

~~suspended as a result of the consumer's rejection, a creditor is prohibited from imposing a periodic fee that was not charged before the consumer rejected the change (such as a closed account fee).~~

### **Section 226.10 Payments**

Section 226.10, which implements TILA Section 164, currently contains rules regarding the prompt crediting of payments and is entitled "Prompt crediting of payments." 15 U.S.C. 1666c. As is discussed further in the section-by-section analysis, the Board is proposing to implement several new provisions of the Credit Card Act regarding payments in § 226.10, such as requirements regarding the permissibility of certain fees to make expedited payments. Several of these rules do not pertain directly to the prompt crediting of payments, but more generally to the conditions that may be imposed upon payments. Accordingly, the Board is proposing to amend the title of § 226.10 to "Payments" to more accurately reflect the content of amended § 226.10.

#### **~~226.10(b) Specific Requirements for Payments~~**

##### **~~Cut-Off Times for Payments~~**

~~TILA Section 164 states that payments received by the creditor from a consumer for an open-end consumer credit plan shall be posted promptly to the account as specified in regulations of the Board. The Credit Card Act amended TILA Section 164 to state that the Board's regulations shall prevent a finance charge from being imposed on any consumer if the creditor has received the consumer's payment in readily identifiable form, by 5 p.m. on the date on which such payment is due, in the amount, manner, and location indicated by the creditor to avoid the imposition of such a finance charge. While amended TILA Section 164 generally mirrors current TILA Section 164, the Credit Card~~

~~due date for that payment.~~

12. Section 226.10 is revised to read as follows:

**§ 226.10 Payments.**

(a) General rule. A creditor shall credit a payment to the consumer's account as of the date of receipt, except when a delay in crediting does not result in a finance or other charge or except as provided in paragraph (b) of this section.

~~(b) Specific requirements for payments. (1) General rule. A creditor may specify reasonable requirements for payments that enable most consumers to make conforming payments.~~

~~(2) Examples of reasonable requirements for payments. Reasonable requirements for making payment may include:~~

~~(i) Requiring that payments be accompanied by the account number or payment stub;~~

~~(ii) Setting reasonable cut-off times for payments to be received by mail, by electronic means, by telephone, and in person (except as provided in paragraph (b)(3) of this section), provided that such cut-off times shall be no earlier than 5 p.m. on the payment due date at the location specified by the creditor for the receipt of such payments;~~

~~(iii) Specifying that only checks or money orders should be sent by mail;~~

~~(iv) Specifying that payment is to be made in U.S. dollars; or~~

~~(v) Specifying one particular address for receiving payments, such as a post office box.~~

~~ii. Account becomes more than 60 days delinquent after rejection. Assume that a credit card account is opened on January 1 of year one and that the payment due date for the account is the fifteenth day of the month. On April 20 of year two, the creditor has not received the required minimum periodic payment due on April 15. On April 20, the creditor provides a notice pursuant to § 226.9(c) informing the consumer that an annual fee of \$100 will be charged beginning on June 4. The notice further states that the consumer may reject the fee by calling a specified toll-free telephone number before June 4 but that, if the consumer does so, credit availability for the account will be terminated. On May 5, the consumer calls the toll-free telephone number and rejects the fee. Section 226.9(h)(2)(i) prohibits the creditor from charging the \$100 fee to the account. If, however, the creditor does not receive the minimum payments due on April 15 and May 15 by June 15, § 226.9(h)(3) permits the creditor to charge the \$100 fee. The creditor must provide a second notice of the fee pursuant to § 226.9(c), but § 226.9(e)(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.)~~