## *Know the new credit card law*

The Credit Card Accountability Responsibility and Disclosure (CARD) Act of 2009 provides many new consumer protections for credit cardholders.

### No interest rate increases for the first year

Credit card issuers generally cannot raise interest rates, or any fees, during the first year an account is open, *except* when a variable rate changes, a promotional rate ends or a required minimum payment is more than 60 days late. (For further details on these exceptions, see below.)

### No interest rate increases on existing balances

After the first year that the account is open, card issuers may increase your interest rate with proper notice. However, the higher interest rates may apply only to *new charges*. Credit card issuers cannot raise interest rates on *existing balances*, except:

- When the increase is due to a variable indexed interest rate. Changes tied to an index (such as the Prime Rate) may rise and do not require notice.
- At the end of a promotional rate period, provided that proper up-front notice was given, and that the promotional period lasts at least six months. (No notice required when introductory rate expires.)
- When your payment is 60 days late. In this case, card issuers must lower the rate if the cardholder makes all payments on time for the next six consecutive months after the higher rate becomes effective.
- For cardholders who are in a "workout" (debt settlement) agreement with the issuer and fail to make the required payments.

### Notice of interest rate increases

After the first year, the card issuer can raise the interest rate on future purchases and make certain changes in terms, such as increase fees (annual fees, cash advance fees and late fees) with 45 days advance notice. 45-day advance notice is also required when the company increases your minimum payment.

*Remember,* no notice is required for changes to variable and promotional interest rates as described above and advance notice is generally not required if the company cuts your credit limit or closes your account.

In some situations—*but not all*—the "change-in-terms notice" must give cardholders the right to cancel (or "opt out") if they don't want to accept the changes. Opting out means that the card will be closed and the cardholder will not be able to make new purchases, but cardholders will have certain rights about paying off balances *(see below).* The right to cancel is *not required* when:

- The cardholder's minimum payment is increased
- The APR is increased on new transactions
- An APR increase was triggered by a payment that was 60 days late

When the right to cancel is required, the change-in-terms notice will explain that the consumer can cancel the account before the effective date of the change. In the notice, cardholders must be given instructions on how to cancel, along with a toll-free number they can call to exercise the right to cancel.

Cardholders have the full 45 days from the date of the notice to decide whether to cancel. However, the higher APR will apply to any purchases made 14 days after the notice is mailed. (In other words, cardholders have only 14 days from the date of the notice to make purchases at the old rate.)

## Repayment of outstanding balance

If the account is closed or cancelled by the consumer, the closed account will not be considered in default and the card issuer cannot require immediate repayment of the entire balance. Issuers also can't charge monthly maintenance fees on closed accounts. But they can require cardholders to pay the balance off in five years, and they can double the percentage of the balance used to calculate the minimum payment.

## Limits on fees and penalties

***Account opening fees.*** First year fees required to open a credit card account cannot total more than 25% of the initial credit limit. This includes annual fees, application fees and processing fees, but does not apply to penalty fees, such as penalties for late payments. For example, if your initial credit limit is $500, the fees for the first year cannot be more than $125.

***Over-limit fees.*** Cardholders cannot be charged over-limit fees unless they give express permission ("opt in") to the card issuer to approve transactions that exceed their credit limits. If permission is not given, transactions that exceed the credit limit most likely will be turned down. Without "opt in" card companies can't charge over-limit fees.

Cardholders who do opt in and make transactions that exceed the credit limit can be charged one over-limit fee per billing cycle. In addition, over-limit fees on a single over-limit transaction cannot be charged for more than three consecutive billing cycles. Cardholders may revoke permission at any time and stop over-limit transactions.

***Pay-to-pay fees.*** No fees can be charged to make a payment online, via telephone, by mail, or by other means, except for an "expedited" payment arranged through a live service representative. An expedited payment means crediting a payment to the account on the same day by the cut-off time.

***Reevaluation of rate increases***. A card issuer who increases the interest rate must review the account every six months and *decrease* the rate if the factor for the increase is no longer a problem.

(Effective on Aug. 22) Beginning with any rate increases since Jan. 1, 2009, card issuers must review the reason for the rate increase at least every six months, and reduce the interest rate if justified by the review. Card issuers may base their review on either of these factors:

- The same factors on which the rate increase was originally based. (You must be given a reason if your rate is increased.)
- Factors that the card issuer *currently considers* when determining interest rates for new customers. These underwriting factors can include, but are not limited to, your credit score.

***Reasonable fees.*** (Effective on Aug. 22) Issuers can choose to use a "safe harbor" rule that limits late and over-limit fees to $25, (or $35 for late fees if one of your last six payments was late). Issuers can charge higher penalty fees only if they demonstrate to banking regulators that their costs (collections etc.) justify a higher fee. Under no circumstances can a fee for a late payment or an over-limit transaction be higher than the minimum payment you missed, or the amount you went over your credit limit. So, if your minimum payment is $20, your late payment fee can't be more than $20. Or, if you exceed your credit limit by $5, you can't be charged an over-limit fee of more than $5.

***Inactivity fees.*** Cardholders who have cards but do not use them for new charges cannot be charged a fee for "inactivity."

## Double cycle billing

Double cycle billing, a practice that already was dying out in the industry, is prohibited. This means an issuer cannot include the previous billing period when calculating the amount of interest charged in the current billing cycle.

### Ability to pay

Credit card issuers must consider all applicants' ability to make the required payments before opening a new account or raising the credit limit on an existing account.

To fulfill this requirement, card issuers don't have to ask applicants and cardholders to provide "proof" of income or assets such as pay stubs, copies of tax returns or bank account statements. Instead, issuers are permitted to use "statistically valid" data, or scoring models, to estimate income and assets. Companies including Equifax, one of the "Big Three" credit reporting bureaus, have created such "ability to pay" assessment tools that compile income and wealth data from sources such as employers, credit reports, census tract data and other information and use it to "estimate" applicants' financial standing.

### Application of payments (payment allocation)

Amounts in excess of the minimum payment must be applied to the balance with the highest interest rate. Many cardholders carry balances subject to different interest rates. For example, purchases might be at 15% APR, balance transfers at 10% APR and cash advances at 25% APR. This provision ensures that any additional money that you send in excess of your minimum payment will be applied to the highest balance. In our example, the additional amount would be applied to the 25% cash advance balance, saving you money in the long run.

An exception to the payment allocation rule exists for cardholders who make purchases under "deferred interest" offers (such as "no interest if paid in full by March 2012"). Cardholders may choose to apply extra amounts to the deferred interest balance. Otherwise the card issuer must apply excess payments to the deferred balance during the last two billing statements before the end of the interest free period.

### Billing statements

***Delivery of statements.*** Credit card companies must mail (or deliver electronically) credit card bills at least 21 days before payment is due. If there is a grace period, the grace period must extend for at least a 21-day period from when the statement is mailed.

***Payment due dates.*** Due dates must be on the same day each month (i.e., the 15th of each month, or the first day of each month).

***Timely posting of payments.*** Credit card issuers must credit all payments received by 5 p.m. on the day they are received. If they are received by 5 p.m. on the due date, they are on time.

***Due dates on non-business days.*** If the due date falls on non-business days (weekends or holidays)—and the issuer does not process payments on that day—then payments received on the next business day must be considered on time. For example, if the due date is Sunday the 15th, your payment will be on time if it is received by 5 p.m. on Monday the 16th, as long as your issuer does not credit payments on Sundays. (Cardholders should ask issuers if payments are processed on weekend days and/or holidays to avoid inadvertently making a late payment.)

***Paying at a branch.*** If a creditor accepts payments at local branches, the date a payment is made at the branch will be considered the date the payment is credited.

***Minimum payment warning.*** If you carry a balance, card companies must print on your billing statement the time and total interest it would take to pay off your current card balance if you only make minimum monthly payments. The bill must also disclose the monthly payment required to pay off the card balance in three years (36 months). This is called the "minimum payment warning," and it is designed to show cardholders how they can get out of debt more quickly by paying more than the minimum. The disclosure also must include a toll free number for credit counseling and debt management services.

***Late payment warning.*** All billing statements must "clearly and conspicuously" show the required due date, late payment fee and late payment penalty rate, if any.

***Cardholder contracts.*** Credit card agreements (contracts) must be posted on the issuers' websites for the benefit of cardholders. If your company can't post specific cardholder agreements, it must give cardholders the opportunity (online or by phone) to request a personalized copy. Generic cardholder agreements for all current cards will be submitted to the Federal Reserve and made available on the Fed's website.

### Young consumers

Young people under age 21 who want to open a credit card account need to show that they can afford to make payments. Otherwise, they will need a cosigner who is 21 or older.

- Card issuers may not raise the credit limit on accounts held by a college student under 21 and a co-signer without written permission from the co-signer.
- Card issuers cannot provide tangible gifts (having monetary value) to college students on or near (within 1,000 feet) campus, or at campus-sponsored events, *in exchange* for applying for credit. Companies can still give out gifts and promotional items as long as the student is not required to apply for a credit card in order to receive the gift.
- Colleges must publicly disclose all marketing contracts made with credit card companies.
- All card issuers must submit an annual report to the Federal Reserve Board including the terms and conditions of all promotional agreements with colleges, including the number of accounts opened during the time period. These reports will be the basis of a study by the Federal Reserve Board to be given to Congress and the public.

### Credit reports

Ads that make promotional offers for free credit reports must state that free credit reports are available under federal law at AnnualCreditReport.com. The disclosure must read: "You have the right to a free credit report from AnnualCreditReport.com or 877-322-8228, the ONLY authorized source under federal law." The Federal Trade Commission issued the rules on this provision.

### Deceased cardholder accounts

When estate administrators/executors request a credit card balance for a deceased person, the issuer is required to provide it within 30 days. If the executor pays the bill within 30 days of receiving this information, no interest charges may be imposed. The law prohibits credit card issuers from adding fees and interest while the estate is being settled.

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Submit consumer complaints about credit cards (or another consumer problems) to our advice and referrals hotline: hotline@consumer-action.org or 415-777-9635