

§ 1041.7

12 CFR Ch. X (1–1–20 Edition)

(2) *Notice requirements*—(i) *First loan notice*. A lender that makes a first loan in a sequence of loans made under this section must provide to a consumer a notice that includes, as applicable, the following information and statements, using language substantially similar to the language set forth in Model Form A–1 in appendix A to this part:

(A) *Identifying statement*. The statement “Notice of restrictions on future loans,” using that phrase.

(B) *Warning for loan made under this section*—(1) *Possible inability to repay*. A statement that warns the consumer not to take out the loan if the consumer is unsure of being able to repay the total amount of principal and finance charges on the loan by the contractual due date.

(2) *Contractual due date*. Contractual due date of the loan made under this section.

(3) *Total amount due*. Total amount due on the contractual due date.

(C) *Restriction on a subsequent loan required by Federal law*. A statement that informs a consumer that Federal law requires a similar loan taken out within the next 30 days to be smaller.

(D) *Borrowing limits*. In a tabular form:

(1) Maximum principal amount on loan 1 in a sequence of loans made under this section.

(2) Maximum principal amount on loan 2 in a sequence of loans made under this section.

(3) Maximum principal amount on loan 3 in a sequence of loans made under this section.

(4) Loan 4 in a sequence of loans made under this section is not allowed.

(E) *Lender name and contact information*. Name of the lender and a telephone number for the lender and, if applicable, a URL of the Web site for the lender.

(ii) *Third loan notice*. A lender that makes a third loan in a sequence of loans made under this section must provide to a consumer a notice that includes the following information and statements, using language substantially similar to the language set forth in Model Form A–2 in appendix A to this part:

(A) *Identifying statement*. The statement “Notice of borrowing limits on

this loan and future loans,” using that phrase.

(B) *Two similar loans without 30-day break*. A statement that informs a consumer that the lender’s records show that the consumer has had two similar loans without taking at least a 30-day break between them.

(C) *Restriction on loan amount required by Federal law*. A statement that informs a consumer that Federal law requires the third loan to be smaller than previous loans in the loan sequence.

(D) *Prohibition on subsequent loan*. A statement that informs a consumer that the consumer cannot take out a similar loan for at least 30 days after repaying the loan.

(E) *Lender name and contact information*. Name of the lender and a telephone number for the lender and, if applicable, a URL of the Web site for the lender.

(3) *Timing*. A lender must provide the notices required in paragraphs (e)(2)(i) and (ii) of this section to the consumer before the applicable loan under this section is consummated.

Subpart C—Payments

§ 1041.7 Identification of unfair and abusive practice.

It is an unfair and abusive practice for a lender to make attempts to withdraw payment from consumers’ accounts in connection with a covered loan after the lender’s second consecutive attempts to withdraw payments from the accounts from which the prior attempts were made have failed due to a lack of sufficient funds, unless the lender obtains the consumers’ new and specific authorization to make further withdrawals from the accounts.

§ 1041.8 Prohibited payment transfer attempts.

(a) *Definitions*. For purposes of this section and § 1041.9:

(1) *Payment transfer* means any lender-initiated debit or withdrawal of funds from a consumer’s account for the purpose of collecting any amount due or purported to be due in connection with a covered loan.

Bur. of Consumer Financial Protection

§ 1041.8

(i) *Means of transfer.* A debit or withdrawal meeting the description in paragraph (a)(1) of this section is a payment transfer regardless of the means through which the lender initiates it, including but not limited to a debit or withdrawal initiated through any of the following means:

(A) Electronic fund transfer, including a preauthorized electronic fund transfer as defined in Regulation E, 12 CFR 1005.2(k).

(B) Signature check, regardless of whether the transaction is processed through the check network or another network, such as the automated clearing house (ACH) network.

(C) Remotely created check as defined in Regulation CC, 12 CFR 229.2(ff).

(D) Remotely created payment order as defined in 16 CFR 310.2(cc).

(E) When the lender is also the account-holder, an account-holding institution's transfer of funds from a consumer's account held at the same institution, other than such a transfer meeting the description in paragraph (a)(1)(ii) of this section.

(ii) *Conditional exclusion for certain transfers by account-holding institutions.* When the lender is also the account-holder, an account-holding institution's transfer of funds from a consumer's account held at the same institution is not a payment transfer if all of the conditions in this paragraph (a)(1)(ii) are met, notwithstanding that the transfer otherwise meets the description in paragraph (a)(1) of this section.

(A) The lender, pursuant to the terms of the loan agreement or account agreement, does not charge the consumer any fee, other than a late fee under the loan agreement, in the event that the lender initiates a transfer of funds from the consumer's account in connection with the covered loan for an amount that the account lacks sufficient funds to cover.

(B) The lender, pursuant to the terms of the loan agreement or account agreement, does not close the consumer's account in response to a negative balance that results from a transfer of funds initiated in connection with the covered loan.

(2) *Single immediate payment transfer at the consumer's request means:*

(i) A payment transfer initiated by a one-time electronic fund transfer within one business day after the lender obtains the consumer's authorization for the one-time electronic fund transfer.

(ii) A payment transfer initiated by means of processing the consumer's signature check through the check system or through the ACH system within one business day after the consumer provides the check to the lender.

(b) *Prohibition on initiating payment transfers from a consumer's account after two consecutive failed payment transfers—(1) General.* A lender must not initiate a payment transfer from a consumer's account in connection with any covered loan that the consumer has with the lender after the lender has attempted to initiate two consecutive failed payment transfers from that account in connection with any covered loan that the consumer has with the lender. For purposes of this paragraph (b), a payment transfer is deemed to have failed when it results in a return indicating that the consumer's account lacks sufficient funds or, if the lender is the consumer's account-holding institution, it is for an amount that the account lacks sufficient funds to cover.

(2) *Consecutive failed payment transfers.* For purposes of the prohibition in this paragraph (b):

(i) *First failed payment transfer.* A failed payment transfer is the first failed payment transfer from the consumer's account if it meets any of the following conditions:

(A) The lender has initiated no other payment transfer from the account in connection with the covered loan or any other covered loan that the consumer has with the lender.

(B) The immediately preceding payment transfer was successful, regardless of whether the lender has previously initiated a first failed payment transfer.

(C) The payment transfer is the first payment transfer to fail after the lender obtains the consumer's authorization for additional payment transfers pursuant to paragraph (c) of this section.

(ii) *Second consecutive failed payment transfer.* A failed payment transfer is

the second consecutive failed payment transfer from the consumer's account if the immediately preceding payment transfer was a first failed payment transfer. For purposes of this paragraph (b)(2)(ii), a previous payment transfer includes a payment transfer initiated at the same time or on the same day as the failed payment transfer.

(iii) *Different payment channel.* A failed payment transfer meeting the conditions in paragraph (b)(2)(ii) of this section is the second consecutive failed payment transfer regardless of whether the first failed payment transfer was initiated through a different payment channel.

(c) *Exception for additional payment transfers authorized by the consumer—(1) General.* Notwithstanding the prohibition in paragraph (b) of this section, a lender may initiate additional payment transfers from a consumer's account after two consecutive failed payment transfers if the additional payment transfers are authorized by the consumer in accordance with the requirements and conditions in this paragraph (c) or if the lender executes a single immediate payment transfer at the consumer's request in accordance with paragraph (d) of this section.

(2) *General authorization requirements and conditions—(i) Required payment transfer terms.* For purposes of this paragraph (c), the specific date, amount, and payment channel of each additional payment transfer must be authorized by the consumer, except as provided in paragraph (c)(2)(ii) or (iii) of this section.

(ii) *Application of specific date requirement to re-initiating a returned payment transfer.* If a payment transfer authorized by the consumer pursuant to this paragraph (c) is returned for nonsufficient funds, the lender may re-initiate the payment transfer, such as by representing it once through the ACH system, on or after the date authorized by the consumer, provided that the returned payment transfer has not triggered the prohibition in paragraph (b) of this section.

(iii) *Special authorization requirements and conditions for payment transfers to collect a late fee or returned item fee.* A lender may initiate a payment transfer

pursuant to this paragraph (c) solely to collect a late fee or returned item fee without obtaining the consumer's authorization for the specific date and amount of the payment transfer only if the consumer has authorized the lender to initiate such payment transfers in advance of the withdrawal attempt. For purposes of this paragraph (c)(2)(iii), the consumer authorizes such payment transfers only if the consumer's authorization obtained under paragraph (c)(3)(iii) of this section includes a statement, in terms that are clear and readily understandable to the consumer, that payment transfers may be initiated solely to collect a late fee or returned item fee and that specifies the highest amount for such fees that may be charged and the payment channel to be used.

(3) *Requirements and conditions for obtaining the consumer's authorization—(i) General.* For purposes of this paragraph (c), the lender must request and obtain the consumer's authorization for additional payment transfers in accordance with the requirements and conditions in this paragraph (c)(3).

(ii) *Provision of payment transfer terms to the consumer.* The lender may request the consumer's authorization for additional payment transfers no earlier than the date on which the lender provides to the consumer the consumer rights notice required by §1041.9(c). The request must include the payment transfer terms required under paragraph (c)(2)(i) of this section and, if applicable, the statement required by paragraph (c)(2)(iii) of this section. The lender may provide the terms and statement to the consumer by any one of the following means:

(A) In writing, by mail or in person, or in a retainable form by email if the consumer has consented to receive electronic disclosures in this manner under §1041.9(a)(4) or agrees to receive the terms and statement by email in the course of a communication initiated by the consumer in response to the consumer rights notice required by §1041.9(c).

(B) By oral telephone communication, if the consumer affirmatively contacts the lender in that manner in response to the consumer rights notice

Bur. of Consumer Financial Protection

§ 1041.9

required by § 1041.9(c) and agrees to receive the terms and statement in that manner in the course of, and as part of, the same communication.

(iii) *Signed authorization required*—(A) *General.* For an authorization to be valid under this paragraph (c), it must be signed or otherwise agreed to by the consumer in writing or electronically and in a retainable format that memorializes the payment transfer terms required under paragraph (c)(2)(i) of this section and, if applicable, the statement required by paragraph (c)(2)(iii) of this section. The signed authorization must be obtained from the consumer no earlier than when the consumer receives the consumer rights notice required by § 1041.9(c) in person or electronically, or the date on which the consumer receives the notice by mail. For purposes of this paragraph (c)(3)(iii)(A), the consumer is considered to have received the notice at the time it is provided to the consumer in person or electronically, or, if the notice is provided by mail, the earlier of the third business day after mailing or the date on which the consumer affirmatively responds to the mailed notice.

(B) *Special requirements for authorization obtained by oral telephone communication.* If the authorization is granted in the course of an oral telephone communication, the lender must record the call and retain the recording.

(C) *Memorialization required.* If the authorization is granted in the course of a recorded telephonic conversation or is otherwise not immediately retainable by the consumer at the time of signature, the lender must provide a memorialization in a retainable form to the consumer by no later than the date on which the first payment transfer authorized by the consumer is initiated. A memorialization may be provided to the consumer by email in accordance with the requirements and conditions in paragraph (c)(3)(ii)(A) of this section.

(4) *Expiration of authorization.* An authorization obtained from a consumer pursuant to this paragraph (c) becomes null and void for purposes of the exception in this paragraph (c) if:

(i) The lender subsequently obtains a new authorization from the consumer pursuant to this paragraph (c); or

(ii) Two consecutive payment transfers initiated pursuant to the consumer's authorization fail, as specified in paragraph (b) of this section.

(d) *Exception for initiating a single immediate payment transfer at the consumer's request.* After a lender's second consecutive payment transfer has failed as specified in paragraph (b) of this section, the lender may initiate a payment transfer from the consumer's account without obtaining the consumer's authorization for additional payment transfers pursuant to paragraph (c) of this section if:

(1) The payment transfer is a single immediate payment transfer at the consumer's request as defined in paragraph (a)(2) of this section; and

(2) The consumer authorizes the underlying one-time electronic fund transfer or provides the underlying signature check to the lender, as applicable, no earlier than the date on which the lender provides to the consumer the consumer rights notice required by § 1041.9(c) or on the date that the consumer affirmatively contacts the lender to discuss repayment options, whichever date is earlier.

(e) *Prohibition against evasion.* A lender must not take any action with the intent of evading the requirements of this section.

§ 1041.9 Disclosure of payment transfer attempts.

(a) *General form of disclosures*—(1) *Clear and conspicuous.* Disclosures required by this section must be clear and conspicuous. Disclosures required by this section may contain commonly accepted or readily understandable abbreviations.

(2) *In writing or electronic delivery.* Disclosures required by this section must be provided in writing or, so long as the requirements of paragraph (a)(4) of this section are satisfied, through electronic delivery. The disclosures must be provided in a form that can be viewed on paper or a screen, as applicable. This paragraph (a)(2) is not satisfied by a disclosure provided orally or through a recorded message.

(3) *Retainable.* Disclosures required by this section must be provided in a retainable form, except for electronic

short notices delivered by mobile application or text message under paragraph (b) or (c) of this section.

(4) *Electronic delivery.* Disclosures required by this section may be provided through electronic delivery if the following consent requirements are satisfied:

(i) *Consumer consent—(A) General.* Disclosures required by this section may be provided through electronic delivery if the consumer affirmatively consents in writing or electronically to the particular electronic delivery method.

(B) *Email option required.* To obtain valid consumer consent to electronic delivery under this paragraph, a lender must provide the consumer with the option to select email as the method of electronic delivery, separate and apart from any other electronic delivery methods such as mobile application or text message.

(ii) *Subsequent loss of consent.* Notwithstanding paragraph (a)(4)(i) of this section, a lender must not provide disclosures required by this section through a method of electronic delivery if:

(A) The consumer revokes consent to receive disclosures through that delivery method; or

(B) The lender receives notification that the consumer is unable to receive disclosures through that delivery method at the address or number used.

(5) *Segregation requirements for notices.* All notices required by this section must be segregated from all other written or provided materials and contain only the information required by this section, other than information necessary for product identification, branding, and navigation. Segregated additional content that is not required by this section must not be displayed above, below, or around the required content.

(6) *Machine readable text in notices provided through electronic delivery.* If provided through electronic delivery, the payment notice required by paragraph (b) of this section and the consumer rights notice required by paragraph (c) of this section must use machine readable text that is accessible via both web browsers and screen readers.

(7) *Model forms—(i) Payment notice.* The content, order, and format of the payment notice required by paragraph (b) of this section must be substantially similar to Model Forms A-3 through A-4 in appendix A to this part.

(ii) *Consumer rights notice.* The content, order, and format of the consumer rights notice required by paragraph (c) of this section must be substantially similar to Model Form A-5 in appendix A to this part.

(iii) *Electronic short notice.* The content, order, and format of the electronic short notice required by paragraph (b) of this section must be substantially similar to Model Clauses A-6 and A-7 in appendix A to this part. The content, order, and format of the electronic short notice required by paragraph (c) of this section must be substantially similar to Model Clause A-8 in appendix A to this part.

(8) *Foreign language disclosures.* Disclosures required under this section may be made in a language other than English, provided that the disclosures are made available in English upon the consumer's request.

(b) *Payment notice—(1) General.* Prior to initiating the first payment withdrawal or an unusual withdrawal from a consumer's account, a lender must provide to the consumer a payment notice in accordance with the requirements in this paragraph (b) as applicable.

(i) *First payment withdrawal* means the first payment transfer scheduled to be initiated by a lender for a particular covered loan, not including a single immediate payment transfer initiated at the consumer's request as defined in § 1041.8(a)(2).

(ii) *Unusual withdrawal* means a payment transfer that meets one or more of the conditions described in paragraph (b)(3)(ii)(C) of this section.

(iii) *Exceptions.* The payment notice need not be provided when the lender initiates:

(A) The initial payment transfer from a consumer's account after obtaining consumer authorization pursuant to § 1041.8(c), regardless of whether any of the conditions in paragraph (b)(3)(ii)(C) of this section apply; or

Bur. of Consumer Financial Protection

§ 1041.9

(B) A single immediate payment transfer initiated at the consumer's request in accordance with § 1041.8(a)(2).

(2) *First payment withdrawal notice*—(i) *Timing*—(A) *Mail*. If the lender provides the first payment withdrawal notice by mail, the lender must mail the notice no earlier than when the lender obtains payment authorization and no later than six business days prior to initiating the transfer.

(B) *Electronic delivery*. (1) If the lender provides the first payment withdrawal notice through electronic delivery, the lender must send the notice no earlier than when the lender obtains payment authorization and no later than three business days prior to initiating the transfer.

(2) If, after providing the first payment withdrawal notice through electronic delivery pursuant to the timing requirements in paragraph (b)(2)(i) of this section, the lender loses the consumer's consent to receive the notice through a particular electronic delivery method according to paragraph (a)(4)(ii) of this section, the lender must provide notice of any future unusual withdrawal, if applicable, through alternate means.

(C) *In person*. If the lender provides the first payment withdrawal notice in person, the lender must provide the notice no earlier than when the lender obtains payment authorization and no later than three business days prior to initiating the transfer.

(ii) *Content requirements*. The notice must contain the following information and statements, as applicable, using language substantially similar to the language set forth in Model Form A-3 in appendix A to this part:

(A) *Identifying statement*. The statement, "Upcoming Withdrawal Notice," using that phrase, and, in the same statement, the name of the lender providing the notice.

(B) *Transfer terms*—(1) *Date*. Date that the lender will initiate the transfer.

(2) *Amount*. Dollar amount of the transfer.

(3) *Consumer account*. Sufficient information to permit the consumer to identify the account from which the funds will be transferred. The lender must not provide the complete account number of the consumer, but may use a

truncated version similar to Model Form A-3 in appendix A to this part.

(4) *Loan identification information*. Sufficient information to permit the consumer to identify the covered loan associated with the transfer.

(5) *Payment channel*. Payment channel of the transfer.

(6) *Check number*. If the transfer will be initiated by a signature or paper check, remotely created check (as defined in Regulation CC, 12 CFR 229.2(ff)), or remotely created payment order (as defined in 16 CFR 310.2(cc)), the check number associated with the transfer.

(C) *Payment breakdown*. In a tabular form:

(1) *Payment breakdown heading*. A heading with the statement "Payment Breakdown," using that phrase.

(2) *Principal*. The amount of the payment that will be applied to principal.

(3) *Interest*. The amount of the payment that will be applied to accrued interest on the loan.

(4) *Fees*. If applicable, the amount of the payment that will be applied to fees.

(5) *Other charges*. If applicable, the amount of the payment that will be applied to other charges.

(6) *Amount*. The statement "Total Payment Amount," using that phrase, and the total dollar amount of the payment as provided in paragraph (b)(2)(i)(B)(2) of this section.

(7) *Explanation of interest-only or negatively amortizing payment*. If applicable, a statement explaining that the payment will not reduce principal, using the applicable phrase "When you make this payment, your principal balance will stay the same and you will not be closer to paying off your loan" or "When you make this payment, your principal balance will increase and you will not be closer to paying off your loan."

(D) *Lender name and contact information*. Name of the lender, the name under which the transfer will be initiated (if different from the consumer-facing name of the lender), and two different forms of lender contact information that may be used by the consumer to obtain information about the consumer's loan.

(3) *Unusual withdrawal notice*—(i) *Timing*—(A) *Mail*. If the lender provides the unusual withdrawal notice by mail, the lender must mail the notice no earlier than 10 business days and no later than six business days prior to initiating the transfer.

(B) *Electronic delivery*. (1) If the lender provides the unusual withdrawal notice through electronic delivery, the lender must send the notice no earlier than seven business days and no later than three business days prior to initiating the transfer.

(2) If, after providing the unusual withdrawal notice through electronic delivery pursuant to the timing requirements in paragraph (b)(3)(i)(B) of this section, the lender loses the consumer's consent to receive the notice through a particular electronic delivery method according to paragraph (a)(4)(ii) of this section, the lender must provide notice of any future unusual withdrawal attempt, if applicable, through alternate means.

(C) *In person*. If the lender provides the unusual withdrawal notice in person, the lender must provide the notice no earlier than seven business days and no later than three business days prior to initiating the transfer.

(D) *Exception for open-end credit*. If the unusual withdrawal notice is for open-end credit as defined in §1041.2(a)(16), the lender may provide the unusual withdrawal notice in conjunction with the periodic statement required under Regulation Z, 12 CFR 1026.7(b), in accordance with the timing requirements of that section.

(ii) *Content requirements*. The unusual withdrawal notice must contain the following information and statements, as applicable, using language substantially similar to the language set forth in Model Form A-4 in appendix A to this part:

(A) *Identifying statement*. The statement, “Alert: Unusual Withdrawal,” using that phrase, and, in the same statement, the name of the lender that is providing the notice.

(B) *Basic payment information*. The content required for the first withdrawal notice under paragraphs (b)(2)(ii)(B) through (D) of this section.

(C) *Description of unusual withdrawal*. The following content, as applicable, in

a form substantially similar to the form in Model Form A-4 in appendix A to this part:

(1) *Varying amount*—(i) *General*. If the amount of a transfer will vary in amount from the regularly scheduled payment amount, a statement that the transfer will be for a larger or smaller amount than the regularly scheduled payment amount, as applicable.

(ii) *Open-end credit*. If the payment transfer is for open-end credit as defined in §1041.2(a)(16), the varying amount content is required only if the amount deviates from the scheduled minimum payment due as disclosed in the periodic statement required under Regulation Z, 12 CFR 1026.7(b).

(2) *Date other than date of regularly scheduled payment*. If the payment transfer date is not a date on which a regularly scheduled payment is due under the terms of the loan agreement, a statement that the transfer will be initiated on a date other than the date of a regularly scheduled payment.

(3) *Different payment channel*. If the payment channel will differ from the payment channel of the transfer directly preceding it, a statement that the transfer will be initiated through a different payment channel and a statement of the payment channel used for the prior transfer.

(4) *For purpose of re-initiating returned transfer*. If the transfer is for the purpose of re-initiating a returned transfer, a statement that the lender is re-initiating a returned transfer, a statement of the date and amount of the previous unsuccessful attempt, and a statement of the reason for the return.

(4) *Electronic delivery*—(i) *General*. When the consumer has consented to receive disclosures through electronic delivery, the lender may provide the applicable payment notice required by paragraph (b)(1) of this section through electronic delivery only if it also provides an electronic short notice, except for email delivery as provided in paragraph (b)(4)(iii) of this section.

(ii) *Electronic short notice*—(A) *General content*. The electronic short notice required by this paragraph (b) must contain the following information and statements, as applicable, in a form substantially similar to Model Clause A-6 in appendix A to this part:

Bur. of Consumer Financial Protection

§ 1041.9

(1) *Identifying statement*, as required under paragraphs (b)(2)(ii)(A) and (b)(3)(ii)(A) of this section;

(2) *Transfer terms*—(i) *Date*, as required under paragraphs (b)(2)(ii)(B)(1) and (b)(3)(ii)(B) of this section;

(ii) *Amount*, as required under paragraphs (b)(2)(ii)(B)(2) and (b)(3)(ii)(B) of this section;

(iii) *Consumer account*, as required and limited under paragraphs (b)(2)(ii)(B)(3) and (b)(3)(ii)(B) of this section; and

(3) *Web site URL*. When the full notice is being provided through a linked URL rather than as a PDF attachment, the unique URL of a Web site that the consumer may use to access the full payment notice required by paragraph (b) of this section.

(B) *Additional content requirements*. If the transfer meets any of the conditions for unusual attempts described in paragraph (b)(3)(ii)(C) of this section, the electronic short notice must also contain the following information and statements, as applicable, using language substantially similar to the language in Model Clause A-7 in appendix A to this part:

(1) *Varying amount*, as defined under paragraph (b)(3)(ii)(C)(1) of this section;

(2) *Date other than due date of regularly scheduled payment*, as defined under paragraph (b)(3)(ii)(C)(2) of this section; and

(3) *Different payment channel*, as defined under paragraph (b)(3)(ii)(C)(3) of this section.

(iii) *Email delivery*. When the consumer has consented to receive disclosures through electronic delivery, and the method of electronic delivery is email, the lender may either deliver the full notice required by paragraph (b)(1) of this section in the body of the email or deliver the full notice as a linked URL Web page or PDF attachment along with the electronic short notice as provided in paragraph (b)(4)(ii) of this section.

(c) *Consumer rights notice*—(1) *General*. After a lender initiates two consecutive failed payment transfers from a consumer's account as described in §1041.8(b), the lender must provide to the consumer a consumer rights notice in accordance with the requirements of paragraphs (c)(2) through (4) of this section.

(2) *Timing*. The lender must send the notice no later than three business days after it receives information that the second consecutive attempt has failed.

(3) *Content requirements*. The notice must contain the following information and statements, using language substantially similar to the language set forth in Model Form A-5 in appendix A to this part:

(i) *Identifying statement*. A statement that the lender, identified by name, is no longer permitted to withdraw loan payments from the consumer's account.

(ii) *Last two attempts were returned*. A statement that the lender's last two attempts to withdraw payment from the consumer's account were returned due to non-sufficient funds, or, if applicable to payments initiated by the consumer's account-holding institution, caused the account to go into overdraft status.

(iii) *Consumer account*. Sufficient information to permit the consumer to identify the account from which the unsuccessful payment attempts were made. The lender must not provide the complete account number of the consumer, but may use a truncated version similar to Model Form A-5 in appendix A to this part.

(iv) *Loan identification information*. Sufficient information to permit the consumer to identify any covered loans associated with the unsuccessful payment attempts.

(v) *Statement of Federal law prohibition*. A statement, using that phrase, that in order to protect the consumer's account, Federal law prohibits the lender from initiating further payment transfers without the consumer's permission.

(vi) *Contact about choices*. A statement that the lender may be in contact with the consumer about payment choices going forward.

(vii) *Previous unsuccessful payment attempts*. In a tabular form:

(A) *Previous payment attempts heading*. A heading with the statement "previous payment attempts."

(B) *Payment due date*. The scheduled due date of each previous unsuccessful payment transfer attempted by the lender.

§ 1041.10

(C) *Date of attempt.* The date of each previous unsuccessful payment transfer initiated by the lender.

(D) *Amount.* The amount of each previous unsuccessful payment transfer initiated by the lender.

(E) *Fees.* The fees charged by the lender for each unsuccessful payment attempt, if applicable, with an indication that these fees were charged by the lender.

(viii) *CFPB information.* A statement, using that phrase, that the Consumer Financial Protection Bureau created this notice, a statement that the CFPB is a Federal government agency, and the URL to *www.cfpb.gov/payday*. This statement must be the last piece of information provided in the notice.

(4) *Electronic delivery*—(i) *General.* When the consumer has consented to receive disclosures through electronic delivery, the lender may provide the consumer rights notice required by paragraph (c) of this section through electronic delivery only if it also provides an electronic short notice, except for email delivery as provided in paragraph (c)(4)(iii) of this section.

(ii) *Electronic short notice*—(A) *Content.* The notice must contain the following information and statements, as applicable, using language substantially similar to the language set forth in Model Clause A-8 in appendix A to this part:

(1) *Identifying statement.* As required under paragraph (c)(3)(i) of this section;

(2) *Last two attempts were returned.* As required under paragraph (c)(3)(ii) of this section;

(3) *Consumer account.* As required and limited under paragraph (c)(3)(iii) of this section;

(4) *Statement of Federal law prohibition.* As required under paragraph (c)(3)(v) of this section; and

(5) *Web site URL.* When the full notice is being provided through a linked URL rather than as a PDF attachment, the unique URL of a Web site that the consumer may use to access the full consumer rights notice required by paragraph (c) of this section.

(B) [Reserved]

(iii) *Email delivery.* When the consumer has consented to receive disclosures through electronic delivery, and

12 CFR Ch. X (1–1–20 Edition)

the method of electronic delivery is email, the lender may either deliver the full notice required by paragraph (c)(1) of this section in the body of the email or deliver the full notice as a linked URL Web page or PDF attachment along with the electronic short notice as provided in paragraph (c)(4)(ii) of this section.

[82 FR 54871, Nov. 17, 2017, as amended at 84 FR 27929, June 17, 2019]

Subpart D—Information Furnishing, Recordkeeping, Anti-Evasion, Severability, and Dates

§ 1041.10 Information furnishing requirements.

(a) *Loans subject to furnishing requirement.* For each covered short-term loan and covered longer-term balloon-payment loan a lender makes, the lender must furnish the loan information described in paragraph (c) of this section to each information system described in paragraph (b)(1) of this section.

(b) *Information systems to which information must be furnished.* (1) A lender must furnish information as required in paragraphs (a) and (c) of this section to each information system that, as of the date the loan is consummated:

(i) Has been registered with the Bureau pursuant to § 1041.11(c)(2) for 180 days or more; or

(ii) Has been provisionally registered with the Bureau pursuant to § 1041.11(d)(1) for 180 days or more or subsequently has become registered with the Bureau pursuant to § 1041.11(d)(2).

(2) The Bureau will publish on its Web site and in the FEDERAL REGISTER notice of the provisional registration of an information system pursuant to § 1041.11(d)(1), registration of an information system pursuant to § 1041.11(c)(2) or (d)(2), and suspension or revocation of the provisional registration or registration of an information system pursuant to § 1041.11(h). For purposes of paragraph (b)(1) of this section, an information system is provisionally registered or registered, and its provisional registration or registration is suspended or revoked, on the date that the Bureau publishes notice