

Advisory Bulletin

FRB Proposes Amending TILA for Private Student Loans

Implementing Provisions of the Higher Education Opportunity Act

On March 11, 2009, the Federal Reserve Board proposed amendments to Regulation Z (Truth in Lending Act) that would revise the disclosure requirements for private student loans. The amendments implement provisions of the Higher Education Opportunity Act (HEOA) of August 14, 2008, which requires the Board to provide regulations to implement model disclosures based on consumer testing. The public comment period ends 60 days after publication of the proposed amendments in the Federal Register on March 24, 2009 [Vol. 74, No. 55, pp12464-12515]. These new disclosures are to be provided in addition to the disclosures required by the Truth in Lending Act (TILA), which requires certain loan cost disclosures to be given before a loan's consummation.

Timing of Disclosures

HEOA requires private student loan disclosures to be provided several times in the loan origination process:

- 1) With an application or solicitation where no application is required. Lenders must provide general information about their loan's rate, fees, and terms. In addition, the Act requires that these disclosures must inform the prospective borrower of the potential availability of Federal education loans and the interest rates on those loans. The disclosures must also state that the consumer may obtain additional information about Federal loans from the school or the Department of Education's website, and that the student's school may offer school-specific loan benefits and terms.
- 2) When the lender approves the student's application. The lender must provide loan-specific information for that particular borrower. The disclosure must also notify borrowers that they have thirty (30) days in which to accept the approved loan during which time the loan's terms may not change.
- 3) Before the loan funds are disbursed. The lender must provide an updated disclosure form that is substantially similar to the form provided at approval, with the addition of a notice that the borrower has three (3) business days in which to cancel the loan and that loan proceeds will not be disbursed until after this period.

The new disclosure requirements would apply to loans made expressly for postsecondary educational expenses but would not apply where educational expenses are funded by credit card advances or real-estate-secured loans. The proposal does not apply to education loans made, insured, or guaranteed by the federal government, which are subject to disclosure rules issued by the Department of Education.

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