

~~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

consistent with the requirements in § 226.53 to the extent consistent with other applicable law or regulatory guidance.

2. Applicable rates and balances. Section 226.53 permits a card issuer to allocate an amount paid by the consumer in excess of the required minimum periodic payment based on the annual percentage rates and balances on the day the preceding billing cycle ends, on the day the payment is credited to the account, or on any day in between those two dates. The day used by the card issuer to determine the applicable annual percentage rates and balances for purposes of § 226.53 generally must be consistent from billing cycle to billing cycle, although the card issuer may adjust this day from time to time. For example:

i. Assume that the billing cycles for a credit card account start on the first day of the month and end on the last day of the month. On the date the March billing cycle ends (March 31), the account has a purchase balance of \$500 at a promotional annual percentage rate of 5% and another purchase balance of \$200 at a non-promotional annual percentage rate of 15%. On April 5, a \$100 purchase to which the 15% rate applies is charged to the account. On April 15, the promotional rate expires and § 226.55(b)(1) permits the card issuer to increase the rate that applies to the \$500 balance from 5% to 18%. On April 25, the card issuer credits to the account \$400 paid by the consumer in excess of the required minimum periodic payment. If the card issuer's practice is to allocate payments based on the rates and balances on the last day of the prior billing cycle, the card issuer would allocate the \$400 payment to pay in full the \$200 balance to which the 15% rate applied on March 31 and then allocate the remaining \$200 to the \$500 balance to which the 5% rate applied on March 31. In the alternative, if the card

issuer's practice is to allocate payments based on the rates and balances on the day a payment is credited to the account, the card issuer would allocate the \$400 payment to the \$500 balance to which the 18% rate applied on April 25.

ii. Same facts as above except that, on April 25, the card issuer credits to the account \$750 paid by the consumer in excess of the required minimum periodic payment. If the card issuer's practice is to allocate payments based on the rates and balances on the last day of the prior billing cycle, the card issuer would allocate the \$750 payment to pay in full the \$200 balance to which the 15% rate applied on March 31 and the \$500 balance to which the 5% rate applied on March 31 and then allocate the remaining \$50 to the \$100 purchase made on April 5. In the alternative, if the card issuer's practice is to allocate payments based on the rates and balances on the day a payment is credited to the account, the card issuer would allocate the \$750 payment to pay in full the \$500 balance to which the 18% rate applied on April 25 and then allocate the remaining \$250 to the \$300 balance to which the 15% rate applied on April 25.

3. Claims or defenses under § 226.12(c) and billing error disputes under § 226.13. When a consumer has asserted a claim or defense against the card issuer pursuant to § 226.12(c) or alleged a billing error under § 226.13, the card issuer must apply the consumer's payment in a manner that avoids or minimizes any reduction in the amount subject to that claim, defense, or dispute. For example:

i. Assume that a credit card account has a \$500 cash advance balance at an annual percentage rate of 25% and a \$1,000 purchase balance at an annual percentage rate of 17%. Assume also that \$200 of the cash advance balance is subject to a claim or defense under § 226.12(c) or a billing error dispute under § 226.13. If the consumer pays

\$900 in excess of the required minimum periodic payment, the card issuer must allocate \$300 of the excess payment to pay in full the portion of the cash advance balance that is not subject to the claim, defense, or dispute and then allocate the remaining \$600 to the \$1,000 purchase balance.

ii. Same facts as above except that the consumer pays \$1,400 in excess of the required minimum periodic payment. The card issuer must allocate \$1,300 of the excess payment to pay in full the \$300 cash advance balance that is not subject to the claim, defense, or dispute and the \$1,000 purchase balance. If there are no new transactions or other amounts to which the remaining \$100 can be allocated, the card issuer may apply that amount to the \$200 cash advance balance that is subject to the claim, defense, or dispute. However, if the card issuer subsequently determines that a billing error occurred as asserted by the consumer, the card issuer must credit the account for the disputed amount and any related finance or other charges and send a correction notice consistent with § 226.13(e).

4. Balances with the same rate. When the same annual percentage rate applies to more than one balance on an account and a different annual percentage rate applies to at least one other balance on that account, § 226.53 generally does not require that any particular method be used when allocating among the balances with the same annual percentage rate. Under these circumstances, a card issuer may treat the balances with the same rate as a single balance or separate balances. See example in comment 53-5.iv. However, when a balance on a credit card account is subject to a deferred interest or similar program that provides that a consumer will not be obligated to pay interest that accrues on the balance if the balance is paid in full prior to the expiration of a specified

period of time, that balance must be treated as a balance with an annual percentage rate of zero for purposes of § 226.53 during that period of time. For example, if an account has a \$1,000 purchase balance and a \$2,000 balance that is subject to a deferred interest program that expires on July 1 and a 15% annual percentage rate applies to both, the balances must be treated as balances with different rates for purposes of § 226.53 until July 1. In addition, unless the card issuer allocates amounts paid by the consumer in excess of the required minimum periodic payment in the manner requested by the consumer pursuant to § 226.53(b)(2), § 226.53(b)(1) requires the card issuer to apply any excess payments first to the \$1,000 purchase balance except during the last two billing cycles of the deferred interest period (when it must be applied first to any remaining portion of the \$2,000 balance). See example in comment 53-5.v.

5. Examples. For purposes of the following examples, assume that none of the required minimum periodic payment is allocated to the balances discussed (unless otherwise stated).

i. Assume that a credit card account has a cash advance balance of \$500 at an annual percentage rate of 20% and a purchase balance of \$1,500 at an annual percentage rate of 15% and that the consumer pays \$800 in excess of the required minimum periodic payment. Under § 226.53(a), the card issuer must allocate \$500 to pay off the cash advance balance and then allocate the remaining \$300 to the purchase balance.

ii. Assume that a credit card account has a cash advance balance of \$500 at an annual percentage rate of 20% and a purchase balance of \$1,500 at an annual percentage rate of 15% and that the consumer pays \$400 in excess of the required minimum periodic

payment. Under § 226.53(a), the card issuer must allocate the entire \$400 to the cash advance balance.

iii. Assume that a credit card account has a cash advance balance of \$100 at an annual percentage rate of 20%, a purchase balance of \$300 at an annual percentage rate of 18%, and a \$600 protected balance on which the 12% annual percentage rate cannot be increased pursuant to § 226.55. If the consumer pays \$500 in excess of the required minimum periodic payment, § 226.53(a) requires the card issuer to allocate \$100 to pay off the cash advance balance, \$300 to pay off the purchase balance, and \$100 to the protected balance.

iv. Assume that a credit card account has a cash advance balance of \$500 at an annual percentage rate of 20%, a purchase balance of \$1,000 at an annual percentage rate of 15%, and a transferred balance of \$2,000 that was previously at a discounted annual percentage rate of 5% but is now at an annual percentage rate of 15%. Assume also that the consumer pays \$800 in excess of the required minimum periodic payment. Under § 226.53(a), the card issuer must allocate \$500 to pay off the cash advance balance and allocate the remaining \$300 among the purchase balance and the transferred balance in the manner the card issuer deems appropriate.

v. Assume that on January 1 a consumer uses a credit card account to make a \$1,200 purchase subject to a deferred interest program under which interest accrues at an annual percentage rate of 15% but the consumer will not be obligated to pay that interest if the balance is paid in full on or before June 30. The billing cycles for this account begin on the first day of the month and end on the last day of the month. Each month

from January through June, the consumer uses the account to make \$200 in purchases that are not subject to the deferred interest program but are subject to the 15% rate.

A. Each month from February through June, the consumer pays \$400 in excess of the required minimum periodic payment on the payment due date, which is the twenty-fifth of the month. Any interest that accrues on the purchases not subject to the deferred interest program is paid by the required minimum periodic payment. The card issuer does not accept requests from consumers regarding the allocation of excess payments pursuant to § 226.53(b)(2). Thus, § 226.53(b)(1) requires the card issuer to allocate the \$400 excess payments received on February 25, March 25, and April 25 consistent with § 226.53(a). In other words, the card issuer must allocate those payments as follows: \$200 to pay off the balance not subject to the deferred interest program (which is subject to the 15% rate) and the remaining \$200 to the deferred interest balance (which is treated as a balance with a rate of zero). However, § 226.53(b)(1) requires the card issuer to allocate the entire \$400 excess payment received on May 25 to the deferred interest balance. Similarly, § 226.53(b)(1) requires the card issuer to allocate the \$400 excess payment received on June 25 as follows: \$200 to the deferred interest balance (which pays that balance in full) and the remaining \$200 to the balance not subject to the deferred interest program.

B. Same facts as above, except that the card issuer does accept requests from consumers regarding the allocation of excess payments pursuant to § 226.53(b)(2). In addition, on April 25, the card issuer receives an excess payment of \$800, which the consumer requests be allocated to pay off the \$800 balance subject to the deferred interest

program. Section 226.53(b)(2) permits the card issuer to allocate the \$800 excess payment in the manner requested by the consumer.

53(b) Special rule for accounts with balances subject to deferred interest or similar programs.

1. Deferred interest and similar programs. Section 226.53(b) applies to deferred interest or similar programs under which the consumer is not obligated to pay interest that accrues on a balance if that balance is paid in full prior to the expiration of a specified period of time. For purposes of § 226.53(b), “deferred interest” has the same meaning as in § 226.16(h)(2) and associated commentary. Section 226.53(b) applies regardless of whether the consumer is required to make payments with respect to that balance during the specified period. However, a grace period during which any credit extended may be repaid without incurring a finance charge due to a periodic interest rate is not a deferred interest or similar program for purposes of § 226.53(b). Similarly, a temporary annual percentage rate of zero percent that applies for a specified period of time consistent with § 226.55(b)(1) is not a deferred interest or similar program for purposes of § 226.53(b) unless the consumer may be obligated to pay interest that accrues during the period if a balance is not paid in full prior to expiration of the period.

2. Expiration of program during billing cycle. For purposes of § 226.53(b)(1), a billing cycle does not constitute one of the two billing cycles immediately preceding expiration of a deferred interest or similar program if the expiration date for the program precedes the payment due date in that billing cycle. For example, assume that a credit card account has a balance subject to a deferred interest program that expires on June 15. Assume also that the billing cycles for the account begin on the first day of the month and

end on the last day of the month and that the required minimum periodic payment is due on the twenty-fifth day of the month. The card issuer does not accept requests from consumers regarding the allocation of excess payments pursuant to § 226.53(b)(2).

Because the expiration date for the deferred interest program (June 15) precedes the due date in the June billing cycle (June 25), § 226.53(b)(1) requires the card issuer to allocate first to the deferred interest balance any amount paid by the consumer in excess of the required minimum periodic payment during the April and May billing cycles (as well as any amount paid by the consumer before June 15). However, if the deferred interest program expired on June 25 or on June 30 (or on any day in between), § 226.53(b)(1) would apply only to the May and June billing cycles.

3. Consumer requests.

i. Generally. Section 226.53(b) does not require a card issuer to allocate amounts paid by the consumer in excess of the required minimum periodic payment in the manner requested by the consumer, provided that the card issuer instead allocates such amounts consistent with § 226.53(b)(1). For example, a card issuer may decline consumer requests regarding payment allocation as a general matter or may decline such requests when a consumer does not comply with requirements set by the card issuer (such as submitting the request in writing or submitting the request prior to or contemporaneously with submission of the payment), provided that amounts paid by the consumer in excess of the required minimum periodic payment are allocated consistent with § 226.53(b)(1). Similarly, a card issuer that accepts requests pursuant to § 226.53(b)(2) must allocate amounts paid by a consumer in excess of the required minimum periodic payment consistent with § 226.53(b)(1) if the consumer does not submit a request. Furthermore,

in these circumstances, a card issuer must allocate consistent with § 226.53(b)(1) if the consumer submits a request with which the card issuer cannot comply (such as a request that contains a mathematical error), unless the consumer submits an additional request with which the card issuer can comply.

ii. Examples of consumer requests that satisfy § 226.53(b)(2). A consumer has made a request for purposes of § 226.53(b)(2) if:

A. The consumer contacts the card issuer orally, electronically, or in writing and specifically requests that a payment or payments be allocated in a particular manner during the period of time that the deferred interest or similar program applies to a balance on the account.

B. The consumer completes a form or payment coupon provided by the card issuer for the purpose of requesting that a payment or payments be allocated in a particular manner during the period of time that the deferred interest or similar program applies to a balance on the account and submits that form or coupon to the card issuer.

C. The consumer contacts the card issuer orally, electronically, or in writing and specifically requests that a payment that the card issuer has previously allocated consistent with § 226.53(b)(1) instead be allocated in a different manner.

iii. Examples of consumer requests that do not satisfy § 226.53(b)(2). A consumer has not made a request for purposes of § 226.53(b)(2) if:

A. The terms and conditions of the account agreement contain preprinted language stating that by applying to open an account or by using that account for transactions subject to a deferred interest or similar program the consumer requests that payments be allocated in a particular manner.

B. The card issuer's on-line application contains a preselected check box indicating that the consumer requests that payments be allocated in a particular manner and the consumer does not deselect the box.

C. The payment coupon provided by the card issuer contains preprinted language or a preselected check box stating that by submitting a payment the consumer requests that the payment be allocated in a particular manner.

D. The card issuer requires a consumer to accept a particular payment allocation method as a condition of using a deferred interest or similar program, making a payment, or receiving account services or features.

~~Section 226.54 Limitations on the Imposition of Finance Charges~~

~~54(a) Limitations on imposing finance charges as a result of the loss of a grace period.~~

~~54(a)(1) General rule.~~

~~1. Eligibility for grace period. Section 226.54 prohibits the imposition of finance charges as a result of the loss of a grace period in certain specified circumstances. Section 226.54 does not require the card issuer to provide a grace period. Furthermore, § 226.54 does not prohibit the card issuer from placing limitations and conditions on a grace period (such as limiting application of the grace period to certain types of transactions or conditioning eligibility for the grace period on certain transactions being paid in full by a particular date), provided that such limitations and conditions are consistent with § 226.5(b)(2)(ii)(B) and § 226.54. Finally, § 226.54 does not limit the imposition of finance charges with respect to a transaction when the consumer is not~~