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## Regulation Z and Payment Handling

The Federal Reserve Board adopted amendments in 2008 and 2010 to Regulation Z that cover the handling of loan payments. Since that time, the Consumer Financial Protection Bureau (CFPB) has published their version of Regulation Z which was substantially similar to the Federal Reserve's version. Due to heightened interest in the sections of Regulation Z that cover the handling of payments, this Alert is designed to provide information on the basic requirements.

Alert Date: November 15, 2012

Status: Currently Effective

Links: [Regulation Z](#)

Regulation Z contains various sections, under the open-end credit rules and the closed-end credit rules that address the handling of payments in certain circumstances. The information discussed in this Alert covers specific consumer credit products and is not meant to address any proposed amendments that have not been finalized. Within the CFPB's regulation, the open-end credit payment rules are contained within section 1026.10 and the closed-end credit payment rules are contained within section 1026.36. While the rules contained in the two sections have a lot of similarities, there are some specific differences.

### **What types of credit are covered by open-end credit payment rules?**

As provided for in Regulation Z, specific servicing practices related to payment handling cover all open-end consumer credit. The rules also contain special provisions that apply specifically to credit card accounts.

### **What are the rules covering open-end credit payments?**

At a high level, the rules require creditors to credit a payment to a consumer's account as of the date it is received, except when a delay in crediting does not result in a finance or other charge. The date of receipt is the date the payment reaches the creditor.

The open-end rules discuss specific requirements for payments. First, a creditor *may* specify any "reasonable" requirements for borrowers to make their payments. Examples of reasonable requirements include:

- Requiring payments to be accompanied by an account number or payment stub;
- Setting reasonable cut-off times for payments received by mail, electronic means, by telephone and in person (provided that the cut-off times shall be no earlier than 5:00 p.m. on the payment due date);
- Specifying that only checks or money orders should be sent by mail;
- Specifying that payment is to be made in U.S. dollars; or
- Specifying one particular address for receiving payments (such as a P.O. Box).

If a creditor specifies requirements for making payments, but accepts a payment that does not meet those requirements, it is considered a "nonconforming payment". With regard to nonconforming payments:

- The payments must be credited within 5 days of receipt.
- Also, if a creditor promotes a specific payment method, any payments made following those methods are generally considered "conforming payments". Examples include payments made via a creditor's website that promotes electronic payment, or payments made by phone if promoted in that manner, or payments made in person at a branch location if promoted in that manner or payments made via an unaffiliated third party if promoted.

If no payment requirements are provided, certain "implied guidelines" apply. These implied guidelines allow for payments to be made at any location where the creditor conducts business, at any time during their normal business hours and by cash, money order, draft or other similar form or by EFT (if the EFT has been agreed to by both servicer and consumer).

Special provisions that apply to credit cards include:

- Fee Limitations – a creditor may not impose a separate fee to allow consumers to make payments by any method (mail, electronic, via telephone). However, a fee is allowed if it involves "expedited service" by customer service.
- Card Issuer Changes – if an issuer makes material changes in the payment address or procedures for handling payments and it causes a delay in the crediting of payments, no late fees or finance charges for late payments may be assessed during the 60-day period following the change.

### ***What types of credit are covered by closed-end credit payment rules?***

As provided for in Regulation Z, specific servicing practices related to payment handling cover consumer credit secured by a consumer's principal dwelling.

### ***What are the rules covering closed-end credit payments?***

At a high level, the rules require loan servicers to credit a payment to a consumer's loan account as of the date it is received. The regulation discusses this requirement by outlining specific prohibited acts or practices. Generally, no servicer shall:

- Fail to credit a payment as of the date of receipt, except when a delay does not result in any charge to the consumer or in any negative credit information reporting
- Impose any late fee in connection with a payment, when the only delinquency is because of late fees and the payment is otherwise a full payment (i.e. no pyramiding of late fees).

When this rule was published, regulators noted that there may be instances when the physical posting of payments on the date of receipt is not always operationally feasible. As such, there is no requirement that the payment be "physically" posted the same day; however the posting must accurately reflect the date of receipt when it is credited.

The rules also address payment requirements that a servicer may specify. Any payment requirements must be "reasonable" and provided in writing. Examples of reasonable requirements include:

- Requiring payments to be accompanied by an account number or payment coupon;
- Setting a cut-off hour for payment to be received;
- Setting different hours for payment by mail and payments made in person;
- Specifying that only checks or money orders should be sent by mail;
- Specifying that payment is to be made in U.S. dollars; or
- Specifying one particular address for receiving payments, such as a P.O. Box.

Nonconforming payments are to be credited within 5 days of receipt.

Similar to the open-end rules, if no payment requirements are provided, certain "implied guidelines" apply. These implied guidelines allow for payments to be made at any location where the servicer conducts business, at any time during their normal business hours and by cash, money order, draft or other similar form or by EFT (if the EFT has been agreed to by both servicer and consumer).

## **Recommendations for Next Steps**

As the requirements contained within this Compliance Alert are already effective, you may determine no next steps are needed at this time. However, the following steps are provided for your consideration:

1. Review loan-related policies and procedures for information on payment handling and resolve inconsistencies with the current rules.
2. Review the various methods in which payments are received and ascertain whether the handling of those payments is done in compliance with the applicable rules.
3. Ensure staff that handle loan payments are familiar with regulatory requirements.