

Section 226.52—Limitations on Fees

52(a) Limitations during first year after account opening.

52(a)(1) General rule.

1. Application. Section 226.52(a)(1) applies if a card issuer charges any fees to the account during the first year after the account is opened (unless the fees are specifically exempted by § 226.52(a)(2)). Thus, if a card issuer charges a non-exempt fee to the account during the first year after account opening, § 226.52(a)(1) provides that the total amount of non-exempt fees the consumer is required to pay with respect to the account during the first year cannot exceed 25 percent of the credit limit in effect when the account is opened. This 25 percent limit applies to fees that the card issuer charges to the account as well as to fees that the card issuer requires the consumer to pay with respect to the account through other means (such as through a payment from the consumer to the card issuer or from another credit account provided by the card issuer).

For example:

i. Assume that, under the terms of a credit card account, a consumer is required to pay \$120 in fees for the issuance or availability of credit at account opening. The consumer is also required to pay a cash advance fee that is equal to five percent of the cash advance and a late payment fee of \$15 if the required minimum periodic payment is not received by the payment due date (which is the twenty-fifth of the month). At account opening on January 1 of year one, the credit limit for the account is \$500. Section 226.52(a)(1) permits the card issuer to charge to the account the \$120 in fees for the issuance or availability of credit at account opening. On February 1 of year one, the consumer uses the account for a \$100 cash advance. Section 226.52(a)(1) permits the

card issuer to charge a \$5 cash-advance fee to the account. On March 26 of year one, the card issuer has not received the consumer's required minimum periodic payment.

Section 226.52(a)(2) permits the card issuer to charge a \$15 late payment fee to the account. On July 15 of year one, the consumer uses the account for a \$50 cash advance.

Section 226.52(a)(1) does not permit the card issuer to charge a \$2.50 cash advance fee to the account. Furthermore, § 225.52(a)(1) prohibits the card issuer from collecting the \$2.50 cash advance fee from the consumer by other means.

ii. Assume that, under the terms of a credit card account, a consumer is required to pay \$125 in fees for the issuance or availability of credit during the first year after account opening. At account opening on January 1 of year one, the credit limit for the account is \$500. Section 226.52(a)(1) permits the card issuer to charge the \$125 in fees to the account. However, § 226.52(a)(1) prohibits the card issuer from requiring the consumer to make payments to the card issuer for additional non-exempt fees with respect to the account during the first year after account opening or requiring the consumer to open a separate credit account with the card issuer to fund the payment of additional non-exempt fees during the first year.

2. Fees that exceed 25 percent limit. A card issuer that charges a fee to a credit card account that exceeds the 25 percent limit complies with § 226.52(a)(1) if the card issuer waives or removes the fee and any associated interest charges or credits the account for an amount equal to the fee and any associated interest charges within a reasonable amount of time but no later than the end of the billing cycle following the billing cycle during which the fee was charged. For example, assuming the facts in comment 52(a)(1)-1 above, the card issuer complies with § 226.52(a)(1) if the card issuer

charged the \$2.50 cash advance fee to the account on July 15 of year one but waived or removed the fee or credited the account for \$2.50 (plus any interest charges on that \$2.50) at the end of the billing cycle.

3. Changes in credit limit during first year.

i. Increases in credit limit. If a card issuer increases the credit limit during the first year after the account is opened, § 226.52(a)(1) does not permit the card issuer to require the consumer to pay additional fees that would otherwise be prohibited (such as a fee for increasing the credit limit). For example, assume that, at account opening on January 1, the credit limit for a credit card account is \$400 and the consumer is required to pay \$100 in fees for the issuance or availability of credit. On July 1, the card issuer increases the credit limit for the account to \$600. Section 226.52(a)(1) does not permit the card issuer to require the consumer to pay additional fees based on the increased credit limit.

ii. Decreases in credit limit. If a card issuer decreases the credit limit during the first year after the account is opened, § 226.52(a)(1) requires the card issuer to waive or remove any fees charged to the account that exceed 25 percent of the reduced credit limit or to credit the account for an amount equal to any fees the consumer was required to pay with respect to the account that exceed 25 percent of the reduced credit limit within a reasonable amount of time but no later than the end of the billing cycle following the billing cycle during which the fee was charged. For example, assume that, at account opening on January 1, the credit limit for a credit card account is \$1,000 and the consumer is required to pay \$250 in fees for the issuance or availability of credit. The billing cycles for the account begin on the first day of the month and end on the last day

of the month. On July 30, the card issuer decreases the credit limit for the account to \$500. Section 226.52(a)(1) requires the card issuer to waive or remove \$175 in fees from the account or to credit the account for an amount equal to \$175 within a reasonable amount of time but no later than August 31.

52(a)(2) Fees not subject to limitations.

1. Covered fees. Except as provided in § 226.52(a)(2), § 226.52(a) applies to any fees that a card issuer will or may require the consumer to pay with respect to a credit card account during the first year after account opening. For example, § 226.52(a) applies to:

i. Fees that the consumer is required to pay for the issuance or availability of credit described in § 226.5a(b)(2), including any fee based on account activity or inactivity and any fee that a consumer is required to pay in order to receive a particular credit limit;

ii. Fees for insurance described in § 226.4(b)(7) or debt cancellation or debt suspension coverage described in § 226.4(b)(10) written in connection with a credit transaction, if the insurance or debt cancellation or debt suspension coverage is required by the terms of the account;

iii. Fees that the consumer is required to pay in order to engage in transactions using the account (such as cash advance fees, balance transfer fees, foreign transaction fees, and fees for using the account for purchases); and

iv. Fees that the consumer is required to pay for violating the terms of the account (except to the extent specifically excluded by § 226.52(a)(2)(i)).

2. Fees the consumer is not required to pay. Section 226.52(a)(2)(ii) provides that § 226.52(a) does not apply to fees that the consumer is not required to pay with respect to the account. For example, § 226.52(a) generally does not apply to fees for making an expedited payment (to the extent permitted by § 226.10(e)), fees for optional services (such as travel insurance), fees for reissuing a lost or stolen card, or statement reproduction fees.

3. Security deposits. A security deposit that is charged to a credit card account is a fee for purposes of § 226.52(a). In contrast, however, a security deposit is not subject to the 25 percent limit in § 226.52(a)(1) if it is not charged to the account. For example, § 226.52(a)(1) does not prohibit a card issuer from requiring a consumer to provide funds at account opening pledged as security for the account that exceed 25 percent of the credit limit at account opening so long as those funds are not obtained from the account.

52(a)(3) Rule of construction.

1. Fees or charges otherwise prohibited by law. Section 226.52(a) does not authorize the imposition or payment of fees or charges otherwise prohibited by law. For example, see 16 CFR § 310.4(a)(4).

Section 226.53 Allocation of Payments

~~1. Required minimum periodic payment. Section 226.53 addresses the allocation of amounts paid by the consumer in excess of the minimum periodic payment required by the card issuer. Section 226.53 does not limit or otherwise address the card issuer's ability to determine, consistent with applicable law and regulatory guidance, the amount of the required minimum periodic payment or how that payment is allocated. A card issuer may, but is not required to, allocate the required minimum periodic payment~~