

conditions, or other factors, the creditor shall consider changes in such factors in subsequently determining whether to reduce the annual percentage rate for such obligor.

(b) Requirements

With respect to any credit card account under an open end consumer credit plan, the creditor shall—

- (1) maintain reasonable methodologies for assessing the factors described in subsection (a);
- (2) not less frequently than once every 6 months, review accounts as to which the annual percentage rate has been increased since January 1, 2009, to assess whether such factors have changed (including whether any risk has declined);
- (3) reduce the annual percentage rate previously increased when a reduction is indicated by the review; and
- (4) in the event of an increase in the annual percentage rate, provide in the written notice required under section 1637(i) of this title a statement of the reasons for the increase.

(c) Rule of construction

This section shall not be construed to require a reduction in any specific amount.

(d) Rulemaking

The Bureau¹ shall issue final rules not later than 9 months after May 22, 2009, to implement the requirements of and evaluate compliance with this section, and subsections (a), (b), and (c) shall become effective 15 months after May 22, 2009.

(Pub. L. 90-321, title I, §148, as added Pub. L. 111-24, title I, §101(c), May 22, 2009, 123 Stat. 1737; amended Pub. L. 111-203, title X, §1100A(2), July 21, 2010, 124 Stat. 2107.)

AMENDMENTS

2010—Subsec. (d). Pub. L. 111-203 substituted “Bureau” for “Board”.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective 9 months after May 22, 2009, except as otherwise specifically provided, see section 3 of Pub. L. 111-24, set out as an Effective Date of 2009 Amendment note under section 1602 of this title.

§ 1665d. Reasonable penalty fees on open end consumer credit plans

(a) In general

The amount of any penalty fee or charge that a card issuer may impose with respect to a credit card account under an open end consumer credit plan in connection with any omission with respect to, or violation of, the cardholder agreement, including any late payment fee, over-the-limit fee, or any other penalty fee or charge, shall be reasonable and proportional to such omission or violation.

¹ So in original. Probably should be “Board”.

(b) Rulemaking required

The Bureau, in consultation with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, and the National Credit Union Administration Board, shall issue final rules not later than 9 months after May 22, 2009, to establish standards for assessing whether the amount of any penalty fee or charge described under subsection (a) is reasonable and proportional to the omission or violation to which the fee or charge relates. Subsection (a) shall become effective 15 months after May 22, 2009.

(c) Considerations

In issuing rules required by this section, the Bureau shall consider—

- (1) the cost incurred by the creditor from such omission or violation;
- (2) the deterrence of such omission or violation by the cardholder;
- (3) the conduct of the cardholder; and
- (4) such other factors as the Bureau may deem necessary or appropriate.

(d) Differentiation permitted

In issuing rules required by this subsection, the Bureau may establish different standards for different types of fees and charges, as appropriate.

(e) Safe harbor rule authorized

The Bureau, in consultation with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, and the National Credit Union Administration Board, may issue rules to provide an amount for any penalty fee or charge described under subsection (a) that is presumed to be reasonable and proportional to the omission or violation to which the fee or charge relates.

(Pub. L. 90-321, title I, §149, as added Pub. L. 111-24, title I, §102(b)(1), May 22, 2009, 123 Stat. 1740; amended Pub. L. 111-203, title X, §1100A(2), July 21, 2010, 124 Stat. 2107.)

AMENDMENTS

2010—Subsecs. (b) to (e). Pub. L. 111-203, §1100A(2), which directed amendment of this section by substituting “Bureau” for “Board” wherever appearing, was executed by making the substitution for “Board” the first time appearing in subsecs. (b) and (e), and wherever appearing in subsecs. (c) and (d), to reflect the probable intent of Congress.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective 9 months after May 22, 2009, except as otherwise specifically provided, see section 3 of Pub. L. 111-24, set out as an Effective Date of 2009 Amendment note under section 1602 of this title.

§ 1665e. Consideration of ability to repay

A card issuer may not open any credit card account for any consumer under an open end consumer credit plan, or increase any credit limit