§ 1026.51 Ability to pay.

(a) General rule—(1)(i) Consideration of ability to pay. A card issuer must not open a credit card account for a consumer under an open-end (not home-secured) consumer credit plan, or increase any credit limit applicable to such account, unless the card issuer considers the consumer’s independent ability to make the required minimum periodic payments under the terms of the account based on the consumer’s income or assets and current obligations.

(ii) Reasonable policies and procedures. Card issuers must establish and maintain reasonable written policies and procedures to consider a consumer’s independent income or assets and current obligations. Reasonable policies and procedures to consider a consumer’s independent ability to make the required payments include the consideration of at least one of the following: The ratio of debt obligations to income; the ratio of debt obligations to assets; or the income the consumer will have after paying debt obligations. It would be unreasonable for a card issuer to not review any information about a consumer’s income, assets, or current obligations, or to issue a credit card to a consumer who does not have any independent income or assets.

(2) Minimum periodic payments—(i) Reasonable method. For purposes of paragraph (a)(1) of this section, a card issuer must use a reasonable method for estimating the minimum periodic payments the consumer would be required to pay under the terms of the account.

(ii) Safe harbor. A card issuer complies with paragraph (a)(2)(i) of this section if it estimates required minimum periodic payments the consumer would be required to pay under the terms of the account.

(A) The card issuer assumes utilization, from the first day of the billing cycle, of the full credit line that the issuer is considering offering to the consumer; and

(B) The card issuer uses a minimum payment formula employed by the issuer for the product the issuer is considering offering to the consumer or, in the case of an existing account, the minimum payment formula that currently applies to that account, provided that:

(1) If the applicable minimum payment formula includes interest

Subpart G—Special Rules Applicable to Credit Card Accounts and Open-End Credit Offered to College Students

§ 1026.51 Ability to pay.

(a) General rule—(1)(i) Consideration of ability to pay. A card issuer must not

(b) Consumer’s right to cancel. The consumer may cancel a private education loan, without penalty, until midnight of the third business day following the date on which the consumer receives the disclosures required by §1026.47(c). No funds may be disbursed for a private education loan until the three-business day period has expired.

(c) Self-certification form. For a private education loan intended to be used for the postsecondary educational expenses of a student while the student is attending an institution of higher education, the creditor shall obtain from the consumer or the institution of higher education the form developed by the Secretary of Education under section 155 of the Higher Education Act of 1965, signed by the consumer, in written or electronic form, before consummating the private education loan.

(d) Provision of information by preferred lenders. A creditor that has a preferred lender arrangement with a covered educational institution shall provide to the covered educational institution the information required under §§1026.47(a)(1) through (5), for each type of private education loan that the lender plans to offer to consumers for students attending the covered educational institution for the period beginning July 1 of the current year and ending June 30 of the following year. The creditor shall provide the information annually by the later of the 1st day of April, or within 30 days after entering into, or learning the creditor is a party to, a preferred lender arrangement.

Subpart G—Special Rules Applicable to Credit Card Accounts and Open-End Credit Offered to College Students

§ 1026.51 Ability to pay.

(a) General rule—(1)(i) Consideration of ability to pay. A card issuer must not open a credit card account for a consumer under an open-end (not home-secured) consumer credit plan, or increase any credit limit applicable to such account, unless the card issuer considers the consumer’s independent ability to make the required minimum periodic payments under the terms of the account based on the consumer’s income or assets and current obligations.

(ii) Reasonable policies and procedures. Card issuers must establish and maintain reasonable written policies and procedures to consider a consumer’s independent income or assets and current obligations. Reasonable policies and procedures to consider a consumer’s independent ability to make the required payments include the consideration of at least one of the following: The ratio of debt obligations to income; the ratio of debt obligations to assets; or the income the consumer will have after paying debt obligations. It would be unreasonable for a card issuer to not review any information about a consumer’s income, assets, or current obligations, or to issue a credit card to a consumer who does not have any independent income or assets.

(2) Minimum periodic payments—(i) Reasonable method. For purposes of paragraph (a)(1) of this section, a card issuer must use a reasonable method for estimating the minimum periodic payments the consumer would be required to pay under the terms of the account.

(ii) Safe harbor. A card issuer complies with paragraph (a)(2)(i) of this section if it estimates required minimum periodic payments the consumer would be required to pay under the terms of the account.

(A) The card issuer assumes utilization, from the first day of the billing cycle, of the full credit line that the issuer is considering offering to the consumer; and

(B) The card issuer uses a minimum payment formula employed by the issuer for the product the issuer is considering offering to the consumer or, in the case of an existing account, the minimum payment formula that currently applies to that account, provided that:

(1) If the applicable minimum payment formula includes interest
§ 1026.52 Limitations on fees.

(a) Limitations prior to account opening and during first year after account opening—(1) General rule. Except as provided in paragraph (a)(2) of this section, the total amount of fees a consumer is required to pay with respect to a credit card account under an open-end (not home-secured) consumer credit plan prior to account opening and during the first year after account opening must not exceed 25 percent of the credit limit in effect when the account is opened. For purposes of this paragraph, an account is considered open no earlier than the date on which the account may first be used by the consumer to engage in transactions.

(2) Fees not subject to limitations. Paragraph (a) of this section does not apply to:

(i) Late payment fees, over-the-limit fees, and returned-payment fees; or

(ii) Fees that the consumer is not required to pay with respect to the account.

(3) Rule of construction. Paragraph (a) of this section does not authorize the imposition or payment of fees or charges otherwise prohibited by law.

(b) Limitations on penalty fees. A card issuer must not impose a fee for violating the terms or other requirements of a credit card account under an open-end (not home-secured) consumer credit plan unless the dollar amount of the fee is consistent with paragraphs (b)(1) and (b)(2) of this section.

(1) General rule. Except as provided in paragraph (b)(2) of this section, a card issuer may impose a fee for violating the terms or other requirements of a credit card account under an open-end (not home-secured) consumer credit plan if the dollar amount of the fee is consistent with either paragraph (b)(1)(i) or (b)(1)(ii) of this section.

(i) Fees based on costs. A card issuer may impose a fee for violating the terms or other requirements of an account if the card issuer has determined that the dollar amount of the fee represents a reasonable proportion of the total costs incurred by the card issuer as a result of that type of violation. A card issuer must reevaluate this determination at least once every twelve months. If as a result of the reevaluation the card issuer determines that a lower fee represents a reasonable proportion of the total costs incurred by the card issuer as a result of that type of violation, the card issuer must begin imposing the lower fee within 45 days after completing the reevaluation. If as a result of the reevaluation the card issuer determines that a lower fee does not represent a reasonable proportion of the total costs incurred by the card issuer as a result of that type of violation, the card issuer must continue to impose the higher fee for the first year after account opening.

(ii) Determination by card issuer. A card issuer shall reevaluate the dollar amount of the fee at least once every twelve months and may reevaluate the dollar amount of the fee at any time during the first year after account opening if the card issuer determines that the fee is no longer reasonable.

(2) Credit line increases for young consumers. If a credit card account has been opened pursuant to paragraph (b)(1)(ii) of this section, no increase in the credit limit may be made on such account before the consumer attains the age of 21 unless the cosigner agrees in writing to assume liability on the increase.