

this paragraph, as applicable: "Based on the information you provided and assumptions that we used to calculate the time to repay your balance, we estimate that you will never pay off your credit card balance if you only make the minimum payment because your payment is less than the interest charged each month."

(4) *Permissible disclosures.* Credit card issuers and the FTC may provide the following information when responding to a request for the generic repayment estimate through a toll-free telephone number, so long as the following information is provided after the disclosures in paragraph (b)(1) of this Appendix are given:

(i) A description of the assumptions used to calculate the generic repayment estimate as described in paragraph (a)(5) of this Appendix.

(ii) The length of time it would take to repay the beginning balance described in paragraph (b)(1)(ii) of this Appendix if an additional amount was paid each month in addition to the minimum payment amount, allowing the consumer to select the additional amount. In calculating this estimate, card issuers and the FTC must use the same terms described in paragraph (a) of this Appendix, except they must assume the additional amount was paid each month in addition to the minimum payment amount.

(iii) The length of time it would take to repay the beginning balance described in paragraph (b)(1)(ii) of this Appendix if the consumer made a fixed payment amount each month, allowing the consumer to select the amount of the fixed payment. For example, an issuer or the FTC could prompt the consumer to enter in a payment amount in whole dollars (*e.g.*, \$50) and disclose to the consumer how long it would take to repay the beginning balance if the consumer made that payment each month. In calculating this estimate, card issuers and the FTC must use the same terms described in paragraph (a) of this Appendix, except they must assume the consumer made a fixed payment amount each month.

(iv) The monthly payment amount that would be required to pay off the beginning balance described in paragraph (b)(1)(ii) of this Appendix within a specific number of months or years, allowing the consumer to select the payoff period. For example, an issuer or the FTC could prompt the consumer to enter in the number of years to repay the beginning balance, and disclose to the consumer the monthly payment amount that the consumer would need to pay each month in order to repay the balance in that number of years. In calculating the monthly payment amount, card issuers and the FTC must use the same terms described in paragraph (a) of this Appendix, as appropriate.

(v) Reference to Web-based calculation tools that permit consumers to obtain additional estimates of repayment periods.

(vi) The total amount of interest that a consumer may pay under repayment options described in paragraphs (b)(4)(ii), (iii) or (iv) of this Appendix.

[Reg. Z, 74 FR 5441, Jan. 29, 2009]

EFFECTIVE DATE NOTE: At 74 FR 5441, Jan. 29, 2009, appendix M1 was added to part 226, effective July 1, 2010.

APPENDIX M2 TO PART 226—ACTUAL REPAYMENT DISCLOSURES

(a) *Calculating actual repayment disclosures.*

(1) *Definitions.* (i) "Retail credit card" means a credit card that is issued by a retailer that can be used only in transactions with the retailer or a group of retailers that are related by common ownership or control, or a credit card where a retailer arranges for a creditor to offer open-end credit under a plan that allows the consumer to use the credit only in transactions with the retailer or a group of retailers that are related by common ownership or control.

(ii) "General purpose credit card" means a credit card other than a retail credit card.

(iii) "Promotional terms" means terms of a cardholder's account that will expire in a fixed period of time, as set forth by the card issuer.

(2) *Minimum payment formulas.* When calculating the actual repayment disclosure, credit card issuers must use the minimum payment formula(s) that apply to a cardholder's account. If more than one minimum payment formula applies to an account, the issuer must apply each minimum payment formula to the portion of the balance to which the formula applies. If any promotional terms related to payments apply to a cardholder's account, such as a deferred billing plan where minimum payments are not required for 12 months, credit card issuers may assume no promotional terms apply to the account.

(3) *Annual percentage rate.* When calculating the actual repayment disclosure, a credit card issuer must use the annual percentage rates that apply to a cardholder's account, based on the portion of the balance to which the rate applies. If any promotional terms related to annual percentage rates apply to a cardholder's account, such as introductory rates or deferred interest plans, credit card issuers may assume no promotional terms apply to the account.

(4) *Beginning balance.* When calculating the actual repayment disclosure, credit card issuers must use as the beginning balance the outstanding balance on a consumer's account as of the closing date of the last billing cycle. When calculating the actual repayment disclosure, credit card issuers may

round the beginning balance as described above to the nearest whole dollar.

(5) *Assumptions.* When calculating the actual repayment disclosure, credit card issuers and the FTC for each of the terms below, may either make the following assumption about that term, or use the account term that applies to a consumer's account.

(i) Only minimum monthly payments are made each month. In addition, minimum monthly payments are made each month—for example, a debt cancellation or suspension agreement, or skip payment feature does not apply to the account.

(ii) No additional extensions of credit are obtained, such as new purchases, transactions, fees, charges or other activity. No refunds or rebates are given.

(iii) The annual percentage rate or rates that apply to a cardholder's account will not change, through either the operation of a variable rate or the change to a rate. For example, if a penalty annual percentage rate currently applies to a consumer's account, an issuer may assume that the penalty annual percentage rate will apply to the consumer's account indefinitely, even if the consumer may potentially return to a non-penalty annual percentage rate in the future under the account agreement.

(iv) There is no grace period.

(v) The final payment pays the account in full (*i.e.*, there is no residual interest after the final month in a series of payments).

(vi) The average daily balance method is used to calculate the balance.

(vii) All months are the same length and leap year is ignored. A monthly or daily periodic rate may be assumed. If a daily periodic rate is assumed, the issuer may either assume a year is 365 days long, and all months are 30.41667 days long, or a year is 360 days long, and all months are 30 days long.

(viii) Payments are credited on the last day of the month.

(ix) Payments are allocated to lower annual percentage rate balances before higher annual percentage rate balances.

(x) The account is not past due and the account balance does not exceed the credit limit.

(xi) When calculating the generic repayment estimate, the assumed payments, current balance and interest charges for each month may be rounded to the nearest cent, as shown in Appendix M3 to this part.

(6) *Tolerance.* An actual repayment disclosure shall be considered accurate if it is not more than 2 months above or below the actual repayment disclosure determined in accordance with the guidance in this Appendix (prior to rounding described in paragraph (b)(1)(i) of this Appendix). For example, assume the actual repayment estimate calculated using the guidance in this Appendix is 28 months (2 years, 4 months), and the ac-

tual repayment estimate calculated by the issuer is 30 months (2 years, 6 months). The actual repayment estimate should be disclosed as 2 years, due to the rounding rule set forth in paragraph (b)(1)(i) of this Appendix. Nonetheless, based on the 30 month estimate, the issuer disclosed 3 years, based on that rounding rule. The issuer would be in compliance with this guidance by disclosing 3 years, instead of 2 years, because the issuer's estimate is within the 2 months' tolerance, prior to rounding. In addition, even if an issuer's estimate is more than 2 months above or below the actual repayment estimate calculated using the guidance in this Appendix, so long as the issuer discloses the correct number of years to the consumer based on the rounding rule set forth in paragraph (b)(1)(i) of this Appendix, the issuer would be in compliance with this guidance. For example, assume the actual repayment estimate calculated using the guidance in this Appendix is 32 months (2 years, 8 months), and the actual repayment estimate calculated by the issuer is 38 months (3 years, 2 months). Under the rounding rule set forth in paragraph (b)(1)(i) of this Appendix, both of these estimates would be rounded and disclosed to the consumer as 3 years. Thus, if the issuer disclosed 3 years to the consumer, the issuer would be in compliance with this guidance even though the actual repayment estimate calculated by the issuer is outside the 2 months' tolerance amount.

(b) *Disclosing the actual repayment disclosure to consumers through a toll-free telephone number.*

(1) *Required disclosures.* Except as provided in paragraph (b)(3) of this Appendix, when responding to a request for actual repayment disclosures through a toll-free telephone number, credit card issuers and the FTC must make the following disclosures:

(i) The actual repayment disclosure. If the actual repayment disclosure is less than 2 years, credit card issuers must disclose the estimate in months. Otherwise, the estimate must be disclosed in years. The estimate must be rounded down to the nearest whole year if the estimate contains a fractional year less than 0.5, and rounded up to the nearest whole year if the estimate contains a fractional year equal or greater than 0.5. If more than one minimum payment formula applies to an account, when calculating the actual repayment period, the issuer must apply each minimum payment formula to the portion of the balance to which the formula applies. The issuer may either disclose the longest repayment period calculated, or the repayment period calculated for each minimum payment formula. For example, assume that an issuer uses one minimum payment formula to calculate the minimum payment amount for a general revolving feature, and another minimum payment formula to calculate the minimum payment

amount for special purchases, such as a "club plan purchase." Also, assume that based on a consumer's balances in these features and the annual percentage rates that apply to such features, that the repayment period calculated pursuant to this Appendix for the general revolving feature is 5 years, while the repayment period calculated for the special purchase feature is 3 years. This issuer may either disclose 5 years as the repayment period for the entire balance to the consumer, or disclose 5 years as the repayment period for the balance in the general revolving feature and 3 years as the repayment period for the balance in the special purchase feature.

(ii) The beginning balance on which the actual repayment disclosure is calculated.

(iii) The assumption that only minimum payments are made and no other amounts are added to the balance.

(iv) The fact that the repayment period is an estimate, and is based on several assumptions about the consumer's account terms and future activity.

(v) At the issuer's option, a description of the minimum payment formula(s) or the minimum payment amounts used to calculate the actual repayment disclosure, including a disclosure of the dollar amount of the minimum payment calculated for the first month.

(vi) At the issuer's option, the total amount of interest that a consumer would pay if the consumer makes minimum payments for the length of time disclosed in the actual repayment disclosure.

(2) *Model language.* Credit card issuers may use the following disclosure to meet the requirements set forth in paragraph (b)(1) of this Appendix:

Your outstanding balance as of the last billing statement was \$____. If you make only the minimum payment on time each month and no other amounts are added to your balance, we estimate that it would take approximately ____ [months/years] to pay off this balance. This estimate is based on several assumptions about the terms of your account and future account activity.

(3) *Zero or negative amortization.* If zero or negative amortization occurs when calculating the repayment estimate, credit card issuers must disclose to the consumer that based on the current terms applicable to the consumer's account and on assumptions used to calculate the repayment estimate, the issuer estimates that the consumer will never pay off the balance by paying only the minimum payment. Card issuers may use the following disclosure to meet the requirements set forth in this paragraph, as applicable: "Your outstanding balance as of the last billing statement was \$____. Based on the current terms applicable to your account and on assumptions that we used to calculate the time to repay your balance, we es-

timate that you will never pay off your credit card balance if you only make the minimum payment because your payment is less than the interest charged each month."

(4) *Permissible disclosures.* Credit card issuers may provide the following information when responding to a request for the actual repayment disclosure through a toll-free telephone number, so long as the following information is provided after the disclosures in paragraph (b)(1) of this Appendix are given:

(i) A description of the assumptions used to calculate the actual repayment disclosure as described in paragraph (a)(5) of this Appendix.

(ii) The length of time it would take to repay the beginning balance described in paragraph (b)(1)(ii) of this Appendix if an additional amount was paid each month in addition to the minimum payment amount, allowing the consumer to select the additional amount. In calculating this estimate, credit card issuers must use the same terms described in paragraph (a) of this Appendix used to calculate the actual repayment disclosure, except they must assume the additional amount was paid each month in addition to the minimum payment amount.

(iii) The length of time it would take to repay the beginning balance described in paragraph (b)(1)(ii) of this Appendix if the consumer made a fixed payment amount each month, allowing the consumer to select the amount of the fixed payment. For example, an issuer could prompt the consumer to enter in a payment amount in whole dollars (e.g., \$50) and disclose to the consumer how long it would take to repay the beginning balance if the consumer made that payment each month. In calculating this estimate, card issuers must use the same terms described in paragraph (a) of this Appendix to calculate the actual repayment disclosure, except they must assume the consumer made a fixed payment amount each month.

(iv) The monthly payment amount that would be required to pay off the beginning balance described in paragraph (b)(1)(ii) of this Appendix within a specific number of months or years, allowing the consumer to select the payoff period. For example, an issuer could prompt the consumer to enter in the number of years to repay the beginning balance, and disclose to the consumer the monthly payment amount that the consumer would need to pay each month in order to repay the balance in that number of years. In calculating the monthly payment amount, card issuers must use the same terms described in paragraph (a) of this Appendix, as appropriate.

(v) Reference to Web-based calculation tools that permit consumers to obtain additional estimates of repayment periods.

(vi) The total amount of interest that a consumer may pay under repayment options

described in paragraph (b)(4)(ii), (iii) or (iv) of this Appendix.

(c) *Disclosing the actual repayment disclosures on periodic statements.*

(1) *Required disclosures.* Except as provided in paragraph (c)(3) of this Appendix, when providing the actual repayment disclosure on the periodic statement, credit card issuers must make the following disclosures:

(i) The actual repayment disclosure. If the actual repayment disclosure is less than 2 years, credit card issuers must disclose the estimate in months. Otherwise, the estimate must be disclosed in years. The estimate must be rounded down to the nearest whole year if the estimate contains a fractional year less than 0.5, and rounded up to the nearest whole year if the estimate contains a fractional year equal to or greater than 0.5.

(ii) The fact that the repayment period is based on the current outstanding balance shown on the periodic statement.

(iii) The assumption that only minimum payments are made and no other amounts are added to the balance.

(iv) At the issuer's option, a description of the minimum payment formula(s) or the minimum payment amounts used to calculate the generic repayment estimate, including a disclosure of the dollar amount of the minimum payment calculated for the first month.

(v) At the issuer's option, the total amount of interest that a consumer would pay if the consumer makes minimum payments for the length of time disclosed in the actual repayment disclosure.

(2) *Model form.* Credit card issuers may use the disclosure in Sample G-18(C) in Appendix G to this part to meet the requirements set forth in paragraph (c)(1) of this Appendix.

(3) *Zero or negative amortization.* If zero or negative amortization occurs when calculating the actual repayment disclosure, credit card issuers must disclose to the consumer that the issuer estimates that the consumer will never pay off the balance by making only the minimum payment. Card issuers may use the disclosure in Sample G-18(C) in Appendix G to this part to meet the requirements set forth in this paragraph.

(4) *Permissible disclosures.* Card issuers may provide the following information on the periodic statement, so long as the following information is provided after the disclosures in paragraph (c)(1) of this Appendix are given:

(i) The fact that the repayment period is an estimate, and is based on several assumptions about the consumer's account terms and future activity.

(ii) A reference to another location on the statement where the consumer may find additional information about the actual repayment disclosure.

(iii) A description of the assumptions used to calculate the actual repayment disclosure as described in paragraph (a)(5) of this Appendix.

(iv) The length of time it would take to repay the outstanding balance shown on the statement if an additional amount was paid each month in addition to the minimum payment amount. Card issuers may choose the additional amount. In calculating this estimate, card issuers must use the same terms described in paragraph (a) of this Appendix used to calculate the actual repayment disclosure, except they must assume the additional amount was paid each month in addition to the minimum payment amount.

(v) The length of time it would take to repay the outstanding balance shown on the statement if the consumer made a fixed payment amount each month. Card issuers may choose the amount of the fixed payment. In calculating this estimate, card issuers must use the same terms described in paragraph (a) of this Appendix used to calculate the actual repayment disclosure, except they must assume the consumer made a fixed payment amount each month.

(vi) The monthly payment amount that would be required to pay off the outstanding balance shown on the statement within a specific number of months or years. Card issuers may choose the specific number of months or years used in the calculation. In calculating the monthly payment amount, card issuers must use the same terms described in paragraph (a) of this Appendix, as appropriate.

(vii) Reference to Web-based calculation tools that permit consumers to obtain additional estimates of repayment periods.

(viii) The total amount of interest that a consumer may pay under repayment options described in paragraphs (c)(4)(iv), (v) or (vi) of this Appendix.

[Reg. Z, 74 FR 5441, Jan. 29, 2009]

EFFECTIVE DATE NOTE: At 74 FR 5441, Jan. 29, 2009, appendix M2 was added to part 226, effective July 1, 2010.