Account Opening Disclosures for Open-End Consumer Credit Plans Under Regulation Z

The Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit CARD Act) amended the Truth in Lending Act and implemented new disclosure requirements affecting account opening disclosures for open-end consumer credit plans. The new disclosure requirements went into effect in two phases, on February 22, 2010 and July 1, 2010. In 2011, the Federal Reserve Board issued additional clarifications to the rules, which become mandatory on October 1, 2011.

Alert Date: September 1, 2011
Status: Most required disclosures became mandatory on February 22, 2010. Additional requirements and formatting became mandatory on July 1, 2010. The clarifications become mandatory on October 1, 2011.
Links: 2010 Open End Revisions
             2011 Clarifications

The Credit CARD Act amended the Truth in Lending Act by revising the account opening disclosures that are required for open-end non-home secured plans. The creditor is required to provide the account opening disclosures in writing and in a form that the customer may keep. Most of the disclosures are required to conform to the model disclosures, which are located in Appendix G of Regulation Z. The disclosures must be clear and conspicuous. and must be provided before the first transaction is made under the plan or before the customer is obligated under the plan. As described below, certain disclosures are subject to very specific formatting requirements, including tabular format, font size, highlighting and specific terminology. Credit card requirements are not discussed in this Compliance Alert.

What must be disclosed?

The account opening disclosures for open-end, non-home secured lines of credit are required to disclose information about the APR, any variable rate, and discounted, introductory or premium rate, and penalty rates on the line of credit. Special disclosures are allowed where the line of credit is issued at the point of sale, and the APR may vary from state to state or may vary based on the consumer’s creditworthiness. A variety of information is required about fees and charges, such as fees for issuing or making available the line of credit, fixed finance charges, minimum interest charges, transaction charges, cash advance fees, late payment fees, over the limit fees, balance transfer fees, returned payment fees, and fees for required insurance or debt cancellation or suspension coverage. In addition, other information about the line of credit, such as a grace period, the balance computation method, and a statement about any security interest taken by the creditor, must be disclosed.

How should the information be disclosed?

The Federal Reserve set forth three different areas of the disclosure where information is required to be shown: in a table, directly below the table, and elsewhere in the account opening disclosures. The information that is required to be disclosed in the table includes:

- APR for purchases, cash advances, and balance transfers
- If an introductory rate is offered, the rate that would apply after the introductory rate expires
- Premium rates that are higher than the rate that would apply after the temporary rate expires
- Fees for issuance or availability of the plan
- Transaction charges imposed for use of the plan
- Cash advance fees
- Late payment fee
- Over-the-Limit fee
- Balance transfer fee
- Returned payment fee
- Insurance or debt cancellation fees (if required as part of plan)
- Fixed finance charge and a brief description of the charge
- Any minimum interest charge that could be imposed during a billing cycle and a brief description of the charge
- The grace period or the fact that there is no grace period
Many of the disclosures in the table have specific font size requirements, must be bolded, and must include additional information or use specific verbiage. The Federal Reserve has included model language for the disclosures in Appendix G.

In addition to the disclosures that must be included in the table, the balance computation method, and a reference to the fact that information about the customer’s right to dispute transactions is included in the account opening disclosures, must be shown directly below the table.

Finally, certain information is required to be disclosed outside of the table and cannot be located directly beneath it. For example, many creditors include the information in their account agreements. The required information includes:

- Any charges imposed as part of the plan
- The circumstances under which the charges may be imposed
- Either the amount of the charge or an explanation of how the charge is determined
- For finance charges, a statement of when the charge begins to accrue and whether there is a period in which credit may be repaid without incurring a finance charge
- The periodic rate and corresponding annual percentage rate
- Range of balances
- Type of transaction
- Explanation of the balance computation method
- Variable rate disclosures
- Disclosures related to rate changes not tied to an index

What has been clarified?

In the Federal Reserve’s clarification to the Credit CARD Act amendments to Regulation Z, the agency imposed several new requirements for account opening disclosures. The clarifications become mandatory on October 1, 2011.

Creditors will be required to disclose additional information and use new model language when the creditor provides a grace period for some but not all features of the account. The creditor is not allowed to disclose in the table the limitations on the imposition of finance charges as a result of the loss of the grace period, or the impact of the payment allocation on whether interest is charged on transactions as a result of loss of a grace period.

Further, if the creditor discloses within the table a preferential APR for employees or other individuals related to the creditor or affiliates of the creditor, such as executive officers, directors, and principal shareholders, then the creditor must briefly disclose, directly beneath the table, the circumstances under which the preferential rate may be revoked and the rate that will apply after the preferential rate is revoked.

In addition, under the rules before October 1, 2011, a creditor must disclose the circumstances under which the introductory rate may be revoked if an introductory rate is disclosed in the table. Beginning on October 1, 2011, the disclosure has to include the rate that will apply after the introductory rate is revoked.

Recommendations for Next Steps

1. By July 1, 2010:
   - Ensure that forms vendor or loan origination system has been updated for new disclosure requirements
   - Train staff on proper completion of new disclosures

2. By October 1, 2011:
   - Check with forms vendor or loan origination system to determine if updated disclosures will be provided
   - Identify any grace period, introductory rate and preferential rate that may be affected by the clarifications
   - Train staff on properly completing the updated account opening disclosures