

§ 1665b. Advertising of open end consumer credit plans secured by consumer's principal dwelling

(a) In general

If any advertisement to aid, promote, or assist, directly or indirectly, the extension of consumer credit through an open end consumer credit plan under which extensions of credit are secured by the consumer's principal dwelling states, affirmatively or negatively, any of the specific terms of the plan, including any periodic payment amount required under such plan, such advertisement shall also clearly and conspicuously set forth the following information, in such form and manner as the Bureau may require:

(1) Loan fees and opening cost estimates

Any loan fee the amount of which is determined as a percentage of the credit limit applicable to an account under the plan and an estimate of the aggregate amount of other fees for opening the account, based on the creditor's experience with the plan and stated as a single amount or as a reasonable range.

(2) Periodic rates

In any case in which periodic rates may be used to compute the finance charge, the periodic rates expressed as an annual percentage rate.

(3) Highest annual percentage rate

The highest annual percentage rate which may be imposed under the plan.

(4) Other information

Any other information the Bureau may by regulation require.

(b) Tax deductibility

(1) In general

If any advertisement described in subsection (a) contains a statement that any interest expense incurred with respect to the plan is or may be tax deductible, the advertisement shall not be misleading with respect to such deductibility.

(2) Credit in excess of fair market value

Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.

(c) Certain terms prohibited

No advertisement described in subsection (a) with respect to any home equity account may refer to such loan as "free money" or use other terms determined by the Bureau by regulation to be misleading.

(d) Discounted initial rate

(1) In general

If any advertisement described in subsection (a) includes an initial annual percentage rate that is not determined by the index or formula used to make later interest rate adjustments, the advertisement shall also state with equal prominence the current annual percentage rate that would have been applied using the index or formula if such initial rate had not been offered.

(2) Quoted rate must be reasonably current

The annual percentage rate required to be disclosed under the paragraph (1) rate must be current as of a reasonable time given the media involved.

(3) Period during which initial rate is in effect

Any advertisement to which paragraph (1) applies shall also state the period of time during which the initial annual percentage rate referred to in such paragraph will be in effect.

(e) Balloon payment

If any advertisement described in subsection (a) contains a statement regarding the minimum monthly payment under the plan, the advertisement shall also disclose, if applicable, the fact that the plan includes a balloon payment.

(f) "Balloon payment" defined

For purposes of this section and section 1637a of this title, the term "balloon payment" means, with respect to any open end consumer credit plan under which extensions of credit are secured by the consumer's principal dwelling, any repayment option under which—

(1) the account holder is required to repay the entire amount of any outstanding balance as of a specified date or at the end of a specified period of time, as determined in accordance with the terms of the agreement pursuant to which such credit is extended; and

(2) the aggregate amount of the minimum periodic payments required would not fully amortize such outstanding balance by such date or at the end of such period.

(Pub. L. 90-321, title I, §147, as added Pub. L. 100-709, §2(c), Nov. 23, 1988, 102 Stat. 4730; amended Pub. L. 109-8, title XIII, §1302(a)(2), Apr. 20, 2005, 119 Stat. 208; Pub. L. 111-203, title X, §1100A(2), July 21, 2010, 124 Stat. 2107.)

Editorial Notes

AMENDMENTS

2010—Subsecs. (a), (c). Pub. L. 111-203 substituted "Bureau" for "Board" wherever appearing.

2005—Subsec. (b). Pub. L. 109-8 designated existing provisions as par. (1), inserted par. heading, and added par. (2).

Statutory Notes and Related Subsidiaries

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 OF 2005 AMENDMENT

Amendment by Pub. L. 109-8 effective 180 days after Apr. 20, 2005, and not applicable with respect to cases

commenced under Title 11, Bankruptcy, before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109-8, set out as a note under section 101 of Title 11.

EFFECTIVE DATE

For effective date of section, see Regulations; Effective Date note below.

REGULATIONS; EFFECTIVE DATE

For provisions relating to promulgation of regulations to implement amendment by Pub. L. 100-709 [enacting this section], and effective date of such amendment in connection with those regulations, see section 7 of Pub. L. 100-709, set out as a note under section 1637a of this title.

§ 1665c. Interest rate reduction on open end consumer credit plans

(a) In general

If a creditor increases the annual percentage rate applicable to a credit card account under an open end consumer credit plan, based on factors including the credit risk of the obligor, market 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.)

Editorial Notes

AMENDMENTS

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

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

Statutory Notes and Related Subsidiaries

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.

(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.