

SUBJECT: Reg. Z - Closed-End Credit Disclosures

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INTRODUCTION

This release applies to all credit unions, both state and federal. It describes the items to be included in Truth in Lending disclosures given before consummation of a closed-end loan.

The League's closed-end Truth in Lending forms are designed to comply with the rules described in regard to the format and content of preprinted language. The release should be helpful to credit unions when filling out disclosures for loan transactions of various types.

EXECUTIVE SUMMARY

There are cross-references to other releases dealing with particular aspects of Reg. Z in more detail.

Information is provided later in the release about Reg. Z rules on providing disclosures electronically.

Portions of this release describe the Reg. Z disclosure requirements for non-real estate loans. However, for virtually all closed-end consumer credit transactions secured by real property (other than reverse mortgages), the TILA-RESPA Integrated Disclosure Rule applies. See The League's *ii Release No. B079* for information on the disclosure requirements on closed-end loans secured by real property (other than reverse mortgages).

GENERAL DISCLOSURE REQUIREMENTS (Reg. Z § 1026.17)

Current copies of Regulation Z and the Official Staff Commentary are available online. For the link, visit the Compliance page of The League's website and click on "Federal Regs."

Reg. Z generally applies to credit extended by a creditor primarily for personal, family, or household (not business or agricultural) purposes unless:

- The loan is to an organization (corporation, partnership, association, union, etc.); or
- The loan is over [\\$73,400, effective Jan. 1, 2026 \(up from \\$71,900 in 2025\)](#). Although consumer credit transactions above the threshold are generally exempt, loans secured by real property or by personal property used or expected to be used as the principal dwelling of a consumer and private education loans are covered by TILA regardless of the loan amount.

Form of Disclosures

The credit union must make the disclosures described in this release clearly and conspicuously in writing, in a form that the member may keep. With a few exceptions, the disclosures must be grouped together, must be segregated from everything else, and may not contain any information that is not directly related to the required disclosures. WCUL forms for Truth in Lending put appropriate disclosures in what is commonly called the "Fed Box" when required.

For rules governing the electronic delivery of disclosures, including the definition of electronic communication, see "Interim Requirements for Electronic Communication," below.

Time of Disclosures

The credit union must make Truth in Lending disclosures before consummation of the transaction. In certain transactions involving mail or telephone orders, the timing of the disclosures may be delayed in accordance with rules described later.

Credit unions must give the required disclosures to the consumer in writing, in a form that the consumer may keep, before consummation of the transaction. Sometimes the disclosures are placed on the same document with the credit contract. Credit unions are not required to give the consumer two separate copies of the document before consummation, one for the consumer to keep and a second copy for the consumer to execute. The disclosure requirement is satisfied if the credit union gives a copy of the document containing the unexecuted credit contract and disclosures to the consumer to read and sign; and the consumer receives a copy to keep at the time the consumer becomes obligated. It is not sufficient for the credit union merely to show the consumer the document containing the disclosures before the consumer signs and becomes obligated.

The consumer must be free to take possession of and review the document in its entirety before signing.

The following scenario is deemed to be in compliance. A credit union gives a consumer a multiple-copy form containing a credit agreement and Reg. Z disclosures. The consumer reviews and signs the form and returns it to the credit union employee, who separates the copies and gives one copy to the consumer to keep. The credit union has satisfied the disclosure requirement.

Basis of Disclosures and Use of Estimates

Disclosures must reflect the terms of the legal obligation between the parties. For example, consider when a credit union drafts the note with a monthly payment schedule and the member enrolls in a voluntary biweekly payroll deduction plan. The note creates the legal obligation, so the Truth in Lending disclosures should reflect monthly payments, not biweekly.

If any information necessary for an accurate disclosure is unknown to the credit union, it must make the disclosure based on the best information reasonably available and must state that the disclosure is an estimate. The League's forms include a note stating, "e means an estimate," so the credit union only needs to place an "e" after an estimated figure.

Irregular Periods. In making calculations and disclosures, the credit union may disregard any irregularity in the first payment period that falls within the limits described below and any payment schedule irregularity that results from the irregular first period.

- For transactions in which the term of the loan is less than one year, a first payment period not more than six days shorter or 13 days longer than a regular period (this refers to the regular payment period for the loan, typically one month);
- For transactions in which the term is at least one year and less than 10 years, a first period not more than 11 days shorter or 21 days longer than a regular period; and
- For transactions in which the term is at least 10 years, a first period shorter than or not more than 32 days longer than a regular period.

If the credit union uses a computer to calculate the figures for its disclosures, it may already take such irregularities into account. If so, the above tolerances may be disregarded. However, if the credit union uses a calculator or APR tables when completing its disclosures, it will be necessary to stay within the above tolerances.

Construction Loans. Construction loans pose special problems in computing the finance charge and APR. See *ii Release B020* for more information about disclosures and other aspects of construction lending.

Multiple Consumers

If there is more than one consumer, the disclosures may be made to any consumer who is primarily liable (a co-borrower, not a guarantor) on the obligation. If the transaction is rescindable, however, one copy of the TILA-RESPA Closing Disclosure as well as two copies of the Notice of Right to Cancel must be given to each consumer who has the right to rescind. For information on closing Disclosures, see The League's *ii Release No. B079*.

Effect of Subsequent Events

If a disclosure becomes inaccurate because of an event that occurs after the credit union delivers the required disclosures, the inaccuracy is not a violation of this regulation. For example, consider the member who fails to insure collateral as required by a security agreement. If the credit union provides the insurance and charges the member for it, the charge does not make the disclosures inaccurate.

However, new disclosures may be required when an early disclosure as described below proves to be inaccurate (outside of the tolerance limits) as of the time of consummation of the loan, and for refinancings (Reg. Z §§ 1026.17(f), 1026.19, and 1026.20).

Early Disclosures

If disclosures are given before the date of consummation of a transaction and a subsequent event makes them inaccurate, the credit union must disclose the changed terms before consummation, if the APR in the consummated transaction varies from the disclosed APR by more than 1/8 of one percentage point in a regular transaction, or 1/4 of one percentage point in an irregular transaction.

For virtually all closed-end consumer credit transactions secured by real property (other than reverse mortgages), the TILA-RESPA Integrated Disclosure Rule applies. It requires creditors to provide certain disclosures, including a Loan Estimate soon after an application is received and a Closing Disclosure shortly before loan consummation. See The League's *ii Release No. B079*, which explains when these disclosures are required, the timing requirements, and when they can or must be revised.

Mail or Telephone Orders—Delay in Disclosures

Sometimes a credit union receives a request for an extension of credit by mail, telephone, or any other written or electronic communication, without face-to-face or direct telephone solicitation. In such cases, the credit union is allowed to delay the disclosures until the due date of the first payment. The delay is permitted only if the following information, for representative amounts or ranges of credit, is made available in written form to the member or to the public before the actual request:

- The cash price or the principal loan amount;
- The total sale price (in a credit sale—when the credit union is both seller and lender);
- The finance charge;
- The APR, and if the rate may increase after consummation, the following disclosures:
 - The circumstances under which the rate may increase;
 - Any limitations on the increase;
 - The effect of an increase; and
- The terms of repayment.

See *ii Release B029* for more about loans by mail.

CONTENT OF DISCLOSURES FOR NON-REAL ESTATE SECURED LOANS (REG. Z § 1026.18)

The disclosures described in this portion of the release are those typically shown in the Fed Box on The League's forms. For each closed-end transaction subject to Reg. Z, the credit union must disclose the following information, but only as applicable.

Credit Union Name

Provide the full legal name of the credit union making the disclosures—no abbreviations.

Amount Financed

- Disclose the “amount financed,” using that term, and a brief description such as “the amount of credit provided to you or on your behalf.” The amount financed is calculated by:
- Determining the principal loan amount or the cash price (subtracting any down payment);
- Adding any other amounts that are financed by the credit union and are not part of the finance charge (such as voluntary credit insurance premiums or real estate closing costs); and
- Subtracting any prepaid finance charge.

A prepaid finance charge is any finance charge paid separately to the credit union or to a third party before or at the loan closing, whether it is provided in cash, by check, or withheld from the loan proceeds. Examples of prepaid finance charges are borrower's points, loan origination fees, odd days interest, mortgage insurance fees, etc. Prepaid finance charges are not commonly charged on non-real estate loans.

Itemization of Amount Financed

Provide a separate written itemization of the amount financed, including the following items:

- The amount of any proceeds distributed directly to the member, such as by cash, check (including joint proceeds checks) or deposited to the member's asset account at the credit union;
- The amount credited to the member's account with the credit union (such as to unpaid loans or other amounts owed to the credit union, but not amounts deposited to share or share draft accounts).
- Any amounts paid to other persons by the credit union on the member's behalf (e.g., public officials, insurance companies, credit bureaus, appraisers). The credit union must identify those persons by name except for insurance companies, public officials or government agencies, credit reporting agencies, and appraisers, which may be identified by generic terms; and
- The total amount of any prepaid finance charges.

The itemization of the amount financed must be separate from the other disclosures, at least outside the Fed Box. The League offers a separate form (#82072) for this purpose.

There are two situations where the credit union need not actually complete an itemization:

- When the Fed Box disclosure provides a statement that the member has the right to receive a written itemization of the amount financed, together with a space for the member to indicate whether it is desired, and the member does not request it. Appropriate League forms include this option. Always be sure the member initials to indicate whether or not the itemization is requested.
- When a Good Faith Estimate of Settlement Costs and Settlement Statement are provided at the appropriate times for a real estate loan subject to RESPA. See *ii Release B014* for more about RESPA.

Finance Charge

Disclose the total "finance charge," using that term, and a brief description such as "the dollar amount the credit will cost you."

The finance charge will be considered accurate if it is off by no more than \$5 on loans with an amount financed of \$1,000 or less, no more than \$10 when the amount financed is over \$1,000, or understated no more than \$100 on a mortgage loan.

When the terms "finance charge" and "annual percentage rate" are disclosed, those terms must be more conspicuous than any other disclosure except the credit union's name. The League's forms are designed to comply with this. This requirement only applies to the Truth in Lending Fed Box disclosure described in this release—not advertisements, rate change notices, or early ARM application disclosures.

Reg. Z defines finance charges as the "cost of consumer credit as a dollar amount." It includes any charge imposed as a condition of (or incidental to) the extension of credit that is:

- Payable directly or indirectly by the consumer, and
- Imposed directly or indirectly by the creditor.

However, it does not include any charge of a type payable in a comparable cash transaction. Examples include sales tax and license plate fees.

For additional guidance see Reg. Z § 1026.4(b), which gives examples of finance charges. Section 1026.4(c) lists charges that are excluded from the finance charge. It is often necessary to review both paragraphs because (b) may indicate an item is a finance charge, while (c) may provide an exception.

Please note that the Wisconsin Consumer Act contains its own definition of finance charge, often imposing limits on particular charges. See Wis. Stats. §§ 422.201- 422.206. It is helpful to keep in mind that the Wisconsin Consumer Act basically sets limits and conditions on the imposition of finance and other charges. However, the labeling of an item as a finance charge under the Wisconsin Consumer Act does not affect the APR. On the other hand, Reg. Z addresses how to disclose those items it defines as finance charges. The Reg. Z finance charges are the ones used in computing the APR and other Truth in Lending disclosure items.

Annual Percentage Rate (APR)

State the “annual percentage rate,” using that term, and a brief description such as “the cost of your credit as a yearly rate.”

For any loan involving a finance charge of \$5 or less on an amount financed of \$75 or less, or a finance charge of \$7.50 or less on an amount financed of more than \$75, the credit union need not disclose the APR. These amounts coincide with the minimum finance charges permitted under the Wisconsin Consumer Act. See *ii Release B035* for more about minimum finance charges.

Reg. Z § 1026.22 and Appendix J provide the rules for proper calculation of the APR. As a general rule, the APR is considered accurate if it is not more than 1/8 of one percentage point above or below the correct figure.

Variable Rate

If the APR may increase after consummation in a transaction not secured by the member’s principal dwelling, or in a transaction secured by the member’s principal dwelling with a term of one year or less, disclose the following:

- The circumstances under which the rate may increase;
- Any limitations on the increase;
- The effect of an increase; and
- A hypothetical example of the payment terms that would result from an increase.

If the APR may increase after consummation in a transaction secured by the member’s principal dwelling with a term greater than one year, disclose all of the following:

- The fact that the transaction contains a variable-rate feature; and
- A statement that variable-rate disclosures have been provided earlier (i.e., the special ARM disclosures given at the time of application). See *ii Release B030* for more about these and other ARM disclosure requirements.

Payment Schedule

For loans *not* secured by real estate or a dwelling, the following applies:

Disclose the number, amounts, and timing of payments scheduled to repay the obligation. At the credit union’s option, the payment schedule may include amounts beyond the finance charge and amount financed, such as insurance premiums that were not financed and real estate escrow payments.

Remember that some elements of the payment, such as private mortgage insurance, may not last for the duration of the loan or may decrease. If such is the case, the payment schedule must accurately reflect the projected decrease in payments.

For balloon loans, be sure to accurately disclose the large dollar amount and timing of the final payment. The Wisconsin Consumer Act is deemed to prohibit demand loans.

See Reg. Z § 1026.18(g) and Commentary to disclose more complicated payment schedules.

For loans, which *are* secured by a dwelling that is non-real estate, such as a mobile home that is treated as personal property (other than a timeshare) the following applies:

The League offers closed end Truth in Lending disclosure forms (WCUL #82045 for fixed rate loans or #82046 for variable rate loans) designed to assist you in compliance with these requirements for typical loans, if they do not involve:

- Negative amortization,
- Interest only payments,
- Stepped rates, or
- Payment increases that are not in connection with an interest rate increase.

A brief overview of the Reg. Z payment disclosure requirement is provided below but see the WCUL form instructions for details:

- WCUL #82045 (*Federal TIL Disclosures - Fixed Rate*) - Instructions (Rev. 1/11)
- WCUL #82046 (*Federal TIL Disclosures - Variable Rate*)- Instructions (Rev. 1/11)

Disclose the following information about the interest rate and payments in the form of an Interest Rate and Payment Summary table. The table must contain only the information required described here, placed in a prominent location, in a minimum 10-point font.

Interest rates.

- For a fixed-rate mortgage, show the interest rate at consummation.
- For an adjustable-rate mortgage, show:
 1. The interest rate at consummation and the period of time until the first interest rate adjustment may occur, labeled as the “introductory rate and monthly payment”;
 2. The maximum interest rate that may apply during the first five years after the date on which the first regular periodic payment will be due and the earliest date on which that rate may apply, labeled as “maximum during first five years”; and
 3. The maximum interest rate that may apply during the life of the loan and the earliest date on which that rate may apply, labeled as “maximum ever.”
- If the interest rate at consummation of an amortizing adjustable-rate mortgage is discounted (i.e., less than the fully-indexed rate), disclose in a box directly beneath the Interest Rate and Payment Summary table:
 - a. The interest rate that applies at consummation and the period of time for which it applies;
 - b. A statement that, even if market rates do not change, the interest rate will increase at the first adjustment and a designation of the place in sequence of the month or year, as applicable, of such rate adjustment; and
 - c. The fully-indexed rate.

An “amortizing loan” is a loan in which payment of the periodic payments does not result in an increase in the principal balance under the terms of the legal obligation. It avoids negative amortization.

Payments.

- If all periodic payments will be applied to accrued interest and principal, for each interest rate disclosed under items 1-3 above:
 1. The corresponding periodic principal and interest payment, labeled as “principal and interest;”
 2. If an escrow account will be established, an estimate of the amount of taxes and insurance, including any mortgage insurance, payable with each periodic payment; and
 3. The sum of the amounts disclosed under 1 and 2 in this section, labeled as “total estimated monthly payment.”
- Balloon payments.
 - a. Except as provided in item b, below, if the transaction will require a balloon payment (defined here as a payment that is more than two times a regular periodic payment) the balloon payment must be disclosed separately from other periodic payments, outside the table.
 - b. If the balloon payment is scheduled to occur at the same time as another payment required to be disclosed in the table, then the balloon payment must be disclosed inside the table.

For more details, see Reg. Z 1026.18 (s) and the corresponding Reg. Z Commentary.

No guarantee-to-Refinance Statement.

Unless the loan is secured by a timeshare plan, the Truth in Lending disclosure for a loan secured by a dwelling that is not real estate must include a statement that there is no guarantee the consumer can refinance the transaction to lower the interest rate or periodic payments. This statement appears outside the Interest and Payment Summary table.

Total of Payments

Disclose the “total of payments,” using that term, and a descriptive explanation such as “the amount you will have paid when you have made all scheduled payments.” The total of payments is the sum of the payments listed in the payment schedule.

The total of payments need not be disclosed on a single payment loan. See *ii Release B035* for more about single payment loans.

Demand Feature

If the loan has a payment on demand feature, such as described above, disclose that fact.

Total Sale Price

In a credit sale, disclose the “total sale price,” using that term, and a descriptive explanation such as “the total price of your purchase on credit, including your down payment of \$_____.” The descriptive explanation must include the amount of any down payment. (A credit sale is a transaction in which the credit union is both the seller and the lender, such as when financing the sale of repossessed goods.)

The total sale price is the sum of (1) the cash price, (2) any amounts financed by the credit union that are not part of the finance charge, and (3) the finance charge disclosed above.

Any credit transaction purchased from a dealer, where the dealer sold the property that was financed (“dealer paper”), is also a credit sale and should include the total sale price disclosure.

Prepayment

When a loan or other obligation includes a finance charge computed from time to time by application of a rate to the unpaid principal balance (i.e., simple interest), include a statement indicating whether or not a penalty may be imposed if the obligation is prepaid in full. (A minimum finance charge is considered a prepayment penalty on a simple interest transaction, and triggers this disclosure.)

When an obligation includes a finance charge other than simple interest, include a statement as to whether the member may be entitled to a rebate of any finance charge if the obligation is prepaid in full.

Late Payment

Disclose any dollar or percentage charge that may be imposed due to a late payment (other than a deferral or extension charge).

Security Interest

Disclose the fact that the credit union has or will acquire a security interest in the property purchased as part of the transaction, or in any other property identified by item or type. Be sure to list *all* collateral that secures the loan. The following are examples of language that may be appropriate:

- The property purchased in this transaction;
- A motor vehicle;
- Any money you have on deposit at the time of a default, unless specifically disclaimed;
- The following shares: Share Certificate #1834-8; or
- Collateral securing other loans with the credit union may also secure this loan.

If the note and disclosure are combined, the common practice is to identify the collateral in detail, such as by a vehicle identification number or street address of real estate.

Insurance

Disclose the following items required by Reg. Z § 1026.4(d) in order to exclude certain insurance premiums from the finance charge:

- For credit life, accident, health, or loss of income insurance, disclose the premium for the initial term of insurance. Also disclose the term of insurance if it is shorter than the term of the loan. The member must sign or initial a request after receiving the disclosure if he or she wants the insurance.

- For property hazard, collision or liability insurance, disclose that the insurance may be obtained from a person of the member's choice. If the insurance is obtained from or through the credit union, disclose the premium for the initial term of insurance. Also disclose the term of insurance if it is shorter than the term of the loan.

When disclosing the amount of an insurance premium on a refinanced loan, show the gross premium amount for the new loan. Do not show the net premium due after application of any insurance refund. On WCUL forms, these disclosures are supplemented by additional information required by the Wisconsin Consumer Act, when appropriate.

Certain Security Interest Charges

State the amount of (1) certain security interest fees prescribed by law (filing fees), or (2) the amount of a premium for insurance in lieu of perfecting a security interest (nonfiling insurance).

Contract Reference

Include a statement that the member should refer to the note for information about nonpayment, default, the right to accelerate the maturity of the obligation, and prepayment rebates and penalties. At the credit union's option, the statement may also include a reference to the contract for further information about security interests and, in a purchase money residential transaction, the credit union's policy regarding assumption of the loan.

Assumption Policy

In a purchase money residential transaction, state whether or not a subsequent purchaser of the dwelling from the member may be permitted to assume the remaining obligation on its original terms. This applies to purchase money mobile homes and condominiums.

Required Deposit

If the credit union requires the member to maintain a deposit as a condition of the specific transaction, state that the APR does not reflect the effect of the required deposit. Deposits that earn 5% or more per year and escrow accounts for payments of taxes or insurance are not considered to be required deposits for purposes of this disclosure.

Proper disclosure of a required deposit may require diligence on the part of the credit union. Many form providers have been observed to omit the proper language from their Truth in Lending forms.

Also, note that the Wisconsin Consumer Act sets forth its own definition of "required deposit balance" at Wis. Stat. § 421.301(38). Wis. Admin. Code Bkg. 80.09 requires that a required deposit balance be deducted from the amount financed for the purposes of computing and assessing finance charges.

CONTENT OF DISCLOSURES FOR REAL ESTATE SECURED LOANS (REG. Z § 1026.19(e) & (f))

For virtually all closed-end consumer credit transactions secured by real property (other than reverse mortgages), the TILA-RESPA Integrated Disclosure Rule applies. Even loans that are otherwise exempt from RESPA and Reg. X are still covered by the integrated mortgage disclosures rule, including construction-only loans, loans secured by vacant land, and loans secured by 25 or more acres. The rule requires (among other things):

- A Loan Estimate (Reg. Z §1026.19(e) & .37),
- A Closing Disclosure (Reg. Z §§ 1026.19(f) & 1026.38), and
- A "Special Information Booklet" (Reg. Z §1026.19(g)), which is not required if the consumer is applying for a loan that is not to purchase one- to four-family residential property.

See The League's *ii Release No. B079* for information on the TILA-RESPA rule.

PROVIDING DISCLOSURES/NOTICES ELECTRONICALLY

Reg. Z generally requires the credit union to provide required closed-end disclosures and notices in writing and (with some exceptions) in a form that the consumer may keep. But Reg. Z also allows them to be provided electronically if the credit union complies with the requirements of the federal Electronic Signatures in Global and National Commerce Act (or E-SIGN).

Under E-SIGN, consumer disclosures or notices required by other laws or regulations can be made electronically if the consumer voluntarily consents after receiving certain E-SIGN notices. For details on E-SIGN's consent and notice requirements, see The League's *ii Release No. 0175, "Electronic Signatures and Records."*

The credit union can provide Reg. Z disclosures to consumers both in paper and electronic form and rely on the paper form to satisfy its compliance obligations. (A duplicate electronic form can be given without worrying about the E-SIGN notice and consent requirements.)

Reg. Z has special rules that say some closed-end disclosures and notices can be given electronically without first getting the consumer's consent under E-SIGN:

- The disclosures required by § 1026.19(b) for adjustable-rate mortgage loan applications (as explained in *ii Release No. B030*);
- The disclosures required by § 1026.24 for closed-end credit advertising (as explained in *ii Release No. 0124*); and
- The disclosures required by § 1026.17(g), which relates to the delay in disclosures for mail or telephone transactions (as explained in *ii Release No. B029*).

OTHER REG. Z REQUIREMENTS FOR CLOSED-END LOANS

This portion of the release addresses several miscellaneous requirements of Reg. Z which apply to closed-end loans and are not addressed in other *ii Releases*. A few are noted as applying to open-end credit as well.

Certain Residential Mortgage Transactions (Reg. Z § 1026.19)

ARMs Secured by Principal Dwelling. Special disclosures apply if the APR may change after consummation of a loan secured by the consumer's principal dwelling, with a term longer than one year. They are provided at the earlier of the time a loan application form is provided or when the consumer pays a nonrefundable fee. The credit union must provide a copy of the *Consumer Handbook on Adjustable Rate Mortgages* (CHARM booklet) and a special 13-item ARM disclosure for each ARM program in which the consumer expresses an interest.

The disclosure includes details about the mortgage loan features, including interest rate adjustments, payment changes, rate and payments caps, etc. Consult *ii Release B030* for more information about the disclosures. To actually prepare the disclosures, see Reg. Z § 1026.19(b) and call The League's Legal Affairs Department for assistance.

Subsequent Disclosure Requirements (Reg. Z § 1026.20)

New Truth in Lending disclosures must be provided in the case of a refinancing or loan assumption, but not for the typical deferral agreement (such as #81045) or loan modification agreement. Also, variable rate adjustment notices provided in regard to ARM loans must usually comply with Reg. Z § 1026.20(c). See *ii Release B002* for help on coordinating Reg. Z, Wisconsin Consumer Act, and Wis. Stats. § 138.056 requirements for interest rate change notices.

ARM Interest Rate Adjustment Notices (Reg. Z § 1026.20(c) & (d))

Reg. Z requires two types of ARM adjustment notices:

- The 20(d) initial interest rate adjustment notice is required only for the first time the interest rate adjusts. It must be provided to a consumer 210 to 240 days before the first payment at the new rate is due.
- The 20(c) ongoing interest rate adjustment notice must be provided to a consumer 60 to 120 days before the first payment at the new rate is due each time an interest rate adjustment results in a payment change.

The Wisconsin Consumer Act (WCA), and Section 138.056 of the Wisconsin Statutes also impose different notification requirements for interest rate changes on variable rate loans.

Each credit union must competently determine the timing and content requirements of adjustment notices for their variable rate loan programs, keeping in mind that more than one set of laws may apply to a given loan. It is important to remember that an adjustment notice that is in compliance for one loan program may not comply for others. The League's *ii Release No. B002* includes outlines of the various requirements under Wisconsin law and under Reg. Z, to help the credit union determine which rule(s) it must follow.

Treatment of Credit Balances (Reg. Z § 1026.21)

Occasionally, a member's loan may have a credit balance. This may arise through a member sending a payoff check for an amount greater than the remaining loan balance, a rebate of unearned insurance premiums, etc. When a credit balance of more than \$1 exists on a closed-end loan the credit union must:

- Credit the amount to the consumer's loan account;
- Refund the amount upon written request of the consumer; and
- Refund the amount to the consumer automatically after six months.

Right of Rescission (Reg. Z § 1026.23)

Reg. Z gives consumers a three-day right to cancel in most situations where they have given a mortgage on their primary residence, except for purchase money mortgages. Credit unions must give members a special notice of this right in appropriate situations. If a consumer chooses to cancel the transaction within the three business day period, the credit union must refund any fees paid and cancel the mortgage. Loan proceeds may not be disbursed until the three business days have expired and the credit union is reasonably assured that none of the consumers entitled to cancel have done so. See *ii Release B036* for more guidance on the right of rescission.

Advertising (Reg. Z § 1026.24)

The regulation includes rules regarding advertising of credit. If an advertisement for closed-end loans includes a rate, the APR must be disclosed. If the rate may increase after the loan is closed, that fact must also be stated. If the advertisement states the number of payments, period of repayment, amount of a payment, or the amount of any finance charge, then it must also disclose the terms of repayment and the APR. See *ii Release 0124* for a summary of these and other advertising rules.

Record Retention (Reg. Z § 1026.25)

Copies of the various types of disclosures and advertisements required by Reg. Z must be retained by the credit union for two years after the disclosure is given. Covered disclosures include Fed Box disclosures, ARM application disclosures, rate change notices, rescission notices, open-end disclosures, periodic statements, change of terms notices, etc.

Use of Annual Percentage Rate in Oral Disclosures (Reg. Z § 1026.26)

When a credit union orally responds to a member's request for rate information, the reply must state the APR. For example, a credit union might state: "We have four-year auto loans at 12% APR." The nominal interest rate may be stated in addition but not instead of the APR.

If the APR cannot be determined in advance, the APR for a sample transaction must be stated. The credit union may also provide information about the consumer's specific case, such as the contract interest rate, points, and the finance and other charges. For example, "On a 30-year fixed-rate mortgage our rate is 9.875% [plus one point and a \$300 application fee]. On a \$90,000 loan the APR is 10.03%."

Limitation on Rates (Reg. Z § 1026.30)

All variable rate loans (as well as open-end lines of credit) secured by the consumer's principal dwelling must have a maximum lifetime rate cap stated in both the contract and Reg. Z disclosures provided before consummation of the agreement. For example, an ARM note and the disclosure might each state "The maximum interest rate will not exceed ____%."

Special Rules for Certain Home Mortgage Transactions (Reg. Z §§ 1026.31-1026.33)

See *ii Release B062* for details regarding "high cost" or "high fee" mortgages.

Restrictions on Loan Originator Compensation and Qualifications (Reg. Z § 1026.36)

See *ii Release No. B071* for details on how Reg. Z limits loan originator compensation for closed-end mortgage loans secured by a dwelling.

The rules have three parts:

- A loan originator may not receive and no person may pay a loan originator, directly or indirectly, compensation that is based on a term of a transaction or on a "proxy" for the terms of a transaction.
- Loan originators cannot receive compensation directly from a consumer and from others on the same transaction.

- Loan originators cannot steer a consumer to accept a mortgage loan that is not in the consumer's interest in order to increase the originator's compensation.

To comply with these rules, it is critical that a credit union analyze all of its closed-end mortgage lending to determine whether or when the credit union and its staff meet the regulation's definitions of "creditor," "loan originator," or "mortgage broker." The release explains what each term means. A credit union itself can be considered a loan originator in certain situations, and its employees may be loan originators, too.

Loan Originator Qualifications

Reg. Z requires that credit union loan originators be "qualified." There are several aspects to Reg. Z's qualification requirements:

- A credit union needs to confirm that its loan originators are registered (if required) by the NMLSR. As explained in *ii Release No. B070*, the SAFE Act and NCUA rules require "mortgage loan originators" employed by credit unions (and other federally regulated financial institutions) to register with the NMLSR and obtain an NMLSR ID number. They are not required to be licensed, however. A person may be a "loan originator" under Reg. Z, but not meet the definition of a "mortgage loan originator" required to register under the SAFE Act.
- When hiring a loan originator, certain background checks must be made, including a criminal background and credit check. Certain criminal convictions can disqualify a person from being a loan originator.
- A loan originator must meet financial responsibility, character, and general fitness standards similar to those that apply to licensed loan originators.
- A loan originator must receive training covering federal and state law requirements that apply to the loan originator's loan origination activities.

Loan Originator NMLSR ID Number

For all closed-end, dwelling-secured consumer loans, Reg. Z §1026.36(g) requires a "loan originator organization" to include certain information on the following documents whenever they are provided to a consumer or presented to a consumer for signature: 1) the credit application; 2) the Loan Estimate and Closing Disclosure (required by Reg. Z §1026.19(e) and (f)); 3) the note or loan contract; and 4) the security instrument (such as the mortgage).

The following information must be shown at least once on each of those documents (not necessarily on every page):

- The loan origination organization's name and NMLSR ID number (if the NMLSR has provided the organization with an NMLSR ID number); and
- The name (as the name appears in the NMLSR) and NMLSR ID number (if the NMLSR has provided the person with an NMLSR ID number) of the "individual loan originator" (as defined in Reg. Z) with primary responsibility for the origination. If more than one individual loan originator could be named, list the one with primary responsibility for the transaction at the time the loan document is issued.

For details on the Reg. Z requirements for loan originators, see *The League's ii Release No. B071*.

Special rules for mortgage loans secured by the consumer's principal dwelling (Reg. Z §1026.36)

Reg. Z prohibits certain practices in connection with closed-end consumer mortgage loans secured by the consumer's principal dwelling. The rules do not apply to home equity lines of credit.

Unfair, deceptive or abusive practices. The rules prohibit a loan servicer (which includes the loan originator if the originator also services the loan) from engaging in three practices that are deemed to be unfair, deceptive and abusive:

- Failing to credit a payment to a consumer's account as of the date received, unless the delay does not result in a finance or late charge or result in negative information being reported to a credit bureau. In addition, if the servicer has written requirements for consumers to follow in making payments and accepts a payment outside these requirements, the servicer has five days from receipt to credit the payment. The commentary makes clear, however, that any payment-related requirements must be reasonable and, as an example, notes that it is reasonable to have a 5 p.m. cutoff time for accepting payments.
- "Pyramiding" of late fees, meaning a servicer may not impose a late fee or delinquency charge when it is due only to the borrower's failure to include a similar charge that was imposed on an earlier payment. This would apply to

payments that otherwise would be a full payment that is paid on time, but for the previously charged late fee or delinquency charge. Regulators say the Reg. Z pyramiding rule should be construed consistently with the Credit Practices Rule. For details, see The League's *ii Release No. B007*.

- For a consumer credit transaction subject to Reg. Z and secured by a consumer's dwelling, a creditor, assignee or servicer must provide an accurate statement of the total outstanding balance that would be required to pay the consumer's obligation in full as of a specified date. It applies to open or closed-end credit, secured by a dwelling – not just real estate and not just principal dwellings. For example, the rule applies to a mobile home loan even if it is not real estate under state law.

The statement must be sent within a reasonable time, but in no case more than seven business days, after receiving a written request from the consumer or any person acting on behalf of the consumer. For a high-cost mortgage subject to the HOEPA rules, a payoff statement must be provided by a creditor or servicer within five business days after receiving a request for such statement by a consumer or a person authorized by the consumer to obtain such statement.

The creditor, assignee or servicer may:

- provide the payoff statement within a reasonable time that is longer than seven days of such a request when necessary because a loan is in bankruptcy or foreclosure, because the loan is a reverse mortgage or shared appreciation mortgage, or because of natural disasters or other similar circumstances;
- specify reasonable requirements for making payoff requests, such as requiring requests to be directed to a mailing address, email address, or fax number specified by the creditor, assignee or servicer or any other reasonable requirement or method (If the consumer does not follow these requirements, a longer timeframe for responding to the request would be reasonable.); and
- take reasonable measures to verify the identity of any person acting on behalf of the consumer and to obtain the consumer's authorization to release information to any such person before the “reasonable time” period begins to run.

Wisconsin has extensive additional rules for payoff statements as described in *ii Release No. B078*. The scopes and nuances of the two rules are different, so be sure your procedures meet the compliance requirements of each that may apply.

Prompt payment crediting & payoff statements (Reg. Z §1026.36(c))

Periodic payments must be promptly credited as of the day of receipt. A "periodic payment" consists of the amount necessary to cover principal, interest, and escrow (if applicable).

If the credit union gets less than the amount due for a periodic payment, it may place the partial payment in a suspense account. When the amount in the suspense account covers a periodic payment, the credit union must treat the accumulated amount as a periodic payment and promptly credit it to the consumer's account.

In addition, creditors, assignees, and servicers must provide an accurate payoff balance to a consumer no later than seven business days after receiving a written request for that information from the consumer. For information on Wisconsin and other federal laws related to payoff statements, see The League's *ii Release No. B078*.

Prohibition on financing credit insurance (Reg. Z §1026.36(i))

The credit union cannot finance any premiums or fees for credit insurance (including debt cancellation or suspension agreements) in connection with most home loans and home equity lines of credit for which the credit union received an application on or after Jan. 10, 2014. (The rules do not affect credit insurance in force before that date.) This rule applies to single-premium as well as monthly-pay insurance.

Credit unions must consult their insurance provider(s) for guidance on complying with this rule, including how premiums should be billed and/or reflected on periodic statements. See The League's *ii Release No. B076*.

Prohibition on arbitration clauses (Reg. Z §1026.36(h))

Loan documents cannot require the consumer to submit disputes about a residential mortgage loan or HELOC to binding arbitration. Agreements cannot bar a consumer from bringing a claim in court for any alleged violation of federal law. The Arbitration Agreement in form #83005 *Your Account Agreement, with Arbitration Agreement* has an

exclusion for any consumer credit transaction secured by a dwelling, including a mortgage or a home equity line of credit secured by your principal dwelling. The League's mortgage loan forms do not contain arbitration clauses, but please check your forms for compliance if they are from another vendor.

Homeownership Counseling for First-Time Mortgage Borrowers with Negatively Amortizing, Closed-End Loans (Reg. Z §1026.36(k)).

This rule applies to loans for which the credit union receives an application on or after Jan. 10, 2014.

Before making a closed-end, dwelling-secured loan that “may result in negative amortization” to a “first-time borrower,” the credit union must confirm that the borrower has *received* homeownership counseling – not just give the borrower a list of homeownership counseling organizations, as required for most home loans by Reg. X (the regulations under the Real Estate Settlement Procedures Act or RESPA). The counselor or counseling agency must be certified or approved by the Department of Housing and Urban Development (HUD).

This requirement applies to most types of closed-end loans secured by a dwelling, except reverse mortgages or timeshare loans. This rule does not apply if the loan is a “high-cost mortgage,” which cannot have negative amortization. For information on high-cost mortgages under the Home Ownership and Equity Protection Act (HOEPA) and Reg. Z §1026.32, see The League's *ii Release No. B062*.

A “dwelling,” does not necessarily need to be real property. The Commentary to Reg. Z says that mobile homes, boats and trailers are dwellings if they are in fact used as residences – whether or not the residence is real property under state law. Also, this rule is not limited to “principal” dwellings, so it may apply, for example, to loans secured by vacation homes. The rule applies regardless of lien position.

“Negative amortization” means a payment schedule with regular periodic payments that cause the principal balance to increase. The rule applies if the loan “may result” in negative amortization.

The rule is specific to first-time borrowers – consumers who have not previously received closed-end loans or open-end plans secured by a dwelling. This does not necessarily mean the consumers are borrowing from the credit union for the first time. If a consumer has taken out a home loan from another lender previously, that person is not a “first-time” borrower.

The credit union must document that a first-time borrower has received homeownership counseling. Examples of sufficient documentation include a certificate of counseling, letter or email from a HUD-certified or -approved counselor or counseling agency. It is not enough to provide a list of homeownership counselors; the first-time borrower must actually receive counseling.

The credit union must have the certification before extending credit – in other words, before making the loan. However, the credit union can engage in other activities before the counseling is completed, such as processing an application, ordering an appraisal or having a title search done.

The counseling must include information about the risks and consequences of negative amortization.

The credit union cannot steer the consumer to a particular counselor or counseling agency. For example, the credit union cannot repeatedly highlight or otherwise distinguish the same counselor in material it provides to consumers. The credit union can provide objective information about counselors if the consumer asks (such as information about fees that have been charged to other consumers).

Other homeownership counseling rules

This requirement is separate from three other homeownership counseling requirements:

- High-cost mortgages under HOEPA and Reg. Z §1026.32 have their own counseling requirement. See The League's *ii Release No. B062*.
- Credit unions must provide a list of homeownership counseling organizations to applicants for federally related mortgage loans within three business days of application. This requirement applies to most types of closed-end and open-end credit transactions, but applicants for reverse mortgages and loans for time-shares are excluded. Reg. X §1024.20. For details, see The League's *ii Release No. B014*.
- HUD requires credit unions to send two notices to certain mortgagors who are delinquent or in default on their loans. One advises delinquent borrowers of the availability of homeownership counseling. The other advises homeowners if

default about the foreclosure rights of servicemembers and their dependents under the Servicemembers Civil Relief Act (SCRA). For details, see The League's *ii Release No. B058*.

Mortgage transfer disclosures (REG. Z § 1026.39)

A mortgage transfer disclosure notice must be given to consumers when their open or closed-end mortgage loan secured by their primary residence has been sold or transferred. A purchaser or assignee that acquires a mortgage loan (including as part of a merger) must provide the disclosures in writing within 30 days.

The League offers a sample format to the Reg. Z mortgage transfer disclosure in Exhibit A of this release. This disclosure is separate from the RESPA *Notice of Servicing Transfer* required for closed-end mortgages as described in *ii Release B014*. That notice has different content and timing requirements. Lenders must comply with each of the notice requirements when they may apply.

Who is a "covered person"?

The notice requirement applies to a "covered person," which is any person that becomes the owner of an existing mortgage loan by acquiring legal title to the debt obligation, whether through a purchase, assignment, or other transfer, and who acquires more than one mortgage loan in any twelve-month period. Some clarifications are in order:

- The transfer of ownership of a mortgage loan is subject to these disclosure requirements when the acquiring party is a separate legal entity from the transferor, even if the parties are affiliated entities.
- The servicer of a mortgage loan will not be treated as the owner of the obligation if the servicer holds title to the loan or it is assigned to the servicer solely for the administrative convenience of the servicer in servicing the obligation.
- An investor that acquires a participation interest and does not directly acquire legal title in the underlying mortgage loans is not covered by this rule.
- Disclosures are required when, as a result of a merger, corporate acquisition, or reorganization the ownership of a mortgage loan is transferred to a different legal entity.

Written disclosure required within 30 days

Any person covered by this rule must mail or deliver the disclosures to the consumer on or before the 30th calendar day following the acquisition date. If there is more than one covered person, only one disclosure need be given and the covered persons shall agree among themselves which covered person shall comply with the requirements that this section imposes on any or all of them.

Exceptions. A covered person is not subject to the requirements of this section with respect to a particular mortgage loan if:

- The covered person sells, transfers or assigns legal title to the mortgage within 30 calendars day following the date that the covered person acquired the mortgage loan; or
- The mortgage loan is transferred to the covered person in connection with a repurchase agreement and the transferor that is obligated to repurchase the loan continues to recognize the loan as an asset on its own books and records. However, if the transferor does not repurchase the mortgage loan, the acquiring party must make the disclosures within 30 days after the date that the transaction is recognized as an acquisition in its books and records.

Content of Reg. Z mortgage transfer disclosures

The Reg. Z mortgage transfer disclosures must identify the loan that was acquired or transferred and state the following:

1. *The identity, address, and telephone number of the covered person.* If there is more than one covered person, this information must be provided for each of them.
2. *The acquisition date recognized on the books and records of the covered person.*
3. *How to reach an agent or party having authority to act on behalf of the covered person (or persons), i.e., a person (or persons) authorized to receive legal notices on behalf of the covered person and resolve issues about the consumer's payments on the loan.*
 - This information is not required if the consumer can use the contact information already provided under item 1 above for these purposes.

- If this item requires multiple persons to be named, the disclosure shall provide contact information for each and indicate the extent to which the authority of each agent differs.
- It is sufficient to provide only a telephone number for item 3 provided that the consumer can use the telephone number to obtain the address for the agent or other person identified.

4. *The location where transfer of ownership of the debt to the covered person is recorded.*

- If the transfer of ownership has not been recorded in public records at the time the disclosure is provided, the covered person complies by stating this fact.

In addition to the information required above, a covered person may provide any other information about the transaction, such as that the location where consumers should send mortgage payments has not changed.

CFPB guidance on servicing transfers

Please refer to *CFPB Bulletin 2014-01* for guidance on the regulator's expectations for mortgage servicers that transfer loans. It stresses that mortgage servicers should pay special attention to rules protecting consumers who apply for loss mitigation help or trial modifications.

Ability-to-repay / qualified mortgage rule (Reg. Z § 1026.43)

The ability-to-repay / qualified mortgage rule applies to closed-end consumer credit transactions that are secured by a dwelling for which the credit union receives an application on or after January 10, 2014. Certain types of loans are exempt, however. Reg. Z sets minimum standards that credit unions must use to determine whether consumers have the ability to repay their mortgages loans. They also offer certain presumptions of compliance with the ability-to-repay rule if the loan meets the criteria to be considered a "qualified mortgage."

Before closing a covered loan, the credit union must make a reasonable, good faith determination that the consumer has a reasonable ability to repay the loan, considering all of the factors the rule requires, and retain evidence of compliance for at least three years after closing.

If the credit union chooses to make a qualified mortgage, it will be presumed that the credit union complied with the ability-to-repay requirements. (How far those presumptions go depends on whether the loan was higher-priced, however.) There are four types of qualified mortgages, and the requirements vary for each type. Generally, the credit union will need to calculate debt-to-income ratios, keep points and fees within certain caps, and not including certain prohibited features (such as negative amortization and balloon payments (although balloon payments can be allowed for one type of qualified mortgage).

For details, see The League's *ii Release No. B074*.

Periodic Statements (Reg. Z §1026.41)

Various Reg. Z and Reg. X rules affect how credit unions must service mortgage loans. The League's *ii Release No. B075* explains the requirements.

Credit unions that are "small servicers" are exempt from some of the rules, including the Reg. Z rule on periodic statements. (As explained in *ii Release No. B075*, a credit union is a small servicer if it, together with any affiliates, service 5,000 or fewer mortgage loans, and the credit union (or an affiliate) is the creditor or assignee for all of them.)

For any closed-end consumer loan secured by a dwelling (with a few exceptions), the credit union must provide a periodic statement each billing cycle that shows (among other things) the payment due and how past payments were applied. The periodic billing statement must meet certain timing, form, and content requirements. The League's *ii Release No. B075* has more details.

Private education loans (Reg. Z §§ 1026.46 & .47)

Credit unions that make private education loans must provide disclosures about loan terms and features on or with the loan application and must disclose information about federal student loan programs that may offer less costly alternatives. Additional disclosures must be provided when the loan is approved and when the loan is consummated.

Truth in Lending covers private education loans regardless of the amount financed.

The Federal Reserve provides model disclosure forms that credit unions and their vendors can use to comply with the disclosure requirements.

The disclosure rules apply to loans made expressly for post-secondary educational expenses but do not apply where educational expenses are funded by credit card advances or real-estate-secured loans. They also do not apply to education loans made, insured, or guaranteed by the federal government, which are subject to Department of Education disclosure rules.

For details see The League's *ii Release No. B069*.

EXHIBIT

Exhibit A. Sample Reg. Z Mortgage Transfer Notice

* * * * *

League publications are designed to provide accurate information with regard to the subject matter covered, with the understanding that the League does not render legal services. If you have general questions regarding this release, please call The League at (608) 640-4050 if local; or (800) 242-0833. For specific legal advice, please consult your credit union's attorney

Legal Affairs Department

PEG/jb

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EXHIBIT A - SAMPLE REG. Z MORTGAGE TRANSFER NOTICE

- SAMPLE -
[CREDIT UNION LETTERHEAD]

REG. Z MORTGAGE TRANSFER NOTICE

[DATE]
[MEMBER NAME]
[ADDRESS]
[CITY, STATE, ZIP]

Dear Member,

We are writing to you in regard to the following mortgage [loan] [home equity line of credit]:

[Identify the loan by means such as address of the mortgaged property and the loan account number, or the date on which credit was extended and the original amount of the loan or line.]

Your mortgage loan was recently transferred or sold and is owned by the following party (ies) as of [specify date]: *

*[Name of owner(s) of loan]
[Address(es)]
[Telephone No(s).]*

You may reach an agent or party having authority to act on behalf of the party(ies) named above, i.e., authorized to receive legal notices and resolve issues concerning your payments on the loan/HELOC, by _____

.**

The transfer of ownership of this loan/HELOC to the owner named above:

☐ is or may be recorded at [specify public records location, such as "the Register of Deeds office for the county where the property is located."]

☐ has not been recorded in the public records as of this time.

Other Information: _____ **

EXPLANATORY NOTES FOR CREDIT UNION – DO NOT REPRODUCE

* If there is more than one covered person, the information required by this paragraph shall be provided for each of them. Name the actual owner of the loan, not a mere agent.

** No information is required to be provided under this paragraph if the consumer can use the information provided regarding the owner named above for these purposes. If multiple persons are identified, the disclosure must provide contact information for each and indicate the extent to which the authority of each agent differs. For this paragraph only, it is sufficient if the covered person provides only a telephone number provided that the consumer can use the telephone number to obtain the address for the agent or other person identified.

*** In addition to the information required above, a covered person may provide any other information regarding the transaction, such as that the location where consumers should send mortgage payments has not changed.