

~~§ 226.9(c)(2)(iv)(B) does not require the creditor to disclose the right to reject and § 226.9(h)(3) does not allow the consumer to reject the fee. Similarly, the restrictions in § 226.9(h)(2)(ii) and (iii) no longer apply.~~

Section 226.10—Payments

10(a) General rule.

1. Crediting date. Section 226.10(a) does not require the creditor to post the payment to the consumer’s account on a particular date; the creditor is only required to credit the payment as of the date of receipt.

2. Date of receipt. The “date of receipt” is the date that the payment instrument or other means of completing the payment reaches the creditor. For example:

i. Payment by check is received when the creditor gets it, not when the funds are collected.

ii. In a payroll deduction plan in which funds are deposited to an asset account held by the creditor, and from which payments are made periodically to an open-end credit account, payment is received on the date when it is debited to the asset account (rather than on the date of the deposit), provided the payroll deduction method is voluntary and the consumer retains use of the funds until the contractual payment date.

iii. If the consumer elects to have payment made by a third party payor such as a financial institution, through a preauthorized payment or telephone bill-payment arrangement, payment is received when the creditor gets the third party payor’s check or other transfer medium, such as an electronic fund transfer, as long as the payment meets the creditor’s requirements as specified under § 226.10(b).

iv. Payment made via the creditor's Web site is received on the date on which the consumer authorizes the creditor to effect the payment, even if the consumer gives the instruction authorizing that payment in advance of the date on which the creditor is authorized to effect the payment. If the consumer authorizes the creditor to effect the payment immediately, but the consumer's instruction is received after 5 p.m. or any later cut-off time specified by the creditor, the date on which the consumer authorizes the creditor to effect the payment is deemed to be the next business day.

10(b) Specific requirements for payments.

1. Payment by electronic fund transfer. A creditor may be prohibited from specifying payment by preauthorized electronic fund transfer. (See section 913 of the Electronic Fund Transfer Act.)

2. Payment via creditor's Web site. If a creditor promotes electronic payment via its Web site (such as by disclosing on the Web site itself that payments may be made via the Web site), any payments made via the creditor's Web site prior to the creditor's specified cut-off time, if any, would generally be conforming payments for purposes of § 226.10(b).

3. Acceptance of nonconforming payments. If the creditor accepts a nonconforming payment (for example, payment mailed to a branch office, when the creditor had specified that payment be sent to a different location), finance charges may accrue for the period between receipt and crediting of payments.

4. Implied guidelines for payments. In the absence of specified requirements for making payments (see § 226.10(b)):

i. Payments may be made at any location where the creditor conducts business.

- ii. Payments may be made any time during the creditor's normal business hours.
- iii. Payment may be by cash, money order, draft, or other similar instrument in properly negotiable form, or by electronic fund transfer if the creditor and consumer have so agreed.

5. Payments made at point of sale. If a card issuer that is a financial institution issues a credit card under an open-end (not home-secured) consumer credit plan that can be used only for transactions with a particular merchant or merchants or a credit card that is cobranded with the name of a particular merchant or merchants, and a consumer is able to make a payment on that credit card account at a retail location maintained by such a merchant, that retail location is not considered to be a branch or office of the card issuer for purposes of § 226.10(b)(3).

6. In-person payments on credit card accounts. For purposes of § 226.10(b)(3), payments made in person at a branch or office of a financial institution include payments made with the direct assistance of, or to, a branch or office employee, for example a teller at a bank branch. A payment made at the bank branch without the direct assistance of a branch or office employee, for example a payment placed in a branch or office mail slot, is not a payment made in person for purposes of § 226.10(b)(3).

7. In-person payments at affiliate of card issuer. If an affiliate of a card issuer that is a financial institution shares a name with the card issuer, such as "ABC," and accepts in-person payments on the card issuer's credit card accounts, those payments are subject to the requirements of § 226.10(b)(3).

10(d) Crediting of payments when creditor does not receive or accept payments on due date.

1. Example. A day on which the creditor does not receive or accept payments by mail may occur, for example, if the U.S. Postal Service does not deliver mail on that date.

2. Treating a payment as late for any purpose. See comment 5(b)(2)(ii)-2 for guidance on treating a payment as late for any purpose. When an account is not eligible for a grace period, imposing a finance charge due to a periodic interest rate does not constitute treating a payment as late.

10(e) Limitations on fees related to method of payment.

1. Separate fee to allow consumers to make a payment. For purposes of § 226.10(e), the term “separate fee” means a fee imposed on a consumer for making a payment to the consumer’s account. A fee or other charge imposed if payment is made after the due date, such as a late fee or finance charge, is not a separate fee to allow consumers to make a payment for purposes of § 226.10(e).

2. Expedited. For purposes of § 226.10(e), the term “expedited” means crediting a payment the same day or, if the payment is received after any cut-off time established by the creditor, the next business day.

3. Service by a customer service representative. Service by a customer service representative of a creditor means any payment made to the consumer’s account with the assistance of a live representative or agent of the creditor, including those made in person, on the telephone, or by electronic means. A customer service representative does not include automated means of making payment that do not involve a live representative or agent of the creditor, such as a voice response unit or interactive voice response system. Service by a customer service representative includes any payment transaction

which involves the assistance of a live representative or agent of the creditor, even if an automated system is required for a portion of the transaction..

10(f) Changes by card issuer.

1. Address for receiving payment. For purposes of § 226.10(f), “address for receiving payment” means a mailing address for receiving payment, such as a post office box, or the address of a branch or office at which payments on credit card accounts are accepted.

2. Materiality. For purposes of § 226.10(f), a “material change” means any change in the address for receiving payment or procedures for handling cardholder payments which causes a material delay in the crediting of a payment. “Material delay” means any delay in crediting payment to a consumer’s account which would result in a late payment and the imposition of a late fee or finance charge. A delay in crediting a payment which does not result in a late fee or finance charge would be immaterial.

3. Safe harbor. (i) General. A card issuer may elect not to impose a late fee or finance charge on a consumer’s account for the 60-day period following a change in address for receiving payment or procedures for handling cardholder payments which could reasonably be expected to cause a material delay in crediting of a payment to the consumer’s account. For purposes of § 226.10(f), a late fee or finance charge is not imposed if the fee or charge is waived or removed, or an amount equal to the fee or charge is credited to the account.

(ii) Retail location. For a material change in the address of a retail location or procedures for handling cardholder payments at a retail location, a card issuer may impose a late fee or finance charge on a consumer’s account for a late payment during the

60-day period following the date on which the change took effect. However, if a consumer is notified by a consumer no later than 60 days after the card issuer transmitted the first periodic statement that reflects the late fee or finance charge for a late payment that the late payment was caused by such change, the card issuer must waive or remove any late fee or finance charge, or credit an amount equal to any late fee or finance charge, imposed on the account during the 60-day period following the date on which the change took effect.

4. Examples.

i. A card issuer changes the mailing address for receiving payments by mail from a five-digit postal zip code to a nine-digit postal zip code. A consumer mails a payment using the five-digit postal zip code. The change in mailing address is immaterial and it does not cause a delay. Therefore, a card issuer may impose a late fee or finance charge for a late payment on the account.

ii. A card issuer changes the mailing address for receiving payments by mail from one post office box number to another post office box number. For a 60-day period following the change, the card issuer continues to use both post office box numbers for the collection of payments received by mail. The change in mailing address would not cause a material delay in crediting a payment because payments would be received and credited at both addresses. Therefore, a card issuer may impose a late fee or finance charge for a late payment on the account during the 60-day period following the date on which the change took effect.

iii. Same facts as paragraph ii. above, except the prior post office box number is no longer valid and mail sent to that address during the 60-day period following the

change would be returned to sender. The change in mailing address is material and the change could cause a material delay in the crediting of a payment because a payment sent to the old address could be delayed past the due date. If, as a result, a consumer makes a late payment on the account during the 60-day period following the date on which the change took effect, a card issuer may not impose any late fee or finance charge for the late payment.

iv. A card issuer permanently closes a local branch office at which payments are accepted on credit card accounts. The permanent closing of the local branch office is a material change in address for receiving payment. Relying on the safe harbor, the card issuer elects not to impose a late fee or finance charge for the 60-day period following the local branch closing for late payments on consumer accounts which the issuer reasonably determines are associated with the local branch and which could reasonably be expected to have been caused by the branch closing.

v. A consumer has elected to make payments automatically to a credit card account, such as through a payroll deduction plan or a third party payor's preauthorized payment arrangement. A card issuer changes the procedures for handling such payments and as a result, a payment is delayed and not credited to the consumer's account before the due date. In these circumstances, a card issuer may not impose any late fee or finance charge during the 60-day period following the date on which the change took effect for a late payment on the account.

vi. A card issuer no longer accepts payments in person at a retail location as a conforming method of payment, which is a material change in the procedures for handling cardholder payment. In the 60-day period following the date on which the

change took effect, a consumer attempts to make a payment in person at a retail location of a card issuer. As a result, the consumer makes a late payment and the issuer charges a late fee on the consumer's account. The consumer notifies the card issuer of the late fee for the late payment which was caused by the material change. In order to comply with § 226.10(f), the card issuer must waive or remove the late fee or finance charge, or credit the consumer's account in an amount equal to the late fee or finance charge.

5. Finance charge due to periodic interest rate. When an account is not eligible for a grace period, imposing a finance charge due to a periodic interest rate does not constitute imposition of a finance charge for a late payment for purposes of § 226.10(f).

~~Section 226.11 Treatment of Credit Balances; Account Termination~~

~~11(a) Credit balances.~~

~~1. Timing of refund. The creditor may also fulfill its obligations under § 226.11 by:~~

~~i. Refunding any credit balance to the consumer immediately.~~

~~ii. Refunding any credit balance prior to receiving a written request (under § 226.11(a)(2)) from the consumer.~~

~~iii. Refunding any credit balance upon the consumer's oral or electronic request.~~

~~iv. Making a good faith effort to refund any credit balance before 6 months have passed. If that attempt is unsuccessful, the creditor need not try again to refund the credit balance at the end of the 6-month period.~~

~~2. Amount of refund. The phrases any part of the remaining credit balance in § 226.11(a)(2) and any part of the credit balance remaining in the account in~~