

**ALERT: February 22, 2010**

## **TILA Private Education Loan Disclosure Requirements Become Mandatory**

Compliance with new disclosure rules regarding private education loans became mandatory February 14, 2010. These final rules (the “Final Rules”), published by the Board of Governors of the Federal Reserve System (the “Board”), amend Regulation Z, which implements the Truth in Lending Act (“TILA”).

### **I. Private Education Disclosure Requirements**

The Final Rules add, among other things, a number of new disclosure requirements in connection with private education loans. As a result of these rules, creditors must make certain private education loan disclosures at three different stages: (1) the loan application or solicitation stage, (2) the loan approval stage, and (3) the loan consummation stage. At the application or solicitation stage, as specified in Section 226.47(a) of Regulation Z, creditors must provide general information about interest rates, fees and late payment costs, repayment terms, and school eligibility requirements, and provide an example of the loan’s total cost using the maximum rate of interest. The creditor must also notify the student about Federal student loan alternatives and include a statement that if the loan is approved, the terms of the loan will be available for 30 days. At this stage, the disclosures must also state that the consumer must complete a “self-certification form,” developed by the Department of Education, before consummation of the loan.

At the loan approval stage, as specified in Section 226.47(b) of Regulation Z, the creditor must give transaction-specific disclosures, including the interest rate, fees, repayment terms, information about Federal student loan alternatives, and a statement that the consumer will have a 30-day period to accept the loan. The creditor must also make all disclosures required under Section 226.18 of Regulation Z, which are applicable to closed-end credit transactions more generally.

At the loan consummation stage, as specified in Section 226.47(c) of Regulation Z, once the consumer has accepted the loan, the creditor must provide updated cost disclosures, including the interest rate, fees and late payment costs, and repayment terms. The creditor must also make all disclosures required under Section 226.18 of Regulation Z and disclose that the consumer will have a three-day right to cancel the loan.



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All these disclosures must be made in compliance with Section 226.48, which includes additional detail and limitations regarding private education loan disclosures.

## **II. Multiple-Purpose Loans Expressly Used for Postsecondary Educational Expenses**

It is important to note that the term “private education loan” may include a closed-end extension of credit that the consumer may use for multiple purposes, as long as the consumer expressly indicates on the application that the loan proceeds will be used, in whole or in part, to pay postsecondary educational expenses. For the purpose of determining whether the applicant intends to use loan proceeds for postsecondary expenses, the creditor may rely solely on a check-box or a purpose line.

In connection with such a multiple-purpose loan, a creditor is only required to make two of the three sets of private education loan disclosures: (i) the approval disclosures required under Section 226.47(b) of Regulation Z and (ii) the final disclosures required under Section 226.47(c). The creditor is not required to make the application and solicitation disclosures required under Section 226.47(a).

All disclosures must be based on the entire amount of the loan, even if only a part of the proceeds is intended to be used for postsecondary educational expenses.

## **III. “Safe Harbor” for Use of Model Forms**

Although the private education loan disclosure requirements under TILA are complex and very specific, the Board has created model disclosure forms to assist creditors with compliance. Use of the model forms is not required, but creditors using them properly will be deemed to be in compliance with the regulations with regard to private education loan disclosures. These forms are available in Appendix H to Regulation Z and on the Board’s web site at [www.federalreserve.gov/newsevents/press/bcreg/20090730a.htm](http://www.federalreserve.gov/newsevents/press/bcreg/20090730a.htm). Model forms H-18, H-19, and H-20 correspond to the disclosures required in the loan application, loan approval, and loan consummation stages, respectively.

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