

**Card Act Compliance
Reminder**

Digest Number 12

Implementing the final portions of The Credit Card Act - A reminder punch list

- Penalty fees may only be imposed if the fee represents a reasonable proportion of the total costs incurred by the card issuer resulting from the type of violation
- Card issuers must re-evaluate the reasonable proportion determination at least every 12 months. If lower fees are indicated, then within 45 days of completing re-evaluation, the card issuer must begin imposing new fees. If higher fees result, new fees may not be imposed until after a 45 day notice of change in terms.
- The final rule provides a safe harbor alternative to the cost analysis described in the preceding bullet points by permitting a penalty fee that does not exceed \$25 for the first violation and \$35 for any additional violations of the same type during the next 6 billing cycles. Regardless of the safe harbor, card issuers are not permitted to charge a fee that exceeds the dollar amount associated with the violation. Example; if a member is late making a \$20 minimum payment, a late charge of \$39 is not allowed since the fee exceeds the late payment amount.
- For rate increases on or after January 1, 2009 that were based upon credit risk, market conditions or other factors, card issuers are required to review the account no less frequently than once each 6 months and if appropriate must reduce the APR. The first review must be prior to February 22, 2011. If the review results in a rate reduction, the rate must be reduced within 45 days after completion of the evaluation. Reasonable written procedure and policies must be in place regarding the review process. APR reductions must apply to balances for which the original APR increase was applied as well as new transactions.
- The obligation for the 6 month account review ends once the rate has been reduced to the same or a lower rate (or to a variable rate based on the same index and margin) that existed prior to the APR increase. Otherwise the 6 month review requirement continues indefinitely.
- The change in terms notice for rate increases must list no more than four principal reasons in order of importance and be provided 45 days in advance of a rate change.
- Inactivity fees are prohibited
- Fees may not be imposed when there is no dollar amount associated with the violation. For example; transactions declined by the card issuer, account inactivity, closing or terminating the account
- If two penalty fees are possible for one transaction, the card issuer must decide which one to charge. Both may not be charged. For example; a late payment fee and a returned payment fee may not be charged based on a single payment.
- Mandatory compliance dates – penalty fee disclosures must be included within the summary table of applications, solicitations and account opening disclosures and in certain boxes on periodic statements effective December 1, 2010. Use of the words “up to” for penalty fees is allowed.

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