

§ 227.23

12 CFR Ch. II (1–1–10 Edition)

must not treat a payment on a consumer credit card account as late for any purpose unless the consumer has been provided a reasonable amount of time to make the payment.

(b) *Compliance with general rule—(1) Establishing compliance.* A bank must be able to establish that it has complied with paragraph (a) of this section.

(2) *Safe harbor.* A bank complies with paragraph (a) of this section if it has adopted reasonable procedures designed to ensure that periodic statements specifying the payment due date are mailed or delivered to consumers at least 21 days before the payment due date.

(c) *Exception for grace periods.* Paragraph (a) of this section does not apply to any time period provided by the bank within which the consumer may repay any portion of the credit extended without incurring an additional finance charge.

§ 227.23 Unfair acts or practices regarding allocation of payments.

When different annual percentage rates apply to different balances on a consumer credit card account, the bank must allocate any amount paid by the consumer in excess of the required minimum periodic payment among the balances using one of the following methods:

(a) *High-to-low method.* The amount paid by the consumer in excess of the required minimum periodic payment is allocated first to the balance with the highest annual percentage rate and any remaining portion to the other balances in descending order based on the applicable annual percentage rate.

(b) *Pro rata method.* The amount paid by the consumer in excess of the required minimum periodic payment is allocated among the balances in the same proportion as each balance bears to the total balance.

§ 227.24 Unfair acts or practices regarding increases in annual percentage rates.

(a) *General rule.* At account opening, a bank must disclose the annual percentage rates that will apply to each category of transactions on the consumer credit card account. A bank must not increase the annual percent-

age rate for a category of transactions on any consumer credit card account except as provided in paragraph (b) of this section.

(b) *Exceptions.* The prohibition in paragraph (a) of this section on increasing annual percentage rates does not apply where an annual percentage rate may be increased pursuant to one of the exceptions in this paragraph.

(1) *Account opening disclosure exception.* An annual percentage rate for a category of transactions may be increased to a rate disclosed at account opening upon expiration of a period of time disclosed at account opening.

(2) *Variable rate exception.* An annual percentage rate for a category of transactions that varies according to an index that is not under the bank's control and is available to the general public may be increased due to an increase in the index.

(3) *Advance notice exception.* An annual percentage rate for a category of transactions may be increased pursuant to a notice under 12 CFR 226.9(c) or (g) for transactions that occur more than seven days after provision of the notice. This exception does not permit an increase in any annual percentage rate during the first year after the account is opened.

(4) *Delinquency exception.* An annual percentage rate may be increased due to the bank not receiving the consumer's required minimum periodic payment within 30 days after the due date for that payment.

(5) *Workout arrangement exception.* An annual percentage rate may be increased due to the consumer's failure to comply with the terms of a workout arrangement between the bank and the consumer, provided that the annual percentage rate applicable to a category of transactions following any such increase does not exceed the rate that applied to that category of transactions prior to commencement of the workout arrangement.

(c) *Treatment of protected balances.* For purposes of this paragraph, "protected balance" means the amount owed for a category of transactions to which an increased annual percentage rate cannot be applied after the rate for that category of transactions has

been increased pursuant to paragraph (b)(3) of this section.

(1) *Repayment.* The bank must provide the consumer with one of the following methods of repaying a protected balance or a method that is no less beneficial to the consumer than one of the following methods:

(i) An amortization period of no less than five years, starting from the date on which the increased rate becomes effective for the category of transactions; or

(ii) A required minimum periodic payment that includes a percentage of the protected balance that is no more than twice the percentage required before the date on which the increased rate became effective for the category of transactions.

(2) *Fees and charges.* The bank must not assess any fee or charge based solely on a protected balance.

§ 227.25 Unfair balance computation method.

(a) *General rule.* Except as provided in paragraph (b) of this section, a bank must not impose finance charges on balances on a consumer credit card account based on balances for days in billing cycles that precede the most recent billing cycle as a result of the loss of any time period provided by the bank within which the consumer may repay any portion of the credit extended without incurring a finance charge.

(b) *Exceptions.* Paragraph (a) of this section does not apply to:

(1) Adjustments to finance charges as a result of the resolution of a dispute under 12 CFR 226.12 or 12 CFR 226.13; or

(2) Adjustments to finance charges as a result of the return of a payment for insufficient funds.

§ 227.26 Unfair charging of security deposits and fees for the issuance or availability of credit to consumer credit card accounts.

(a) *Limitation for first year.* During the first year, a bank must not charge to a consumer credit card account security deposits and fees for the issuance or availability of credit that in total constitute a majority of the initial credit limit for the account.

(b) *Limitations for first billing cycle and subsequent billing cycles.* (1) First billing cycle. During the first billing cycle, the bank must not charge to a consumer credit card account security deposits and fees for the issuance or availability of credit that in total constitute more than 25 percent of the initial credit limit for the account.

(2) *Subsequent billing cycles.* Any additional security deposits and fees for the issuance or availability of credit permitted by paragraph (a) of this section must be charged to the account in equal portions in no fewer than the five billing cycles immediately following the first billing cycle.

(c) *Evasion prohibited.* A bank must not evade the requirements of this section by providing the consumer with additional credit to fund the payment of security deposits and fees for the issuance or availability of credit that exceed the total amounts permitted by paragraphs (a) and (b) of this section.

(d) *Definitions.* For purposes of this section, the following definitions apply:

(1) "Fees for the issuance or availability of credit" means:

(i) Any annual or other periodic fee that may be imposed for the issuance or availability of a consumer credit card account, including any fee based on account activity or inactivity; and

(ii) Any non-periodic fee that relates to opening an account.

(2) "First billing cycle" means the first billing cycle after a consumer credit card account is opened.

(3) "First year" means the period beginning with the date on which a consumer credit card account is opened and ending twelve months from that date.

(4) "Initial credit limit" means the credit limit in effect when a consumer credit card account is opened.

SUPPLEMENT I TO PART 227—OFFICIAL STAFF COMMENTARY

SUBPART A—GENERAL PROVISIONS FOR CONSUMER PROTECTION RULES

Section 227.1—Authority, Purpose, and Scope

1(c) Scope

1. *Penalties for noncompliance.* Administrative enforcement of the rule for banks may