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Understanding the Credit Card Accountability Responsibility and Disclosure (Credit CARD) Act

The Credit Card Accountability Responsibility and Disclosure (Credit CARD) Act of 2009 provides sweeping statutory changes in credit card protections. It is intended to protect consumers from abusive fees, penalties, interest rate increases and other unwarranted changes in account terms. Key provisions of the legislation are discussed in this publication. Most provisions go into effect February 22, 2010.

Restricts all interest rate increases on *existing balances* and during the first year. The new law prohibits credit card issuers from raising interest rates on *existing balances* due to "any time, any reason" or "universal default" terms. Similarly, the laws stop credit card issuers from increasing interest rates in the first year after a credit card is opened. Certain exceptions allow interest rates to be increased:

- When the increase is in the terms of a variable interest rate agreement.
- At the end of a promotional rate period. Firms may continue to offer promotional rates, but these rates must be clearly disclosed and last at least six months.
- If the required minimum payment is 60 days delinquent. If the interest rate increases because of delinquent payments, the rate must revert to the original lower rate if the consumer makes on time payments for six months.

Increases notice for rate increases on *future purchases*. After the account has been opened for one year, the card issuer can raise the rate on *future purchases* at any time, for any reason, with 45 days notice. This makes it especially important for consumers to carefully read all correspondence from creditors.

Safeguards the ability to pay existing balances on old terms. Issuers are prohibited from changing the terms for repaying a balance. The issuer, however, may allow the cardholder either:

- Five years to pay off the existing balance at the old rate, or
- An increased minimum payment that calls for no more than double the contribution to paying down the balance as the old minimum payment.

Limits fees and penalty interest. The legislation targets unfair fee traps and penalties. Specifically, the regulations say:

- Interest rate increases because of late payment will revert to the original lower rate if the cardholder makes on time minimum payments for six months.
- Over-the-limit fees may not be charged unless the consumer has granted permission to process transactions that will place the account over the credit limit. Issuers cannot charge an over-the-limit fee if cardholders go over the limit solely because of interest charges or fees.

- Over-the-limit fees will be limited to one charge per billing cycle if the balance is above the credit limit on the last day of the billing cycle.
- No fees may be charged to make a payment (by mail, electronic transfer, telephone authorization or other means) unless the payment involves an expedited service by a service representative of the creditor.
- Issuers that increase the interest rate must review the account every six months and decrease the rate if indicated by the review.
- Penalty fees (late payment, over-the-limit, etc.) must be reasonable and proportional to the violation. The Federal Reserve Board will work with banking regulators to develop guidelines describing what is reasonable. This provision becomes effective in August 2010.
- Two-cycle or "double-cycle" billing is banned. With two-cycle billing, an issuer not only considers the current balance on the credit card when determining interest charges but also factors in the average daily balance from the previous billing period, even if a portion of that pervious balance was paid. The new law permits interest charges to apply only to outstanding balances and not to previous balances already paid.

Requires issuers to consider cardholder's ability to pay. Card issuers must consider the consumer's ability to make the required payments under the credit card's terms before raising limits or issuing a new card.

Requires fair application of payments. Payments over the minimum required payment automatically will be applied to the portion of the debt with the highest interest rate first, except in the last two months before a deferred interest balance is due. This will enable consumers to pay less interest and to get out of debt faster.

Requires sensible due dates and time to pay. Specifically, regulations say:

- Card issuers are prohibited from setting early or unreasonable deadlines for payments. All payments must be received by 5 p.m. at a location set by the issuer. Cardholders making payments across time zones must adhere to the deadline in the appropriate time zone. Card companies must accept and promptly post payments received by 5 p.m. on the due date.
- Due dates will be on the same date each month. If the due date falls on a holiday or weekend, the deadline must be considered to be the next business day.
- Issuers may not treat a payment as late unless the bill is mailed or delivered at least 21 days before the due date.

Mandates enhanced disclosures. The legislation requires issuers to:

- Disclose the financial consequences of minimum payments, including the period of time and total interest it will take to pay off the card balance if only minimum monthly payments are made.
- Display the total cost, including payment amount and total interest cost to pay off the existing balance in 36 months.
- Disclose in a prominent location, the due date for the next payment as well as the amount of any potential late fee and the date it would be charged. Statements also must include a notice that one or more late payments may

trigger an increase in the interest rate on the account, and they must show the penalty rate.

- Provide a 45-day written notice before key contract changes take effect. The contract changes include interest rates, fees or finance charge increases. The provisions, however, do not apply to credit limit changes or interest rate caps. This means that, if the credit card company reduces your credit limit, notification isn't necessary unless the reduction would trigger a penalty, such as an over-the-limit fee. The new rules also fail to cap interest rates.
- Post standard credit card agreements on the Internet. This is intended to make it easier for consumers to compare the terms of different credit cards and understand the interest rates and fees that are being charged. The Federal Reserve Board must maintain a public Web site providing this information to the public.
- Display terms including due date and late payment penalty in user-friendly boxes on credit card applications, monthly statements and other materials.

Prevents deceptive marketing of credit reports. Advertisements for free credit reports must clearly disclose that free credit reports are available under Federal law at www.annualcreditreport.com . Television and radio ads must disclose "This is not the free credit report provided for by Federal law."

Restricts fee harvester cards. The new regulation restricts issuers from financing fees and charges for opening a credit card that imposes fees and charges that totaling more than 25 percent of the credit limit.

Protects young consumers. Provisions are included in the legislation to protect college students and other young people from amassing significant credit card debt without the financial resources to pay them. Credit card companies will be prohibited from:

- Issuing a credit card to a consumer younger than 21 unless he or she submits a written application that includes the signature of a cosigner over 21 or information indicating that the young consumer has independent means to repay the credit card debt.
- Raising the credit limit on accounts held by a person under the age of 21 who has a cosigner without written permission from the cosigner.
- Sending prescreened credit card offers to people under the age of 21 unless the consumer has consented to receive these offers.
- Providing tangible gifts to students on campus in exchange for filling out a credit card application.
- Failing to disclose marketing or distribution contracts with colleges.

Establishes gift card protections. The legislation imposes limits on fees and expiration dates of retailer gift cards and prepaid general use cards. The law, however, does not address rewards, loyalty, telephone or promotional cards and does not cover paper gift cards or paper gift certificates. These are the specific provisions:

- Gift cards cannot expire less than five years from the date the card was purchased or money was last added to the card, whichever is later.

- Inactivity fees may not be charged if the card has been used within the past 12 months. If a card remains unused for 12 months, one fee per month may be charged.
- State laws continue to apply to gift card expiration dates and fees.

Although the new law will prohibit certain practices and provide more timely disclosures of account terms and costs, consumers still need to do their part to manage their credit cards. It is critical to understand the terms of a credit card before entering into a card agreement. Also, closely review your credit card bill each month and monitor and understand the disclosures and account changes communicated by your card company.

Developed by: Jeanette Tucker, Ph.D. , RFG; Professor and Extension Family Economics Specialist, Baton Rouge, La.: LSU AgCenter.

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