to Plan Offered by Another)
(§ 226.5a(f))

G-13(A) Change in Insurance Provider Model Form (Combined Notice) (§ 226.9(f))

G-13(B) Change in Insurance Provider Model Form (§ 226.9(f)(2))

G-14A Home Equity Sample

G-14B Home Equity Sample

G-15 Home Equity Model Clauses

* * * * *

G-10(A)—Applications and Solicitations Model Form (Credit Cards)

Annual percentage rate (APR) for purchases	_____ % until (expiration date), after that, _____ %
Other APRs	Balance transfer APR: _____ % Cash advance APR: _____ % Penalty APR: _____ % See explanation below*
Variable-rate information	Your APR may vary. The rate for [purchases] [cash advances][balance transfers] is determined by (explanation). See explanation below**
Grace period for repayment of balances for purchases	[__ days] [until ____] [not less than __ days] [between __ and __ days] [__ days on average] [You have no grace period in which to repay your balance for purchases before a finance charge will be imposed.]
Method of computing the balance for purchases	
Annual fees	[Annual] [Membership] fee: \$ _____ per year [(type of fee): \$ _____ per year] [(type of fee): \$ _____]
Minimum finance charge	\$ _____
Transaction fee for purchases	[\$ _____] [_____ % of _____]
Transaction fee for cash advances: [\$ _____] [_____ % of _____] Balance transfer fee: [\$ _____] [_____ % of _____] Late-payment fee: [\$ _____] [_____ % of _____] Over-the-credit-limit fee: \$ _____	

* Explanation of penalty.

**Explanation of variable rate.

G-10(B)—Applications and Solicitations Sample (Credit Cards)

Annual percentage rate (APR) for purchases	2.9% until 11/1/00, after that, 14.9%
Other APRs	Cash advance APR: 15.9% Balance transfer APR: 15.9% Penalty rate: 23.9%. See explanation below.*
Variable-rate information	Your APR for purchase transactions may vary. The rate is determined monthly by adding 5.9% to the Prime Rate**
Grace period for repayment of balances for purchases	25 days on average
Method of computing the balance for purchases	Average daily balance (excluding new purchases)
Annual fees	None
Minimum finance charge	\$.50
Transaction fee for cash advances: 3% of the amount advanced Balance transfer fee: 3% of the amount transferred Late-payment fee: \$ 25 Over-the-credit-limit fee: \$ 25	

* Explanation of penalty.

** The Prime Rate used to determine your APR is the rate published in _____ on the ____ day of the prior month.

* * * * *

5. In Supplement I to Part 226, the following amendments are made:
 - a. Under Section 226.5—General Disclosure Requirements, under Paragraph 5(a)(1), paragraph 1 introductory text is revised.
 - b. Under Section 226.5 – General Disclosure Requirements, under Paragraph 5(a)(2), the first sentence in paragraph 1 is revised.
 - c. Under Section 226.5a—Credit and Charge Card Applications and Solicitations, under 5a(a)(2) Form of Disclosures, paragraph 1 through paragraph 6 are redesignated as paragraph 2 through paragraph 7 respectively, a new paragraph 1 is added, and newly designated paragraph 2 is revised.

- d. Under Section 226.5a—Credit and Charge Card Applications and Solicitations, under 5a(b)(1) Annual Percentage Rate, paragraphs 6 and 7 are revised.
- e. Under Appendices G and H—Open-End and Closed-End Model Forms and Clauses, a new sentence is added after the second sentence in paragraph 1.
- f. Under Appendix G—Open-end Model Forms and Clauses, paragraph 5 is revised.

* * * * *

SUPPLEMENT I TO PART 226—OFFICIAL STAFF INTERPRETATIONS

* * * * *

SUBPART B—OPEN-END CREDIT

Section 226.5—General Disclosure Requirements

5(a) Form of disclosures.

Paragraph 5(a)(1).

1. Clear and conspicuous. The clear and conspicuous standard requires that disclosures be in a reasonably understandable form. Except where otherwise provided, the standard does not require that disclosures be segregated from other material or located in any particular place on the disclosure statement, or that numerical amounts or percentages be in any particular type size. (But see comments 5a(a)(2)-1 and -2 for special rules concerning § 226.5a disclosures for credit card applications and solicitations.) The standard does not prohibit: * * *

Paragraph 5(a)(2).

1. When disclosures must be more conspicuous. The term finance charge and annual percentage rate, when required to be used with a number, must be disclosed more conspicuously than other required disclosures, except in the cases provided in footnote 9.

* * *

* * * * *

Section 226.5a—Credit and Charge Card Applications and Solicitations

* * * * *

5a(a) General Rules

5a(a)(2) Form of Disclosures

1. Clear and conspicuous standard. For purposes of § 226.5a disclosures, clear and conspicuous means in a reasonably understandable form and readily noticeable to the consumer. As to type size, disclosures in 12-point type are deemed to be readily noticeable for purposes of § 226.5a. Disclosures printed in less than 12-point type do not automatically violate the standard; however, disclosures in less than 8-point type would likely be too small to satisfy the standard. Disclosures that are transmitted by electronic communication are judged for purposes of the clear and conspicuous standard based on the form in which they are provided even though they may be viewed by the consumer in a different form.

2. Prominent location. i. Generally. Certain of the required disclosures provided on or with an application or solicitation must be prominently located. Disclosures are deemed to be prominently located, for example, if the disclosures are on the same page as an application or solicitation reply form. If the disclosures appear elsewhere, they are deemed to be prominently located if the application or solicitation reply form contains a clear and conspicuous reference to the location of the disclosures and indicates that they contain rate, fee, and other cost information, as applicable. Disclosures required by § 226.5a(b) that are placed outside the table must begin on the same page as the table but need not end on the same page.

ii. Electronic disclosures. Electronic disclosures are deemed to be prominently located if:

A. They are posted on a web site and the application or solicitation reply form is linked to the disclosures in a manner that prevents the consumer from by-passing the disclosures before submitting the application or reply form; or

B. They are located on the same page as an application or solicitation reply form, that contains a clear and conspicuous reference to the location of the disclosures and indicates that they contain rate, fee, and other cost information, as applicable.

* * * * *

5a(b) Required Disclosures

5a(b)(1) Annual Percentage Rate

* * * * *

6. Introductory rates—premium rates. If the initial rate is temporary and is higher than the permanently applicable rate, the card issuer must disclose the initial rate in the table. The initial rate must be in at least 18-point type unless the issuer also discloses in the table the permanently applicable rate. The issuer may disclose in the table the permanently applicable rate that would otherwise apply if the issuer also discloses the time period during which the initial rate will remain in effect. In that case, the permanently applicable rate must be in at least 18-point type.

7. Increased penalty rates. If the initial rate may increase upon the occurrence of one or more specific events, such as a late payment or an extension of credit that exceeds the credit limit, the card issuer must disclose in the table the initial rate and the increased penalty rate that may apply. If the penalty rate is based on an index and an increased margin, the issuer must also disclose in the table the index and the margin as well as the specific event or events that may result in the increased rate, such as “applies to accounts 60 days late.” If the penalty rate cannot be determined at the time disclosures are given, the issuer must provide an explanation of the specific event or events that may result in imposing an increased rate. In describing the specific event or events that may result in an increased rate, issuers need not be as detailed as for the disclosures required under § 226.6(a)(2). For issuers using a tabular format, the specific event or events must be placed outside the table and an asterisk or other means shall be used to direct the consumer to the additional information. At its option, the issuer may include in the explanation of the penalty rate the period for which the increased rate will remain in effect, such as “until you make three timely payments.” The issuer need not disclose an increased rate that is imposed when credit privileges are permanently terminated.

* * * * *

APPENDICES G AND H—OPEN-END AND CLOSED-END MODEL FORMS AND CLAUSES

1. Permissible changes. * * * (But see Appendix G comment 5 for special rules concerning certain disclosures required under § 226.5a for credit and charge card applications and solicitations). * * *

APPENDIX G—OPEN-END MODEL FORMS AND CLAUSES

* * * * *

3. Model G-10(A), Sample G-10(B) and Model G-10(C). i. Model G-10(A) and Sample G-10(B) illustrate, in the tabular format, all of the disclosures required under § 226.5a for applications and solicitations for credit cards other than charge cards. Model G-10(B) is a sample disclosure illustrating an account with a lower introductory rate and

penalty rate. Model G-10(C) illustrates the tabular format disclosure for charge card applications and solicitations and reflects all of the disclosures in the table.

ii. Except as otherwise permitted, disclosures must be substantially similar in sequence and format to model forms G-10(A) and (C). The disclosures may, however, be arranged vertically or horizontally and need not be highlighted aside from being included in the table. While proper use of the model forms will be deemed in compliance with the regulation, card issuers are permitted to use headings and disclosures other than those in the forms (with an exception relating to the use of “grace period”) if they are clear and concise and are substantially similar to the headings and disclosures contained in model forms. For further discussion of requirements relating to form, see the commentary to § 226.5a(a)(2).

* * * * *

By order of the Board of Governors of the Federal Reserve System, September 27, 2000.

Jennifer J. Johnson (signed)
Jennifer J. Johnson
Secretary to the Board