

(4) *Affiliated organization.* The term “affiliated organization” as used in this section means an alumni organization or foundation affiliated with or related to an institution of higher education.

(5) *College credit card agreement.* The term “college credit card agreement” as used in this section means any business, marketing or promotional agreement between a card issuer and an institution of higher education or an affiliated organization in connection with which college student credit cards are issued to college students currently enrolled at that institution.

(b) *Public disclosure of agreements.* An institution of higher education shall publicly disclose any contract or other agreement made with a card issuer or creditor for the purpose of marketing a credit card.

(c) *Prohibited inducements.* No card issuer or creditor may offer a college student any tangible item to induce such student to apply for or open an open-end consumer credit plan offered by such card issuer or creditor, if such offer is made:

(1) On the campus of an institution of higher education;

(2) Near the campus of an institution of higher education; or

(3) At an event sponsored by or related to an institution of higher education.

(d) *Annual report to the Board.* (1) *Requirement to report.* Any card issuer that was a party to one or more college credit card agreements in effect at any time during a calendar year must submit to the Board an annual report regarding those agreements in the form and manner prescribed by the Board.

(2) *Contents of report.* The annual report to the Board must include the following:

(i) Identifying information about the card issuer and the agreements submitted, including the issuer’s name, address, and identifying number (such as an RSSD ID number or tax identification number);

(ii) A copy of any college credit card agreement to which the card issuer was a party that was in effect at any time during the period covered by the report;

(iii) A copy of any memorandum of understanding in effect at any time during the period covered by the report between the card issuer and an institution of higher education or affiliated organization that directly or indirectly relates to the college credit card agreement or that controls or directs any obligations or distribution of benefits between any such entities;

(iv) The total dollar amount of any payments pursuant to a college credit card agreement from the card issuer to an institution of higher education or affiliated organization during the period covered by the report, and the method or formula used to determine such amounts;

(v) The total number of credit card accounts opened pursuant to any college credit card agreement during the period covered by the report; and

(vi) The total number of credit card accounts opened pursuant to any such agreement that were open at the end of the period covered by the report.

(3) *Timing of reports.* Except for the initial report described in this § 226.57(d)(3), a card issuer must submit its annual report for each calendar year to the Board by the first business day on or after March 31 of the following calendar year. Card issuers must submit the first report following the effective date of this section, providing information for the 2009 calendar year, to the Board by February 22, 2010.

#### § 226.58 Internet posting of credit card agreements.

(a) *Applicability.* The requirements of this section apply to any card issuer that issues credit cards under a credit card account under an open-end (not home-secured) consumer credit plan.

(b) *Definitions.* (1) *Agreement.* For purposes of this section, “agreement” or “credit card agreement” means the written document or documents evidencing the terms of the legal obligation, or the prospective legal obligation, between a card issuer and a consumer for a credit card account under an open-end (not home-secured) consumer credit plan. “Agreement” or “credit card agreement” also includes the pricing information, as defined in § 226.58(b)(7).

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(2) *Amends.* For purposes of this section, an issuer “amends” an agreement if it makes a substantive change (an “amendment”) to the agreement. A change is substantive if it alters the rights or obligations of the card issuer or the consumer under the agreement. Any change in the pricing information, as defined in § 226.58(b)(7), is deemed to be substantive.

(3) *Business day.* For purposes of this section, “business day” means a day on which the creditor’s offices are open to the public for carrying on substantially all of its business functions.

(4) *Card issuer.* For purposes of this section, “card issuer” or “issuer” means the entity to which a consumer is legally obligated, or would be legally obligated, under the terms of a credit card agreement.

(5) *Offers.* For purposes of this section, an issuer “offers” or “offers to the public” an agreement if the issuer is soliciting or accepting applications for accounts that would be subject to that agreement.

(6) *Open account.* For purposes of this section, an account is an “open account” or “open credit card account” if it is a credit card account under an open-end (not home-secured) consumer credit plan and either:

(i) The cardholder can obtain extensions of credit on the account; or

(ii) There is an outstanding balance on the account that has not been charged off. An account that has been suspended temporarily (for example, due to a report by the cardholder of unauthorized use of the card) is considered an “open account” or “open credit card account.”

(7) *Pricing information.* For purposes of this section, “pricing information” means the information listed in § 226.6(b)(2)(i) through (b)(2)(xii) and (b)(4). Pricing information does not include temporary or promotional rates and terms or rates and terms that apply only to protected balances.

(8) *Private label credit card account and private label credit card plan.* For purposes of this section:

(i) “private label credit card account” means a credit card account under an open-end (not home-secured) consumer credit plan with a credit card that can be used to make purchases

only at a single merchant or an affiliated group of merchants; and

(ii) “private label credit card plan” means all of the private label credit card accounts issued by a particular issuer with credit cards usable at the same single merchant or affiliated group of merchants.

(c) *Submission of agreements to Board.*

(1) *Quarterly submissions.* A card issuer must make quarterly submissions to the Board, in the form and manner specified by the Board. Quarterly submissions must be sent to the Board no later than the first business day on or after January 31, April 30, July 31, and October 31 of each year. Each submission must contain:

(i) Identifying information about the card issuer and the agreements submitted, including the issuer’s name, address, and identifying number (such as an RSSD ID number or tax identification number);

(ii) The credit card agreements that the card issuer offered to the public as of the last business day of the preceding calendar quarter that the card issuer has not previously submitted to the Board;

(iii) Any credit card agreement previously submitted to the Board that was amended during the preceding calendar quarter and that the card issuer offered to the public as of the last business day of the preceding calendar quarter, as described in § 226.58(c)(3); and

(iv) Notification regarding any credit card agreement previously submitted to the Board that the issuer is withdrawing, as described in § 226.58(c)(4), (c)(5), (c)(6), and (c)(7).

(2) [Reserved]

(3) *Amended agreements.* If a credit card agreement has been submitted to the Board, the agreement has not been amended and the card issuer continues to offer the agreement to the public, no additional submission regarding that agreement is required. If a credit card agreement that previously has been submitted to the Board is amended and the card issuer offered the amended agreement to the public as of the last business day of the calendar quarter in which the change became effective, the card issuer must submit the entire amended agreement to the Board, in

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the form and manner specified by the Board, by the first quarterly submission deadline after the last day of the calendar quarter in which the change became effective.

(4) *Withdrawal of agreements.* If a card issuer no longer offers to the public a credit card agreement that previously has been submitted to the Board, the card issuer must notify the Board, in the form and manner specified by the Board, by the first quarterly submission deadline after the last day of the calendar quarter in which the issuer ceased to offer the agreement.

(5) *De minimis exception.* (i) A card issuer is not required to submit any credit card agreements to the Board if the card issuer had fewer than 10,000 open credit card accounts as of the last business day of the calendar quarter.

(ii) If an issuer that previously qualified for the de minimis exception ceases to qualify, the card issuer must begin making quarterly submissions to the Board no later than the first quarterly submission deadline after the date as of which the issuer ceased to qualify.

(iii) If a card issuer that did not previously qualify for the de minimis exception qualifies for the de minimis exception, the card issuer must continue to make quarterly submissions to the Board until the issuer notifies the Board that the card issuer is withdrawing all agreements it previously submitted to the Board.

(6) *Private label credit card exception.* (i) A card issuer is not required to submit to the Board a credit card agreement if, as of the last business day of the calendar quarter, the agreement:

(A) is offered for accounts under one or more private label credit card plans each of which has fewer than 10,000 open accounts; and

(B) is not offered to the public other than for accounts under such a plan.

(ii) If an agreement that previously qualified for the private label credit card exception ceases to qualify, the card issuer must submit the agreement to the Board no later than the first quarterly submission deadline after the date as of which the agreement ceased to qualify.

(iii) If an agreement that did not previously qualify for the private label

credit card exception qualifies for the exception, the card issuer must continue to make quarterly submissions to the Board with respect to that agreement until the issuer notifies the Board that the agreement is being withdrawn.

(7) *Product testing exception.* (i) A card issuer is not required to submit to the Board a credit card agreement if, as of the last business day of the calendar quarter, the agreement:

(A) is offered as part of a product test offered to only a limited group of consumers for a limited period of time;

(B) is used for fewer than 10,000 open accounts; and

(C) is not offered to the public other than in connection with such a product test.

(ii) If an agreement that previously qualified for the product testing exception ceases to qualify, the card issuer must submit the agreement to the Board no later than the first quarterly submission deadline after the date as of which the agreement ceased to qualify.

(iii) If an agreement that did not previously qualify for the product testing exception qualifies for the exception, the card issuer must continue to make quarterly submissions to the Board with respect to that agreement until the issuer notifies the Board that the agreement is being withdrawn.

(8) *Form and content of agreements submitted to the Board.* (i) *Form and content generally.* (A) Each agreement must contain the provisions of the agreement and the pricing information in effect as of the last business day of the preceding calendar quarter.

(B) Agreements must not include any personally identifiable information relating to any cardholder, such as name, address, telephone number, or account number.

(C) The following are not deemed to be part of the agreement for purposes of § 226.58, and therefore are not required to be included in submissions to the Board:

(1) Disclosures required by State or Federal law, such as affiliate marketing notices, privacy policies, billing rights notices, or disclosures under the E-Sign Act;

(2) Solicitation materials;

(3) Periodic statements;

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(4) Ancillary agreements between the issuer and the consumer, such as debt cancellation contracts or debt suspension agreements;

(5) Offers for credit insurance or other optional products and other similar advertisements; and

(6) Documents that may be sent to the consumer along with the credit card or credit card agreement such as a cover letter, a validation sticker on the card, or other information about card security.

(D) Agreements must be presented in a clear and legible font.

(ii) *Pricing information.* (A) Pricing information must be set forth in a single addendum to the agreement. The addendum must contain all of the pricing information, as defined by § 226.58(b)(7). The addendum may, but is not required to, contain any other information listed in § 226.6(b), provided that information is complete and accurate as of the applicable date under § 226.58. The addendum may not contain any other information.

(B) Pricing information that may vary from one cardholder to another depending on the cardholder's creditworthiness or state of residence or other factors must be disclosed either by setting forth all the possible variations (such as purchase APRs of 13 percent, 15 percent, 17 percent, and 19 percent) or by providing a range of possible variations (such as purchase APRs ranging from 13 percent to 19 percent).

(C) If a rate included in the pricing information is a variable rate, the issuer must identify the index or formula used in setting the rate and the margin. Rates that may vary from one cardholder to another must be disclosed by providing the index and the possible margins (such as the prime rate plus 5 percent, 8 percent, 10 percent, or 12 percent) or range of margins (such as the prime rate plus from 5 to 12 percent). The value of the rate and the value of the index are not required to be disclosed.

(iii) *Optional variable terms addendum.* Provisions of the agreement other than the pricing information that may vary from one cardholder to another depending on the cardholder's creditworthiness or state of residence or other fac-

tors may be set forth in a single addendum to the agreement separate from the pricing information addendum.

(iv) *Integrated agreement.* Issuers may not provide provisions of the agreement or pricing information in the form of change-in-terms notices or riders (other than the pricing information addendum and the optional variable terms addendum). Changes in provisions or pricing information must be integrated into the text of the agreement, the pricing information addendum or the optional variable terms addendum, as appropriate.

(d) *Posting of agreements offered to the public.* (1) Except as provided below, a card issuer must post and maintain on its publicly available Web site the credit card agreements that the issuer is required to submit to the Board under § 226.58(c). With respect to an agreement offered solely for accounts under one or more private label credit card plans, an issuer may fulfill this requirement by posting and maintaining the agreement in accordance with the requirements of this section on the publicly available Web site of at least one of the merchants at which credit cards issued under each private label credit card plan with 10,000 or more open accounts may be used.

(2) Except as provided in § 226.58(d), agreements posted pursuant to § 226.58(d) must conform to the form and content requirements for agreements submitted to the Board specified in § 226.58(c)(8).

(3) Agreements posted pursuant to § 226.58(d) may be posted in any electronic format that is readily usable by the general public. Agreements must be placed in a location that is prominent and readily accessible by the public and must be accessible without submission of personally identifiable information.

(4) The card issuer must update the agreements posted on its Web site pursuant to § 226.58(d) at least as frequently as the quarterly schedule required for submission of agreements to the Board under § 226.58(c). If the issuer chooses to update the agreements on its Web site more frequently, the agreements posted on the issuer's Web site may contain the provisions of the agreement and the pricing information

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in effect as of a date other than the last business day of the preceding calendar quarter.

(e) *Agreements for all open accounts.* (1) *Availability of individual cardholder's agreement.* With respect to any open credit card account, a card issuer must either:

(i) Post and maintain the cardholder's agreement on its Web site; or

(ii) Promptly provide a copy of the cardholder's agreement to the cardholder upon the cardholder's request. If the card issuer makes an agreement available upon request, the issuer must provide the cardholder with the ability to request a copy of the agreement both by using the issuer's Web site (such as by clicking on a clearly identified box to make the request) and by calling a readily available telephone line the number for which is displayed on the issuer's Web site and clearly identified as to purpose. The card issuer must send to the cardholder or otherwise make available to the cardholder a copy of the cardholder's agreement in electronic or paper form no later than 30 days after the issuer receives the cardholder's request.

(2) *Special rule for issuers without interactive Web sites.* An issuer that does not maintain a Web site from which cardholders can access specific information about their individual accounts, instead of complying with § 226.58(e)(1), may make agreements available upon request by providing the cardholder with the ability to request a copy of the agreement by calling a readily available telephone line, the number for which is displayed on the issuer's Web site and clearly identified as to purpose or included on each periodic statement sent to the cardholder and clearly identified as to purpose. The issuer must send to the cardholder or otherwise make available to the cardholder a copy of the cardholder's agreement in electronic or paper form no later than 30 days after the issuer receives the cardholder's request.

(3) *Form and content of agreements.* (i) Except as provided in § 226.58(e), agreements posted on the card issuer's Web site pursuant to § 226.58(e)(1)(i) or made available upon the cardholder's request pursuant to § 226.58(e)(1)(ii) or (e)(2) must conform to the form and content

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requirements for agreements submitted to the Board specified in § 226.58(c)(8).

(ii) If the card issuer posts an agreement on its Web site or otherwise provides an agreement to a cardholder electronically under § 226.58(e), the agreement may be posted or provided in any electronic format that is readily usable by the general public and must be placed in a location that is prominent and readily accessible to the cardholder.

(iii) Agreements posted or otherwise provided pursuant to § 226.58(e) may contain personally identifiable information relating to the cardholder, such as name, address, telephone number, or account number, provided that the issuer takes appropriate measures to make the agreement accessible only to the cardholder or other authorized persons.

(iv) Agreements posted or otherwise provided pursuant to § 226.58(e) must set forth the specific provisions and pricing information applicable to the particular cardholder. Provisions and pricing information must be complete and accurate as of a date no more than 60 days prior to: (1) the date on which the agreement is posted on the card issuer's Web site under § 226.58(e)(1)(i); or (2) the date the cardholder's request is received under § 226.58(e)(1)(ii) or (e)(2).

(v) Agreements provided upon cardholder request pursuant to § 226.58(e)(1)(ii) or (e)(2) may be provided by the issuer in either electronic or paper form, regardless of the form of the cardholder's request.

(f) *E-Sign Act requirements.* Card issuers may provide credit card agreements in electronic form under § 226.58(d) and (e) without regard to the consumer notice and consent requirements of section 101(c) of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 *et seq.*).

[75 FR 7818, Feb. 22, 2010, as amended at 76 FR 23003, Apr. 25, 2011]

## § 226.59 Reevaluation of rate increases.

(a) *General rule—(1) Evaluation of increased rate.* If a card issuer increases an annual percentage rate that applies