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OCC BULLETIN

Comptroller of the Currency
Administrator of National Banks

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Subject: **Truth in Lending**

Description: **Interim Final Rules**

Date: August 26, 2009

TO: Chief Executive Officers of National Banks, All Department and Division Heads, and All Examining Personnel

Certain provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009, Pub. Law No. 111-24 (Credit CARD Act), became effective August 20, 2009. On July 22, the Board of Governors of the Federal Reserve System (Federal Reserve Board) issued the attached interim final rules under Regulation Z implementing these provisions. Although the rules were effective August 20, comments may be submitted on or before September 21. The provisions of the rules are briefly summarized below.

Periodic Statements. Under the interim final rules, creditors are required – for any open-end consumer credit plan – to adopt reasonable procedures designed to ensure that periodic statements are mailed or delivered at least 21 days prior to the payment due date and the date on which any grace period expires.

Advance Notice of Significant Changes in Account Terms and Rate Increases. Creditors will be required to provide consumers with a written notice 45 days in advance of (1) a significant change in the terms of an open-end (not home-secured) credit card account; (2) an increase in the required minimum periodic payment; or (3) an increase in a rate due to delinquency or default or as a penalty.

Note – The interim final rules set forth the “significant” changes that trigger the 45-day notice requirement. These include, but are not limited to, changes in the APR; changes in annual, cash advance, late payment, over-the-limit, returned payment, and balance transfer fees; and changes in the grace period. The rules also set forth the circumstances in which advance notice is not required, such as a suspension of future credit privileges, the termination of an account, or when the promotional rate, variable rate, or workout exceptions apply.

Statement of the Right to Reject Changes in Terms. Under the interim final rules, creditors will be required to include in the 45-day advance notice, among other information, a statement that the consumer has the right to reject the change prior to its effective date, unless the consumer fails to make a required minimum periodic payment within 60 days after the due date for that payment. 12 CFR 226.9(c)(2)(iv)(D)(1), (g)(3). If the consumer rejects the change by notifying the creditor before its effective date, the creditor may not apply the change or increase to the “account” or require repayment of

the account balance using a method less beneficial than those specified in the rules. 12 CFR 226.9(h)(1), (2).

Additional Disclosure for National Bank Customers. It is important to note that the rules also provide that the consumer's ability to reject changes does not apply to "transactions" that occur more than 14 days after provision of the 45-day notice. 12 CFR 226.9(h)(3). The Federal Reserve Board's interim final rules do not require advance notices to contain information on this limitation on the consumer's ability to reject changes. Until this issue is clarified, the OCC is concerned that failing to notify consumers of this consequence, if applicable, will cause consumer confusion and bank reputation risk.

To avoid unnecessary consumer confusion, national banks should include the following (or similar) additional information in 45-day advance notices to alert the consumer, if applicable, to the imposition of the new terms on transactions that occur more than 14 days after the notice is provided, regardless of whether the consumer rejects the changes:

NOTE: Even if you reject this change in terms, the new terms will be applied to any transactions on your account that occur on or after [INSERT DATE].

Please direct questions about the rules to the Community and Consumer Law Division at (202) 874-5750.

/signed/

Ann F. Jaedicke
Deputy Comptroller for Compliance Policy

Attachment: [Interim Final Rules](#)
[www.occ.treas.gov/fr/fedregister/74fr36077.pdf]