~~previously been triggered on an account, a creditor must modify the language of the late payment disclosure to indicate that the penalty APR has been increased due to previous late payment. The final rule adopts comment 7(b)(11)-5 as proposed. To ease compliance burdens, the Board believes that it is appropriate to provide flexibility to card issuers in providing the late payment disclosure when the highest penalty APR has previously been triggered on the account. The Board notes that consumers will receive advance notice under § 226.9(g) when a penalty APR is being imposed on the consumer's account. In cases where the highest penalty APR has been imposed, the Board does not believe that allowing the late payment disclosures to continue to include the amount of the penalty APR and the warning that the rate may be imposed for an untimely payment is likely to confuse consumers.~~

7(b)(12) Repayment Disclosures

The Bankruptcy Act added TILA Section 127(b)(11) to require creditors that extend open-end credit to provide a disclosure on the front of each periodic statement in a prominent location about the effects of making only minimum payments. 15 U.S.C. 1637(b)(11). This disclosure included: (1) a "warning" statement indicating that making only the minimum payment will increase the interest the consumer pays and the time it takes to repay the consumer's balance; (2) a hypothetical example of how long it would take to pay off a specified balance if only minimum payments are made; and (3) a toll-free telephone number that the consumer may call to obtain an estimate of the time it would take to repay his or her actual account balance ("generic repayment estimate"). In order to standardize the information provided to consumers through the toll-free telephone numbers, the Bankruptcy Act directed the Board to prepare a "table"

illustrating the approximate number of months it would take to repay an outstanding balance if the consumer pays only the required minimum monthly payments and if no other advances are made. The Board was directed to create the table by assuming a significant number of different APRs, account balances, and minimum payment amounts; the Board was required to provide instructional guidance on how the information contained in the table should be used to respond to consumers' requests.

Alternatively, the Bankruptcy Act provided that a creditor may use a toll-free telephone number to provide the actual number of months that it will take consumers to repay their outstanding balances ("actual repayment disclosure") instead of providing an estimate based on the Board-created table. A creditor that does so would not need to include a hypothetical example on its periodic statements, but must disclose the warning statement and the toll-free telephone number on its periodic statements. 15 U.S.C. 1637(b)(11)(J)-(K).

For ease of reference, this supplementary information will refer to the above disclosures in the Bankruptcy Act about the effects of making only the minimum payment as "the minimum payment disclosures."

In the January 2009 Regulation Z Rule, the Board implemented this section of TILA. In that rulemaking, the Board limited the minimum payment disclosures required by the Bankruptcy Act to credit card accounts, pursuant to the Board's authority under TILA Section 105(a) to make adjustments that are necessary to effectuate the purposes of TILA. 15 U.S.C. 1604(a). In addition, the final rule in § 226.7(b)(12) provided that credit card issuers could choose one of three ways to comply with the minimum payment disclosure requirements set forth in the Bankruptcy Act: (1) provide on the periodic

statement a warning about making only minimum payments, a hypothetical example, and a toll-free telephone number where consumers may obtain generic repayment estimates; (2) provide on the periodic statement a warning about making only minimum payments, and a toll-free telephone number where consumers may obtain actual repayment disclosures; or (3) provide on the periodic statement the actual repayment disclosure. The Board issued guidance in Appendix M1 to part 226 for how to calculate the generic repayment estimates, and guidance in Appendix M2 to part 226 for how to calculate the actual repayment disclosures. Appendix M3 to part 226 provided sample calculations for the generic repayment estimates and the actual repayment disclosures discussed in Appendices M1 and M2 to part 226.

The Credit Card Act substantially revised Section 127(b)(11) of TILA. Specifically, Section 201 of the Credit Card Act amends TILA Section 127(b)(11) to provide that creditors that extend open-end credit must provide the following disclosures on each periodic statement: (1) a "warning" statement indicating that making only the minimum payment will increase the interest the consumer pays and the time it takes to repay the consumer's balance; (2) the number of months that it would take to repay the outstanding balance if the consumer pays only the required minimum monthly payments and if no further advances are made; (3) the total cost to the consumer, including interest and principal payments, of paying that balance in full, if the consumer pays only the required minimum monthly payments and if no further advances are made; (4) the monthly payment amount that would be required for the consumer to pay off the outstanding balance in 36 months, if no further advances are made, and the total cost to the consumer, including interest and principal payments, of paying that balance in full if

the consumer pays the balance over 36 months; and (5) a toll-free telephone number at which the consumer may receive information about credit counseling and debt management services. For ease of reference, this supplementary information will refer to the above disclosures in the Credit Card Act as "the repayment disclosures."

The Credit Card Act provides that the repayment disclosures discussed above (except for the warning statement) must be disclosed in the form and manner which the Board prescribes by regulation and in a manner that avoids duplication; and be placed in a conspicuous and prominent location on the billing statement. By regulation, the Board must require that the disclosure of the repayment information (except for the warning statement) be in the form of a table that contains clear and concise headings for each item of information and provides a clear and concise form stating each item of information required to be disclosed under each such heading. In prescribing the table, the Board must require that all the information in the table, and not just a reference to the table, be placed on the billing statement and the items required to be included in the table must be listed in the order in which such items are set forth above. In prescribing the table, the statute states that the Board shall use terminology different from that used in the statute, if such terminology is more easily understood and conveys substantially the same meaning. With respect to the toll-free telephone number for providing information about credit counseling and debt management services, the Credit Card Act provides that the Board must issue guidelines by rule, in consultation with the Secretary of the Treasury, for the establishment and maintenance by creditors of a toll-free telephone number for purposes of providing information about a accessing credit counseling and debt management services. These guidelines must ensure that referrals provided by the toll-

free telephone number include only those nonprofit budget and credit counseling agencies approved by a U.S. bankruptcy trustee pursuant to 11 U.S.C. 111(a).

As discussed in more detail below, in the October 2009 Regulation Z Proposal, the Board proposed to revise § 226.7(b)(12) to implement Section 201 of the Credit Card Act.

Limiting the repayment disclosure requirements to credit card accounts. Under the Credit Card Act, the repayment disclosure requirements apply to all open-end accounts (such as credit card accounts, HELOCs, and general purpose credit lines). As discussed above, in the January 2009 Regulation Z Rule, the Board limited the minimum payment disclosures required by the Bankruptcy Act to credit card accounts. For similar reasons, in the October 2009 Regulation Z Proposal, the Board proposed to limit the repayment disclosures in the Credit Card Act to credit card accounts under open-end (not home-secured) consumer credit plans, as that term would have been defined in proposed § 226.2(a)(15)(ii).

As proposed, the final rule limits the repayment disclosures in the Credit Card Act to credit card accounts under open-end (not home-secured) consumer credit plans, as that term is defined in § 226.2(a)(15)(ii). As discussed in more detail in the section-by-section analysis to § 226.2(a)(15)(ii), the term "credit card account under an open-end (not home-secured) consumer credit plan" means any open-end account accessed by a credit card, except this term does not include HELOC accounts subject to § 226.5b that are accessed by a credit card device or overdraft lines of credit that are accessed by a debit card. Thus, based on the proposed exemption to limit the repayment disclosures to credit card accounts under open-end (not home-secured) consumer credit plans, the

following products would be exempt from the repayment disclosures in TILA Section 127(b)(11), as set forth in the Credit Card Act: (1) HELOC accounts subject to § 226.5b even if they are accessed by a credit card device; (2) overdraft lines of credit even if they are accessed by a debit card; and (3) open-end credit plans that are not credit card accounts, such as general purpose lines of credit that are not accessed by a credit card.

The Board adopts this rule pursuant to its exception and exemption authorities under TILA Section 105. Section 105(a) authorizes the Board to make exceptions to TILA to effectuate the statute's purposes, which include facilitating consumers' ability to compare credit terms and helping consumers avoid the uninformed use of credit. See 15 U.S.C. 1601(a), 1604(a). Section 105(f) authorizes the Board to exempt any class of transactions from coverage under any part of TILA if the Board determines that coverage under that part does not provide a meaningful benefit to consumers in the form of useful information or protection. See 15 U.S.C. 1604(f)(1). The Board must make this determination in light of specific factors. See 15 U.S.C. 1604(f)(2). These factors are (1) the amount of the loan and whether the disclosure provides a benefit to consumers who are parties to the transaction involving a loan of such amount; (2) the extent to which the requirement complicates, hinders, or makes more expensive the credit process; (3) the status of the borrower, including any related financial arrangements of the borrower, the financial sophistication of the borrower relative to the type of transaction, and the importance to the borrower of the credit, related supporting property, and coverage under TILA; (4) whether the loan is secured by the principal residence of the borrower; and (5) whether the exemption would undermine the goal of consumer protection.

As discussed in more detail below, the Board has considered each of these factors carefully, and based on that review, believes that the exemption is appropriate.

1. HELOC accounts. In the August 2009 Regulation Z HELOC Proposal, the Board proposed that the repayment disclosures required by TILA Section 127(b)(11), as amended by the Credit Card Act, not apply to HELOC accounts, including HELOC accounts that can be accessed by a credit card device. See 74 FR 43428. The Board proposed this rule pursuant to its exception and exemption authorities under TILA Section 105(a) and 105(f), as discussed above. In the supplementary information to the August 2009 Regulation Z HELOC Proposal, the Board stated its belief that the minimum payment disclosures in the Credit Card Act would be of limited benefit to consumers for HELOC accounts and are not necessary to effectuate the purposes of TILA. First, the Board understands that most HELOCs have a fixed repayment period. Under the August 2009 Regulation Z HELOC Proposal, in proposed § 226.5b(c)(9)(i), creditors offering HELOCs subject to § 226.5b would be required to disclose the length of the plan, the length of the draw period and the length of any repayment period in the disclosures that must be given within three business days after application (but not later than account opening). In addition, this information also must be disclosed at account opening under proposed § 226.6(a)(2)(v)(A), as set forth in the August 2009 Regulation Z HELOC Proposal. Thus, for a HELOC account with a fixed repayment period, a consumer could learn from those disclosures the amount of time it would take to repay the HELOC account if the consumer only makes required minimum payments. The cost to creditors of providing this information a second time, including the costs to

reprogram periodic statement systems, appears not to be justified by the limited benefit to consumers.

In addition, in the supplementary information to the August 2009 Regulation Z HELOC Proposal, the Board stated its belief that the disclosure about total cost to the consumer of paying the outstanding balance in full (if the consumer pays only the required minimum monthly payments and if no further advances are made) would not be useful to consumers for HELOC accounts because of the nature of consumers' use of HELOC accounts. The Board understands that HELOC consumers tend to use HELOC accounts for larger transactions that they can finance at a lower interest rate than is offered on unsecured credit cards, and intend to repay these transactions over the life of the HELOC account. By contrast, consumers tend to use unsecured credit cards to engage in a significant number of small dollar transactions per billing cycle, and may not intend to finance these transactions for many years. The Board also understands that HELOC consumers often will not have the ability to repay the balances on the HELOC account at the end of each billing cycle, or even within a few years. To illustrate, the Board's 2007 Survey of Consumer Finances data indicates that the median balance on HELOCs (for families that had a balance at the time of the interview) was $24,000, while the median balance on credit cards (for families that had a balance at the time of the interview) was $3,000.[23]

As discussed in the supplementary information to the August 2009 Regulation Z HELOC Proposal, the nature of consumers' use of HELOCs also supports the Board's belief that periodic disclosure of the monthly payment amount required for the consumer to pay off the outstanding balance in 36 months, and the total cost to the consumer of

[23] Changes in U.S. Family Finances from 2004 to 2007.

paying that balance in full if the consumer pays the balance over 36 months, would not provide useful information to consumers for HELOC accounts.

For all these reasons, the final rule exempts HELOC accounts (even when they are accessed by a credit card account) from the repayment disclosure requirements set forth in TILA Section 127(b)(11), as revised by the Credit Card Act.

2. Overdraft lines of credit and other general purpose credit lines. The final rule also exempts overdraft lines of credit (even if they are accessed by a debit card) and general purpose credit lines that are not accessed by a credit card from the repayment disclosure requirements set forth in TILA Section 127(b)(11), as revised by the Credit Card Act, for several reasons. 15 U.S.C. 1637(b)(11). First, these lines of credit are not in wide use. The 2007 Survey of Consumer Finances data indicates that few families--1.7 percent--had a balance on lines of credit other than a home-equity line or credit card at the time of the interview. (By comparison, 73 percent of families had a credit card, and 60.3 percent of these families had a credit card balance at the time of the interview.)[24] Second, these lines of credit typically are neither promoted, nor used, as long-term credit options of the kind for which the repayment disclosures are intended. Third, the Board is concerned that the operational costs of requiring creditors to comply with the repayment disclosure requirements for overdraft lines of credit and other general purpose lines of credit may cause some institutions to no longer provide these products as accommodations to consumers, to the detriment of consumers who currently use these products. For these reasons, the Board uses its TILA Section 105(a) and 105(f) authority (as discussed above) to exempt overdraft lines of credit and other general purpose credit lines from the repayment disclosure requirements, because in this context the Board

[24] Changes in U.S. Family Finances from 2004 to 2007.

believes the repayment disclosures are not necessary to effectuate the purposes of TILA. 15 U.S.C. 1604(a) and (f).

7(b)(12)(i) In General

TILA Section 127(b)(11)(A), as amended by the Credit Card Act, requires that a creditor that extends open-end credit must provide the following disclosures on each periodic statement: (1) a "warning" statement indicating that making only the minimum payment will increase the interest the consumer pays and the time it takes to repay the consumer's balance; (2) the number of months that it would take to repay the outstanding balance if the consumer pays only the required minimum monthly payments and if no further advances are made; (3) the total cost to the consumer, including interest and principal payments, of paying that balance in full, if the consumer pays only the required minimum monthly payments and if no further advances are made; (4) the monthly payment amount that would be required for the consumer to pay off the outstanding balance in 36 months, if no further advances are made, and the total cost to the consumer, including interest and principal payments, of paying that balance in full if the consumer pays the balance over 36 months; and (5) a toll-free telephone number at which the consumer may receive information about accessing credit counseling and debt management services.

In implementing these statutory disclosures, proposed § 226.7(b)(12)(i) would have set forth the repayment disclosures that a credit card issuer generally must provide on the periodic statement. As discussed in more detail below, proposed § 226.7(b)(12)(ii) would have set forth the repayment disclosures that a credit card issuer

must provide on the periodic statement when negative or no amortization occurs on the account.

Warning statement. TILA Section 127(b)(11)(A), as amended by the Credit Card Act, requires that a creditor include the following statement on each periodic statement: "Minimum Payment Warning: Making only the minimum payment will increase the amount of interest you pay and the time it takes to repay your balance," or a similar statement that is required by the Board pursuant to consumer testing. 15 U.S.C. 1637(b)(11)(A). Under proposed § 226.7(b)(12)(i)(A), if amortization occurs on the account, a credit card issuer generally would have been required to disclose the following statement with a bold heading on each periodic statement: "**Minimum Payment Warning**: If you make only the minimum payment each period, you will pay more in interest and it will take you longer to pay off your balance." The proposed warning statement would have contained several stylistic revisions to the statutory language, based on plain language principles, in an attempt to make the language of the warning more understandable to consumers.

The Board received no comments on this aspect of the proposal. The Board adopts the above warning statement as proposed. The Board tested the warning statement as part of the consumer testing conducted by the Board on credit card disclosures in relation to the January 2009 Regulation Z Rule. Participants in that consumer testing reviewed periodic statement disclosures with the warning statement, and they indicated they understood from this statement that paying only the minimum payment would increase both interest charges and the length of time it would take to pay off a balance.

Minimum payment disclosures. TILA Section 127(b)(11)(B)(i) and (ii), as amended by the Credit Card Act, requires that a creditor provide on each periodic statement: (1) the number of months that it would take to pay the entire amount of the outstanding balance, if the consumer pays only the required minimum monthly payments and if no further advances are made; and (2) the total cost to the consumer, including interest and principal payments, of paying that balance in full, if the consumer pays only the required minimum monthly payments and if no further advances are made. 15 U.S.C. 1637(b)(11)(B)(i) and (ii). In the October 2009 Regulation Z Proposal, the Board proposed new § 226.7(b)(12)(i)(B) and (C) to implement these statutory provisions.

1. Minimum payment repayment estimate. Under proposed § 226.7(b)(12)(i)(B), if amortization occurs on the account, a credit card issuer generally would have been required to disclose on each periodic statement the minimum payment repayment estimate, as described in proposed Appendix M1 to part 226. As described in more detail in the section-by-section analysis to Appendix M1 to part 226, the minimum payment repayment estimate would be an estimate of the number of months that it would take to pay the entire amount of the outstanding balance shown on the periodic statement, if the consumer pays only the required minimum monthly payments and if no further advances are made.

Proposed § 226.7(b)(12)(i)(B) would have provided that if the minimum payment repayment estimate is less than 2 years, a credit card issuer must disclose the estimate in months. Otherwise, the estimate would be disclosed in years. If the estimate is 2 years or more, the estimate would have been rounded to the nearest whole year, meaning that if the estimate contains a fractional year less than 0.5, the estimate would be rounded down

to the nearest whole year. The estimate would have been rounded up to the nearest whole year if the estimate contains a fractional year equal to or greater than 0.5. In response to the October 2009 Regulation Z Proposal, several consumer groups commented that the minimum payment repayment estimate should not be rounded to the nearest year if the repayment period is 2 years or more. Instead, the Board should require in those cases that the minimum payment repayment estimate be disclosed in years and months. For example, assume a minimum payment repayment estimate of 209 months. The consumer groups suggest that credit card issuers should be required to disclose the repayment estimate of 209 months as 17 years and 5 months, instead of disclosing this repayment estimate as 17 years which would be required under the rounding rules set forth in the proposal. The consumer groups indicated that six months can be a significant amount of time for some consumers.

As proposed, the final rule in § 226.7(b)(12)(i)(B) provides that if the minimum payment repayment estimate is less than 2 years, a credit card issuer must disclose the estimate in months. Otherwise, the estimate would be disclosed in years. If the estimate is 2 years or more, the estimate would have been rounded to the nearest whole year. The Board adopts this provision of the final rule pursuant to the Board's authority to make adjustments to TILA's requirements to effectuate the statute's purposes, which include facilitating consumers' ability to compare credit terms and helping consumers avoid the uninformed use of credit. See 15 U.S.C. 1601(a), 1604(a). The Board believes that disclosing the estimated minimum payment repayment period in years (if the estimated payoff period is 2 years or more) allows consumers to better comprehend longer repayment periods without having to convert the repayment periods themselves from

months to years. In consumer testing conducted by the Board on credit card disclosures in relation to the January 2009 Regulation Z Rule, participants reviewed disclosures with estimated minimum payment repayment periods in years, and they indicated they understood the length of time it would take to repay the balance if only minimum payments were made.

Thus, if the minimum payment repayment estimate is 2 years or more, the final rule does not require credit card issuers to disclose the minimum payment repayment estimate in years and months, such as disclosing the minimum payment repayment estimate of 209 months as 17 years and 5 months, instead of disclosing this repayment estimate as 17 years (which is required under the rounding rules set forth in the final rule). The Board recognizes that the minimum payment repayment estimates, as calculated in Appendix M1 to part 226, are estimates, calculated using a number of assumptions about current and future account terms. The Board believes that disclosing minimum payment repayment estimates that are 2 years or more in years and months might cause consumers to believe that the estimates are more accurate than they really are, especially for longer repayment periods. The Board believes that rounding the minimum payment repayment estimate to the nearest year (if the repayment estimate is 2 years or more) provides consumers with an appropriate estimate of how long it would take to repay the outstanding balance if only minimum payments are made.

2. Minimum payment total cost estimate. Consistent with TILA Section 127(b)(11)(B)(ii), as revised by the Credit Card Act, proposed § 226.7(b)(12)(i)(C) provided that if amortization occurs on the account, a credit card issuer generally must disclose on each periodic statement the minimum payment total cost estimate, as

described in proposed Appendix M1 to part 226. As described in more detail in the section-by-section analysis to proposed Appendix M1 to part 226, the minimum payment total cost estimate would have been an estimate of the total dollar amount of the interest and principal that the consumer would pay if he or she made minimum payments for the length of time calculated as the minimum payment repayment estimate, as described in proposed Appendix M1 to part 226. Under the proposal, the minimum payment total cost estimate must be rounded to the nearest whole dollar. The final rule adopts this provision as proposed.

3. Disclosure of assumptions used to calculate the minimum payment repayment estimate and the minimum payment total cost estimate. Under proposed § 226.7(b)(12)(i)(D), a creditor would have been required to provide on the periodic statement the following statements: (1) a statement that the minimum payment repayment estimate and the minimum payment total cost estimate are based on the current outstanding balance shown on the periodic statement; and (2) a statement that the minimum payment repayment estimate and the minimum payment total cost estimate are based on the assumption that only minimum payments are made and no other amounts are added to the balance. The final rule adopts this provision as proposed. The Board believes that this information is needed to help consumers understand the minimum payment repayment estimate and the minimum payment total cost estimate. The final rule does not require issuers to disclose other assumptions used to calculate these estimates. The many assumptions that are necessary to calculate the minimum payment repayment estimate and the minimum payment total cost estimate are complex and unlikely to be meaningful or useful to most consumers.

Repayment disclosures based on repayment in 36 months. TILA Section 127(b)(11)(B)(iii), as revised by the Credit Card Act, requires that a creditor disclose on each periodic statement: (1) the monthly payment amount that would be required for the consumer to pay off the outstanding balance in 36 months, if no further advances are made; and (2) the total costs to the consumer, including interest and principal payments, of paying that balance in full if the consumer pays the balance over 36 months. 15 U.S.C. 1637(b)(11)(B)(iii).

1. Estimated monthly payment for repayment in 36 months and total cost estimate for repayment in 36 months. In implementing TILA Section 127(b)(11)(B)(iii), as revised by the Credit Card Act, proposed § 226.7(b)(12)(i)(F) provided that except when the minimum payment repayment estimate disclosed under proposed § 226.7(b)(12)(i)(B) is 3 years or less, a credit card issuer must disclose on each periodic statement the estimated monthly payment for repayment in 36 months and the total cost estimate for repayment in 36 months, as described in proposed Appendix M1 to part 226. As described in more detail in the section-by-section analysis to Appendix M1 to part 226, the proposed estimated monthly payment for repayment in 36 months would have been an estimate of the monthly payment amount that would be required to pay off the outstanding balance shown on the statement within 36 months, assuming the consumer paid the same amount each month for 36 months. Also, as described in Appendix M1 to part 226, the proposed total cost estimate for repayment in 36 months would have been the total dollar amount of the interest and principal that the consumer would pay if he or she made the estimated monthly payment each month for 36 months. Under the proposal, the estimated monthly payment for repayment in 36 months and the total cost estimate for

repayment in 36 months would have been rounded to the nearest whole dollar. The final rule adopts these provisions as proposed, except with several additional exceptions to when the 36-month disclosures must be disclosed as discussed below.

2. Savings estimate for repayment in 36 months. In addition to the disclosure of the estimated monthly payment for repayment in 36 months and the total cost estimate for repayment in 36 months, proposed § 226.7(b)(12)(i)(F) also would have required that a credit card issuer generally must disclose on each periodic statement the savings estimate for repayment in 36 months, as described in proposed Appendix M1 to part 226. As described in proposed Appendix M1 to part 226, the savings estimate for repayment in 36 months would have been calculated as the difference between the minimum payment total cost estimate and the total cost estimate for repayment in 36 months. Thus, the savings estimate for repayment in 36 months would have represented an estimate of the amount of interest that a consumer would "save" if the consumer repaid the balance shown on the statement in 3 years by making the estimated monthly payment for repayment in 36 months each month, rather than making minimum payments each month. In response to the October 2009 Regulation Z Proposal, one commenter indicated that the Board should not require the savings estimate for repayment in 36 months because this disclosure would not be helpful to consumers. The final rule requires credit card issuers generally to disclose the savings estimate for repayment in 36 months on periodic statements, as proposed. The Board adopts this disclosure requirement pursuant to the Board's authority to make adjustments to TILA's requirements to effectuate the statute's purposes, which include facilitating consumers' ability to compare credit terms and helping consumers avoid the uninformed use of credit. See 15 U.S.C. 1601(a), 1604(a).

The Board continues to believe that the savings estimate for repayment in 36 months will allow consumers more easily to understand the potential savings of paying the balance shown on the periodic statement in 3 years rather than making minimum payments each month. This potential savings appears to be Congress' purpose in requiring that the total cost for making minimum payments and the total cost for repayment in 36 months be disclosed on the periodic statement. The Board believes that including the savings estimate on the periodic statement allows consumers to comprehend better the potential savings without having to compute this amount themselves from the total cost estimates disclosed on the periodic statement. In consumer testing conducted by the Board on closed-end mortgage disclosures in relation to the August 2009 Regulation Z Closed-End Credit Proposal, some participants were shown two offers for mortgage loans with different APRs and different totals of payments. In that consumer testing, in comparing the two mortgage loans, participants tended not to calculate for themselves the difference between the total of payments for the two loans (i.e., the potential savings in choosing one loan over another), and use that amount to compare the two loans. Instead, participants tended to disregard the total of payments for both loans, because both totals were large numbers. Given the results of that consumer testing, the Board believes it is important to disclose the savings estimate on the periodic statement to focus consumers' attention explicitly on the potential savings of repaying the balance in 36 months.

3. Minimum payment repayment estimate disclosed on the periodic statement is three years or less. Under proposed § 226.7(b)(12)(i)(F), a credit card issuer would not have been required to provide the disclosures related to repayment in 36 months if the minimum payment repayment estimate disclosed under proposed § 226.7(b)(12)(i)(B)

was 3 years or less. The Board retains this exemption in the final rule with several technical revisions. The Board adopts this exemption pursuant to the Board's authority exception and exemption authorities under TILA Section 105(a) and (f). The Board has considered the statutory factors carefully, and based on that review, believes that the exemption is appropriate. The Board believes that the estimated monthly payment for repayment in 36 months, and the total cost estimate for repayment in 36 months would not be useful and may be misleading to consumers where based on the minimum payments that would be due on the account, a consumer would be required to repay the outstanding balance in three years or less. For example, assume that based on the minimum payments due on an account, a consumer would repay his or her outstanding balance in two years if the consumer only makes minimum payments and take no additional advances. The consumer under the account terms would not have the option to repay the outstanding balance in 36 months (i.e., 3 years). In this example, disclosure of the estimated monthly payment for repayment in 36 months and the total cost estimate for repayment in 36 months would be misleading, because under the account terms the consumer does not have the option to make the estimated monthly payment each month for 36 months. Requiring that this information be disclosed on the periodic statement when it is might be misleading to consumers would undermine TILA's goal of consumer protection, and could make the credit process more expensive by requiring card issuers to incur costs to address customer confusion about these disclosures.

In the final rule, the provision that exempts credit card issuers from disclosing on the periodic statement the disclosures related to repayment in 36 months if the minimum payment repayment estimate disclosed under § 226.7(b)(12)(i)(B) is 3 years or less has

been moved to § 226.7(b)(1)(i)(F)(2)(i). In addition, the language of this exemption has been revised to clarify that the exemption applies if the minimum payment repayment estimate disclosed on the periodic statement under § 226.7(b)(12)(i)(B) after rounding is 3 years or less. For example, under the final rule, if the minimum payment repayment estimate is 2 years 6 month to 3 years 5 months, issuers would be required to disclose on the periodic statement that it would take 3 years to pay off the balance in full if making only the minimum payment. In these cases, an issuer would not be required to disclose the 36-month disclosures on the periodic statement because the minimum payment repayment estimate disclosed to the consumer on the periodic statement (after rounding) is 3 years or less. Comment 7(b)(12)(i)(F)-1 has been added to clarify these disclosure rules.

4. Estimated monthly payment for repayment in 36 months is less than the minimum payment for a particular billing cycle. In response to the October 2009 Regulation Z Proposal, several commenters suggested that card issuer should not be required to disclose the 36-month disclosures in a billing cycle where the minimum payment for that billing cycle is higher than the payment amount that would be disclosed in order to pay off the account in 36 months (i.e., the estimated monthly payment for repayment in 36 months). One commenter indicated that this can occur for credit card programs that use a graduated payment schedule, which require a larger minimum payment in the initial months after a transaction on the account. This may also occur when an account is past due, and the required minimum payment for a particular billing cycle includes the entire past due amount. Commenters were concerned that disclosing an estimated monthly payment for repayment in 36 months in a billing cycle where this

estimated payment is lower than the required minimum payment for that billing cycle might be confusing and even deceptive to consumers. A consumer that paid the estimated monthly payment for repayment in 36 months (which is lower than the required minimum payment that billing cycle) could incur a late fee and be subject to other penalties. The Board shares these concerns, and thus, the final rule provides that a card issuer is not required to disclose the 36-month disclosures for any billing cycle where the estimated monthly payment for repayment in 36 months, as described in Appendix M1 to part 226, rounded to the nearest whole dollar that is calculated for a particular billing cycle is less than the minimum payment required for the plan for that billing cycle. See § 226.7(b)(12)(i)(F)(2)(ii). The Board adopts this exemption pursuant to the Board's authority exception and exemption authorities under TILA Section 105(a). The Board has considered the statutory factors carefully, and based on that review, believes that the exemption is appropriate. Requiring that the 36-month disclosures be disclosed on the periodic statement when they might be misleading to consumers would undermine TILA's goal of consumer protection, and could make the credit process more expensive by requiring card issuers to incur costs to address customer confusion about these disclosures.

5. A billing cycle where an account has both a balance on a revolving feature and on a fixed repayment feature. In response to the October 2009 Regulation Z Proposal, several commenters raised concerns that the 36-month disclosures could be misleading in a particular billing cycle where an account has both a balance in a revolving feature where the required minimum payments for this feature will not amortize that balance in a fixed amount of time specified in the account agreement and a balance in a fixed

repayment feature where the required minimum payment for this fixed repayment feature will amortize that balance in a fixed amount of time specified in the account agreement which is less than 36 months. For example, assume a retail card has several features. One feature is a general revolving feature, where the required minimum payment for this feature does not pay off the balance in a fixed period of time. Another feature allows consumers to make specific types of purchases (such as furniture purchases, or other large purchases), with a required minimum payment that will pay off the purchase within a fixed period of time as set forth in the account agreement that is less than 36 months, such as one year. Commenters indicated that in many cases, where this type of account has balances on both the revolving feature and fixed repayment feature for a particular billing cycle, the required minimum due may initially be higher than what would be required to repay the entire account balance in 36 equal payments. In addition, calculation of the estimated monthly payment for repayment in 36 months assumes that the entire balance may be repaid in 36 months, while under the account agreement the balance in the fixed repayment feature must be repaid in a shorter timeframe. Based on these concerns, the Board amends the final rule to provide that a card issuer is not required to provide the 36-month disclosures on a periodic statement for a billing cycle where an account has both a balance in a revolving feature where the required minimum payments for this feature will not amortize that balance in a fixed amount of time specified in the account agreement and a balance in a fixed repayment feature where the required minimum payment for this fixed repayment feature will amortize that balance in a fixed amount of time specified in the account agreement which is less than 36 months. See § 226.7(b)(12)(i)(F)(2)(iii). The Board adopts this exemption pursuant to the Board's

authority exception and exemption authorities under TILA Section 105(a). The Board has considered the statutory factors carefully, and based on that review, believes that the exemption is appropriate. Requiring that the 36-month disclosures be disclosed on the periodic statement when they might be misleading to consumers would undermine TILA's goal of consumer protection, and could make the credit process more expensive by requiring card issuers to incur costs to address customer confusion about these disclosures.

6. Disclosure of assumptions used to calculate the 36-month disclosures. If a card issuer is required to provide the 36-month disclosures, proposed § 226.7(b)(12)(i)(F)(2) would have provided that a credit card issuer must disclose as part of those disclosures a statement that the card issuer estimates that the consumer will repay the outstanding balance shown on the periodic statement in 3 years if the consumer pays the estimated monthly payment each month for 3 years. The final rule retains this provision as proposed, except that this provision is moved to § 226.7(b)(12)(i)(F)(1)(ii). The Board believes that this information is needed to help consumers understand the estimated monthly payment for repayment in 36 months. The final rule does not require issuers to disclose assumptions used to calculate this estimated monthly payment. The many assumptions that are necessary to calculate the estimated monthly payment for repayment in 36 months are complex and unlikely to be meaningful or useful to most consumers.

Disclosure of extremely long repayment periods. In response to the October 2009 Regulation Z Proposal, one commenter indicated that it had observed accounts that result in very long repayment periods. This commenter indicated that this situation usually

results when the minimum payment requirements are very low in proportion to the APRs on the account. The commenter indicated that these scenarios result most frequently when issuers endeavor to provide temporary relief to consumers during periods of hardship, workout and disasters such as floods. This commenter indicated that requiring issuers to calculate and disclose these long repayment periods would cause compliance problems, because the software program cannot be written to execute an ad infinitum number of cycles. The commenter requested that the Board establish a reasonable maximum number of years for repayment and provide an appropriate statement disclosure message to reflect an account that exceeds the number of years and total costs provided.

With respect to these temporarily reduced minimum payments, the calculation of these long repayment periods often result from assuming that the temporary minimum payment will apply indefinitely. The Board notes that guidance provided in Appendix M1 to part 226 for how to handle temporary minimum payments may reduce the situations in which the calculation of a long repayment period would result. In particular, as discussed in more detail in the section-by-section analysis to Appendix M1 to part 226, Appendix M1 provides that if any promotional terms related to payments apply to a cardholder's account, such as a deferred billing plan where minimum payments are not required for 12 months, credit card issuers may assume no promotional terms apply to the account. In Appendix M1 to part 226, the term "promotional terms" is defined as terms of a cardholder's account that will expire in a fixed period of time, as set forth by the card issuer. Appendix M1 to part 226 clarifies that issuers have two alternatives for handling promotional minimum payments. Under the first alternative, an issuer may disregard the

promotional minimum payment during the promotional period, and instead calculate the minimum payment repayment estimate using the standard minimum payment formula that is applicable to the account. For example, assume that a promotional minimum payment of $10 applies to an account for six months, and then after the promotional period expires, the minimum payment is calculated as 2 percent of the outstanding balance on the account or $20 whichever is greater. An issuer may assume during the promotional period that the $10 promotional minimum payment does not apply, and instead calculate the minimum payment disclosures based on the minimum payment formula of 2 percent of the outstanding balance or $20, whichever is greater. The Board notes that allowing issuers to disregard promotional payment terms on accounts where the promotional payment terms apply only for a limited amount of time eases the compliance burden on issuers, without a significant impact on the accuracy of the repayment estimates for consumers.

Under the second alternative, an issuer in calculating the minimum payment repayment estimate during the promotional period may choose not to disregard the promotional minimum payment but instead may calculate the minimum payments as they will be calculated over the duration of the account. In the above example, an issuer could calculate the minimum payment repayment estimate during the promotional period by assuming the $10 promotional minimum payment will apply for the first six months and then assuming the 2 percent or $20 (whichever is greater) minimum payment formula will apply until the balance is repaid. Appendix M1 to part 226 clarifies, however, that in calculating the minimum payment repayment estimate during a promotional period, an issuer may not assume that the promotional minimum payment will apply until the

outstanding balance is paid off by making only minimum payments (assuming the repayment estimate is longer than the promotional period). In the above example, the issuer may not calculate the minimum payment repayment estimate during the promotional period by assuming that the $10 promotional minimum payment will apply beyond the six months until the outstanding balance is repaid.

While the Board believes that the above guidance for how to handle temporary minimum payments may reduce the situations in which the calculation of a long repayment period would result, the Board understands that there may still be circumstances where long repayment periods result, because the standard minimum payment is low in comparison to the APR that applies to the account. The final rule does not contain special rules for disclosing extremely long repayment periods, such as allowing credit card issuers to disclose long repayment periods as "over 100 years." As proposed, the final rule requires a credit card issuer to disclose the minimum payment repayment estimate, as described in Appendix M1 to part 226, on the periodic statement even if that repayment period is extremely long, such as over 100 years. The Board believes that it was Congress' intent to require that estimates of the repayment periods be disclosed on periodic statements, even if the repayment periods are extremely long.

Toll-free telephone number. TILA Section 127(b)(11)(B)(iii), as revised by the Credit Card Act, requires that a creditor disclose on each periodic statement a toll-free telephone number at which the consumer may receive information about credit counseling and debt management services. 15 U.S.C. 1637(b)(11)(B)(iii). Proposed § 226.7(b)(12)(i)(E) provided that a credit card issuer generally must disclose on each periodic statement a toll-free telephone number where the consumer may obtain

information about credit counseling services consistent with the requirements set forth in proposed § 226.7(b)(12)(iv). The final rule adopts this provision as proposed. As discussed in more detail below, § 226.7(b)(12)(iv) sets forth the information that a credit card issuer must provide through the toll-free telephone number.

7(b)(12)(ii) Negative or No Amortization

Negative or no amortization can occur if the required minimum payment is the same as or less than the total finance charges and other fees imposed during the billing cycle. Several major credit card issuers have established minimum payment requirements that prevent prolonged negative or no amortization. But some creditors may use a minimum payment formula that allows negative or no amortization (such as by requiring a payment of 2 percent of the outstanding balance, regardless of the finance charges or fees incurred).

The Credit Card Act appears to require the following disclosures even when negative or no amortization occurs: (1) a "warning" statement indicating that making only the minimum payment will increase the interest the consumer pays and the time it takes to repay the consumer's balance; (2) the number of months that it would take to repay the outstanding balance if the consumer pays only the required minimum monthly payments and if no further advances are made; (3) the total cost to the consumer, including interest and principal payments, of paying that balance in full, if the consumer pays only the required minimum monthly payments and if no further advances are made; (4) the monthly payment amount that would be required for the consumer to pay off the outstanding balance in 36 months, if no further advances are made, and the total cost to the consumer, including interest and principal payments, of paying that balance in full if

the consumer pays the balance over 36 months; and (5) a toll-free telephone number at which the consumer may receive information about credit counseling and debt management services.

Nonetheless, for the reasons discussed in more detail below, in the October 2009 Regulation Z Proposal, the Board proposed to make adjustments to the above statutory requirements when negative or no amortization occurs. Specifically, when negative or no amortization occurs, the Board proposed in new § 226.7(b)(12)(ii) to require a credit card issuer to disclose to the consumer on the periodic statement the following information: (1) the following statement: "**Minimum Payment Warning:** Even if you make no more charges using this card, if you make only the minimum payment each month we estimate **you will never pay off the balance shown on this statement** because your payment will be less than the interest charged each month;" (2) the following statement: "If you make more than the minimum payment each period, you will pay less in interest and pay off your balance sooner;" (3) the estimated monthly payment for repayment in 36 months; (4) the fact that the card issuer estimates that the consumer will repay the outstanding balance shown on the periodic statement in 3 years if the consumer pays the estimated monthly payment each month for 3 years; and (5) the toll-free telephone number for obtaining information about credit counseling services. The final rule adopts these disclosures, as proposed, pursuant to the Board's authority under TILA Section 105(a) to make adjustments or exceptions to effectuate the purposes of TILA. 15 U.S.C. 1604(a). When negative or no amortization occurs, the number of months to repay the balance shown on the statement if minimum payments are made and the total cost in interest and principal if the balance is repaid making only minimum payments cannot be calculated

because the balance will never be repaid if only minimum payments are made. Under the final rule, these statutory disclosures are replaced with a warning that the consumer will never repay the balance if making minimum payments each month.

In addition, under the final rule, if negative or no amortization occurs, card issuers would be required to disclose the following statement: "If you make more than the minimum payment each period, you will pay less in interest and pay off your balance sooner." This sentence is similar to, and accomplishes the goals of, the statutory warning statement, by informing consumers that they can pay less interest and pay off the balance sooner if the consumer pays more than the minimum payment each month.

In addition, consistent with TILA Section 127(b)(11) as revised by the Credit Card Act, if negative or no amortization occurs, under the final rule, a credit card issuer must disclose to the consumer the estimated monthly payment for repayment in 36 months and a statement of the fact the card issuer estimates that the consumer will repay the outstanding balance shown on the periodic statement in 3 years if the consumer pays the estimated monthly payment each month for 3 years.

Under the final rule, if negative or no amortization occurs, a card issuer, however, would not disclose the total cost estimate for repayment in 36 months, as described in Appendix M1 to part 226. The Board adopts an exception to TILA's requirement to disclose the total cost estimate for repayment in 36 months pursuant to the Board's exception and exemption authorities under TILA Section 105(f).

The Board has considered each of the statutory factors carefully, and based on that review, believes that the exemption is appropriate. As discussed above, when negative or no amortization occurs, a minimum payment total cost estimate cannot be

calculated because the balance shown on the statement will never be repaid if only minimum payments are made. Thus, under the final rule, a credit card issuer would not be required to disclose a minimum payment total cost estimate as described in proposed Appendix M1 to part 226. Because the minimum payment total cost estimate will not be disclosed when negative or no amortization occurs, the Board does not believe that the total cost estimate for repayment in 36 months would be useful to consumers. The Board believes that the total cost estimate for repayment in 36 months is useful when it can be compared to the minimum payment total cost estimate. Requiring that this information be disclosed on the periodic statement when it is not useful to consumers could distract consumers from more important information on the periodic statement, which could undermine TILA's goal of consumer protection.

7(b)(12)(iii) Format Requirements

As discussed above, TILA Section 127(b)(11)(D), as revised by the Credit Card Act, provides that the repayment disclosures (except for the warning statement) must be disclosed in the form and manner which the Board prescribes by regulation and in a manner that avoids duplication and must be placed in a conspicuous and prominent location on the billing statement. 15 U.S.C. 1637(b)(11)(D). By regulation, the Board must require that the disclosure of the repayment information (except for the warning statement) be in the form of a table that contains clear and concise headings for each item of information and provides a clear and concise form stating each item of information required to be disclosed under each such heading. In prescribing the table, the Board must require that all the information in the table, and not just a reference to the table, be placed on the billing statement. In addition, the items required to be included in the table

must be listed in the following order: (1) the minimum payment repayment estimate; (2) the minimum payment total cost estimate; (3) the estimated monthly payment for repayment in 36 months; (4) the total cost estimate for repayment in 36 months; and (5) the toll-free telephone number. In prescribing the table, the Board must use terminology different from that used in the statute, if such terminology is more easily understood and conveys substantially the same meaning.

Samples G-18(C)(1), G-18(C)(2) and G-18(C)(3). Proposed § 226.7(b)(12)(iii) provided that a credit card issuer must provide the repayment disclosures in a format substantially similar to proposed Samples G 18(C)(1), G-18(C)(2) and G-18(C)(3) in Appendix G to part 226, as applicable.

Proposed Sample G-18(C)(1) would have applied when amortization occurs and the 36-month disclosures were required to be disclosed under proposed § 226.7(b)(12)(i)(F). In this case, as discussed above, a credit card issuer would have been required under proposed § 226.7(b)(12) to disclose on the periodic statement: (1) the warning statement; (2) the minimum payment repayment estimate; (3) the minimum payment total cost estimate; (4) the fact that the minimum payment repayment estimate and the minimum payment total cost estimate are based on the current outstanding balance shown on the periodic statement, and the fact that the minimum payment repayment estimate and the minimum payment total cost estimate are based on the assumption that only minimum payments are made and no other amounts are added to the balance; (5) the estimated monthly payment for repayment in 36 months; (6) the total cost estimate for repayment in 36 months; (7) the savings estimate for repayment in 36 months; (8) the fact that the card issuer estimates that the consumer will repay the

outstanding balance shown on the periodic statement in 3 years if the consumer pays the estimated monthly payment each month for 3 years; and (9) the toll-free telephone number for obtaining information about credit counseling services. Sample G-18(C)(1) is adopted as proposed, with technical edits to the heading of the sample form.

As shown in Sample G-18(C)(1), card issuers are required to provide the following disclosures in the form of a table with headings, content and format substantially similar to Sample G-18(C)(1): (1) the fact that the minimum payment repayment estimate and the minimum payment total cost estimate are based on the assumption that only minimum payments are made; (2) the minimum payment repayment estimate; (3) the minimum payment total cost estimate, (4) the estimated monthly payment for repayment in 36 months; (5) the fact the card issuer estimates that the consumer will repay the outstanding balance shown on the periodic statement in 3 years if the consumer pays the estimated monthly payment each month for 3 years; (6) total cost estimate for repayment in 36 months; and (7) the savings estimate for repayment in 36 months. The following information is incorporated into the headings for the table: (1) the fact that the minimum payment repayment estimate and the minimum payment total cost estimate are based on the current outstanding balance shown on the periodic statement; and (2) the fact that the minimum payment repayment estimate and the minimum payment total cost estimate are based on the assumption that no other amounts are added to the balance. The warning statement must be disclosed above the table and the toll-free telephone number must be disclosed below the table.

Proposed Sample G-18(C)(2) would have applied when amortization occurs and the 36-month disclosures were not required to be disclosed under proposed

§ 226.7(b)(12)(i)(F). In this case, as discussed above, a credit card issuer would have been required under proposed § 226.7(b)(12) to disclose on the periodic statement: (1) the warning statement; (2) the minimum payment repayment estimate; (3) the minimum payment total cost estimate; (4) the fact that the minimum payment repayment estimate and the minimum payment total cost estimate are based on the current outstanding balance shown on the periodic statement, and the fact that the minimum payment repayment estimate and the minimum payment total cost estimate are based on the assumption that only minimum payments are made and no other amounts are added to the balance; and (5) the toll-free telephone number for obtaining information about credit counseling services. Sample G-18(C)(2) is adopted as proposed, with technical edits to the heading of the sample form.

As shown in Sample G-18(C)(2), disclosure of the above information is similar in format to how this information is disclosed in Sample G-18(C)(1). Specifically, as shown in Sample G-18(C)(2), card issuers are required to disclose the following disclosures in the form of a table with headings, content and format substantially similar to Sample G-18(C)(2): (1) the fact that the minimum payment repayment estimate and the minimum payment total cost estimate are based on the assumption that only minimum payments are made; (2) the minimum payment repayment estimate; and (3) the minimum payment total cost estimate. The following information is incorporated into the headings for the table: (1) the fact that the minimum payment repayment estimate and the minimum payment total cost estimate are based on the current outstanding balance shown on the periodic statement; and (2) the fact that the minimum payment repayment estimate and the minimum payment total cost estimate are based on the assumption that no other

amounts are added to the balance. The warning statement must be disclosed above the table and the toll-free telephone number must be disclosed below the table.

Proposed Sample G-18(C)(3) would have applied when negative or no amortization occurs. In this case, as discussed above, a credit card issuer would have been required under proposed § 226.7(b)(12) to disclose on the periodic statement: (1) the following statement: **Minimum Payment Warning**: Even if you make no more charges using this card, if you make only the minimum payment each month we estimate **you will never pay off the balance shown on this statement** because your payment will be less than the interest charged each month;" (2) the following statement: "If you make more than the minimum payment each period, you will pay less in interest and pay off your balance sooner;" (3) the estimated monthly payment for repayment in 36 months; (4) the fact the card issuer estimates that the consumer will repay the outstanding balance shown on the periodic statement in 3 years if the consumer pays the estimated monthly payment each month for 3 years; and (5) the toll-free telephone number for obtaining information about credit counseling services. Sample G-18(C)(3) is adopted as proposed.

As shown in Sample G-18(C)(3), none of the above information would be required to be in the form of a table, notwithstanding TILA's requirement that the repayment information (except the warning statement) be in the form of a table. The Board adopts this exemption to this TILA requirement pursuant to the Board's authority exception and exemption authorities under TILA Section 105(a). The Board does not believe that the tabular format is a useful format for disclosing that negative or no amortization is occurring. The Board believes that a narrative format is better than a tabular format for communicating to consumers that making only minimum payments

will not repay the balance shown on the periodic statement. For consistency, Sample G-18(C)(3) also provides the disclosures about repayment in 36 months in a narrative form as well. To help ensure that consumers notice the disclosures about negative or no amortization and the disclosures about repayment in 36 months, the Board would require that card issuers disclose certain key information in bold text, as shown in Sample G-18(C)(3).

As discussed above, TILA Section 127(b)(11)(D), as revised by the Credit Card Act, provides that the toll-free telephone number for obtaining credit counseling information must be disclosed in the table with: (1) the minimum payment repayment estimate; (2) the minimum payment total cost estimate; (3) the estimated monthly payment for repayment in 36 months; and (4) the total cost estimate for repayment in 36 months. As proposed, the final rule does not provide that the toll-free telephone number must be in a tabular format. See Samples G-18(C)(1), G-18(C)(2) and G-18(C)(3). The Board adopts this exemption pursuant to the Board's exception and exemption authorities under TILA Section 105(a), as discussed above. The Board believes that it might be confusing to consumers to include the toll-free telephone number in the table because it does not logically flow from the other information included in the table. To help ensure that the toll-free telephone number is noticeable to consumer, the final rule requires that the toll-free telephone number be grouped with the other repayment information.

Format requirements set forth in § 226.7(b)(13). Proposed § 226.7(b)(12)(iii) provided that a credit card issuer must provide the repayment disclosures in accordance with the format requirements of proposed § 226.7(b)(13). The final rule adopts this

provision as proposed. As discussed in more detail in the section-by-section analysis to § 226.7(b)(13), the final rule in § 226.7(b)(13) requires that the repayment disclosures required to be disclosed under § 226.7(b)(12) must be disclosed closely proximate to the minimum payment due. In addition, under the final rule, the repayment disclosures must be grouped together with the due date, late payment fee and annual percentage rate, ending balance, and minimum payment due, and this information must be disclosed on the front of the first page of the periodic statement.

7(b)(12)(iv) Provision of Information about Credit Counseling Services

Section 201(c) of the Credit Card Act requires the Board to issue guidelines by rule, in consultation with the Secretary of the Treasury, for the establishment and maintenance by creditors of the toll-free number disclosed on the periodic statement from which consumers can obtain information about accessing credit counseling and debt management services. The Credit Card Act requires that these guidelines ensure that consumers are referred "only [to] those nonprofit and credit counseling agencies approved by a United States bankruptcy trustee pursuant to [11 U.S.C. 111(a)]." The Board proposed to implement Section 201(c) of the Credit Card Act in § 226.7(b)(12)(iv). In developing this final rule, the Board consulted with the Treasury Department as well as the Executive Office for United States Trustees.

Prior to filing a bankruptcy petition, a consumer generally must have received "an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted [the consumer] in performing a related budget analysis." 11 U.S.C. 109(h). This briefing can only be provided by "nonprofit budget and credit counseling agencies that provide 1 or

more [of these] services … [and are] currently approved by the United States trustee (or the bankruptcy administrator, if any)." 11 U.S.C. 111(a)(1); see also 11 U.S.C. 109(h). In order to be approved to provide credit counseling services, an agency must, among other things: be a nonprofit entity; demonstrate that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, and provide adequate counseling with respect to client credit problems; charge only a reasonable fee for counseling services and make such services available without regard to ability to pay the fee; and provide trained counselors who receive no commissions or bonuses based on the outcome of the counseling services. See 11 U.S.C. 111(c).

Proposed § 226.7(b)(12)(iv)(A) required that a card issuer provide through the toll-free telephone number disclosed pursuant to proposed § 226.7(b)(12)(i)(E) or (ii)(E) the name, street address, telephone number, and Web site address for at least three organizations that have been approved by the United States Trustee or a bankruptcy administrator pursuant to 11 U.S.C. 111(a)(1) to provide credit counseling services in the state in which the billing address for the account is located or the state specified by the consumer. In addition, proposed § 226.7(b)(12)(iv)(B) required that, upon the request of the consumer and to the extent available from the United States Trustee or a bankruptcy administrator, the card issuer must provide the consumer with the name, street address, telephone number, and Web site address for at least one organization meeting the above requirements that provides credit counseling services in a language other than English that is specified by the consumer.

Several industry commenters stated that requiring card issuers to provide information regarding credit counseling through a toll-free number would be unduly

burdensome, particularly for small institutions that do not currently have automated response systems for providing consumers with information about their accounts over the telephone. These commenters requested that card issuers instead be permitted to refer consumers to the United States Trustee or the Board. However, Section 201(c) of the Credit Card Act explicitly requires that card issuers establish and maintain a toll-free telephone number for providing information regarding approved credit counseling services. Nevertheless, as discussed below, the Board has made several revisions to proposed § 226.7(b)(12)(iv) in order to reduce the burden of compliance.

In particular, the Board has revised § 226.7(b)(12)(iv)(A) to clarify that card issuers are only required to disclose information regarding approved organizations to the extent available from the United States Trustee or a bankruptcy administrator. The United States Trustee collects the name, street address, telephone number, and Web site address for approved organizations and provides that information to the public through its Web site, organized by state.[25] For states where credit counseling organizations are approved by a bankruptcy administrator pursuant to 11 U.S.C. 111(a)(1), a card issuer can obtain this information from the relevant administrator. Accordingly, as discussed in the proposal, the information that § 226.7(b)(12)(iv) requires a card issuer to provide is readily available to issuers.

The Board has also revised § 226.7(b)(12)(iv)(A) to clarify that the card issuer must provide information regarding approved organizations in, at its option, either the state in which the billing address for the account is located or the state specified by the consumer. Furthermore, although the United States Trustee's Web site also organizes

[25] See U.S Trustee Program, List of Credit Counseling Agencies Approved Pursuant to 11 U.S.C. § 111 (available at http://www.usdoj.gov/ust/eo/bapcpa/ccde/cc_approved.htm).

information regarding approved organizations by the language in which the organization can provide credit counseling services, the Board has removed the requirement in proposed § 226.7(b)(12)(iv)(B) that card issuers provide this information upon request. Although consumer group commenters supported the requirement, comments from small institutions argued that Section 201(c) does not expressly require provision of this information and that it would be particularly burdensome for card issuers to do so. Specifically, it would be difficult for a card issuer to use an automated response system to comply with a consumer's request for a particular language without listing each of the nearly thirty languages listed on the United States Trustee's Web site. Instead, a card issuer would have to train its customer service representatives to respond to such requests on an individualized basis. Accordingly, although information regarding approved organizations that provide credit counseling services in languages other than English can be useful to consumers, it appears that the costs associated with providing this information through the toll-free number outweigh the benefits. Instead, as discussed below, the Board has revised the proposed commentary to provide guidance for card issuers on how to handle requests for this type of information (such as by referring the consumer to the United States Trustee's Web site).

The Board has replaced proposed § 226.7(b)(12)(iv)(B) with a requirement that card issuers update information regarding approved organizations at least annually for consistency with the information provided by the United States Trustee or a bankruptcy administrator. This requirement was previously proposed as guidance in comment 7(b)(12)(iv)-2. In connection with that proposed guidance, the Board solicited comment on whether card issuers should be required to update the credit counseling information

they provide to consumers more or less frequently. Commenters generally supported an annual requirement, which the Board has adopted. Although one credit counseling organization suggested that card issuers be required to coordinate their verification process with the United States Trustee's review of its approvals, the Board believes such a requirement would unnecessarily complicate the updating process.

Because different credit counseling organizations may provide different services and charge different fees, the Board stated in the proposal that providing information regarding at least three approved organizations would enable consumers to make a choice about the organization that best suits their needs. However, the Board solicited comment on whether card issuers should provide information regarding a different number of approved organizations. In response, commenters generally agreed that the provision of information regarding three approved organizations was appropriate, although some industry commenters argued that card issuers generally have an established relationship with one credit counseling organization and should not be required to disclose information regarding additional organizations. Because the Board believes that consumers should be provided with more than one option for obtaining credit counseling services, the final rule adopts the requirement that card issuers provide information regarding three approved organizations.

In addition, some credit counseling organizations and one city government consumer protection agency requested that the Board require card issuers to disclose information regarding at least one organization that operates in the consumer's local community. However, Section 201(c) of the Credit Card Act does not authorize the Board to impose this type of requirement. In addition, the Board believes that it would be

difficult to develop workable standards for determining whether a particular organization operated in a consumer's community. Nevertheless, the Board emphasizes that nothing in § 226.7(b)(12)(iv) should be construed as preventing card issuers from providing information regarding organizations that have been approved by the United States Trustee or a bankruptcy administrator to provide credit counseling services in a consumer's community.

Proposed § 226.7(b)(12)(iv) relied in two respects on the Board's authority under TILA Section 105(a) to make adjustments or exceptions to effectuate the purposes of TILA or to facilitate compliance therewith. See 15 U.S.C. 1604(a). First, although revised TILA Section 127(b)(11)(B)(iv) and Section 201(c)(1) of the Credit Card Act refer to the creditors' obligation to provide information about accessing "credit counseling and debt management services," proposed § 226.7(b)(12)(iv) only required the creditor to provide information about obtaining credit counseling services.[26] Although credit counseling may include information that assists the consumer in managing his or her debts, 11 U.S.C. 109(h) and 111(a)(1) do not require the United States Trustee or a bankruptcy administrator to approve organizations to provide debt management services. Because Section 201(c) of the Credit Card Act requires that creditors only provide information about organizations approved pursuant to 11 U.S.C. 111(a), the Board does not believe that Congress intended to require creditors to provide information about services that are not subject to that approval process. Accordingly, proposed § 226.7(b)(12)(iv) would not have required card issuers to disclose information about debt management services.

[26] Similarly, proposed § 226.7(b)(12)(i)(E) and (ii)(E) only required a card issuer to disclose on the periodic statement a toll-free telephone number where the consumer may acquire from the card issuer information about obtaining credit counseling services.

Second, although Section 201(c)(2) of the Credit Card Act refers to credit counseling organizations approved pursuant to 11 U.S.C. 111(a), proposed § 226.7(b)(12)(iv) clarified that creditors may provide information only regarding organizations approved pursuant to 11 U.S.C. 111(a)(1), which addresses the approval process for credit counseling organizations. In contrast, 11 U.S.C. 111(a)(2) addresses a different approval process for instructional courses concerning personal financial management.

Commenters did not object to these adjustments, which are adopted in the final rule. However, the United States Trustee and several credit counseling organizations requested that the Board clarify that the credit counseling services subject to review by the United States Trustee or a bankruptcy administrator are designed for consumers who are considering whether to file for bankruptcy and may not be helpful to consumers who are seeking more general credit counseling services. Based on these comments, the Board has made several revisions to the commentary for § 226.7(b)(12)(iv), which are discussed below.

Proposed comment 7(b)(12)(iv)-1 clarified that, when providing the information required by § 226.7(b)(12)(iv)(A), the card issuer may use the billing address for the account or, at its option, allow the consumer to specify a state. The comment also clarified that a card issuer does not satisfy the requirement to provide information regarding credit counseling agencies approved pursuant to 11 U.S.C. 111(a)(1) by providing information regarding providers that have been approved to offer personal financial management courses pursuant to 11 U.S.C. 111(a)(2). This comment has been

revised for consistency with the revisions to § 226.7(b)(12)(iv)(A) but is otherwise adopted as proposed.

Proposed comment 7(b)(12)(iv)-2 clarified that a card issuer complies with the requirements of § 226.7(b)(12)(iv) if it provides the consumer with the information provided by the United States Trustee or a bankruptcy administrator, such as information provided on the Web site operated by the United States Trustee. If, for example, the Web site address for an organization approved by the United States Trustee is not available from the Web site operated by the United States Trustee, a card issuer is not required to provide a Web site address for that organization. However, at least annually, the card issuer must verify and update the information it provides for consistency with the information provided by the United States Trustee or a bankruptcy administrator. These aspects of the proposed comment have been revised for consistency with the revisions to § 226.7(b)(12)(iv) but are otherwise adopted as proposed.

However, because the Board understands that many nonprofit organizations provide credit counseling services under a name that is different than the legal name under which the organization has been approved by the United States Trustee or a bankruptcy administrator, the Board has revised comment 7(b)(12)(iv)-2 to clarify that, if requested by the organization, the card issuer may at its option disclose both the legal name and the name used by the organization. This clarification will reduce the possibility of consumer confusion in these circumstances while still ensuring that consumers can verify that card issuers are referring them to organizations approved by the United States Trustee or a bankruptcy administrator.

In addition, because the contact information provided by the United States Trustee or a bankruptcy administrator relates to pre-bankruptcy credit counseling, the Board has revised comment 7(b)(12)(iv)-2 to clarify that, at the request of an approved organization, a card issuer may at its option provide a street address, telephone number, or Web site address for the organization that is different than the street address, telephone number, or Web site address obtained from the United States Trustee or a bankruptcy administrator. This will enable card issuers to provide contact information that directs consumers to general credit counseling services rather than pre-bankruptcy counseling services. Furthermore, because some approved organizations may not provide general credit counseling services, the Board has revised comment 7(b)(12)(iv)-2 to clarify that, if requested by an approved organization, a card issuer must not provide information regarding that organization through the toll-free number.

As noted above, the Board has also revised the commentary to § 226.7(b)(12)(iv) to provide guidance regarding the handling of requests for information about approved organizations that provide credit counseling services in languages other than English. Specifically, comment 7(b)(12)(iv)-2 states that a card issuer may at its option provide such information through the toll-free number or, in the alternative, may state that such information is available from the Web site operated by the United States Trustee.

Finally, the Board has revised comment 7(b)(12)(iv)-2 to clarify that § 226.7(b)(12)(iv) does not require a card issuer to disclose that credit counseling organizations have been approved by the United States Trustee or a bankruptcy administrator. However, if a card issuer chooses to make such a disclosure, the revised comment clarifies that the card issuer must provide certain additional information in

order to prevent consumer confusion. This revision responds to concerns raised by the United States Trustee that, if a consumer is informed that a credit counseling organization has been approved by the United States Trustee, the consumer may incorrectly assume that all credit counseling services provided by that organization are subject to approval by the United States Trustee. Accordingly, the revised comment clarifies that, in these circumstances, a card issuer must disclose the following additional information: (1) the United States Trustee or a bankruptcy administrator has determined that the organization meets the minimum requirements for nonprofit pre-bankruptcy budget and credit counseling; (2) the organization may provide other credit counseling services that have not been reviewed by the United States Trustee or a bankruptcy administrator; and (3) the United States Trustee or the bankruptcy administrator does not endorse or recommend any particular organization.

Proposed comment 7(b)(12)(iv)-3 clarified that, at their option, card issuers may use toll-free telephone numbers that connect consumers to automated systems, such as an interactive voice response system, through which consumers may obtain the information required by § 226.7(b)(12)(iv) by inputting information using a touch-tone telephone or similar device. This comment is adopted as proposed.

Proposed comment 7(b)(12)(iv)-4 clarified that a card issuer may provide a toll-free telephone number that is designed to handle customer service calls generally, so long as the option to receive the information required by § 226.7(b)(12)(iv) is prominently disclosed to the consumer. For automated systems, the option to receive the information required by § 226.7(b)(12)(iv) is prominently disclosed to the consumer if it is listed as one of the options in the first menu of options given to the consumer, such as ‘‘Press or

say ‘3’ if you would like information about credit counseling services.’’ If the automated system permits callers to select the language in which the call is conducted and in which information is provided, the menu to select the language may precede the menu with the option to receive information about accessing credit counseling services. The Board has adopted this comment as proposed.

Proposed comment 7(b)(12)(iv)-5 clarified that, at their option, card issuers may use a third party to establish and maintain a toll-free telephone number for use by the issuer to provide the information required by § 226.7(b)(12)(iv). This comment is adopted as proposed.

Proposed comment 7(b)(12)(iv)-6 clarified that, when providing the toll-free telephone number on the periodic statement pursuant to § 226.7(b)(12)(iv), a card issuer at its option may also include a reference to a Web site address (in addition to the toll-free telephone number) where its customers may obtain the information required by § 226.7(b)(12)(iv), so long as the information provided on the Web site complies with § 226.7(b)(12)(iv). The Web site address disclosed must take consumers directly to the Web page where information about accessing credit counseling may be obtained. In the alternative, the card issuer may disclose the Web site address for the Web page operated by the United States Trustee where consumers may obtain information about approved credit counseling organizations. This guidance is adopted as proposed. In addition, the Board has revised this comment to clarify that disclosing the United States Trustee’s Web site address does not by itself constitute a statement that organizations have been approved by the United States Trustee for purposes of comment 7(b)(12)(iv)-2.

Finally, proposed comment 7(b)(12)(iv)-7 clarified that, if a consumer requests information about credit counseling services, the card issuer may not provide advertisements or marketing materials to the consumer (except for providing the name of the issuer) prior to providing the information required by § 226.7(b)(12)(iv). However, educational materials that do not solicit business are not considered advertisements or marketing materials for this purpose. The comment also provides examples of how the restriction on the provision of advertisements and marketing materials applies in the context of the toll-free number and a Web page. This comment is adopted as proposed.

7(b)(12)(v) Exemptions

As explained above, as proposed, the final rule provides that the repayment disclosures required under § 226.7(b)(12) be provided only for a "credit card account under an open-end (not home-secured) consumer credit plan," as that term is defined in § 226.2(a)(15)(ii).

In addition, as discussed below, the final rule contains several additional exemptions from the repayment disclosure requirements pursuant to the Board's exception and exemption authorities under TILA Section 105(a) and (f).

As discussed in more detail below, the Board has considered the statutory factors carefully, and based on that review, believes that following exemptions are appropriate.

Exemption for charge cards. In the October 2009 Regulation Z Proposal, the Board proposed to exempt charge cards from the repayment disclosure requirements. Charge cards are used in connection with an account on which outstanding balances cannot be carried from one billing cycle to another and are payable when a periodic statement is received. The Board adopts this exemption as proposed. See

§ 226.7(b)(12)(v)(A). The Board believes that the repayment disclosures would not be useful for consumers with charge card accounts.

Exemption where cardholders have paid their accounts in full for two consecutive billing cycles. In proposed § 226.7(b)(v)(B), the Board proposed to provide that a card issuer is not required to include the repayment disclosures on the periodic statement for a particular billing cycle immediately following two consecutive billing cycles in which the consumer paid the entire balance in full, had a zero balance or had a credit balance.

In response to the October 2009 Regulation Z Proposal, several consumer groups argued that this exemption should be deleted. These consumer groups believe that even consumers that pay their credit card accounts in full each month should be provided repayment disclosures because these disclosures will inform those consumers of the disadvantages of changing their payment behavior. These consumer groups believe these repayment disclosures would educate these consumers on the magnitude of the consequences of making only minimum payments and may induce these consumers to encourage their friends and family members not to make only the minimum payment each month on their credit card accounts. On the other hand, several industry commenters requested that the Board broaden this exception to not require repayment disclosures in a particular billing cycle if there is a zero balance or credit balance in the current cycle, regardless of whether this condition existed in the previous cycle.

The final rule retains this exception as proposed. The Board believes the two consecutive billing cycle approach strikes an appropriate balance between benefits to consumers of the repayment disclosures, and compliance burdens on issuers in providing the disclosures. Consumers who might benefit from the repayment disclosures would

receive them. Consumers who carry a balance each month would always receive the repayment disclosures, and consumers who pay in full each month would not. Consumers who sometimes pay their bill in full and sometimes do not would receive the repayment disclosures if they do not pay in full two consecutive months (cycles). Also, if a consumer's typical payment behavior changes from paying in full to revolving, the consumer would begin receiving the repayment disclosures after not paying in full one billing cycle, when the disclosures would appear to be useful to the consumer. In addition, credit card issuers typically provide a grace period on new purchases to consumers (that is, creditors do not charge interest to consumers on new purchases) if consumers paid both the current balance and the previous balance in full. Thus, card issuers already currently capture payment history for consumers for two consecutive months (or cycles).

The Board notes that card issuers would not be required to use this exemption. A card issuer would be allowed to provide the repayment disclosures to all of its cardholders, even to those cardholders that fall within this exemption. If issuers choose to provide voluntarily the repayment disclosures to those cardholders that fall within this exemption, the Board would expect issuers to follow the disclosure rules set forth in proposed § 226.7(b)(12), the accompanying commentary, and Appendix M1 to part 226 for those cardholders.

Exemption where minimum payment would pay off the entire balance for a particular billing cycle. In proposed § 226.7(b)(12)(v)(C), the Board proposed to exempt a card issuer from providing the repayment disclosure requirements for a particular billing cycle where paying the minimum payment due for that billing cycle will pay the

outstanding balance on the account for that billing cycle. For example, if the entire outstanding balance on an account for a particular billing cycle is $20 and the minimum payment is $20, an issuer would not need to comply with the repayment disclosure requirements for that particular billing cycle. The final rule retains this exemption as proposed. The Board believes that the repayment disclosures would not be helpful to consumers in this context.

As discussed in more detail below, the Board notes that this exemption also would apply to a charged-off account where payment of the entire account balance is due immediately. Comment 7(b)(12)(v)-1 is added to provide examples of when this exception would apply.

Other exemptions. In response to the October 2009 Regulation Z Proposal, several commenters requested that the Board include several additional exemptions to the repayment disclosures set forth in § 226.7(b)(12). These suggested exemptions are discussed below.

1. Fixed repayment periods. In the January 2009 Regulation Z Rule, the Board in § 226.7(b)(12)(v)(E) exempted a credit card account from the minimum payment disclosure requirements where a fixed repayment period for the account is specified in the account agreement and the required minimum payments will amortize the outstanding balance within the fixed repayment period. This exemption would be applicable to, for example, accounts that have been closed due to delinquency and the required monthly payment has been reduced or the balance decreased to accommodate a fixed payment for a fixed period of time designed to pay off the outstanding balance. See comment 7(b)(12)(v)-1.

In addition, in the January 2009 Regulation Z Rule, the Board in § 226.7(b)(12)(v)(F) exempted credit card issuers from providing the minimum payment disclosures on periodic statements in a billing cycle where the entire outstanding balance held by consumers in that billing cycle is subject to a fixed repayment period specified in the account agreement and the required minimum payments applicable to that balance will amortize the outstanding balance within the fixed repayment period. Some retail credit cards have several credit features associated with the account. One of the features may be a general revolving feature, where the required minimum payment for this feature does not pay off the balance in a specific period of time. The card also may have another feature that allows consumers to make specific types of purchases (such as furniture purchases, or other large purchases), and the required minimum payments for that feature will pay off the purchase within a fixed period of time, such as one year. This exemption was meant to cover retail cards where the entire outstanding balance held by a consumer in a particular billing cycle is subject to a fixed repayment period specified in the account agreement. On the other hand, this exemption would not have applied in those cases where all or part of the consumer's balance for a particular billing cycle is held in a general revolving feature, where the required minimum payment for this feature does not pay off the balance in a specific period of time set forth in the account agreement. See comment 7(b)(12)(v)-2.

In adopting these two exemptions to the minimum payment disclosure requirements in the January 2009 Regulation Z Rule, the Board stated that in these two situations, the minimum payment disclosure does not appear to provide additional information to consumers that they do not already have in their account agreements.

In the October 2009 Regulation Z Proposal, the Board proposed not to include these two exemptions in proposed § 226.7(b)(12)(v). In implementing Section 201 of the Credit Card Act, proposed § 226.7(b)(12) would require additional repayment information beyond the disclosure of the estimated length of time it would take to repay the outstanding balance if only minimum payments are made, which was the main type of information that was required to be disclosed under the January 2009 Regulation Z Rule. As discussed above, under proposed § 226.7(b)(12)(i), a card issuer would be required to disclose on the periodic statement information about the total costs in interest and principal to repay the outstanding balance if only minimum payments are made, and information about repayment of the outstanding balance in 36 months. Consumers would not know from the account agreements this additional information about the total cost in interest and principal of making minimum payments, and information about repayment of the outstanding balance in 36 months. Thus, in the proposal, the Board indicated that these two exemptions may no longer be appropriate given the additional repayment information that must be provided on the periodic statement pursuant to proposed § 226.7(b)(12). Nonetheless, the Board solicited comment on whether these exemptions should be retained. For example, the Board solicited comment on whether the repayment disclosures relating to repayment in 36 months would be helpful where a fixed repayment period longer than 3 years is specified in the account agreement and the required minimum payments will amortize the outstanding balance within the fixed repayment period. For these types of accounts, the Board solicited comment on whether consumers tend to enter into the agreement with the intent (and the ability) to repay the account

balance over the life of the account, such that the disclosures for repayment of the account in 36 months would not be useful to consumers.

In response to the October 2009 Regulation Z Proposal, several consumer groups supported the Board's proposal not to include these two exemptions to the repayment disclosure requirements. On the other hand, several industry commenters indicated that with respect to these fixed repayment plans, consumers are quite sensitive to the repayment term and have selected the specific repayment term for each balance. These commenters suggest that in this context the proposed repayment disclosures are neither relevant nor helpful, and may be confusing if they tend to suggest that the selected repayment term is no longer available.

The final rule does not contain these two exemptions related to fixed repayment periods. As discussed above, when a fixed repayment period is set forth in the account agreement, the estimate of how long it would take to repay the outstanding balance if only minimum payments are made does not appear to provide additional information to consumers that they do not already have in their account agreements. Nonetheless, consumers would not know from the account agreements additional information about the total cost in interest and principal of making minimum payments, and information about repayment of the outstanding balance in 36 months, that is required to be disclosed on the periodic statement under the Credit Card Act. The Board believes this additional information would be helpful to consumers in managing their accounts, even for consumers that have previously selected the fixed repayment period that applies to the account. For example, assume the fixed repayment period set forth in the account agreement is 5 years. On the periodic statement, the consumer would be informed of the

total cost of repaying the outstanding balance in 5 years, compared with the monthly payment and the total cost of repaying the outstanding balance in 3 years. In this example, this additional information on the periodic statement could be helpful to the consumer in deciding whether to repay the balance earlier than in 5 years.

2. Accounts in bankruptcy. In response to the October 2009 Regulation Z Proposal, one commenter requested that the Board include in the final rule an exemption from the repayment disclosures set forth in § 226.7(b)(12) in connection with sending monthly periodic statements or informational statements to customers who have filed for bankruptcy. This commenter indicated that it is possible that a debtor's attorney could argue that including the disclosures, such as the minimum payment warning and the minimum payment repayment estimate, on a monthly bankruptcy informational statement is an attempt to collect a debt in violation of the automatic stay imposed by Section 362 of the Bankruptcy Code or the permanent discharge injunction imposed under Section 524 of the Bankruptcy Code.

The Board does not believe that an exemption from the requirement to provide the repayment disclosures with respect to accounts in bankruptcy is needed. The Board notes that under § 226.5(b)(2), a creditor is not required to send a periodic statement under Regulation Z if delinquency collection proceedings have been instituted. Thus, if a consumer files for bankruptcy, creditors are not longer required to provide periodic statements to that consumer under Regulation Z. A creditor could continue to send periodic statements to consumers that have filed for bankruptcy (if permitted by law) without including the repayment disclosures on the periodic statements, because those

periodic statements would not be required under Regulation Z and would not need to comply with the requirements of § 226.7.

3. Charged-off accounts. In response to the October 2009 Regulation Z Proposal, one industry commenter requested that the Board include in the final rule an exemption from the repayment disclosures for charged off accounts where consumers are 180 days late, the accounts have been placed in charge-off status and full payment is due immediately. The Board does not believe that a specific exemption is needed for charged-off accounts because charged-off accounts would be exempted from the repayment disclosures under another exemption. As discussed above, the final rule contains an exemption under which a card issuer is not required to provide the repayment disclosure requirements for a particular billing cycle where paying the minimum payment due for that billing cycle will pay the outstanding balance on the account for that billing cycle. Comment 7(b)(12)-1 clarifies that this exemption would apply to a charged-off account where payment of the entire account balance is due immediately.

4. Lines of credit accessed solely by account numbers. In response to the October 2009 Regulation Z Proposal, one commenter requested that the Board provide an exemption from the repayment disclosures for lines of credit accessed solely by account numbers. This commenter believed that this exemption would simplify compliance issues, especially for smaller retailers offering in-house revolving open-end accounts, in view of some case law indicating that a reusable account number could constitute a "credit card." The final rule does not contain a specific exemption for lines of credit accessed solely by account numbers. The Board believes that consumers that use these

lines of credit (to the extent they are considered credit card account) would benefit from the repayment disclosures.

7(b)(13) Format Requirements

Under the January 2009 Regulation Z Rule, creditors offering open-end (not home-secured) plans are required to disclose the payment due date (if a late payment fee or penalty rate may be imposed) on the front side of the first page of the periodic statement. The amount of any late payment fee and penalty APR that could be triggered by a late payment is required to be disclosed in close proximity to the due date. In addition, the ending balance and the minimum payment disclosures must be disclosed closely proximate to the minimum payment due. Also, the due date, late payment fee, penalty APR, ending balance, minimum payment due, and the minimum payment disclosures must be grouped together. See § 226.7(b)(13). In the supplementary information to the January 2009 Regulation Z Rule, the Board stated that these formatting requirements were intended to fulfill Congress' intent to have the due date, late payment and minimum payment disclosures enhance consumers' understanding of the consequences of paying late or making only minimum payments, and were based on consumer testing conducted for the Board in relation to the January 2009 Regulation Z Rule that indicated improved understanding when related information is grouped together. For the reasons described below, the Board proposed in October 2009 to retain these format requirements, with several revisions. Proposed Sample G-18(D) in Appendix G to part 226 would have illustrated the proposed requirements.

Due date and late payment disclosures. As discussed above under the section-by-section analysis to § 226.7(b)(11), Section 202 of the Credit Card Act amends TILA