PLUS: How to Cash In on Bank "Rewards" Programs • New Brochure, Video on FDIC Deposit Insurance

Summer 2009

# FDIC Consumer News

# New Consumer Protections for Credit Cards and Mortgages

## What the New Rules Mean for You

FEDERAL DEPOSIT INSURANCE CORPORATION

CREDIT CARDS

# New Law Protects Consumers from Surprise Fees, Rate Increases and Other Penalties

## Some changes are effective now, most start next year

In May, Congress passed and President Obama signed the Credit Card Accountability Responsibility and Disclosure Act of 2009 — the Credit CARD Act — the most sweeping statutory changes in card protections for consumers since the Truth in Lending Act was enacted in 1968. The new law is intended to help protect consumers from abusive fees, penalties, interest rate increases and other unwarranted changes in account terms.

"Credit cards are a vital component of everyday life for consumers," said Luke Brown, the FDIC's Associate Director for policy issues involving bank compliance with consumer regulations. "This new law will help you better manage your credit cards and avoid unpleasant surprises."

While the law generally will take effect on February 22, 2010, some important changes went into effect on August 20, 2009, and others not until August 22, 2010. Here's a look at key provisions.

**Prohibitions and restrictions on rate increases:** Starting on February 22, 2010, card issuers generally can't increase the Annual Percentage Rate or APR (the cost of credit expressed as a yearly rate, including interest and other charges) on existing balances for one year after the account is opened except in these four situations:

(1) When the bank disclosed, at the time the account was opened, that the APR would increase sooner;

(2) When the APR for a variable-rate card changes due to increases in a published index that is outside the card issuer's control, such as rates on U.S. Treasury securities;

(3) When the APR, fees or finance charges increase as a result of the consumer not satisfying a "workout" arrangement (a debt reduction or other concession agreed to by a card issuer to help a struggling borrower); or

(4) When the APR, fees or finance charges increase due to the consumer not making the required minimum payment within 60 days.

After the first year of the account, the card issuer can raise a consumer's interest rate, but the higher rate can only apply to new transactions and it cannot exceed the potential interest rate increase previously disclosed to the cardholder.

The card issuer also must generally provide a 45-day advance notice of any rate increase or any other significant changes in account terms, up from 15 days. This requirement of the law took effect on August 20, 2009. In that same notice, card issuers must inform consumers of their right to cancel their card before the rate increase or account changes take effect. Consumers who decide to cancel their card will repay at the "old" (lower) rate, and they cannot be required to immediately repay the outstanding balance.

In addition, starting August 22, 2010, and at least every six months, card issuers must review interest rate increases dating back to January 1, 2009. As part of that review, the lender must reassess the risk factors that led to the rate increase and reduce the APR going forward, if appropriate. And if the card issuer instead believes an increase in the APR is warranted, it must provide the customer with a written notice explaining the reasons. "Although these statutory provisions are not effective until August of next year, credit card companies will be held accountable for prudent risk assessment and appropriate APR changes dating back to the beginning of this year," said Victoria Pawelski, an FDIC Senior Policy Analyst.

Card issuers also generally can continue offering low introductory rates — more commonly known as "teaser rates." But beginning February 22, 2010, these initial rates must be disclosed in a clear and conspicuous manner and cannot increase until after the advertised period, which must be at least six months.

**New limits on fees and interest charges:** One of the most important changes requires that monthly statements be mailed or delivered at least 21 days before the payment due date, an increase from 14 days. This provides consumers more time to pay the bill before incurring late fees or additional interest charges if there is a grace period. This provision of the law took effect August 20, 2009, and applies to all open-end credit, including credit cards and home equity lines of credit.

Other important changes effective February 22, 2010, encourage fairness in the way card companies handle consumer payments:

• *For cards with multiple interest rates* — for example, a low rate on a balance transferred from another card and a higher rate on new purchases — card companies will be required to apply payments (the portion over the minimum payment) to the highest-rate balances first. This will eliminate a current practice of some card issuers that apply a consumer's payment toward balances with the lowest rate first and leaving the highest-rate balance to continue accruing interest costs. Other requirements govern how card payments will be applied in cases of deferred-interest plans — those

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MORTGAGES

## Attention, Shoppers! New Rules Will Help You Get a Fair Deal

Shopping for a mortgage can take time and effort. And choosing the wrong mortgage can be costly — in the worst cases, leading to the loss of your home if you can't afford the payments. But new consumer protections from the federal government — a mix of prohibited lending practices and new disclosures — will increase the likelihood that people will find a fair mortgage they can afford for years to come. Here is an overview.

**Lending practices prohibited as unfair, deceptive or abusive:** "The new rules recognize that disclosures alone can't always protect mortgage borrowers from the harm caused by unfair and abusive lending practices," said Mira Marshall, an FDIC Section Chief specializing in consumer issues. "Now some specific, clear prohibitions will help safeguard consumers."

The following prohibitions were adopted by the Federal Reserve Board (the Fed) for mortgages made on or after October 1, 2009:

• *For home mortgage loans* (not including home equity lines of credit), the new rules will prohibit mortgage lenders and brokers from coercing or encouraging a real estate appraiser to misrepresent the value of a home. "That's intended to ensure the integrity and accuracy of an appraisal, so that a consumer is not overpaying for a home or borrowing more money than the home is worth," explained Glenn Gimble, an FDIC Senior Policy Analyst.

In addition, mortgage loan servicers (companies that collect mortgage payments and perform other duties for lenders) will be prohibited from engaging in a variety of unfair actions. One is the failure to credit a consumer's loan payment on the date it is received. Another is deducting a late-payment fee from a loan payment

without informing the borrower and thereby creating a shortage that triggers additional fees for the borrower, month after month, even when the next loan payments arrive on time.

• *For high-priced and otherwise high-cost mortgages* — those with a relatively high interest rate typically because the applicant is considered a subprime credit risk— the Fed's rules contain several protections. In particular, a lender is prohibited from making a higher-priced loan (as defined in the rules) without regard to a borrower's ability to repay from income and assets other than the home's value.

Lenders of higher-priced mortgages also will be required to verify a loan applicant's income and assets using reliable, third-party documents and not based on the word of the borrower. In certain cases, the lender cannot impose a prepayment penalty if the borrower pays a loan off early.

Note: Consumers who only qualify for a high-cost, subprime mortgage may wish to consider waiting until their financial situation improves before getting a loan and buying a home. "Homeownership is costly, so even if you can afford a higher-cost mortgage right now, you might be better off waiting until you can save more money, pay off some bills, improve your credit score and buy a house you're sure you can afford," said Marshall. "But if you must get a mortgage, at least now you have some protection against getting in too far over your head."

**New requirements for early disclosure of loan terms and costs:** In general, the rules — some from the Fed and others from the U.S. Department of Housing and Urban Development (HUD) — ensure that consumers receive "good faith estimates" of the costs of a mortgage earlier in the application process and that the disclosures better explain the costs and terms of a loan. The disclosures will cover areas such as the potential for mortgage payments to go up, any penalty for paying off the loan early, and any fees paid by the lender to a mortgage broker for bringing in someone's business. Other rules relate to advertising and required consumer disclosures for home equity loans.

The Fed's rules focus on the disclosure of the costs and terms of a loan. These new rules mostly implement the Mortgage Disclosure Improvement Act of 2008, which amended the Truth in Lending Act. They took effect July 30, 2009, and include these requirements:

• Lenders will continue to be required to provide early disclosures to consumers for loans to purchase a primary residence, but now they also must do so for mortgage refinancings, home equity loans (but not home equity lines of credit) and mortgages used to purchase any home, such as a vacation home or second home.

• At least seven business days must pass between when a lender delivers or mails the early disclosures to a consumer and when the mortgage is consummated (the loan closing).

• If the Annual Percentage Rate or APR (the cost of the loan expressed as a yearly rate, including interest and

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that do not begin to accrue interest for several months after a purchase.

• *Double-cycle billing* — an often costly practice also known as two-cycle billing — will be banned. With double-cycle billing, a card company not only considers the current balance on the credit card when determining interest charges but also factors in the average daily balance from the previous billing period, even if a portion of that previous balance was paid.

"Double-cycle billing results in higher interest charges for consumers who carry a balance from one billing cycle to the next," said Pawelski. "The new law bans this practice by permitting interest charges to apply only to outstanding balances and not to previous balances already paid."

**Improved disclosures:** Also starting on February 22, 2010, credit card issuers must provide new, clearer and more timely disclosures of account terms and costs — before and after an account is opened. This will help consumers choose the right card, shop for better deals and avoid mistakes.

Monthly credit card statements will be changing significantly. Card statements must include a box showing cardholders how much they have paid in interest and in fees during the current year. Statements also will include details warning consumers about the high costs of making only the minimum payment.

To further help cardholders plan how to repay outstanding balances, the law will require statements to show the monthly payment amount required to pay off the existing balance in 36 months, including the total cost (payments and interest).

Periodic statements also must disclose, in a prominent location, the due date for the next payment as well as the amount of any potential late fee and the date it would be charged. Statements also must include a notice that one or more late payments may trigger an increase in the interest rate on the account, and they must show the penalty rate.

Finally, consumers may benefit from a requirement that card companies post their standard credit card agreements on the Internet. This is intended to make it easier for consumers to compare the terms of different credit cards and understand the interest rates and fees that are being charged.

**Other changes worth noting:**

• *Fair deadlines for credit card payments:* Starting on February 22, 2010, the due date for card payments must be the same day each month. This change is intended to prevent consumers from incurring late fees as a result of accidentally missing a due date because it changes from month to month. If the due date falls on a holiday or weekend, the deadline is considered to be the next business day. Also, card companies must accept and promptly post payments received by 5 p.m. (local time) on the due date. They can no longer, for example, have early morning deadlines for payments to be credited on the due date.

• *Restrictions on penalties for going over the credit limit:* Effective February 22, 2010, no fees may be imposed for making a purchase or other transaction that would put the account over its credit limit unless the cardholder "opts in" (agrees) for the credit card company to process over-the-limit transactions and charge a fee. Furthermore, an over-the-limit fee may be imposed only one time during the billing cycle when the limit is exceeded, not for each transaction that exceeds the credit limit. And if the cardholder remains over his or her limit but conducts no additional transactions, another fee can be imposed but only once during each of the next two billing cycles.

• *Protections for young consumers:* Also as of February 22, 2010, companies will be prohibited from issuing a credit card to a consumer younger than 21 unless he or she submits a written application that includes the signature of a co-signer over 21 or information indicating the young consumer has independent means to repay the card debt. Also, companies are restricted from making pre-screened offers of credit to someone under 21 unless the consumer consents to receive them. "These provisions are intended to protect college students and other young people from amassing significant credit card debt without the financial resources to pay them," explained Alice Beshara, Chief of the FDIC's section that monitors banks for compliance with consumer regulations.

**Final Thoughts**

While the new law will prohibit certain practices and provide more timely disclosures of account terms and costs, consumers still need to do their part to better manage their credit cards. "Start by understanding the terms of a credit card before signing up for it, " said Susan Boenau, Chief of the FDIC's Consumer Affairs Section. "Also, closely review your credit card bill each month, and monitor and understand the disclosures and account changes communicated by your card company."

The Federal Reserve Board has issued the first of several rules to implement the new law. For more information on your rights or on managing your credit cards in general, see the box on the next page.

## New Safeguards for Gift Cards

The same law that expanded the protections on credit cards (see Page 2) also included safeguards for gift cards and other types of pre-paid cards that can be used at a variety of stores and service providers to make small-dollar purchases.

Under the new law, gift cards and similar cards cannot expire within five years from the date they were activated unless the expiration date is clearly disclosed. The law also generally prohibits an inactivity fee on gift cards except in certain circumstances, such as if there has been no transaction for at least 12 months.

***Mortgages** — continued from Page 3*

certain fees) increases by a certain margin above what was previously disclosed, the consumer must receive a corrected disclosure at least three business days before the loan closing.

• With one exception, a lender cannot charge any fee in connection with an application until after the consumer has received the early disclosures. The exception is a fee to obtain the consumer's credit report.

HUD's rules, which will go into effect January 1, 2010, require lenders and mortgage brokers to use the same form to provide good faith estimates of settlement costs and disclosures of key loan terms. The rules also include changes to HUD's "uniform settlement statement" (often called the HUD-1 form) that will make it easier for consumers to compare the early, estimated costs to the actual costs to be charged. In addition, HUD's rules limit how much actual costs can increase above the estimates. HUD said its new rules are expected to save the typical borrower nearly $700 at closing.

**New advertising standards for mortgages:** Starting October 1, 2009, the Fed's rules will ban several advertising practices that the agency found to be deceptive or misleading.

First and foremost, the rule prohibits any advertisement from indicating that a rate or payment is "fixed" when it can change. Also, for home equity lines of credit, if an advertisement mentions a minimum payment — which may result in a large, lump-sum "balloon payment" due at the end of the loan term — the ad must state that fact with equal prominence and in close proximity to the minimum payment information. The new rule also requires advertisements to show all interest rates or payment amounts with equal prominence and in close proximity to any low promotional or "teaser" rate or payment.

**Mortgage loan originators will be subject to new federal registration requirements.** The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (the SAFE Act) requires mortgage loan originators — including loan officers at financial institutions and independent mortgage brokers — to register with the government and enter information about their background and disciplinary history into a central database that consumers can access. The SAFE Act is intended to enhance consumer protections and reduce fraud in the residential mortgage industry.

Registration of state-licensed mortgage loan originators (primarily independent brokers) has already begun. The registration process for federally regulated mortgage originators (such as loan officers at banks and credit unions) and the database that will accept federal registrations are under development.

In addition, the law requires all state governments to have licensing and minimum education requirements for the mortgage loan originators they regulate, which primarily includes independent mortgage brokers.

### Final Thoughts

"One of the positive outcomes of the recent financial crisis is that new, substantive protections will help mortgage borrowers avoid the mistakes and abuses of the past, some of which resulted in families losing their homes to foreclosure," said Gimble. "But consumers are still responsible for protecting themselves, too, by carefully reviewing the costs and terms of any home loan and considering their options before signing a contract."

Gimble also said that when a mortgage is too complex to understand, "consumers should seek help before committing to that product. Chances are, there are alternatives that are less complex and perhaps less costly, so shop around."

You may get the help you need from a trained, reputable housing counselor for no charge or a small fee. Find one through groups such as NeighborWorks America (www.nw.org) or by calling 1-888-995-HOPE (4673). Or, for a referral to a local HUD-certified counseling agency, visit www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm or call 1-800-569-4287.

To learn more about mortgages, including additional details about the new rules, see the box below.

## Administration Expands Eligibility for Refinancing

The Obama Administration has expanded the eligibility for its program to help homeowners who have been paying their mortgage on time but have been unable to refinance at low interest rates because their home has decreased in value. For details, visit www.makinghomeaffordable.gov.

## For Help and Information on Credit Cards, Mortgages and Other Financial Services

**The FDIC and other federal government agencies** publish consumer information and have staff, Web sites and other resources that can help answer questions on credit cards, mortgages and other financial products and services. Start at www.mymoney.gov.

**For more about the Federal Reserve Board's new rules for credit cards and mortgages,** start at www.federalreserve.gov or call toll-free 1-888-851-1920.

**For more about the U.S. Department of Housing and Urban Development's rules on closing costs and settlement procedures,** visit www.hud.gov/respa or call 1-202-708-0502.

**Your state or local government** may offer additional information or assistance on money matters.

**Financial institutions, consumer organizations and the news media** also publish tips and information you can find by searching the Internet.

# Points, Cash Back and Other "Rewards" from Your Bank: How to Cash In on the Right Deal

For decades, banks have given gifts for simply opening a new account. (Remember the free toasters?) But in recent years, banks have turned to special "rewards" programs that not only show appreciation for opening new accounts, but also encourage people to remain as customers and use a variety of services.

Examples range from credit cards that enable users to gradually accumulate cash rebates or "points" good for free travel or merchandise, to checking accounts that offer cash or other prizes for frequently using a debit card.

"Rewards programs can be great deals for consumers, but the key is to shop around, make smart use of the rewards and avoid pitfalls," said Lekeshia Frasure, an FDIC Community Affairs Specialist. Among the potential downsides, she said, are allowing the rewards to overshadow more important features of an account when you're comparison shopping, and letting your guard down against unnecessary spending because you're earning rewards by using your credit or debit card.

Here are our latest tips on rewards programs and how to maximize the benefits and minimize the problems.

**Choose an account primarily because it meets your needs, not just because of the rewards.** If you end up choosing between two accounts with similar terms and features that both meet your needs, it's fine for the rewards to be the deciding factor. "But don't let rewards alone tempt you into signing up for an account," warned Mira Marshall, an FDIC Section Chief specializing in consumer issues. "If you spend more than you would at another institution, those 'free' rewards may cost more than you think."

Similarly, Luke W. Reynolds, Chief of the FDIC's Community Outreach Section, said, "You shouldn't let rewards tie you to a card or account that is no longer meeting your needs, particularly if you can get a better deal elsewhere." And what if you do decide to close an account? "Be sure to first redeem or cash in your rewards," he said.

**Look for rewards that match your banking and spending habits.** Let's say you usually carry a balance on your credit card. That means you'll be paying interest charges, so your first priority is to find a card with a low Annual Percentage Rate or APR – and that most likely will be a card that does *not* offer generous rewards.

"Rewards cards tend to carry higher interest rates, so if you carry a balance each month, the interest costs will almost certainly exceed your rewards," said Frasure. On the other hand, if you expect to pay off your balance in full each month, the interest rate is less important than a card's other costs or features, including the rewards.

Also look for a credit card that will earn you rewards at stores and services you use most often. Some cards may offer additional rebates for certain categories of transactions, such as gas or groceries. But don't let a special rebate preclude you from shopping around for the best price.

And if you're not sure which rewards program is best for you, consider hedging your bets by opting for a product that gives cash back instead of points for travel or merchandise. According to the July 2008 issue of *Consumer Reports* magazine, "You might never redeem your points, so at least you will get something" when you get cash back. The magazine also said that its research shows that "cash-back cards tend to be more generous in their rewards."

**Weigh the costs against the benefits.** Some rewards credit cards charge an annual fee, while others don't. "You'll have to figure out whether you would earn enough rewards to justify the annual fee," said Reynolds.

Watch for transaction fees, too. For example, with checking accounts that reward the frequent use of a debit card, make sure the bank doesn't charge a fee for transactions. Most importantly, you also need to keep track of your transactions and watch your account balance to prevent costly overdrafts.

Also remember that, to earn cash or points, there is an incentive to spend as much as you can to get the most benefits. "Consumers need to be concerned about interest charges and unnecessary spending that results in unmanageable debt, which can more than cancel out any rewards you would earn," said Reynolds.

**Understand what you can lose if you don't meet the terms and conditions of the account.** Read your new account information and periodic mailings from your bank to look for information about restrictions, fees and penalties.

Some banks may offer special checking accounts that pay a very high interest rate, but only if certain requirements are met. For example, the high interest rate may apply only up to or over a certain balance. Or, you may need to pay most of your bills online or use your debit card at least 10 times a month. "These accounts can be worth investigating, but if you don't meet the requirements, you can expect to suffer the consequences, such as a dramatic drop in the interest rate," said Frasure.

Also, be aware if your points are subject to an expiration date. "As always," Reynolds said, "be sure to promptly read all the correspondence you receive regarding your rewards, because it may be announcing changes or limitations in the program."

# New Brochure, Video on FDIC Deposit Insurance

## Although the basic coverage limit is currently $250,000 at one bank, you can have much more protection

As previously reported in ***FDIC Consumer News***, some of the rules governing deposit insurance have changed significantly since the fall of 2008. Most notably, Congress has increased the basic insurance limit — from up to $100,000 to up to $250,000, through December 31, 2013. Now, to help you better understand your current protections, including how you can have far more than $250,000 of insurance coverage at the same bank, the FDIC has produced two new resources and is updating others.

One new resource is a brochure called "Deposit Insurance Summary." It's an overview of the basic information that most people want to know about their FDIC coverage. This brochure is available in English, Spanish, Korean, Chinese (traditional and simplified) and Vietnamese. It replaces the brochure entitled "Insuring Your Deposits."

The other new resource is a 30-minute video to help bank customers and employees understand the basics of the current deposit insurance rules. It is available in English and Spanish.

### Full Guarantee Program Extended Through Mid-2010

In October 2008, the FDIC announced that deposits in noninterest-bearing transaction accounts and NOW accounts earning 0.5 percent or less would temporarily be fully guaranteed by the FDIC at participating institutions through year-end 2009. The latest is that on August 26, 2009, the FDIC extended the temporary program six months, though June 30, 2010.

While the program is primarily used by businesses with large balances in their checking accounts, any depositor can qualify. For details, visit www.fdic.gov/deposit/deposits/changes.html or call the FDIC toll-free at 1-877-ASK-FDIC (1-877-275-3342).

You can see and order the new brochure and video at www.fdic.gov/deposit/deposits (the FDIC's deposit insurance Web site). Or, you can order a free copy by calling the FDIC toll-free at 1-877-ASK-FDIC, which is 1-877-275-3342.

A more comprehensive guide to the insurance rules, the FDIC's "Your Insured Deposits" brochure, is being updated and will be available soon. Please note that any printed material related to FDIC insurance coverage dated before May 20, 2009, does not reflect the current rules and should be discarded.

Also remember that the FDIC has many resources on deposit insurance, including experts you can call at that same toll-free number. "The FDIC Call Center provides a great service for consumers," said James Deveney, Chief of the FDIC's Deposit Insurance Outreach Section. "We encourage anyone with a question about their FDIC insurance coverage to call us."

Then there's "EDIE," the FDIC's interactive deposit insurance calculator at www.fdic.gov/edie. "By entering information into this easy-to-use, online tool, consumers can get confirmation of their deposit insurance coverage 24 hours a day, seven days a week, anywhere they have Internet access," said Kate Spears, an FDIC Senior Consumer Affairs Specialist.

Finally, we leave you with this brief reminder of how you can have more than $250,000 in a bank and all of it can be protected.

**As always, you may qualify for more than the basic insurance coverage at one bank if the funds are held in different "ownership categories."** For example, if your deposits at a bank are in two different ownership categories — a "single" account (in your name alone) and an IRA

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**Go to www.fdic.gov or call the FDIC toll-free at 1-877-ASK-FDIC (1-877-275-3342)**

(Individual Retirement Account) — your funds are separately insured for up to $250,000 in each category. That would mean FDIC insurance coverage of up to $500,000…just for you and not including the additional coverage for any deposits your family members have at the same bank.

**Joint accounts are another way to maximize your deposit insurance coverage.** These are deposit accounts owned by two or more people. Let's suppose that you and your spouse have a joint account at the same bank and that you both have equal rights to withdraw the money. The joint account would be insured by the FDIC for up to $500,000 in total — $250,000 for you and $250,000 for your spouse. And it would be insured separately from the deposits you have in other ownership categories at that same bank, such as a single account and an IRA.

**"Revocable" trust accounts are yet another way to maximize deposit insurance coverage.** These are deposit accounts that are intended to pass to the named beneficiaries upon the owner's death. They are called revocable because, after setting up the account, the owner can change the beneficiaries and the dollar amounts to be received upon the owner's death.

In their simplest form, revocable trust accounts are designated as "payable on death" or "in trust for" accounts. Another type of revocable trust account is a "living" or "family" trust account. These are deposits held in connection with a formal, legal document usually drafted by an attorney for estate-planning purposes.

In general, under a September 2008 FDIC rule change, a revocable trust account owner can name almost anyone or any IRS-qualifying charity or nonprofit organization as a beneficiary and the owner will receive up to $250,000 in coverage for each beneficiary — that means $250,000 if there is one beneficiary, $500,000 if there are two, and so on. "The ability to maximize deposit insurance coverage while also conducting estate planning is the reason revocable trust deposits have become so popular," said Martin Becker, a Senior Consumer Affairs Specialist at the FDIC.

## Also New: An FDIC Guide for Borrowers at Failed Banks

You probably know that depositors at failed banks have quick access to all of their insured money if their bank fails. But do you know what happens if you have a loan — perhaps a mortgage or a car loan — at a bank that is closed?

To help borrowers understand what to expect if their bank fails and the FDIC acquires its loans, the agency has published a brochure entitled "A Borrower's Guide to an FDIC-Insured Bank Failure." Read it online at www.fdic.gov/bank/individual/failed/borrowers.