

SUBJECT: Consumer Kwik-Cash Loans

Introduction	1	Resolution period	22
Executive Summary	1	Rules pending resolution	22
Eligibility	2	Procedures if billing error occurred as asserted	22
Maximum loan amounts	2	Procedures if different or no billing error occurred	22
Kwik-Cash as "overdraft protection line of credit"	2	Financial Institution's rights and duties after resolution	23
Establishing rates of interest	2	Forfeiture penalty	23
Non-variable interest rate programs	3	Periodic review of credit lines	23
Variable interest rate programs	3	Change of terms on a Kwik-Cash plan	23
Wisconsin Consumer Act limitations on variable interest rates	3	Using the Wisconsin Open-End Credit Payment Waiver	
Administering a variable rate Kwik-Cash program	4	Agreement on kwik-cash	26
Additional charges	4	Truth In Lending	27
Loan Application (#82083 or #81042 or #82053) & Open-End		Wisconsin Consumer Act issues	27
Credit Application Addendum (#82083A)	5	Other compliance issues	27
Evaluating the loan application	5	Regulatory guidance	28
Military Lending Act	6	How to use kwik-cash as an alternative to "payday" loans	28
Servicemembers Civil Relief Act	6	Termination of liability	28
Marital property considerations	6	Default	29
Debt-to-income ratios	7	Advertising	29
Cosigners	8	Prohibited inducements Reg. Z § 1026.57(c)	29
Security	8	Advertising Fixed Rates	30
Denials, counteroffer, reduction of credit limits and termination		Exhibit A – Kwik-Cash loan policy considerations	31
of credit	9	Exhibit B – Approved indexes for variable rate consumer credit	
Reg. B notice requirements	9	transactions	32
Termination based on change in name or marital status	10	Exhibit C – Model Kwik-Cash loan approval notification	33
Account termination limitations under Reg. Z	10	Exhibit D – Wisconsin consumer Kwik-Cash documentation	
Granting a Kwik-Cash loan	10	checklist (using WCUL forms)	34
Account opening disclosures – tabular summary	10	Exhibit E – Long-form billing-error rights model disclosure (for	
Payment due dates	13	Kwik-Cash)	38
Request for cash advance	13	Exhibit F – Alternative billing-error rights model form (for	
Calculating the principal loan balance	13	Kwik-Cash)	40
Calculating finance charges (interest)	13	Exhibit G – Sample Kwik-Cash account-opening table	41
Calculating minimum payments	16	Exhibit H – Instructions for sample Kwik-Cash account-opening	
Periodic statements for Kwik-Cash	16	table	42
Timing	17	Exhibit I – Illustration of periodic statement transactions: interest	
Format, basis	17	charges; fees sample	44
Contents	17	Exhibit J – Kwik-Cash sample change-in-terms (increase in	
Providing statements electronically	19	annual percentage rate)	45
Payments § 1026.10	20	Exhibit K – Kwik-Cash sample change-in-terms (increase in fees) ..	45
Handling payments	21	Exhibit L – Sample form Wisconsin Open-End Credit Payment	
Treatment of credit balances § 1026.11(a)	21	Waiver Agreement (WCUL #83004)	46
Billing error resolution § 1026.13	21	Exhibit M – Wisconsin Open-End Credit Payment Waiver Agreement	
Definition of billing error	21	(WCUL #83004) Line-By-Line Instructions	47
Billing error notice	22		

INTRODUCTION

This release applies to all credit unions currently offering Consumer Kwik-Cash loans using WCUL forms. Some other form vendors offer Kwik-Cash products; please consult your vendor for guidance on their product. The release is a step-by-step explanation of how to do Kwik-Cash loans using the Consumer Kwik-Cash loan agreement (#82033 or #82033-MLA) available through The League's *online store*.

EXECUTIVE SUMMARY

Kwik-Cash loans are lines of credit granted by a credit union to members. These loans are similar to credit cards in that this credit is revolving and open-ended. This means that as the member pays down the balance on the loan account, the available credit is replenished up to the maximum limit established by the credit union. Kwik-Cash loans do not provide members with point-of-sale access like a credit card. A member can only access a Kwik-Cash loan account through the credit union.

Many credit unions find that Kwik-Cash loans save the credit union and the member time because a Kwik-Cash loan account only requires the initial approval. Each individual advance does not require separate underwriting and approval. Credit unions will find that their employees will spend less time taking and processing loan applications, freeing them to do other important duties.

The League offers the standard *Consumer Kwik-Cash Loan Agreement and Federal Truth-in-Lending Disclosure* (#82033) for use with most consumers. A special version, #82033-MLA, is required for Kwik-Cash accounts opened on or after October 3, 2016 for any “covered borrower” under the Military Lending Act. See *ii Release No. B067 - Lending to Servicemembers* for more about the Military Lending Act.

ELIGIBILITY

Only members of the credit union are eligible for Kwik-Cash loans; however, nonmembers may apply for a Kwik-Cash loan jointly with a member.

MAXIMUM LOAN AMOUNTS

Under the law, the total loans, including all secured and unsecured loans, that a credit union may make to one member may not exceed 10% of the credit union's assets. The credit union should carefully consider whether its policies ought to limit the maximum unsecured credit to one member to a much lower dollar amount. Unsecured lending exposes the credit union to significantly greater risks. Credit union examiners will likely consider excessive maximum unsecured credit limits a threat to the safety and soundness of the credit union. Credit unions new to Kwik-Cash lending may want to consult the Office of Credit Unions when establishing maximum unsecured loan limit policies.

A list of this and other Kwik-Cash policy considerations is provided in Exhibit A of this release.

KWIK-CASH AS “OVERDRAFT PROTECTION LINE OF CREDIT”

The WCUL automatic transfer request form (#81035) documents account owners’ and borrowers’ authorization for automatic transfers from the share accounts or lines of credit they identify. Thus, it may be used to tie a Kwik-Cash line of credit to one or more share or draft accounts for overdraft protection purposes. When used for this purpose, the automatic transfer request should be signed by each Kwik-Cash borrower. Automatic transfers may be made to pay share drafts drawn on insufficient funds or ATM or ACH withdrawals drawn on insufficient funds.

If automatic transfers are authorized from both share accounts and line of credit accounts, the form allows the signers to specify which source of funds will be drawn from first.

Please note that *ii Release No. 0101 - Truth in Savings*, *ii Release No. 0120 - Reg. E - Electronic Fund Transfers*, and *ii Release No. 0169 - Overdraft Protection Programs*, each address separate issues relating to overdraft protection programs.

- *ii Release No. 0169* describes Interagency Guidance on all types of overdraft protection programs such as non-contractual discretionary “courtesy pay” programs, contractual ODP line of credit programs such as Kwik-Cash, ODP by use of transfers from savings, as well as arbitrary ODP transfers.
- *ii Release No. 0120* address Reg. E requirements for institutions to comply with opt-in notice rules before charging a fee on a consumer account for paying an overdraft caused by an ATM transaction or a one-time debit card transaction. The Exhibit in this release includes the Reg. E model for consent form for those particular overdrafts as well as the rules and commentary regarding the requirement. Overdraft fee amounts relating to EFTs must be disclosed in Reg. E disclosures and are subject to change of terms notice rules.
- *ii Release No. 0101* describes the Truth in Savings rule for disclosing overdraft fees on periodic statements. Overdraft fee amounts must be disclosed in Truth in Savings disclosures and are subject to change of terms notice rules.

ESTABLISHING RATES OF INTEREST

The credit union's board must decide what interest rate to charge on Kwik-Cash loans and whether the interest rate should be a variable rate or a non-variable rate.

Non-variable interest rate programs

Non-variable rate Kwik-Cash loan programs are relatively simple in that once they are set up, the credit union never has to change the rate. Unfortunately, some credit unions may find non-variable rate Kwik-Cash loans to be too inflexible to meet the funds management needs of the credit union. For example, when the credit union's cost of funds is rising, there is no built in mechanism to automatically raise the interest rate on the balances of existing Kwik-Cash loans.

Although the credit union may raise the interest rate on Kwik-Cash loans by sending a change of terms notice, implementing such a change is not easy to do. In fact, before any changes may be implemented, the credit union must send a 90-day advance written notice to the member. See the "Change of Terms on a Kwik-Cash Plan" section for a detailed discussion of how to implement changes.

Since it is still possible to change rates on a "fixed rate" program, with a change of terms notice, Reg. Z now restricts the ability to advertise a non-variable rate loan program as being a "fixed" rate. Thus, in this release we refer to *fixed rate* as *non-variable rate*. See *Advertising*, near the end of this release.

Variable interest rate programs

A variable rate Kwik-Cash loan is a loan that has an interest rate that may change at any time. Generally, variable interest rate loan programs tie the interest rate charged on the loans to an index that reflects the credit union's cost of acquiring those funds and making those funds available for lending purposes.

For example, a common variable interest rate index is the "prime rate" published by *The Wall Street Journal*. Lenders add a few percentage points to the index to cover overhead, costs and profit. These additional percentage points are called a "margin." Therefore, the interest rate charged on a variable rate loan might be written in the loan agreement as follows: "The Annual Percentage Rate shall equal the highest prime rate published in *The Wall Street Journal* "Money Rates" table on the last business day of the month or if *The Wall Street Journal* is not published on that day, the next following day on which it is published, plus our margin of 1.2 percentage points."

Variable interest rates help the credit union to manage the credit union's funds because there is a built-in feature that allows the interest rates on loans to automatically adjust as the credit union's cost of funds changes. The downside of variable rate Kwik-Cash loan programs is that they tend to be more difficult to implement, administer and the extent that interest rates may vary is somewhat limited by the WCA. Credit unions that want to use a variable rate should check with their data processor to verify that their system can handle a variable rate loan.

Credit Unions wishing to offer a variable-rate Kwik-Cash program may wish to review *ii Release No. B016 - Financial Strategies for Credit Union First Mortgage Lenders*. Although Kwik-Cash is not a mortgage program, many of the concepts of adjustable rate mortgages will apply to any variable rate program.

Wisconsin Consumer Act limitations on variable interest rates

A difficult aspect of implementing a variable rate Kwik-Cash program is identifying an index that accurately reflects the cost of the credit union's funds and yet will comply with the WCA. Ordinarily, one might think that the credit union should index its loan rates to the credit union's internal cost of funds, such as dividend rates. Clearly, this is the cost to the credit union of acquiring shares from its members to lend to other members. Unfortunately, the WCA complicates this apparently simple solution.

The WCA strictly regulates how interest rates may vary on variable rate loans. It does this by regulating the type of index a credit union may use in a variable rate consumer loan transaction. Under the WCA, a credit union may base its interest rates on either an "approved index" or "other adjustments."

An "approved index" is an index that is approved by the Administrator of the WCA and which is outside the control of the credit union. Currently, the administrator has established eight different approved indexes. A list of the approved indexes can be found at the end of this release in Exhibit B. "Other adjustments" may be made at the discretion of the board, or based on a non-approved index. A non-approved index is any index, other than an approved index, which the credit union chooses to use. A non-approved index may or may not be outside the credit union's control. For example, it could be based on the credit union's internal cost of funds, such as its dividend rates.

The interest rates of programs using approved indexes may freely increase and decrease in an amount corresponding to increases and decreases of the index. However, the WCA severely limits the interest rates on loans in programs using a non-approved index or a discretionary rate. The way the increases must be implemented and disclosed is complicated and burdensome.

In addition, Regulation Z does not recognize open-end variable rate plans using:

1. a discretionary interest rate, or
2. an index that is not outside the creditor's control and publicly available. Even if using an approved index, Reg. Z treats an open-end plan as not being outside the creditor's control if it includes a rate floor.

For those plans, rate changes require change of terms notices. *Reg. Z § 1026.9(c)(2)(v)(c)*.

For these reasons, The League strongly recommends that credit unions choose an approved index when establishing a variable rate Kwik-Cash program.

Administering a variable rate Kwik-Cash program

Once the credit union has identified and defined the index on which it will base its interest rate, the credit union must decide how frequently it will change the rate. For example, the credit union might decide to change the rate every calendar quarter. Using this example, section [4(b)] of the Kwik-Cash agreement might state that the "... rate is subject to change on April 1, 2008 and thereafter on the first business day of each calendar quarter." In order to keep the Kwik-Cash program uniform, the credit union should establish the same change schedule for all Kwik-Cash loans.

One seemingly obvious fact that credit unions often overlook is that if the credit union agrees to a variable interest rate on Kwik-Cash loans, the credit union must adjust that rate according to the terms of its Kwik-Cash agreement. Using the above example, this means that the credit union must look up the index it is using on the first working day of each calendar quarter. The credit union should then add whatever margin its Kwik-Cash program allows and then adjust the interest rate on Kwik-Cash loans either upward or downward. Failure to follow these procedures may result in the credit union overcharging its members, resulting in fines, restitution and other penalties for the credit union.

Please review *ii Release No. B002* regarding the possible need for variable interest rate adjustment notices.

ADDITIONAL CHARGES

Additional charges and fees are not required, but some credit unions find that these charges help to improve the profitability of the Kwik-Cash program. Also, credit unions sometimes use fees to encourage or discourage certain behavior. For example, late fees encourage members to pay promptly. Most fees the credit union wishes to impose in connection with its Kwik-Cash loans must be included in the Kwik-Cash agreement. Furthermore, credit unions should remember that Regulation Z classifies some additional charges and fees as finance charges.

There are some fees that should not be charged because the Kwik-Cash loan agreement is not designed to accommodate the added disclosure requirements for these fees. For example, credit unions should never charge a credit report fee or an annual fee. The cost of obtaining credit reports must be an expense that is included in determining the interest rates to charge on the credit union's Kwik-Cash program. Also, credit unions may not charge an application fee that is refunded to those applicants who are not extended credit without treating the fee as a finance charge. An application fee may be charged if the credit union charges the fee to *all* applicants. This fee must be disclosed on the open-end credit application addendum form given at the time of application but need not be included in the Kwik-Cash loan agreement.

Credit unions may charge the following fees provided they are properly contracted for with the member and disclosed in the agreement and on periodic statements. The credit union's board should review the charges to determine whether they should be made a part of their credit union's Kwik-Cash program:

- *A finance charge for each cash advance. The form provides for a maximum cash advance fee of \$2.00, or 2% of the amount of the cash advance up to a maximum of \$5.00 per cash advance, whichever is greater.*
- *A late payment fee. The form provides for a 5-day period after the payment due date before the late fee can be imposed. If the credit union receives at least the minimum payment within the 5-day period, no late fee can be charged.*
- *A minimum interest charge. The minimum interest charge (previously called a minimum finance charge) may be assessed when the Principal Loan Balance on the last day of the billing cycle is less than \$33.34. If this charge is imposed, the Interest Charge specified in Section [3] (periodic interest) may not be imposed. Since this is a finance charge under Reg. Z, it will boost the APR disclosed on the periodic statement in any period it is assessed.*
- *A returned check/share draft fee. The form provides that this fee may be assessed only once per check or share draft and may not be assessed again in the case of a redeposited check or share draft returned a second time.*

- *A fee for exceeding the Maximum Principal Loan Balance. This fee may be charged to a member for exceeding the Maximum Principal Loan Balance at any time during the billing cycle.*

LOAN APPLICATION (#82083 OR #81042 OR #82053) & OPEN-END CREDIT APPLICATION ADDENDUM (#82083A)

When a member requests an application for a Kwik-Cash loan, the credit union may provide either a resident or nonresident loan application form. The form number for applicants who reside in Wisconsin is #82083. The form number for applicants who are not Wisconsin residents is #81042.

The credit union may opt to use The League's Mini-Loan Application (#82053) if it only needs minimal information for underwriting. (The mini application form does not include space to list debts.) The mini application form should not be used for:

- *Any applicant whose residence is outside Wisconsin, because it has disclosures and notices that only apply to Wisconsinites;*
- *Loans to be secured by real estate or a dwelling or*
- *Credit cards.*

When a member applies for certain types of consumer open-end credit, including Kwik-Cash loans, certain disclosures about rates, fees and charges must be given along with the loan application. These disclosures should be made on the Open-End Credit Application Addendum (#82083A). The credit union should complete this form and give it to the member along with the blank loan application form. Additional reading regarding the Open-End Credit Application Addendum can also be found in *ii Release No. B010*.

It is important to have the member fill out the application form completely, accurately and truthfully. In particular, it is very important that Wisconsin residents indicate marital status and whether or not the application is for individual or joint credit. Even if a married applicant applies for a loan separately from his/her spouse, the applicant must complete the spouse information section. The applicant must give this information even if his or her spouse will not be signing the Kwik-Cash agreement.

For example, two people who are married, but not to each other, apply for joint credit. Each applicant must complete a *separate* loan application including all the necessary information about his/her spouse's assets and/or debts in the appropriate sections.

For example, if a father and son apply for a Kwik-Cash loan together and both are married, each must complete a separate loan application. They must include all the necessary information about their spouses' income and assets.

Married applicants applying for credit without their spouse should sign the line on the application stating, "Complete this section only if you are married and you are applying for credit separate from spouse." The reason for the importance of this information is explained in detail under the "Marital Property Considerations" section of this release.

EVALUATING THE LOAN APPLICATION

When the credit union accepts a credit application, the credit union should properly identify the member by verifying the signatures on the loan application.

When considering an applicant for any type of credit, keep in mind that the Equal Credit Opportunity Act (Regulation B) specifically prohibits discriminating against applicants because of race, color, religion, national origin, marital status, sex, age, receipt of public assistance, or exercise of rights under the Consumer Credit Protection Act. Consult *ii Release No. B041* for more detailed information about discrimination in lending.

The credit union should verify all information on the loan application, especially all income and debt information. Income information should be verified by contacting the source of the applicant's income, such as the employer, government benefit paying agency, disability insurance carrier, etc.

Debt information should be verified by obtaining a credit report from a credit reporting agency. A credit report will help to verify debts and help the credit union determine whether the applicant repays debts in a timely fashion. This is important information in determining an applicant's creditworthiness.

MILITARY LENDING ACT

As of Oct. 3, 2016, Department of Defense regulations under the federal Military Lending Act (MLA) apply to almost any consumer lending by a credit union, closed-end or open-end. They make certain exceptions (for dwelling-secured loans, purchase-money loans for vehicles or personal property, or credit that is outside the scope of Reg. Z), but those exceptions will not apply to Kwik-Cash loans. (Before Oct. 3, 2016, the rules only applied to three types of loans – payday loans, vehicle title loans, and tax refund anticipation loans.)

The MLA rules apply when a loan is made to a consumer who, *at the time* he/she is obligated on a credit transaction, is either a member of the military on active duty or a dependent of such a person. Credit unions should have procedures in place to determine whether a borrower is covered by the MLA rules before opening a Kwik-Cash line of credit. The MLA rules provide two “safe harbors” that credit union can (and should) use to “conclusively determine” whether someone is a covered borrower: by checking a DoD online database, or by relying on “a statement, code or similar indicator” describing a consumer’s status as a covered borrower from a nationwide consumer reporting agency.

If the MLA rules apply to a Kwik-Cash loans, the credit unions may not charge more than 36% Military Annual Percentage Rate (MAPR). The MAPR includes various charges and fees that might not be included in ordinary APR calculations. For open-end credit, the MLA rules require lenders to calculate the MAPR following the rules for calculating the “effective APR” for each billing cycle.

In addition, when the MLA rules apply, special disclosures must be provided before or at the time a consumer becomes obligated on credit. The rules prohibit prepayment penalties, arbitration clauses, and waivers of borrowers’ rights to legal recourse. Since the MLA rules prohibit loan agreements that include the above, The League offers a special Consumer Kwik-Cash loan agreement (WCUL #82033-MLA) for use with MLA covered borrowers as of Oct. 3, 2016. Please note that the Arbitration Agreement in form #83005 *Your Account Agreement, with Arbitration Agreement* does not apply to consumer credit transactions, such as consumer Kwik Cash loans, of covered borrowers under the Military Lending Act.

The language of the MLA has left much confusion in the past as to whether it prevents or otherwise limits how credit unions can take security interests in covered borrower's credit union accounts, and whether credit unions can enforce liens on those accounts, e.g., by setting off against them if the loan defaults. Because of concerns about the MLA’s ambiguous language, the MLA versions of League loan forms, including Kwik-Cash MLA form, do not provide for traditional setoff rights. The DoD issued guidance in 2017 that helps to clarify the impact of the MLA rules on security interests and how it affects various methods credit unions might use to access covered borrower’s accounts, such as setoff. The League is reviewing its MLA forms and considering changes that can be made pursuant to the 2017 guidance.

A credit union which used an existing League Kwik-Cash MLA form for a loan may not be able to set off to collect on that loan.

For details, see The League’s *ii Release No. B067 - Lending to Servicemembers*.

SERVICEMEMBERS CIVIL RELIEF ACT

The MLA rules are separate and distinct from the requirements under the federal Servicemembers’ Civil Relief Act (SCRA) and a parallel Wisconsin Act. The SCRA sets a 6% limit on the interest that can be charged on any loans that were taken out *before* a consumer’s entry into active military service. This interest rate cap applies during the time of active duty. As a result, in certain cases, a credit union may need to lower the rates on a Kwik-Cash loan balance retroactively when a consumer is on active military duty.

The 6% limit may apply to some advances but not others. For example, outstanding balances on lines of credit taken out prior to active duty will be subject to a 6% interest rate during the active duty period. But the interest rate limit will not apply to new Kwik-Cash lines opened after active duty begins. Nor will it apply to new advances taken on existing lines of credit, even if those lines were opened before active duty began.

For details about these laws, see The League’s *ii Release No. 0072, "Servicemembers' Civil Relief Act."*

MARITAL PROPERTY CONSIDERATIONS

If an applicant is married, it is important that all the information about that applicant's spouse be included in the application even if the applicant's spouse will not be signing the Kwik-Cash agreement. The application must be treated as incomplete if the spouse’s section is not completed.

The spousal information is important because the Wisconsin Marital Property Act requires lenders to include the spouse's wages and assets in the evaluation of the applicant's creditworthiness. There are some exceptions to this rule, but these exceptions do not ordinarily apply to most cases. When the credit union calculates the debt ratio for a married applicant, it must include all of the couple's income and all of the couple's debts in the ratio.

Credit unions cannot require a married applicant's spouse to sign a Kwik-Cash agreement. Nonetheless, the credit union must evaluate an applicant's credit as if both spouses were on the account even though the other spouse has no contractual obligation to repay the loan. However, if the applicant's spouse wishes to use the account, then the credit union may require the spouse to sign the Kwik-Cash loan agreement.

Although it may seem unfair that creditors must include a non-signing spouse's income in the debt ratio, the marital property laws protect creditors by allowing them to collect a marital debt from all marital property. This means that if the debt one spouse obligates himself or herself to is incurred in the interest of the marriage or family, creditors can collect on the debt from any marital property of the non-signing spouse. Therefore, the law permits creditors to garnish the non-signing spouse's wages and execute judgment on any other assets owned by the non-signing spouse even though that spouse never agreed to the loan.

It is important to remember that creditors can collect a debt from the non-signing spouse's marital property only if the debt incurred by the applicant spouse was incurred in the interest of the marriage or family. Marital property laws presume that any debt incurred by a married person is for the benefit of the marriage and the family. This presumption can be made conclusive by having the signing spouse separately sign a "family purpose statement." This statement is found on the Loan Application (#82083) just under the applicant's signature and is titled "COMPLETE THIS SECTION ONLY IF YOU ARE MARRIED AND YOU ARE APPLYING FOR CREDIT SEPARATE FROM SPOUSE."

If the credit union decides to grant a Kwik-Cash loan to a married person who is applying for the loan without his/her spouse, the marital property laws require the credit union to provide the applicant's spouse with a notice that the credit union has extended a loan to his or her spouse, before the due date of any payment. This notice is often called a "Tattletale Notice." The credit union should satisfy the notice requirement by sending the spouse a copy of the Kwik-Cash agreement. The law considers the notice to have been given on the date it is mailed to the address of the nonapplicant spouse provided by the applicant spouse. If the applicant tells the credit union that he or she resides at the same address as his or her spouse, the envelope may be addressed to the non-applicant spouse or to both spouses. A cover letter could simply state "We recently extended credit to your spouse. As required by law, we are enclosing a copy of the credit agreement statement which was signed by your spouse in connection with this transaction."

The Marital Property Act gives either spouse the right to terminate any open-end line of credit at any time regardless of whether that spouse has signed the loan agreement. (See Wis. Stats. § 766.565(5)). It is quite possible that after the non-signing spouse receives the credit union's notice that their spouse has obtained a loan from the credit union, the non-signing spouse will demand that the Kwik-Cash account be closed. When faced with this situation, the credit union should request the non-signing spouse to put into writing his/her request to close the Kwik-Cash account. After receiving this written notice, the credit union must close the account and inform its member that the account has been closed by the spouse.

If a spouse terminates a Kwik-Cash agreement, the credit union may, after sending notice to the borrower, accelerate the payments on the loan and require that the entire balance be paid in full.

Non-signing spouses also have the right to obtain payment and balance information about their spouse's Kwik-Cash account. It is not a violation of the oath of confidentiality to provide this information since the credit union is required by law to provide it. When faced with this situation, again request the non-signing spouse to put the request in writing. After receiving the written request, the credit union should provide a statement listing the date and the amount of each advance and/or payment made during the previous 12 months and the unpaid balance remaining at the time of the statement.

DEBT-TO-INCOME RATIOS

A major consideration in granting loans is the analysis of the member's capacity to repay. A standard method of analyzing a member's ability to repay is the debt-to-income ratio. A debt ratio is a comparison of monthly obligations to income. The debt ratio shows what percentage of an applicant's monthly income is consumed by debt. Although the debt ratio is an extremely helpful tool credit unions may also consider the member's level of income when making loan decisions. For example, members with higher level of income can often handle higher debt ratios.

Debt ratios are calculated by using either of the following formulas:

	Housing expense
+	New loan payment
+	Installment credit (recurring) payments
÷	Verified <i>gross</i> income

OR

	Housing expense
+	New loan payment
+	Installment credit (recurring) payments
÷	Verified <i>net</i> monthly income

The credit union's Kwik-Cash lending policy must establish the maximum acceptable debt ratio. The NCUA Examiner's Guide offers the following rough guidelines for evaluating debt ratios:

Net Income	Gross Income	Comments
Less than 40%	Less Than 30%	Generally good capacity to repay
40 – 55%	30 – 40%	Generally moderate capacity to repay
Over 55%	Over 41%	Generally limited capacity to repay

If the applicant's debt ratio is within the allowable range and the applicant's credit history shows good character for repayment, the credit union can determine whether the amount of credit requested should be extended or whether a lower amount of credit should be offered. If the applicant's creditworthiness and ability to repay improves, the credit union may increase the applicant's credit limit at a later date.

COSIGNERS

If a sole applicant does not qualify for a Kwik-Cash loan, it may be possible to offer the loan to the applicant with a qualified cosigner. If the credit union accepts a cosigner on a Kwik-Cash loan, Wis. Stats. § 186.098(7) requires the credit union to document the cosigner's ability to repay the obligation if the primary borrower cannot. The credit union should document the cosigner's ability to repay by obtaining a completed loan application from the cosigner (remember to attach the completed Open-End Credit Application Addendum to the application) and evaluating the information given. Wisconsin Statutes § 422.305 requires the credit union to provide cosigners with a disclosure explaining that if the primary borrower defaults on the loan, the credit union will pursue payment from the cosigner. The credit union should use the Explanation of Personal Obligation-Open End (#82077) to make this disclosure.

Always keep a copy of the Explanation of Personal Obligation form signed by the cosigner in the loan file as proof of compliance with this law. If the credit union fails to provide the cosigner with the Explanation of Personal Obligation form, the credit union may not be able to enforce the debt against the cosigner in the event the primary borrower defaults on the loan.

The credit union cannot require loans to be co-signed by an employee of the credit union's sponsor company or another member if the applicant is within the credit union's field of membership and would otherwise qualify for the loan. Requiring a cosigner when the applicant qualifies for the loan without the cosigner is a violation of Regulation B.

SECURITY

In general, Kwik-Cash loans are not usually secured by collateral. However, a credit union may secure all or a part of a Kwik-Cash loan with collateral. Because Kwik-Cash loans are replenishable lines of credit, the credit union might adopt the policy that it will take only non-depreciable assets as collateral on a Kwik-Cash loan. If the credit union were to use an asset such as a car, that asset may, in time, depreciate below the loan amount approved. Non-depreciable assets include shares, stocks, bonds, cash value of life insurance policies, etc.

As explained earlier in this release, under the heading "Military Lending Act," The League's Military Lending Act Consumer Kwik-Cash Loan Agreement (WCUL #82033-MLA) does not provide for traditional setoff rights because it provides very limited liens on funds in a covered borrower's credit union accounts. See *ii Release No. B067 - Lending to Servicemembers*, for more on Military Lending Act loans.

Credit unions should not take a security interest in certain household goods. Wisconsin Statutes § 422.417 lists the household goods that cannot be used as collateral on a loan.

Credit unions should never use a person's dwelling, including a mobile home, as collateral for a Kwik-Cash loan. Securing a loan with a dwelling requires several additional disclosures and contract terms. This type of lending is not

designed to be done in conjunction with a Kwik-Cash loan and is beyond the scope of this release. (The League's R.E.A.P.[®] forms were developed to document home equity lines-of-credit.)

Whenever the credit union takes collateral on any loan, the credit union must be sure to follow the proper procedures for taking and perfecting its security interest in the collateral. Besides describing the collateral on the Kwik-Cash agreement, the member must also sign a Chattel Security Agreement (#82005 or #82005-MLA) or, if the credit union will be securing the loan with shares, the member must sign a collateral pledge agreement (taking care to comply with the Military Lending Act if applicable). Credit unions taking collateral on Kwik-Cash loans may consult *ii Release No. B060* for instructions on how to perfect a security interest in the various types of collateral.

The standard Consumer Kwik-Cash form (#82033) and the Military Lending Act version (#82033-MLA) both include cross-collateral clauses. Read them carefully to see exactly what cross-collateral clause rights are included. They are limited because of compliance complications with the right of recession, HELOC rules, limitations regarding household goods, and, in #82033-MLA, the Military Lending Act.

DENIALS, COUNTEROFFER, REDUCTION OF CREDIT LIMITS AND TERMINATION OF CREDIT

Under Sec. 8 of the WCUL Consumer Kwik-Cash form, credit unions have the right to terminate a Kwik-Cash line of credit at any time (unless prohibited by other law such as Reg. B or Reg. Z as described below). An adverse action notice is often required, but not always.

Reg. B notice requirements

If a credit union denies an application for a loan, offers credit on different terms than applied for, reduces a borrower's maximum credit limit, refuses to honor a member's request to increase a line of credit, or terminates a line of credit, Regulation B generally requires that the credit union send the applicant a "Statement of Credit Denial, Termination or Change" within 30 days of receiving the application. Sometimes this form is referred to as a "denial notice" or "adverse action notice." The League has a denial notice (#82029).

The section of form #82029 titled "Statement of Credit Denial, Termination or Change" should be completed for any "adverse action" taken on a loan or on a loan application other than to notify the applicant of an incomplete application or to make a counteroffer.

Reg. B excludes a termination due to delinquency or default from the definition of adverse action. The denial notice is not required in these cases.

The credit union should give the primary reason(s) for the adverse action. The regulation states that ordinarily only the four most important reasons for the action should be given.

In addition, whenever an application is denied and the denial is based wholly or in part on information obtained from a source outside of the credit union, the Fair Credit Reporting Act requires that the credit union notify the member of that fact. The denial notice (#82029) contains a section for complying with this law. If the credit union used a credit bureau report in evaluating the application, the appropriate section of the form should be completed, including the name, address and telephone number of the credit reporting agency. If the credit union based the denial on information provided by the applicant's credit references or information obtained from any other source, the section of the form indicating this fact should be checked. See *ii Release No. 0126* for more about the Fair Credit Reporting Act.

If the credit union wishes to offer a lower credit limit or a different type of credit, such as secured rather than unsecured, or offer credit to the member on terms other than what the member requested, the credit union should complete the lower portion of the denial notice titled "Counteroffer." The counteroffer must be sent within 30 days of receiving the application. It is not necessary to send a denial notice if the applicant chooses not to accept the counteroffer.

If the credit union cannot properly evaluate an application because it is incomplete, the section of the denial notice titled "Notice of Incomplete Application and Request for Additional Information" should be completed. This form must be sent within 30 days of receiving an incomplete application. If the member does not respond to the request for additional information no further action is taken on the application; it is not necessary to send the applicant a denial notice.

The bottom portion of the denial notice also discloses the existence of the applicant's rights under the Equal Credit Opportunity Act and directs the applicant to contact the credit union's regulator if the applicant has a complaint about how his/her application was treated. Because credit unions have different regulators depending on whether the credit union has a state or federal charter, the appropriate regulator must be indicated on the bottom of the form by checking the

appropriate box. The Federal Trade Commission regulates state chartered credit unions' compliance with the Equal Credit Opportunity Act and Regulation B. (Most Wisconsin credit unions are state chartered.) The NCUA regulates federally chartered credit unions' compliance with these laws.

Termination based on change in name or marital status

A credit union may not terminate a line of credit, change the terms of the line, or require a new application on the basis of the age or retirement, or a change in name or marital status of any person contractually liable for the account. Thus, if a member divorces, marries, or their spouse dies, the credit union may not automatically terminate a Kwik-Cash line of credit, or require a new application. See Reg. B § 1002.7(c).

If a credit union learns of a change in the marital status of any person contractually liable on an existing Kwik-Cash account, it may require a reapplication only if:

- *The previous decision to grant the credit was based in part on the income of that person's spouse, and*
- *The income of that person would not now support the current line of credit.*

However, the person may not be deprived of the use of the Kwik-Cash line while the reapplication is being evaluated. The credit union may evaluate the application based on its current credit standards but still must meet the requirements of Reg. B for evaluating and notifying the applicant of the action taken.

Account termination limitations under Reg. Z

A credit union cannot terminate an open-end account, such as Kwik-Cash or Stretch Pay solely because a consumer does not incur a finance charge. See Reg. Z § 1026.11(b). Creditors may still terminate such accounts if inactive for three or more consecutive months. An account is inactive for purposes of this rule if no credit has been extended (such as by purchase, cash advance or balance transfer) and the account has no outstanding balance.

GRANTING A KWIK-CASH LOAN

A model form for use in notifying a member of the approval of their Kwik-Cash line is provided in Exhibit C. If the credit union approves the application, the applicant(s) must sign a Consumer Kwik-Cash Loan Agreement and Federal Truth-in-Lending Disclosure (#82033). Use #82033-MLA for covered borrowers under the Military Lending Act, effective October 3, 2016. This is the only time the applicant will have to sign for a loan under this program. The Kwik-Cash agreement combines the agreement and some of the required Federal Truth-in-Lending Disclosures. As of July 1, 2010, the Kwik-Cash must be accompanied, before signing, by a tabular summary of key disclosures as described below. A Kwik-Cash forms checklist is provided in Exhibit D.

Account opening disclosures – tabular summary

Reg. Z requires certain terms to be disclosed in connection with the opening of an open-end loan account. These include Rates, APRs, security, fees, etc. Originally, this set of disclosures was called “initial disclosures,” but as of July 1, 2010, they are called “account-opening disclosures.” Regulation Z has long permitted creditors to include the disclosures as a part of the loan account agreement document rather than a Fed Box as used for closed-end loans. The agreement also contains other contract terms and state law disclosures. The Consumer Kwik-Cash loan agreement (#82033 or #82033-MLA) is an example. The agreement is lengthy and in small print. No one section is set aside in the form for Truth in Lending. Required disclosures are scattered in the text.

Reg. Z has been amended to require a summary of key terms of an open-end plan in the form of a table. The information must be accurate in describing the specific terms that will apply to the particular borrower.

The disclosures for Kwik-Cash programs must comply with the revised Reg. Z rules effective July 1, 2010 open-end (not-home-secured) plans. Since Kwik-Cash cannot be accessed by a credit card, we do not address the more complicated rules that apply to such programs. We also omit discussion of other credit features (such as default rates, penalty rates, purchase transactions, credit card access, etc.) that are not built into the Kwik-Cash program. See Reg. Z § 1026.6(b) and the corresponding commentary for details.

Here we point out the disclosure rules for the new tabular disclosure, as they apply to Kwik-Cash programs. Other disclosure requirements are addressed within the actual Kwik-Cash agreement.

A credit union discloses the items described in this section, to the extent applicable. See the sample in Exhibit G of this release, and the line-by-line instructions for the sample, in Exhibit H. An editable Word version of the sample is available

online at www.theleague.coop>Compliance>Topics A-Z>Disclosures – Samples that will fit the needs of most credit unions. Please retain the features of the sample regarding size of text, use of bold, and underlining. We used, and recommend you use, all 10-point text. Do not use larger text for the APR, except as directed otherwise (e.g., sometimes in regard to premium introductory rates).

The tabular summary should normally be presented to the borrower(s) at loan closing, before signing the Kwik-Cash agreement (#82033 or #82033-MLA), then stapled on top of the consumer's copy of the agreement.

(i) **Annual percentage rate.** Each periodic rate that may be used to compute the finance charge on an outstanding balance for a cash advance expressed as an annual percentage rate (as determined by Reg. Z §1026.14(b)).

- *When more than one rate applies for a category of transactions, the range of balances to which each rate is applicable must also be disclosed.*
- *If a rate disclosed is a variable rate, the credit union must also disclose:*
 - *The fact that the rate may vary and*
 - *How the rate is determined.*

In describing how the applicable rate will be determined, the credit union must identify the type of index or formula that is used in setting the rate. The value of the index and the amount of the margin that are used to calculate the variable rate must not be disclosed in the summary table. A disclosure of any applicable limitations on rate increases or decreases must not be included in the table.

- *If the credit union sometimes offers a lower introductory rate, see the rule on discounted rates below. Also, if the credit union offers a variable rate and offers an initial rate that is not based on the indexed value as of the most recent rate change date under the plan, be sure to comply with the rules for either discounted or premium rates below.*
- *Discounted initial rates.* *If the initial rate is an introductory lower rate, the credit union must disclose the rate that would otherwise apply to the account.*
 - *Where the rate is not tied to an index or formula, the credit union must disclose the rate that will apply after the introductory rate expires.*
 - *In a variable-rate account with a discounted initial rate, the card issuer must disclose a rate based on the applicable index or formula.*

The credit union may, but is not required to, disclose in the table the introductory rate along with the rate that would otherwise apply to the account, if the credit union also discloses:

- *the time period during which the introductory rate will remain in effect, and*
- *uses the term “introductory” or “intro” in immediate proximity to the introductory rate.*
- *Premium initial rate. If the initial rate is temporary and is higher than the rate that will apply after the temporary rate expires, the credit union must disclose the premium initial rate.*
 - *The premium initial rate for purchases must be in at least 16-point type.*

The credit union may but is not required to disclose in the table the rate that will apply after the premium initial rate expires if the credit union also discloses the time period during which the premium initial rate will remain in effect.

If the credit union also discloses in the table the rate that will apply after the premium initial rate for purchases expires, that rate also must be in at least 16-point type.

(ii) **Fees for issuance or availability.**

- *Any annual or other periodic fee that may be imposed for the issuance or availability of an open-end plan, including any fee based on account activity or inactivity; as well as:*
 - *how frequently it will be imposed;*
 - *the annualized amount of the fee; and*

- *Any non-periodic fee that relates to opening the plan. A credit union must disclose that the fee is a one-time fee.*

(iii) Fixed finance charge; minimum interest charge.

- *Any fixed finance charge and a brief description of the charge, as well as*
- *Any minimum interest charge (formerly called a minimum finance charge) if it exceeds \$1.00 that could be imposed during a billing cycle, and a brief description of the charge.*

The \$1.00 threshold amount must be adjusted periodically by the Board to reflect changes in the Consumer Price Index. The Board must calculate each year a price level adjusted minimum interest charge using the Consumer Price Index in effect on the June 1 of that year.

When the cumulative change in the adjusted minimum value derived from applying the annual Consumer Price level to the current minimum interest charge threshold has risen by a whole dollar, the minimum interest charge will be increased by \$1.00.

The credit union may, at its option, disclose in the table minimum interest charges below this threshold. The sample disclosure in Exhibit G of this release includes disclosure of such a charge, even though amount of the charge makes the disclosure optional.

- (iv) Transaction charges.** Any transaction charge imposed by the credit union for use of the open-end plan for purchases. The Kwik-Cash plan is not designed to accommodate purchases, so this disclosure is not addressed in the sample tabular disclosure in Exhibit G.
- (v) Grace period.** This disclosure requirement refers to a period within which any credit extended may be repaid without incurring a finance charge due to a periodic interest rate. The Kwik-Cash agreement does not accommodate such a grace period, so the release omits the details of the rule in that regard.

But if no grace period is provided, the rule says that fact must be disclosed. Appropriate language is included in the sample in Exhibit G.

(vi) Balance computation method.

- *The name of the balance computation method, and*
- *A statement that an explanation of the method is provided with the account-opening disclosures.*

The League's Kwik-Cash agreement (#82033) uses the daily balance method (including new transactions), so appropriate language is included in the sample in Exhibit G.

- (vii) Cash advance fee.** Any fee imposed for an extension of credit in the form of cash or its equivalent. Appropriate language is offered in the sample tabular disclosure for Kwik-Cash in Exhibit G; delete it if such a fee is not charged.

- (viii) Late payment fee.** Any fee imposed for a late payment. Appropriate language is offered in the sample tabular disclosure for Kwik-Cash in Exhibit G; delete it if such a fee is not charged.

- (ix) Over-the-limit fee.** Any fee imposed for exceeding a credit limit. Appropriate language is offered in the sample tabular disclosure for Kwik-Cash in Exhibit G; delete it if such a fee is not charged.

- (x) Balance transfer fee.** Any fee imposed to transfer an outstanding balance. Kwik-Cash does not feature a special balance transfer fee, so one is not included in the sample tabular disclosure for Kwik-Cash in Exhibit G. Add appropriate language if you have developed such a feature.

- (xi) Returned-payment fee.** Any fee imposed by the credit union for a returned payment. Appropriate language is offered in the sample tabular disclosure for Kwik-Cash in Exhibit G; delete it if such a fee is not charged.

- (xii) Required insurance, debt cancellation or debt suspension coverage.** This disclosure is not required for voluntary coverage, so the details are omitted here.

- (xiii) Available credit.** This disclosure applies only if required fees and security deposits that will be imposed and charged to the account when the account is opened are 15 percent or more of the minimum credit limit for the plan. That is extremely unlikely on Kwik-Cash, so we omit the details of this disclosure requirement. If such fees are 15 percent or more, see Reg. Z § 1026.6(b)(2) (xiii).

(xiv) **Web site reference.** This disclosure requirement applies only to issuers of credit cards, so the details are omitted here.

(xv) **Billing error rights reference.** A statement that information about consumers' right to dispute transactions is included in the account-opening disclosures. This language is included in the sample tabular disclosure in Exhibit G.

PAYMENT DUE DATES

The credit union must state the date on which payments are due in the Kwik-Cash agreement. In order to more easily monitor a Kwik-Cash program for delinquent accounts as well as other tracking, The credit union may consider using the same payment due date for all Kwik-Cash accounts.

It is also important to remember that the Kwik-Cash agreement requires members to make at least the minimum monthly payment *each and every month*. A new advance on a Kwik-Cash account does not advance the due date for the next payment. Also, a member cannot make payments in advance by making one very large payment and skipping a month or two. A large principal payment simply reduces the Principal Loan Balance; it does not excuse the member from making the next monthly payment.

Most line of credit programs set the due date on or about the 27th day of the month.

REQUEST FOR CASH ADVANCE

After a borrower has signed all the necessary documents for a Kwik-Cash loan account, he/she may request a loan from the credit union at any time by making a request in person, by mail, or telephone. The member does not need to sign any other documents after signing the initial account opening documents.

The credit union may take whatever precautions necessary to insure that the member has been properly identified whenever making an advance on a Kwik-Cash loan. When a member makes a request in person, the member may be well known to the credit union staff by sight and not require any additional identification. However, if the member makes a request by mail or phone the credit union should at least verify the member's signature or request a security code (password known only by the credit union and the member).

The credit union may document requests for cash advances on Kwik-Cash accounts with the Request for Advance (form #82035) and should give or send a copy of this form to the borrower. Before completing the Request for Advance form, credit union personnel should verify that the request will not exceed the credit limit and that the account is not in default. Advances on the Kwik-Cash account may be disbursed either by check or by a credit to the member's share draft account.

Whenever a borrower takes a new advance, the required minimum monthly payment must be recalculated if Section [5] of the agreement provides for that result. The amount of the new minimum payment would be included on the Request for Advance form so that the borrower will know how much to pay on the next due date.

The fact that a borrower takes an advance during the middle of a month does not excuse the borrower's obligation to make the scheduled payment for that month. The credit union should not advance the due date of the next payment when the borrower takes an advance.

CALCULATING THE PRINCIPAL LOAN BALANCE

The following sections discuss how to calculate loan balances, finance charges, minimum payments and other amounts that are ordinarily calculated by your data processing system. The following information may be helpful to data processors in correctly programming computer systems for Kwik-Cash accounts.

On a Kwik-Cash loan, you must first determine the Principal Loan Balance (PLB) before doing any other calculations because this balance is used to calculate finance charges and minimum payments. The PLB *is not* the outstanding balance owed to the credit union on the loan. On the revised Kwik-Cash form, dated 2010, it is calculated by taking the beginning balance of the account each day, adding any new loans or charges, and subtracting any payments, credits, and unpaid interest charges. Thus, interest is charged on late fees, over-the-limit fees, returned check fees, but not on interest or other finance charges (cash advance fees, minimum interest charges)

CALCULATING FINANCE CHARGES (INTEREST)

According to the Kwik-Cash agreement, either a portion or all of the finance charge is computed and charged each day by multiplying the Daily Periodic Rate by the PLB. The Daily Periodic Rate is calculated by taking the Annual Percentage Rate and dividing it by 365, the number of days in a year. For example, using 15%, the rate used in the examples in the previous section, the Daily Periodic Rate is calculated as follows:

$$15\% \div 365 = 0.0410959\% \text{ (Daily Periodic Rate)}$$

It is best to carry-out the calculation of the Daily Periodic Rate to as many decimal places as possible to achieve an accurate finance charge calculation. Please see *ii Release No. B040* for a chart of Daily Periodic Rates for a range of annual percentage rates. They are shown from 7 to 18%, in ¼-point intervals.

To calculate the daily finance charge the Daily Periodic Rate must be converted from a percent to a decimal. This is done by dividing the Daily Periodic Rate by 100.

$$0.0410959 \div 100 = 0.000410959 \text{ (converted Daily Periodic Rate)}$$

A simple rule in converting a percent to a decimal is to move the decimal point two places to the left adding zeros if there are no numbers to the left of the decimal point. For example:

$$10\% = .1; .9\% = 0.009; 0.0410959\% = 0.000410959$$

The converted Daily Periodic Rate must then be multiplied by the PLB. The result of this calculation is the dollar amount of the finance charge for one day. To demonstrate, let us use the examples from the section on calculating PLBs; assume that the Principal Loan Balance is \$200.

$$0.000410959 \times \$200 = \$0.0821918 \text{ (daily finance charge)}$$

In this case, slightly more than eight cents (8¢) is earned each day there is a PLB of \$200.

In order to calculate the finance charge for more than one day, you count the number of days the borrower maintained a certain PLB. In the example, Jane Doe took an advance on her Kwik-Cash loan account on March 20, and the payment due date is April 15. Therefore, as of April 15, Jane Doe had maintained a \$200 PLB for 26 days to equal the finance charge of \$2.14 (\$0.0821918 (daily finance charge) x 26 (days) = \$2.14).

March 20, the day Jane took the advance, is the first day counted in calculating the finance charge because the loan agreement states that finance charges begin to accrue on the day the loan is posted.

The last day counted is the day *before* the day on which the credit union calculates the finance charge. Because the above example calculates the finance charge on April 15 the last day counted is April 14. Do not count the day on which the finance charge is calculated because the borrower may either payoff the loan or take a new advance by the end of the day. If this should happen, the PLB on that day would change resulting in an incorrect finance charge calculation for that day.

To summarize, the finance charge on a \$200 PLB for the period beginning March 20 to April 15 is calculated by multiplying the converted Daily Periodic Rate by the PLB to determine the daily finance charge. The daily finance charge is then multiplied by the number of days the PLB is maintained at the \$200.

	0.000410959	Daily Periodic Rate
x	\$ 200.00	Principal Loan Balance (PLB)
=	\$ 0.08218	Daily Finance Charge
x	26	No. of days at PLB
=	\$ 2.136986306	Finance Charge for those days a \$200 PLB maintained

After rounding the result, the finance charge for March 20 to April 15 is \$2.14.

Using the example from the section on “Calculating the Principal Loan Balance” where Jane Doe does not make a payment until June 15, the finance charge can either be calculated separately for each payment date and added together (for accuracy purposes do not round until you get to the end of the calculation), or because the PLB never changes, the finance charge can be calculated for the entire period thru June 14.

	0.000410959	Daily Periodic Rate
x	\$ 200.00	Principal Loan Balance (PLB)

x	26	3/20 thru 4/14 = 26 days
=	\$ 2.1369868	Finance Charge 3/20 – 4/14
	0.000410959	Daily Periodic Rate
x	\$ 200.00	Principal Loan Balance (PLB)
x	30	4/15 thru 5/14 = 30 days
=	\$ 2.465754	Finance Charge 4/15 – 5/14
	0.000410959	Daily Periodic Rate
x	\$ 200.00	Principal Loan Balance (PLB)
x	31	5/15/thru 6/14 = 31 days
=	\$ 2.5479458	Finance Charge 5/15 – 6/14
	2.1369868	Finance Charge 3/20 – 4/14
x	\$ 2.465754	Finance Charge 4/15 – 5/14
x	2.5479458	Finance Charge 5/15/ - 6/14
=	\$ 7.1506866	Or \$7.15 (Total Finance Charge 3/20 – 6/14)

The same calculation can be done by counting all the days the PLB remained at \$200.

	0.000410959	Daily Periodic Rate
x	\$ 200.00	Principal Loan Balance (PLB)
x	87	3/20 thru 6/14 = 87 days
=	\$ 7.15606866	Or \$7.15 (Total Finance Charge 3/20 – 6/14)

Sometimes the PLB will change between payment periods either because the member takes an advance or the member makes an extra payment that pays off part of the PLB. In this case, finance charges must be calculated for the period of time the member maintains each different PLB. For example, assume Jane Doe takes a \$200.00 advance on March 20, then takes a \$300 advance on April 1, increasing her PLB to \$500. In this example, the finance charges as of April 15 would be calculated as follows:

March 20, PLB = \$200

	0.000410959	Daily Periodic Rate
x	\$ 200.00	Principal Loan Balance (PLB)
x	12	3/20 thru 3/31 = 12 days
=	\$ 0.9863016	Finance Charge 3/20 – 3/31

April 1, PLB = \$500

	0.000410959	Daily Periodic Rate
x	\$ 500.00	Principal Loan Balance (PLB)
x	14	4/1 thru 4/14 = 14 days
=	\$ 2.876713	Finance Charge 4/1 – 4/14
	0.9863016	Finance Charge 3/20 – 3/31

x	\$	2.876713	Finance Charge 4/1 – 4/14
=	\$	3.8630146	Or \$3.86 (Total finance charge 3/20 – 4/14)

CALCULATING MINIMUM PAYMENTS

Minimum payments must be calculated after each new cash advance on the Kwik-Cash loan. The “Request for Advance” form includes a section to indicate what the new minimum payment will be. The Kwik-Cash loan agreement bases the minimum payment on either a percentage of the PLB or a flat dollar amount, whichever is greater. The credit union's board of directors must determine and include in the loan policies the minimum percentage payment and the minimum flat payment.

The exact language of the Kwik-Cash agreement, as of the 2010 revision, states “The minimum monthly payment shall be the greater of (1) \$_____ or (2) \$_____ for each \$100 (and fraction thereof) of the Principal Loan Balance as of the ☐ date of the most recent advance, ☐ close of the billing cycle.”

Some Kwik-Cash agreements provide in Section [5] that the minimum payment will be recalculated based on the Principal Loan Balance as of the most recent advance. For credit unions with monthly periodic statements, Section [5] of the 2010 revised forms may be completed to provide that the minimum payment will be recalculated based on the Principal Loan Balance at the close of the billing cycle.

- *Most recent advance option*

Whenever a borrower takes a new advance, the required minimum monthly payment must be recalculated. The amount of the new minimum payment must be included on the Request for Advance form so that the borrower will know how much to pay on the next due date.

- *Close of the billing cycle approach*

Regardless of whether the borrower has taken a new advance, the required minimum monthly payment must be recalculated at the close of the billing cycle. The amount of the new minimum payment is stated on the periodic statement so that the borrower will know how much to pay on the next due date.

In either approach, the fact that a borrower takes an advance during the middle of a month does not excuse the borrower's obligation to make the scheduled payment for that month. The credit union should not advance the due date of the next payment when the borrower takes an advance.

When the credit union's board establishes percentage minimum payments, it should consider requiring a minimum payment that will pay off at least the monthly accrued interest to avoid the possibility of negative amortization. Negative amortization results in the borrower owing more than what is borrowed even though the borrower is making payments because the payments are not high enough to pay off the interest that is accruing each month. For example, if a credit union charges 15% on Kwik-Cash loans, a minimum payment of \$1.25 per \$100 borrowed should pay off any interest that accrue on the account each month.

PERIODIC STATEMENTS FOR KWIK-CASH

One of the key requirements of open-end lending under Reg. Z is to provide periodic statements to borrowers. The requirements go beyond what is typically provided for closed-end loans, so be sure to use a data processing package designed to comply with Reg. Z § 1026.7 Periodic Statement requirements.

The Reg. Z periodic statement requirements vary depending on the type of open-end product involved. Here, we address those requirements for The League's Consumer Kwik-Cash plan, but do not address the separate requirements for HELOCs or credit card plans.

A periodic statement must be sent to the consumer in each billing cycle, which may be no longer than one calendar quarter. Most credit unions use a monthly billing cycle, thus need to provide periodic statements on a monthly statement. A monthly billing cycle allows consumers to detect errors or unauthorized withdrawals to be detected and reported more quickly.

No periodic statement is required for an account if the credit union deems the account uncollectible, or if delinquency proceedings have been instituted, or if to do so would violate federal law (such as bankruptcy).

Timing

The general timing requirement for periodic statements is that they be mailed or delivered for each billing cycle at the end of which an account has a debit or credit balance of more than \$1 or on which a finance charge is imposed.

For open-end consumer Kwik-Cash credit plans, the credit union must adopt reasonable procedures designed to ensure that:

- *Periodic statements are mailed or delivered at least 14 days prior to the date on which the required minimum payment must be received in order to avoid being treated as late for any purpose; and*
- *The credit union does not treat as late for any purpose a required minimum payment received by the credit union within 14 days after mailing or delivery of the periodic statement.*

There are 21-day timing requirements if an open-end credit plan has a grace-period or credit card access, but we will not address them here since they will not be features of Kwik-Cash. For the purposes of this rule, “grace period” means a period within which any credit extended may be repaid without incurring a finance charge due to a periodic interest rate. *Such a grace period is common on credit cards, but is not featured in The League’s Kwik-Cash or R.E.A.P. documentation.* Such a grace period is different from a “courtesy period” which may be provided before a late fee is charged. Reg. Z 1026.5(b)(2)(ii)

Format, basis

The general disclosure requirements of Reg. Z § 1026.5 apply to the periodic statement disclosures. The periodic statement disclosures must: (1) be clear and conspicuous, (2) be in writing, (3) be in a form the consumer may keep, (4) disclose interest charges and fees as shown in Reg. Z Appendix G-18(A) (an adaptation is shown in Exhibit I of this release), (5) reflect the terms of the legal obligation, and (6) clearly identify any estimates after basing the estimate on the best information available.

Contents

- Reg. Z § 1026.7(b) requires that the credit union furnish the Kwik-Cash borrowers with a periodic statement that discloses the following items, to the extent applicable. **The corresponding Commentary to Reg. Z provides clarifications and details on each of these issues.**
- *Previous balance.* The account balance outstanding at the beginning of the billing cycle (the statement period). (§ 1026.7(b)(1))
- *Identification of transactions.* An identification of each credit transaction in accordance with Reg. Z § 1026.8.
 - For non-sale credit transactions (cash advances), the requirements are listed below. The requirements for sale credit are not listed, since Kwik-Cash is not designed for sale credit.
 - A brief identification of the transaction (such as cash advance, loan, overdraft loan, or any readily understandable trade name for the credit program);
 - The amount of the transaction; and
 - At least one of the following dates:
 - The date of the transaction,
 - The date of debiting the transaction to the consumer’s account, or,
 - If the consumer signed the credit document, the date appearing on the document. (§ 1026.7(b)(2), § 1026.8)
- *Credits.* Any credit to the account during the billing cycle, including the amount and the date of crediting.
 - The date need not be provided if a delay in crediting does not result in any finance or other charge. The credits are typically listed in order by date. (§ 1026.7(b)(3))
- *Periodic rates.* Each periodic rate that may be used to compute the interest charge expressed as an annual percentage rate and using the term Annual Percentage Rate, along with the range of balances to which it is applicable.

- If different periodic rates apply to different transactions, the types of transactions to which the different rates apply must also be disclosed.
- If a variable-rate plan is involved, disclose the fact that the periodic rate may vary.
- An annual percentage rate that differs from the rate that would otherwise apply and is offered only for a promotional period need not be disclosed except in periods in which the offered rate is actually applied.
- If no interest charge is imposed when the outstanding balance is less than a certain amount, the credit union is not required to disclose that fact, or the balance below which no finance charge will be imposed. (§ 1026.7(b)(4))
- *Balance on which finance charge is computed.* The amount of the balance to which a periodic rate was applied and an explanation of how that balance was determined, using the term Balance Subject to Interest Rate.
 - When a balance is determined without first deducting all credits and payments made during the billing cycle, the fact and the amount of the credits and payments must be disclosed. (§ 1026.7(b)(5))
- *Charges imposed.* The amounts of any charges imposed as part of a plan as stated in account-opening disclosures (under § 1026.6(b)(3)), grouped together, in proximity to the transactions identified, substantially similar to Sample G-18(A) in Reg. Z Appendix G, shown in Exhibit I of this release. (§ 1026.7(b)(6))
- *Interest.* Finance charges attributable to periodic interest rates, using the term Interest Charge, must be:
 - Grouped together under the heading Interest Charged, and
 - Itemized and totaled by type of transaction, similar to Reg. Z Sample G-18(A). (§ 1026.7(b)(6)(ii))

Also, a total of finance charges attributable to periodic interest rates, using the term *Total Interest*, must be disclosed for the statement period and calendar year to date, using a format substantially similar to Reg. Z Sample G-18(A).

- *Fees.* “Charges imposed as part of the plan” other than charges attributable to periodic interest rates must be:
 - Grouped together under the heading *Fees*,
 - Identified consistent with the feature or type, and
 - Itemized.

Also a total of charges, using the term *Fees*, must be disclosed for the statement period and calendar year to date, using a format substantially similar to Sample G-18(A). (See Exhibit I.) (§ 1026.7(b)(6)(iii))

As relates to a standard Kwik-Cash plan, “charges imposed as part of the plan” are likely to be whichever of the following may be assessed:

- *Finance charges identified under §1026.4(a) and §1026.4(b).*
 - These include interest, minimum interest charges, etc.
- *Charges resulting from the consumer's failure to use the plan as agreed (except post-judgment interest rates permitted by law).*
 - These include late payment fees, over-the-limit fees, and returned check fees.
 - *Charges for which the payment, or nonpayment, affect the consumer's access to the plan, the duration of the plan, the amount of credit extended, the period for which credit is extended, or the timing or method of billing or payment.*
 - These include cash advance fees and annual fees, among others.
- *Charges for voluntary credit insurance, debt cancellation or debt suspension.*
- *Change-in-terms and increased penalty rate summary for open-end (not home-secured) plans.*

- Credit unions that provide a change-of-terms notice as required by § 1026.9(c) described later in this release on or with the periodic statement, must disclose a tabular summary of key changes on the front of the statement. See “Change of Terms on Kwik-Cash Plan” for details. (§ 1026.7(b)(7))
- See the illustration of “*Important Changes to Your Account Terms*” included in Form G–18(F) of Reg. Z App. G at: www.ecfr.gov/graphics/pdfs/er22de11.027.pdf (it is continued at: www.ecfr.gov/graphics/pdfs/er22de11.028.pdf).
- Kwik-Cash does not include rate increases due to delinquency or default, or as a penalty. Special rules for those features are found in the regulation.
- *Grace period.*
 - If a grace period to avoid the payment of additional interest charges is provided, a credit union may, at its option and without disclosure, impose no finance charge if payment is received after the time period's expiration. Kwik-Cash does not have a grace period on interest charges. (§ 1026.7(b)(8))
- *Address for notice of billing errors.* The address to be used for notice of billing errors.
 - Alternatively, the address may be provided on the “short form” billing rights statement on the periodic statement. (§ 1026.7(b)(9))
- *Closing date of billing cycle; new balance.* The closing date of the billing cycle and the account balance outstanding on that date. (§ 1026.7(b)(10))

In addition to these specific disclosures, the credit union must provide the borrower with either a statement of billing rights at least once per calendar year or a summary of these rights with each periodic statement. Model language for each alternative appears at the end of this release in *Exhibits E and F*.

See Reg. Z § 1026.7 and its *Commentary* for more complete information regarding periodic statements.

Providing statements electronically

Reg. Z generally requires the credit union to provide required disclosures, including periodic statements, 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 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. 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.)

Combined Regulation E & Regulation Z Statements

Some credit unions combine the Reg. Z periodic statement with statements required by Regulation E for share or share draft accounts, which are accessed by electronic fund transfers. If this is done, the credit union must make sure that the resulting combined statements still meet all the applicable requirements of both regulations. Shortcuts may result in consumer violations. In addition, Regulation Z requires that the disclosures be presented in a *clear and conspicuous* manner. If combining Regulation E and Regulation Z disclosures on one form results in disclosures that are not readily understandable by the consumer, a violation may result.

Periodic statements that are provided to comply with Regulation E also must comply with Truth in Savings. This further diminishes the prospect of issuing a share or share draft account statement that also complies with Regulation Z. It is worth noting that many large institutions choose not to attempt to combine the Regulation Z disclosures with the others.

If the credit union combines loan statements with savings product statements, it must be prepared to deal with the automatic stay in bankruptcy. The automatic stay is a court order that takes effect immediately when a bankruptcy petition is filed. It forbids any attempt to collect on the petitioner’s debts. Sending loan statements which list a balance owed or a payment due is viewed as a violation of the automatic stay. If a combined statement is usually used, the credit union must be prepared to send required statements regarding savings products but block the statement information regarding loans.

PAYMENTS § 1026.10

A credit union generally must credit a payment to the consumer's loan account as of the date of receipt, unless a delay in crediting does not result in a finance or other charge.

Some creditors use different cut-off times depending on the payment method. Consumer groups and others have raised concerns that the use of certain cut-off times may effectively result in a due date that is one day earlier than the due date disclosed. In addition, consumers have objected to creditors' practice of using the dates on days that the creditor does not accept payments, such as weekends or holidays. The Federal Reserve Board has amended Reg. Z to address these concerns as of Feb. 22, 2010.

The credit union may still specify *reasonable* requirements for payments that enable most consumers to make conforming payments, by posting those requirements on the periodic statements. Reasonable requirements for making payment may include:

- Requiring that payments be accompanied by the account number or payment stub;
- Specifying that only checks or money orders should be sent by mail;
- Specifying that payment is to be made in U.S. dollars;
- Specifying one particular address for receiving payments, such as a post office box; or
- Setting reasonable cut-off times for payments to be received:
 - By mail,
 - By electronic means,
 - By telephone, and
 - In person.

Such cut-off times must be no earlier than 5 p.m. on the payment due date at the location specified by the credit union.

If a credit union has not specified requirements as described above:

- Payments may be made at any location where the credit union conducts business.
- Payments may be made any time during the credit union's normal business hours.

Payment may be by cash, money order, draft, or other similar instrument in properly negotiable form, or by electronic fund transfer if the credit union and consumer have so agreed. Keep in mind that creditors are generally prohibited from requiring payment by preauthorized electronic fund transfer. (See section 913 of the Electronic Fund Transfer Act.)

If a credit union promotes electronic payment via its website (such as by disclosing on the website itself that payments may be made via the website), any payments made via the credit union's Web site prior to the credit union's specified cut-off time, if any, would generally be conforming payments.

Nonconforming payments. If the credit union specifies, on or with the periodic statement, requirements for the consumer to follow in making payments as permitted in this section, but accepts a payment that does not conform to the requirements, the credit union must still credit the payment within five days of receipt.

If the credit union accepts a nonconforming payment (for example, payment mailed to a branch office, when the credit union had specified that payment be sent to a different location), finance charges may accrue for the period between receipt and crediting of payments.

Adjustment of account. If the credit union fails to credit a payment, as described above, in time to avoid imposition of finance or other charges, the credit union must adjust the consumer's account so that the charges imposed are credited to the consumer's account during the next billing cycle.

Crediting of payments when credit union does not receive or accept payments on due date. If the credit union does not receive or accept payments by mail on the payment due date (e.g., the U.S. Postal Service does not deliver mail on that date) the credit union may generally not treat a payment received the “next business day” as late for any purpose. The “next business day” as used here means the next day on which the credit union accepts or receives payments by mail.

However, if the credit union accepts or receives payments made on the due date by a method other than mail (e.g., electronic or telephone payments), the credit union is not required to treat a payment made by that method on the next business day as timely (even if it does not accept mailed payments on the due date).

When an account is not eligible for a grace period, imposing a interest charge due to a periodic interest rate does not constitute treating a payment as late.

HANDLING PAYMENTS

The Kwik-Cash agreement requires a minimum payment for each month in which there is a debit balance. This means that even if the member takes an advance the day before the minimum payment due date, the member must make a payment for that month on the very next day. For example, if a borrower's minimum required monthly payment is \$20 and it is due on the 15th of each month, the borrower must make a \$20 payment on the 15th even if he took an advance the 14th.

The Kwik-Cash agreement also sets forth the order in which payments must be applied against Kwik-Cash account balances. Priority of payment application is (1) to interest charges then due (including periodic interest, cash advance fees, or any minimum interest charges), and then to the PLB. If the payment does not pay off all interest charges due, subsequent payments must be used to pay off the interest charges and other unpaid charges before paying any of the PLB.

TREATMENT OF CREDIT BALANCES § 1026.11(A)

If a credit balance in excess of \$1 is created on an account, the regulation requires certain actions by the credit union which are outlined in § 1026.11. It must do all of the following:

- Credit the amount to the account.
- Refund any part of the credit balance within seven business days after receiving a written request from the consumer.
- Make a good faith attempt to refund any portion remaining in the account for longer than six months. If the credit union does not know the consumer's current address and is unsuccessful in tracing the consumer through both the consumer's last known address and telephone number, no further action is required.

BILLING ERROR RESOLUTION § 1026.13

Truth in Lending sets forth error resolution procedures for billing errors. It requires a consumer to provide written notice of an error to the credit union within 60 days after the first periodic statement reflecting the alleged error is sent. The written notice triggers a credit union's duty to investigate the claim within the time limit described below.

Definition of billing error

- A billing error includes, but is not limited to:
- A misidentification.
- An insufficient identification.
- An incorrect transaction date.
- The credit union's failure to mail a periodic statement to other than the designated current address if the credit union received the address in writing at least 20 days before the end of the billing cycle for which the statement was required.
- An improper crediting of payment or credit.
- A computational error.
- A billing for property or services not accepted or not delivered in accordance with the agreement.

- A mistake in dollar amount.
- A reflection on a periodic statement of an extension of credit that was not made to the consumer or was made to a person who did not have authority to use the account.
- A request for additional clarification, including documentary evidence of a credit extension.

Billing error notice

To allege a billing error, the consumer must notify the credit union in writing of the alleged error. The notice must be received by the credit union within 60 days after the periodic statement reflecting the alleged error was mailed or delivered to the consumer. The notice must contain sufficient information to:

- Identify the consumer's name and account number.
- Indicate the consumer's belief that an error occurred.
- Describe the alleged error.

Resolution period

After receiving a billing-error notice, the credit union must acknowledge its receipt in writing to consumer within 30 days. (This written acknowledgement is not necessary if the dispute is resolved within the 30-day period.)

Within two complete billing cycles, but not more than 90 days after receipt of the billing-error notice, the credit union must have either corrected the billing error and sent the consumer an explanatory letter or corrected statement explaining why the credit union believes the bill is correct. The credit union may temporarily correct the consumer's account pending investigation, but by doing so is not excused from completing the resolution procedures within those time limits.

Rules pending resolution

The consumer may withhold payment on any portion of the required payment that the consumer believes is related to the disputed amount (including related finance and other charges), until the credit union completes the resolution procedures as detailed in § 1026.13(d). Consequently, while these procedures are in process, the credit union may not try to collect any part of that amount, except that it may continue to bill. However, the credit union must indicate on or with each periodic statement that includes a disputed amount that payment of that amount is not required pending the credit union's compliance with the resolution process. If the consumer has authorized automatic debits on any deposit account to pay off debts incurred on a credit card account, and the billing error notice arrives up to three business days before any scheduled payment date, the credit union may not deduct any part of the disputed amount or related finance or other charges.

The credit union is not allowed to make an adverse report to anyone about the consumer's credit standing, or report that the amount or account is delinquent, because the consumer has not paid the disputed amount and related finance or other charges. The credit union may report that the amount or the account is in dispute.

The credit union may not accelerate payments, or restrict or close the Kwik-Cash account solely because the consumer has in good faith exercised his or her rights to assert an error.

Procedures if billing error occurred as asserted

If the credit union determines a bill to be in error as asserted by the consumer, it must credit the consumer's account with all finance and other charges imposed on the disputed amount and, in appropriate cases, credit the consumer's account with an amount equal to the disputed amount. The credit union must also provide the consumer with a written notice of the correction. The credit union may use a subsequent periodic statement as its correction notice if the statement is mailed within the time for resolution and clearly identifies the amount credited as being in response to a billing error notice.

Procedures if different or no billing error occurred

If the credit union believes the bill to be correct after conducting a reasonable investigation (or that an error occurred, but a different one from that asserted by the consumer), the credit union must provide a written explanation of the reasons for its belief and, at the request of the consumer, supply documentary evidence. In addition, if a different billing error occurred, the credit union must correct the account with any disputed amount and related finance or other charges, as applicable.

Financial Institution's rights and duties after resolution

After following the error resolution procedures discussed previously, if the credit union determines that the consumer owes all or part of the disputed amount and related finance or other charges, it must promptly notify the consumer in writing of the amount owed and when payment is due. If the consumer originally was entitled to a free-ride period (see “initial disclosures”) in which to pay the amount due, the credit union must allow the consumer the same time period for payment before additional finance or other charges are imposed on the amount. Also, before the credit union may report the amount or account as delinquent, the consumer must be given a minimum of ten days to pay it. If an initially disclosed free ride period would allow the consumer a longer time in which to pay, the consumer has the benefit of that period. If within that time period for payment, the consumer notifies the credit union that it still disputes the amount, the credit union may not report to third parties that the amount or account is delinquent unless the credit union also reports that the amount of account is in dispute and notifies the consumer in writing of the name and address of each person to whom it is reporting the information.

The credit union must promptly give written notification of any subsequent resolution of the dispute to all persons to whom it made a report.

Forfeiture penalty

If the credit union fails to follow any of the billing error resolution requirements, it may not collect the first \$50 of a disputed amount, even if the bill is deemed to be correct.

PERIODIC REVIEW OF CREDIT LINES

Credit union's loan policies should establish guidelines regarding the periodic review of Kwik-Cash lines of credit. Some financial institutions require an updated personal financial statement or application every two years to determine if the applicant is still creditworthy. If the applicant's financial condition has deteriorated to warrant termination or a negative change, Reg. B requires proper disclosure. The Statement of Credit Denial, Termination, or Change (on form #82029 is required for an "adverse action" under Reg. B. But a termination due to a default or delinquency is excluded from the definition of adverse action, so no adverse action notice is required. A reduction in the credit limit may require a change in terms notice and/or an adverse action.) or a change of terms notice or both may be appropriate to meet the necessary disclosure requirements. As described earlier, Reg. Z prohibits termination of a Kwik-Cash plan solely because a consumer does not incur a finance charge.

CHANGE OF TERMS ON A KWIK-CASH PLAN

There are two elements to a change in terms:

1. One step is the **amendment of the agreement**, providing a new block of text to replace the corresponding original block of text in a section of the loan agreement. This is a necessary legal step to amend your agreement. It must meet the requirements of any language in the agreement relating to a change in terms. It typically tells the borrower when the change takes effect, and informs them of any rights under the contract avoid the change, such as any right to opt out or pay off and terminate the loan. This is a legal notice and must be drafted with care to avoid expensive mistakes. Legal assistance may be required.
2. The other step is to comply with regulatory requirements for a **change in terms notice**. Reg. Z and Wisconsin law set requirements for the timing and often the content of a change in terms notice. It is a disclosure that gives the borrower a “heads up” about the amendment of the agreement. The change in terms notice must be accurate and consistent with the actual contract amendment.

The amendment language and the change of terms notice are typically provided at the same time, in the same mailing.

The release addresses the regulatory notice requirements below.

A 45-day advance written advance notice is generally required by Reg. Z. Wisconsin often requires 90 days advance notice before changes may take effect. Credit unions using Kwik-Cash must comply with both laws.

Furthermore, the Kwik-Cash loan agreement provides that the member's taking a new advance after being sent the change of terms notice will constitute the member's agreement to the change. The change cannot be implemented for a given member until that step is achieved, if the plan is documented on the Consumer Kwik-Cash Agreements (#82033) with a revision date prior to 6/10.

The (6/10) revision of the Consumer Kwik-Cash Loan Agreement (#82033) introduces an option that credit unions may use as an alternative to waiting for the borrower to take a new advance to indicate their agreement to the change. Section [6] Change of Terms is revised to include:

In the alternative, the advance written notice we send you may include information about how and when you may opt-out of one or more changes described in the notice. If you do not exercise an opt-out option that is offered, you will be deemed to have agreed to the changes to the Agreement. If you do exercise the opt-out option, we may terminate your Agreement, but you would be permitted to pay off any existing balance under the then existing terms.

1. Reg. Z 45-day advance notice requirement

§ 1026.9(c)(2)(i), (ii)

Under Reg. Z, a credit union must provide a written notice of a change at least 45 days prior to the effective date of the change to each consumer who may be affected when a “significant change in account terms” is made to a “term required to be disclosed in account-opening disclosures,” or the required minimum periodic payment is increased. A “significant change in account terms” includes:

- A change to:
 - Charges imposed as part of the open-end plan, that are required to be disclosed in the tabular account opening disclosures, *§ 1026.6 (b)(1)(2)*
 - Rate-related information that is required to be disclosed in account opening disclosures, *§ 1026.6 (b)(4)*,
 - Disclosures for voluntary credit insurance, or debt cancellation/debt suspension;
- An increase in the required minimum periodic payment; or
- The acquisition of a security interest.

In addition, Regulation Z does not recognize open-end variable rate plans using:

1. a discretionary interest rate, or
2. an index that is not outside the creditor’s control and publicly available. Even if using an approved index, Reg. Z treats an open-end plan as not being outside the creditor’s control if it includes a rate floor.

For those plans, rate changes require change of terms notices. *Reg. Z § 1026.9(c)(2)(v)(c)*.

a. *Disclosure requirements.* If a credit union makes a "significant change in account terms," the change of terms notice must provide the following information:

1. Each of the following:
 - A summary of the changes made to terms required in account-opening disclosures, *
 - A description of any increase in the required minimum periodic payment, and
 - A description of any security interest being acquired by the creditor; *

* These two items must be provided in a tabular format, with headings and format similar to the account-opening tabular disclosure. See Exhibit G of this release, or Sample G-17 in Reg. Z Appendix G. The table must disclose the changed term and any required information relevant to the change. The new terms must be described in the same level of detail as required when disclosing the terms in the account-opening disclosure table.
2. A statement that changes are being made to the account;
3. A statement indicating the consumer has the right to opt out of these changes, if applicable, and a reference to additional information describing the opt-out right provided in the notice, if applicable;
4. The date the changes will become effective;
5. If applicable, a statement that the consumer may find additional information about the summarized changes, and other changes to the account, in the notice (This will often be necessary to provide the language that actually amends the text of your existing loan agreement.);

6. If the change in terms being disclosed is an increase in an annual percentage rate, the balances to which the increased rate will be applied. If applicable, a statement identifying the balances to which the current rate will continue to apply as of the effective date of the change in terms.

b. Format requirements for Summary of Changes made to terms required in account-opening disclosures.

Notice included with periodic statement. If a required change in terms notice is included on or with a periodic statement, the summary of changes referenced in item 1 above must be disclosed on the front of any page of the statement. The summary of changes must:

- Immediately follow the other required contents of the change of terms notice, and
- Be substantially similar to the format shown in Sample G-20 or G-21 in Reg. Z Appendix G.

Notice provided separately from periodic statement. If a required change in terms notice is not included on or with a periodic statement, the summary of changes referenced in item 1 above must, at the credit union's option, be:

- Disclosed on the front of the first page of the notice, or
- Segregated on a separate page from other information given with the notice.

The summary of changes required to be in a table, as described in item 1 above may be on more than one page, and may use both the front and reverse sides, so long as:

- The table begins on the front of the first page of the notice, and
- There is a reference on the first page indicating that the table continues on the following page.

The summary of changes must immediately follow the other required contents of the change of terms notice, substantially similar to the format shown in Sample G-20 or G-21 in Appendix G.

c. Exceptions. Reg. Z has certain limited exceptions to the 45-day notice requirement, listed below, but they are unlikely to apply to a Kwik-Cash program. If an exception would apply, the Wisconsin Consumer Act's 90-day notice requirement (below) may still apply. See the listed section of regulation for details.

- Changes agreed to by the customer; § 1026.9(c)(2)(i)(B)
- Charges that are not a "significant change in account terms;" § 1026.9(c)(2)(iii)
- Notice not required including: § 1026.9(c)(2)(v)
- Charges for documentary evidence;
- A reduction of any component of a finance or other charge;
- Suspension of future credit privileges (except as provided below under Reduction of credit limit) or termination of an account or plan; or
- When the change results from an agreement involving a court proceeding.

d. Reduction of credit limit. § 1026.9(c)(2)(vi)

If a credit union decreases the credit limit on a Kwik-Cash account, advance notice of the decrease must be provided before an over-the-limit fee can be imposed solely as a result of the consumer exceeding the newly decreased credit limit. Notice must be provided in writing or orally at least 45 days prior to imposing the over-the-limit fee or penalty rate and must state that the credit limit on the account has been or will be decreased.

e. Default, penalty rates. Reg. Z has additional notice requirements at § 1026.9(g) for any increase in rates due to delinquency or default or as a penalty, but they are not described here since those features are not offered on the Kwik-Cash loan program.

2. Wisconsin 90-day advance notice change of terms requirement Wis. Stats. § 422.415

The Wisconsin Consumer Act requires notice to be given 90 days before the effective date of any change that:

- Imposes or alters a permitted fee, or

- Adversely affects the outstanding balance, which means the change:
- Increases the rate of finance charge, or
- Increases the amount of the monthly payment due.

A copy of the notice should be sent to the borrower's non-borrower spouse if the line of credit is incurred in the interest of the marriage or family under the Marital Property Act (Wis. Stats. § 766.565(6)).

The Wisconsin 90-day advance notice requirement does not apply if each borrower (and cosigner) agrees to the change in writing.

3. *Contract terms in the Kwik-Cash agreement*

In addition to sending advance written notice, most Kwik-Cash agreements state that the borrower's request for an advance after the borrower has been notified of a change constitutes the borrower's agreement to the change. This means that in addition to waiting up to 90 days before implementing the change, the credit union must wait for the member to request an advance on the Kwik-Cash loan before changing any term of a borrower's Kwik-Cash agreement. Therefore, if the borrower never makes another advance, the credit union may not make any changes to that particular Kwik-Cash loan.

The credit union may implement any change in a term immediately if the borrower gives written consent to the change by signing a change in terms notice indicating his/her agreement to the change. However, if the change is adverse to the borrower's interests, it may not be possible to get every borrower's agreement to such a change. Although the credit union may terminate the Kwik-Cash loan if the borrower does not agree to the change, the borrower still has the right to pay off any existing balances on the Kwik-Cash account under the existing terms of the Kwik-Cash agreement.

The (6/10) revision of the Consumer Kwik-Cash Loan Agreement (#82033) introduces an option that credit unions may use as an alternative to waiting for the borrower to take a new advance to indicate their agreement to the change. Section [6] Change of Terms is revised to include:

In the alternative, the advance written notice we send you may include information about how and when you may opt-out of one or more changes described in the notice. If you do not exercise an opt-out option that is offered, you will be deemed to have agreed to the changes to the Agreement. If you do exercise the opt-out option, we may terminate your Agreement, but you would be permitted to pay off any existing balance under the then existing terms.

USING THE WISCONSIN OPEN-END CREDIT PAYMENT WAIVER AGREEMENT ON KWIK-CASH

The League offers an open-end credit payment waiver agreement form for sale, for use with the Consumer Kwik-Cash loan agreement (#82033). The *Wisconsin Open-End Credit Payment Waiver Agreement* (WCUL #83004) allows the credit union and borrower(s) to agree to waive the payment requirements on one or more specified due dates on a line of credit. It cannot be used to make other changes, such as to the interest rate, payment level, draw period, etc.

WCUL #83004 may be used to help borrowers facing difficulties in economic downturns, but that is not the only time to use it. It can be used whenever the need arises to waive one or more payments on a line of credit documented on a WCUL Kwik-Cash or R.E.A.P. form. The form makes this possible without a rewrite of the line of credit agreement and without new Truth in Lending account opening disclosures.

The open-end payment waiver form is specifically meant for use with the WCUL Kwik-Cash and R.E.A.P.® HELOC agreements, not with other vendors' loan forms. The form is designed for loans subject to Wisconsin law. It has been approved by the Wisconsin Department of Financial Institutions as compliant with the Wisconsin Consumer Act. The Wisconsin Department of Financial Institutions states that if the borrower agrees to pay a waiver fee in this form, it may be imposed even if the fee was not listed in the original line of credit agreement.

A sample copy of WCUL #83004 provided in Exhibit L of this release. We describe use of the form and compliance issues below. The line-by-line instructions for completing the form are available in Exhibit M. The form must be signed by a credit union representative and all borrower(s). It specifies the date when the regular payment schedule resumes. As a result, no other notification is required by Truth in Lending or the Wisconsin Consumer Act. However, a credit union

will normally bill the borrower in advance on their monthly statement, stating the upcoming due date and minimum monthly payment.

We cannot assure that this form is appropriate for use with other vendors' open-end loan agreements. Consult your attorney if tempted to use it with non-WCUL forms.

Truth In Lending

Is a change-in-terms notice required? Reg. Z typically requires a notice 45-days in advance of a change to the terms disclosed for a non-HELOC open-end credit plan. The Reg. Z Commentary at §1026.9(c)(2)(v)2 indicates that no notice is required prior to a reduced payment schedule, as with a skip, but that the creditor must give notice prior to resuming the original payment schedule. It goes on to say that the change-in-terms notice may be combined with the notice offering the reduction. The WCUL #83004 form facilitates this approach, providing a space to specify the date when the required monthly payments will automatically resume.

Wisconsin Consumer Act issues

As mentioned earlier, the WCUL #83004 open-end payment waiver form is designed for loans subject to Wisconsin law and has been approved by the Wisconsin Department of Financial Institutions as compliant with the Wisconsin Consumer Act (WCA).

What about Wisconsin's change-in-terms notice requirements?

Use of the new form achieves compliance without a separate notice. The WCA generally requires a change-in-terms notice 90 days prior to the effective date of any change that is:

- adverse to the interests of the customer with respect to outstanding balances, or
- that imposes or alters a permitted charge.

The payment waiver could be considered adverse to the interests of the customer because it would result in an increase in the amount of subsequent periodic payments. But the 90-day advance notice is *not* required if the customer agrees in writing to the change, as with use of the WCUL §83004.

Does the WCA prohibit charging a waiver fee when the new form is used?

The Wisconsin Department of Financial Institutions states that if the borrower agrees to pay a waiver fee in this form, it may be imposed (even if the fee was not listed in the original line of credit agreement).

Other compliance issues

Credit bureau reporting. Credit bureau reporting must be accurate. Consult the credit bureau for any special guidance or requirements they may have for properly reporting payment skips, waivers, or deferrals or other loan modifications.

Late fees. When a credit union agrees to waive or defer a payment, it cannot charge late fees when the consumer pays by the rescheduled payment due date. This may seem obvious, but some institutions fail to make the appropriate adjustments on their data processing systems and end up improperly charging late fees.

Credit insurance, payment protection, GAP, etc. The credit union should analyze whether waiving a series of payments may affect any credit insurance, debt cancellation, debt suspension, GAP, warranties, or other products sold in connection with the line of credit. Consult the vendors of those products for guidance.

Tattle-tale notice. If the Wisconsin Marital Property Act applies to a couple, then a credit union must send a "tattle-tale notice" to a non-obligated spouse when it "extends credit" to a married person if (1) the credit is subject to the WCA, and (2) it is incurred in the interest of the marriage or family. But the tattle-tale notice is not required for a modification using the *Loan Modification Agreement - Interest Rate and Payment Reduction* form. That's because the credit union is not extending new credit. The law provides:

The term [extends credit] does not include renewals, extensions, *modifications*, or the use of an open-end credit plan. *Wis. Stats. § 766.56(3)(a).*

Regulatory guidance

See *ii Release No. B072* regarding the NCUA Interpretive Ruling and Policy Statement (IRPS), if applicable, on loan workouts, nonaccrual policy, and regulatory reporting of troubled debt restructured (TDR) loans. As with any loan modification, it is the facts and circumstances that determine whether the NCUA guidance on loan workouts and troubled debt restructurings (TDRs) apply.

HOW TO USE KWIK-CASH AS AN ALTERNATIVE TO “PAYDAY” LOANS

Broadly speaking, a “payday” loan is a loan that is intended to help a borrower cover expenses until the next payday.

The Kwik-Cash alternative to payday loans described below for credit unions is exempt from Wisconsin’s payday loans law in Wis. Stats. §138.14. The state includes an exemption for payday loans by credit unions and other financial institutions as well as their affiliates.

Please take care not to structure a Kwik-Cash plan to unintentionally subject the program to the CFPB payday lending rule, parts of which take effect August 19, 2019. High interest rates, balloon payments, or very short repayment periods may trigger the rule at 12 CFR 1041. See *ii Release No. B080 - Payday and Vehicle Title Loans*.

Take care to comply with the Military Lending Act if the consumer is a “covered borrower.” See *ii Release No. B067- Lending to Servicemembers*.

It is impossible to use the Kwik-Cash Loan Agreement as a single payment payday loan, because the Wisconsin Consumer Act defines open-end credit as credit permitting payments in installments. It is, however, possible to approximate the same result through the use of very high minimum payment requirements. For example, it is possible to have a payday loan nearly fully repaid in two installments by requiring a 50% minimum payment. A 50% minimum payment would be disclosed as follows in paragraph [5] of the Kwik-Cash Loan Agreement: “The minimum monthly payment shall be the greater of (1) \$50 or (2) \$50 for each \$100 (and fraction thereof) of the Principal Loan Balance at the most recent advance.”

Credit unions can also speed the amortization of a payday loan by increasing the payment frequency on the loan agreement. Generally, credit unions keep the payment date the same for all Kwik-Cash loans to simplify delinquency monitoring. However, if a borrower is paid twice monthly, the credit union may choose to disclose those two dates as payment dates so as to more closely parallel a true payday loan. For example, if a member is paid on the 1st and 15th of each month, the payment due date might be disclosed as follows: “You promise to make payment of at least the minimum monthly payment by the 1st and 15th day of each month.” It is up to the credit union to decide what payment date to use.

A way of helping borrowers to repay an advance in full on payday is by counseling the borrower as to the importance of not getting behind with these types of loans. Urge the member to consider repaying the entire balance on payday even though the credit union will not require payment in full on the next payment due date. The Request for Advance form may be helpful in explaining how much must be repaid to fully pay off the advance and the cost of borrowing money until payday. The Request for Advance form has a space for the “New Balance.” Point out to the member that this is the total amount the borrower currently owes the credit union. Also, explain that interest is accruing daily at the current rate the credit union charges on Kwik-Cash loans. Calculating the estimated interest that will accrue on that amount until the borrower’s next payday will also help to educate the borrower as to the cost of borrowing until payday. Though the Request for Advance form does not provide space for you to write the estimated amount of interest that will accrue on the loan until payday, there is plenty of blank space elsewhere on the form where this amount may be written.

Credit unions may charge a cash advance fee each time a member requests an advance on their Kwik-Cash account. The Kwik-Cash agreement has preprinted language for such a fee. Credit unions may charge a cash advance fee they deem appropriate as long as it is clearly disclosed as an interest charge in the agreement. Credit unions that charge a cash advance fee must remember to also disclose this fee as an interest charge on the periodic statement that must be sent to the member.

The Wisconsin Consumer Act prohibits credit unions from requiring an assignment of the borrower’s wages to pay off the loan. However, the credit union may encourage the member to sign up for payroll deduction to help ensure that the loan is paid-off quickly. Sometimes a 1/4 percent reduction in the interest rate charged on the loan provides added incentive to the member to agree to payroll deduction. It is important to remember though that payroll deduction must be voluntary. The borrower has the right to discontinue it at any time.

TERMINATION OF LIABILITY

Any cosigner or co-borrower may terminate his/her liability on a Kwik-Cash loan by sending a written notice to the credit union stating that he/she will no longer be liable for future advances made on the account. (See Wis. Stats. § 422.4155.) Under the Wisconsin Consumer Act, the co-borrower or cosigner is still liable for new advances on the account up to 15

days after the credit union gets notice of the termination of liability up to the greater of the credit limit on the account or the balance outstanding under the plan on the day of the receipt of the termination notice plus an additional \$500.

After the 15 days, the cosigner or co-borrower is still liable for the outstanding balance on the account on the 15th day after the notice of termination. The cosigner or co-borrower however, is not liable for any advances after that date.

Spouses who are co-borrowers present a special case. Either spouse may terminate his/her *contractual liability* on the Kwik-Cash account by following the procedures outlined above. However, this will not terminate the creditors' access to the terminating spouse's interest in marital property. In order to cut off creditors' access to his or her interest in marital property, the spouse must terminate the Kwik-Cash account. The section on "Marital Property Considerations" discusses in detail how a spouse may terminate a Kwik-Cash account.

Because the credit union is in a less secure position when a cosigner or co-borrower terminates his/her liability on a Kwik-Cash account, the credit union may want to re-evaluate the remaining borrower's ability to maintain the account. If the remaining borrower is not sufficiently creditworthy, the credit union should notify the remaining borrower that the Kwik-Cash account has been terminated by sending the borrower a Statement of Credit Denial, Termination or Change (form #82029). The credit union also may want to invite the member to reapply with a new cosigner or co-borrower.

DEFAULT

Any open-end line-of-credit, such as a Kwik-Cash loan, is in default when the member fails to make payments when due on any two occasions within any 12-month period. Before any action may be taken to collect on a Kwik-Cash loan, the credit union must provide the member with a Notice of Right to Cure Default. (#82040) See *ii Release No. B031* for information regarding default and the right to cure notification requirements.

ADVERTISING

Reg. Z has rules for advertising open-end credit that will apply to Kwik-Cash loan programs. They include general rules for advertising open-end credit. Many terms mentioned in an advertisement may trigger requirements to provide specific additional details about the program. See *ii Release No. 0124*, especially the section on lending, for details. When planning Kwik-Cash advertisements, be sure to allow for the additional time and effort it will take to bring the advertisement into Reg. Z compliance. Besides Truth in Lending, *ii Release No. 0124* addresses other advertising compliance concerns for accuracy, field of membership, raffle restrictions, etc.

Prohibited inducements Reg. Z § 1026.57(c)

Reg. Z prohibits offering a college student any "tangible item" to induce the student to apply for or open an open-end consumer credit plan offered by the creditor, if the offer is made:

- On the campus of an institution of higher education;
- Near (within 1,000 feet of) the campus of an institution of higher education; or
- At an event sponsored by or "related to" an institution of higher education.

There is no exception for financial institutions already located on or near higher education campuses. What are the borders of a campus? The Federal Reserve board believes that the institutions of higher education are the proper entities to determine their own borders.

Mailed applications or solicitations. This prohibition applies to any solicitation or application mailed to a college student at an address on or near the campus of an institution of higher education. The prohibition does not apply to emails, since an email address does not physically exist anywhere.

Reasonable procedures for determining whether applicant is college student. Credit unions must have reasonable procedures for determining whether an applicant is a college student before giving the applicant the tangible item. For example, a creditor may ask whether the applicant is a college student as part of the application process. The creditor may rely on the representations made by the applicant.

Tangible item. A tangible item includes any physical item, such as a gift card, a t-shirt, or a magazine subscription, that a creditor offers to induce a college student to apply for or open an open-end consumer credit plan offered by the creditor. Tangible items do not include non-physical inducements such as discounts, rewards points, or promotional credit terms.

Related events. An event is related to an institution of higher education if the marketing of the event uses the name, emblem, mascot, or logo of an institution of higher education, or other words, pictures, symbols identified with an institution of higher education in a way that implies that the institution of higher education endorses or otherwise sponsors the event.

Advertising Fixed Rates

In the past, creditors sometimes advertised the APR for open-end accounts as a “fixed” rate even though the credit agreement reserved the right to change the rate at any time for any reason. Consumer testing indicated that many consumers believe that a “fixed rate” will not change, and do not understand that creditors may use the term “fixed” as a shorthand reference for rates that do not vary based on changes in an index or formula. Under the Reg. Z amendments effective February 22, 2010, an advertisement may refer to a rate as “fixed” only if the advertisement specifies a time period the rate will be fixed and the rate will not increase during that period. If a time period is not specified, the advertisement may refer to a rate as “fixed” only if the rate will not increase while the plan is open.

* * * * *

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

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EXHIBITS

EXHIBIT A – Kwik-Cash Loan Policy Considerations

EXHIBIT B – Approved Indexes for Variable Rate Consumer Credit Transactions

EXHIBIT C – Model Kwik-Cash Loan Approval Notification

EXHIBIT D – Kwik-Cash Form Checklist

EXHIBIT E – Long-Form Billing-Error Rights Model Disclosure (for Kwik-Cash)

EXHIBIT F – Alternative Billing-Error Rights Model Form (for Kwik-Cash)

EXHIBIT G – Sample Kwik-Cash Account-Opening Table

EXHIBIT H – Instructions for Sample Kwik-Cash Account-Opening Table

EXHIBIT I – Illustration of Periodic Statement Transactions; Interest Charges; Fees Sample

EXHIBIT J – Kwik-Cash Sample Change-in-Terms (increase in annual percentage rate)

EXHIBIT K – Kwik-Cash Sample Change-in-Terms (increase in fees)

EXHIBIT L – Sample form Wisconsin Open-End Credit Payment Waiver Agreement (WCUL #83004)

EXHIBIT M – Wisconsin Open-End Credit Payment Waiver Agreement (WCUL #83004) Line-By-Line Instructions

EXHIBIT A – KWIK-CASH LOAN POLICY CONSIDERATIONS

- What will be the maximum line-of-credit that may be extended to one individual? Consider whether to allow increased levels of credit for secured lines?
- What will be the maximum permitted debt ratios?
- What interest rate will be charged on Kwik-Cash Loans? (See section [3] of the Kwik-Cash agreement.)
- Will the interest rate charged be a fixed rate or a variable rate? (See section [4] of the Kwik-Cash agreement.)

If the credit union will be charging a variable rate, what index and margin will the credit union use? (See section [4](b) and (c) of Kwik-Cash agreement.)

If the credit union will be charging a variable interest rate, how frequently will the credit union implement interest rate changes? (See section [4](b) and (c) of Kwik-Cash agreement.)

- What will be the required minimum monthly payment for Kwik-Cash Loans? (See section [5] of Kwik-Cash agreement.)
- Will all Kwik-Cash loan payments be due on the same day of each month? If so, what date will that be? (See section [5] of the Kwik-Cash agreement.)
- Will the credit union include in its Kwik-Cash program any additional charges or fees? If so, how much will these fees and charges be? The credit union must include the fee in the Kwik-Cash loan agreement in order to have the right to charge the fee. (See section [6] of the Kwik-Cash agreement).

- | | |
|----------------------------|-------------------------|
| 1. Application fee | 4. Cash advance charge |
| 2. Minimum interest charge | 5. Late payment charges |
| 3. Returned check fee | 6. Over the limit fee |

Consult the Kwik-Cash release and Kwik-Cash agreement for any restrictions on assessing the above listed fees and charges.

- Will the credit union require collateral? If so, what type is acceptable? Will higher loan limits be allow for secured Kwik-Cash accounts?
- When will the credit union require a cosigner?
- How frequently will the credit union review its Kwik-Cash loans? What type of information will be required i.e., new application, credit bureau report, short application update?
- What are the credit union's billing error resolution policies? (See Kwik-Cash release and Regulation Z.)

EXHIBIT B – APPROVED INDEXES FOR VARIABLE RATE CONSUMER CREDIT TRANSACTIONS

Indexes currently approved by the Department of Financial Institutions, pursuant to § 138.056(1), Wis. Stats., for variable rate first lien real estate mortgages.

The Office of Credit Unions does not have an approved list, but recognizes the following approved by the Department of Financial Institutions:

1. The monthly or quarterly average of weekly auction rates on U.S. Treasury Bills with a maturity of either three or six months made available by the Federal Reserve Board (H.15).
2. The monthly average yield on U.S. Treasury securities adjusted to a constant maturity of one, two, three or five years made available by the Federal Reserve Board (H.15).
3. The weekly average yield on U.S. Treasury securities adjusted to a constant maturity of one, two, three or five years made available by the Federal Reserve Board (H.15).
4. The weekly or monthly bank prime loan rate (or averages of those rates), made available by the Federal Reserve Board (H.15). Or as reported in the money rates listing in the *Wall Street Journal*.
5. The national average mortgage contract rate for major lenders on the purchase of previously occupied homes, as computed by the Federal Home Loan Bank Board.
6. The Quarterly Cost of all Funds Index for the State of Wisconsin as computed by the Federal Home Loan Bank Board.
7. The weekly average weighted yield of fixed rate mortgages accepted under the Federal Home Loan Mortgage Corporation purchase program.
8. The one month, three months, six months or one year London Interbank Offered Rates (LIBOR) as reported in the money rates listing in the *Wall Street Journal*.

Note: While LIBOR still appears in the Wisconsin Department of Financial Institutions' *List of Approved Indices* (as of May 2026), LIBOR has been discontinued and may no longer be used.

9. The Federal Cost of Funds Index (COFI) made available by Freddie Mac on or about the 20th of each month.
10. The Secured Overnight Financing Rate (SOFR) as reported by the New York Federal Reserve Bank.

EXHIBIT C – MODEL KWIK-CASH LOAN APPROVAL NOTIFICATION

[Your Credit Union Letter Head]

[Date]

Dear Member:

It is a pleasure to inform you that your application for a Kwik-Cash line-of-credit has been approved in the amount of \$_____. Please contact us to come in and sign your Kwik-Cash Agreement and Disclosure form. If that is inconvenient, we'll mail the form to you. Just sign the form in the presence of a Notary Public and return it to us in the self-addressed, stamped envelope provided.

To use your Kwik-Cash loan service, simply phone us and tell us what amount you need. Your check will be in the mail the same day.

Now that you have this Kwik-Cash line-of-credit available to you, may we suggest a few ways you can take advantage of this service? If you have any open charge accounts—pay them off. Another way to utilize this service would be to pay off all unexpected expenses as they occur; such as, medical bills or auto and home repair bills. You will find that by having just one creditor, your own credit union, you will be better able to budget your paycheck.

We know you will find your Kwik-Cash line-of-credit service a most convenient and inexpensive way of having cash available. This service is another step in your credit union's program to extend useful service to members.

Sincerely,

Signature

Title

EXHIBIT D – WISCONSIN CONSUMER KWIK-CASH DOCUMENTATION CHECKLIST (USING WCUL FORMS)

Not all of the following forms or sections of the forms may be required in every circumstance. Those forms and sections that may not apply are noted below.

ADVERTISING

1. ☐ **Open-end credit advertising requirements.** *Reg. Z § 1026.16.*
 - Devote particular attention to the Truth in Lending and the “trigger terms.”
2. ☐ **Other advertising rules.** *ii Release No. 0124.*
 - Besides the Truth in Lending issues, *ii Release No. 0124* addresses other advertising compliance concerns for accuracy, field of membership, raffle restrictions and other issues.

AT THE TIME OF APPLICATION

1. ☐ **Credit union loan application.** WCUL #82083.
 - If the credit union’s loan application does not include a separately-signed declaration that the credit, if granted, will be incurred in the interest of the marriage or family, then use a separate such declaration for individual married Wisconsin residents.
2. ☐ **Open-end credit application addendum.** WCUL #82083A, *ii Release No. B010.*
 - The check box on The League's Credit Union Loan Application should be marked to incorporate this completed disclosure addendum by reference.

WITHIN 30 DAYS OF APPLICATION

1. ☐ **Denial/Adverse Action Notice.** WCUL #82029; *ii Release No. 0126 and ii Release No. B041.*
 - Use only if taking adverse action against an application for a loan or on an existing loan.
 - The notice must generally be sent within 30 days of application for a denial, incomplete application, or counteroffer.

Complete statement of credit denial, termination or change, if applicable.

Complete disclosure of use of information obtained from an outside source, if applicable.

Complete notice of incomplete application and request for additional information, if applicable.

Complete counteroffer, if applicable.

Indicate appropriate regulator under equal credit opportunity act notice.

CLOSING

1. ☐ **Customer Identification Program (CIP)** procedures for each borrower. *WCUL #81080; 31 CFR § 1020.220; ii Release No. 0159.*
 - These steps are likely already completed for existing account folders, but be alert for co-borrowers who are not account holders. See the credit union’s own BSA policy/procedures for particulars.
 - Verify identity of each borrower using documentary or nondocumentary sources.
 - Obtain name, street address, date of birth, and identification number for each borrower.
 - Keep record of information used to verify each borrower’s identity.
 - Check each borrower’s name against government list of known terrorists and terrorist organizations.
 - Provide required notice that the credit union is requesting information.

2. ☐ **Check Office of Foreign Assets Control (OFAC)** list for each borrower's and guarantor's name.

ii Release No. 0148

- Reject or block any true matches, and then report.

3. ☐ **Account-opening table disclosure.**

- See pp. 9-11 of this release for details of this disclosure, which must be customized and attached to top of the Kwik-Cash loan agreement.
- See sample in Exhibit G.

4. ☐ **Consumer Kwik-Cash Loan Agreement and TIL Disclosures – (#82033), or MLA Consumer Kwik-Cash Loan Agreement and TIL Disclosures (#82033-MLA)** for covered borrowers under the Military Lending Act, effective October 3, 2016. *See Exhibit B.*

- Signed by each person who chose to be an applicant.
- Reg. B limits when a spouse may be required to sign.

Complete top of form, with account number, maximum loan balance, credit union information, and borrower(s) information.

Daily Periodic Rate calculated correctly - section [3]

Annual Percentage Rate included - section [3]

Fixed or variable rate identified - section [4]

Separate consumer variable interest rate addendum (#82018) completed if necessary - section [4](c)

Minimum payment info - section [5]

Any fees noted - section [6]

Any collateral taken noted - section [7]

Agreement signed and dated by borrowers

Signatures, each separately witnessed

5. ☐ **Explanation of Personal Obligation (open-end); Notice to Cosigners.** WCUL #82077; *ii Release No. B007.*

- Required if there is a cosigner or guarantor. Wis. Stats. §§ 428.103
- Use of the form does not by itself make a person liable on the loan.

6. ☐ **Chattel Security Agreement.** WCUL #82005, or MLA Chattel Security Agreement (#82005-MLA) for covered borrowers under the Military Lending Act, effective October 3, 2016.

Use if Kwik-Cash loan will be secured by collateral that is consumer-owned personal property that is not in the possession of the credit union.

7. ☐ **Consumer Collateral Pledge Agreement.** Available from Wisconsin Bankers Association (WBA 421c)

Use if Kwik-Cash loan will be secured by collateral held by the credit union, such as shares, share certificates, jewelry, etc. For a covered borrower under the Military Lending Act, a lien on shares not permitted at closing.

8. ☐ **Automatic Transfer Request.** WCUL #81035.

- Use this form if the borrower(s) wishes to authorize overdraft transfers from Kwik-Cash to their checking or savings account(s)

POST-CLOSING

1. ☐ **Risk-based pricing notice.** *16 CFR Parts 640 and 698; ii Release No. 0126 Exhibit C: WCUL Guide to the FACT Act.*

- Credit unions that use risk-based pricing must send a risk-based pricing notice to a consumer if:
 1. They use a consumer report in connection with an application or extension of credit to a consumer; and
 2. Based at least in part on that report, they give credit to that consumer on “material terms” that are “materially less favorable” than it offers to a substantial proportion of other consumers.
- The notice must be given before the first transaction for open-end credit. In no case should it be given before credit approval is communicated to the consumer. If an open-end credit plan is opened either in person or by telephone, and if it is for financing a purchase of some goods or services, then the notice can be given either when the first mailing is sent (such as in a mailing of the account agreement or card) or within 30 days after the credit is approved, whichever is earlier.
- Notice is not required if the credit union provides an adverse action notice.
- The rules include three exceptions, allowing a credit union to give a different disclosures (which includes the consumer’s credit score and information about how it relates to other consumers’ scores). To take advantage of these exceptions, the credit union needs to provide credit score information to all consumers who apply for risk-based credit as soon as reasonably practicable after a credit score is obtained.

2. ☐ **Tattle-tale notice to nonapplicant spouse.** *Wis. Stats. § 766.56(3); ii Release No. B005.*

- Send to non-applicant spouse before first payment is due, if it is a Wisconsin Consumer Act plan that is incurred in the interest of the marriage or family.
- Sample language:

We recently extended credit to your spouse. As required by law, we are enclosing a copy of the credit agreement or disclosure statement, which was signed or provided to your spouse in connection with this transaction. [Enclose copy of Kwik-Cash agreement.]

MONTHLY

1. ☐ **Periodic statements.** *Reg. Z § 1026.7.*

- Send Reg. Z open-end credit periodic statements to the consumer in each monthly billing cycle. The content requirements for Kwik-Cash statements are spelled out in Reg. Z § 1026.7(b).
- Reg. Z § 1026.5(b)(2)(ii)(B)(2) provides that the credit union must adopt reasonable procedures designed to ensure that:
 - Periodic statements are mailed or delivered at least 14 days prior to the date on which the required minimum payment must be received in order to avoid being treated as late for any purpose; and
 - The credit union does not treat as late for any purpose a required minimum payment received by the credit union within 14 days after mailing or delivery of the periodic statement.

2. ☐ **Prompt payment crediting.** *Reg. X § 1024.36.*

- Credit periodic payments 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. For details, see The League’s ii Release No. B075.

SUBSEQUENT

1. ☐ Variable rate adjustment notice.

- Regulation Z does not recognize open end plans using a discretionary interest rate, or an index that is not outside the creditor's control and publicly available. For those plans, rate changes require change of terms notices. Reg. Z § 1026.9(c)(2)(v)(c).
- See *ii Release No. B002*.

2. ☐ Change of terms notice. *Wis. Stats. § 422.415; Reg. Z § 1026.9.*

- Wis. Consumer Act may require 90 days advance notice, if not agreed to by borrower(s) in writing.

3. ☐ IRS Form 1099-C.

- Review delinquencies that reached over \$600 at any point during the calendar year for possible reporting on IRS Form 1099-C. See the 1099-C Determination Chart in Exhibit D of *ii Release No. 0130*.

DELINQUENCY

1. ☐ FACT ACT Notice of Negative Information. FACT Act § 217(s); 15 U.S.C. 1681s - 2(a)7; *ii Release No. 0126*.

- Here is the model language that credit unions may use if they give the notice *before* furnishing the negative information to a Consumer Reporting Agency:

We may report information about your account to a credit bureau. Late payments, missed payments, or other defaults on your account may be reflected in your credit report.

- Here is the model notice language that credit unions may use if they give the notice *after* they have already furnished negative information to a Consumer Reporting Agency:

We have told a credit bureau about a late payment, missed payment, or other default on your account. This information may be reflected in your credit report.

2. ☐ Notice of Right to Cure Default. WCUL #82040; Wis. Stats. § 425.104; *ii Release No. B031*.

- Required for Wisconsin Consumer Act only, in the event of default.

EXHIBIT E – LONG-FORM BILLING-ERROR RIGHTS MODEL DISCLOSURE (FOR KWIK-CASH)

(Reg. Z Model Form G-3(A), with credit card language removed since Kwik-Cash cannot have card access)
(To be provided annually, unless shorter G-4(A) version is provided on each periodic statement)

Your Billing Rights: Keep this Document for Future Use

This notice tells you about your rights and our responsibilities under the Fair Credit Billing Act.

What to Do If You Find a Mistake on Your Statement

If you think there is an error on your statement, write to us at:

[Credit Union Name]

[Credit Union Address]

[You may also contact us on the Web: [web or e-mail address]]

In your letter, give us the following information:

- *Account information: Your name and account number.*
- *Dollar amount: The dollar amount of the suspected error.*
- *Description of problem: If you think there is an error on your bill, describe what you believe is wrong and why you believe it is a mistake.*

You must contact us:

1. *Within 60 days after the error appeared on your statement.*
2. *At least 3 business days before an automated payment is scheduled, if you want to stop payment on the amount you think is wrong.*

You must notify us of any potential error *in writing* [or electronically]. You may call us, but if you do we are not required to investigate any potential errors and you may have to pay the amount in question.

What Will Happen After We Receive Your Letter

When we receive your letter, we must do two things:

1. Within 30 days of receiving your letter, we must tell you that we received your letter. We will also tell you if we have already corrected the error.
2. Within 90 days of receiving your letter, we must either correct the error or explain to you why we believe the bill is correct.

While we investigate whether or not there has been an error:

- *We cannot try to collect the amount in question, or report you as delinquent on that amount.*
- *The charge in question may remain on your statement, and we may continue to charge you interest on that amount.*
- *While you do not have to pay the amount in question, you are responsible for the remainder of your balance.*
- *We can apply any unpaid amount against your credit limit.*

After we finish our investigation, one of two things will happen:

- *If we made a mistake: You will not have to pay the amount in question or any interest or other fees related to that amount.*
- *If we do not believe there was a mistake: You will have to pay the amount in question, along with applicable interest and fees. We will send you a statement of the amount you owe and the date payment is due. We may then report you as delinquent if you do not pay the amount we think you owe.*

If you receive our explanation but still believe your bill is wrong, you must write to us within 10 days telling us that you still refuse to pay. If you do so, we cannot report you as delinquent without also reporting that you are questioning your bill. We must tell you the name of anyone to whom we reported you as delinquent, and we must let those organizations know when the matter has been settled between us.

If we do not follow all of the rules above, you do not have to pay the first \$50 of the amount you question even if your bill is correct.

EXHIBIT F – ALTERNATIVE BILLING-ERROR RIGHTS MODEL FORM (FOR KWIK-CASH)

(Reg. Z Model Form G-4(A), with credit card language removed since Kwik-Cash cannot have card access.)
(To be included on or with every periodic statement, unless longer G-3(A) version is provided annually.)

What to Do If You Think You Find a Mistake on Your Statement

If you think there is an error on your statement, write to us at:

[Credit Union Name]

[Credit Union Address]

[You may also contact us on the Web: [web or email address]]

In your letter, give us the following information:

- *Account information: Your name and account number.*
- *Dollar amount: The dollar amount of the suspected error.*
- *Description of Problem: If you think there is an error on your bill, describe what you believe is wrong and why you believe it is a mistake.*

You must contact us within 60 days after the error appeared on your statement.

You must notify us of any potential errors *in writing* [or electronically]. You may call us, but if you do we are not required to investigate any potential errors and you may have to pay the amount in question.

While we investigate whether or not there has been an error, the following are true:

- *We cannot try to collect the amount in question, or report you as delinquent on that amount.*
- *The charge in question may remain on your statement, and we may continue to charge you interest on that amount. But, if we determine that we made a mistake, you will not have to pay the amount in question or any interest or other fees related to that amount.*
- *While you do not have to pay the amount in question, you are responsible for the remainder of your balance.*
- *We can apply any unpaid amount against your credit limit.*

EXHIBIT G – SAMPLE KWIK-CASH ACCOUNT-OPENING TABLE

(Reg. Z § 1026.6(b))

ABC CREDIT UNION
[address, city, phone]
KWIK-CASH LOAN ACCOUNT-OPENING DISCLOSURE

Interest Rate and Interest Charges	
APR for Cash Advances	18.00% [use this clause with a non-variable rate:] <i>[or use clause similar to this plan with a variable rate:]</i> 18.00% This APR will vary with the market based on the [identify index, e.g., <i>Prime Rate</i>]. <i>[or use clause similar to this if plan is variable rate with an introductory rate not based on the index rate at the most recent change date]</i> 18.00% introductory APR for one year. After that, your APR will be [insert rate]. This APR will vary with the market based on the [identify index, e.g., <i>Prime Rate</i>].
Minimum Interest Charge	If you are charged interest, the charge will be no less than \$0.50 on a balance of less than \$33.34.
Paying Interest	You will be charged interest from the transaction date.

Fees	
Penalty Fees	
Late Payment	\$10 if not paid within 5 days of the due date.
Over-the Credit Limit	\$20
Cash Advance	\$2 or 2% of the amount of each cash advance whichever is greater, up to \$5
Returned Payment	\$15

How We Will Calculate Your Balance: We use a method called “daily balance (including new transactions).” See your account agreement for more details.

Billing Rights: Information on your rights to dispute transactions and how to exercise those rights is provided in your account agreement.

WCUL KWIK-DISCL (Rev. 6/10)

EXHIBIT H – INSTRUCTIONS FOR SAMPLE KWIK-CASH ACCOUNT-OPENING TABLE

(Reg. Z § 1026.6(b))

An account-opening table is required for Kwik-Cash lines of credit. The table summarizes certain important information that is in the fine print of the Consumer Kwik-Cash agreement forms (#82033 or #82033-MLA).

Actual fees and dollar amounts must match those set forth in the particular borrower's Kwik-Cash agreement. Red text is used in the electronic version of this form to show characters most likely to need to be changed. In your final version of the form change red text to black. Delete fees that do not apply. Please follow the sample regarding size of text, use of bold and underlining as well as placement of text within or below the table. We used all 10-point text. Do not use larger text for the APR except as directed otherwise (e.g., sometimes in regard to premium initial rates).

Nothing may be added into the table other than the terms required to be disclosed.

INTEREST RATE AND INTEREST CHARGES

APR for Cash Advances.

This section must be completed. Disclose the APR charged on Kwik-Cash, as indicated in Section [3] of the particular member's Consumer Kwik-Cash agreement (#82033 or #82033-MLA), rather than the 18.00% APR shown in the sample. A range of rates is not permitted.

- If your Kwik-Cash agreement is completed to include a **variable rate**, then add "This APR will vary with the market based on the Prime Rate" after the APR. If the index used is not the Prime Rate, insert the index actually used. In either case do not state the index values or the margin.

APR for Cash Advances	18.00% This APR will vary with the market based on the Prime Rate.
------------------------------	--

- Normally special **introductory rates** are not charged on Kwik-Cash lines of credit. There are more complex compliance issues raised if the initial rate is not the rate that is normally charged under your variable rate index at the previous change date. If either a discounted (lower than the indexed value) or a premium (higher than the indexed value) is used as an Introductory Rate, review the regulations and contact The League for assistance.

Minimum Interest Charge.

This section should be included as shown in the sample only if you check box [6] C on the Kwik-Cash agreement to provide for a \$0.50 minimum interest charge. If so, then use the Minimum Interest Charge disclosure as shown in the sample table disclosure. If you do not check box [6] C in the agreement, then do not include this disclosure in the table.

Paying Interest.

This section must be included as shown in the sample. It is accurate based on the daily balance computation method that is preprinted in Section [3] of the Kwik-Cash form.

The following items are not disclosed in the sample since Kwik-Cash is *not* designed to accommodate these features:

- Annual Fee
- Annual Percentage Rate for Purchases
- APR for Balance Transfers
- Penalty APR and When It Applies
- How to Avoid Paying Interest (grace period)

Call The League if you have questions about these items.(Cont. on the next page.)

FEES

This section is required if the plan has any fees. Disclose all fees that are specified in Section [6] of the member's Kwik-Cash agreement. Use the format and applicable language shown in the sample, but substitute the actual amounts of your fees. The sample illustrates the fees for which there are preprinted clauses in the agreement.

Annual Fee

An Annual Fee clause is not preprinted in the Kwik-Cash agreement, so none is included in the sample disclosure. If an annual fee clause has been improvised in Section [6](F) of the agreement, a disclosure similar to the following must be added to the table. It is to be placed between **FEES** and **Penalty Fees**. The term Annual Fee must be in bold typeface. Adapt to accurately show the amount of the fee.

Annual Fee	\$35
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Although unlikely, any annual fee that is 15% or more of the minimum credit limit, will trigger a special Available Credit disclosure under Reg. Z § 1026.6(b)(2)(xiii).

Penalty Fees

This section is required if your Kwik-Cash plan has fees for late payments, over-the-limit, cash advances, or returned checks. In the Penalty Fee section, include any of these fees that the credit union discloses in Section [6] of the Kwik-Cash agreement. Adjust to show the fee amount actually used at the credit union. Omit those that do not apply.

- | | |
|-------------------------|---|
| • Late Payment | \$10 if not paid within 5 days of the due date. |
| • Over-the Credit Limit | \$20 |
| • Cash Advance | \$2 or 2% of the amount of each cash advance whichever is greater, up to \$5. |
| • Returned Payment | \$15 |

The sample Kwik-Cash account-opening table does not include disclosure language for grace periods, inactivity fees, purchase transaction charges, or web-site reference as these are not normally relevant to Kwik-Cash. Contact The League if you have any questions about those features.

OUTSIDE THE TABLE

The two clauses shown below are required, below the table, as illustrated in the sample. We have not provided language describing how an introductory rate may be revoked. Kwik-Cash is not designed to accommodate that feature.

How We Will Calculate Your Balance

This section is required. Use this language, as shown in the sample, to describe the balance computation method that is preprinted in Section [3] of the Kwik-Cash Agreement:

How We Will Calculate Your Balance: We use a method called “daily balance (including new transactions).” See your account agreement for more details.

Billing Rights

This section is required. Use this language, as shown in the sample, to reference the billing rights statement that is preprinted on the reverse side of the Kwik-Cash Agreement:

Billing Rights: Information on your rights to dispute transactions and how to exercise those rights is provided in your account agreement.

**EXHIBIT I – ILLUSTRATION OF PERIODIC STATEMENT TRANSACTIONS:
INTEREST CHARGES; FEES SAMPLE**

Adapted from Reg. Z App. G-18(A)

Transactions				
Reference Number	Trans Date	Post Date	Description of Transaction Credit	Amount
854338203FS8OO0Z5	2/25	2/25	Pymt Thank You	\$450.00-
1542202074TWWZV48	2/26	2/26	Cash Advance	\$200.00
14547847586KDDL564	2/28	2/26	Cash Advance	\$300.00
Fees				
9525156489SFD4545O	2/23	2/23	Late Fee	\$15.00
56415615647OJSNDS	2/26	2/26	Cash Advance Fee	\$4.00
256489156189451516L	2/26	2/26	Cash Advance Fee	\$5.00
TOTAL FEES FOR THIS PERIOD				\$24.00
Interest Charged				
Interest Charge on Cash Advances				\$12.46
TOTAL INTEREST FOR THIS PERIOD				\$12.46

2012 Totals Year-to-Date	
Total fees charged in 2012	\$36.00
Total interest charged in 2012	\$34.50

EXHIBIT J – KWIK-CASH SAMPLE CHANGE-IN-TERMS (INCREASE IN ANNUAL PERCENTAGE RATE)

(Adapted from Reg. Z Appendix G, Form G-20)

Important Changes to Your Account Terms

The following is a summary of changes that are being made to your account terms. For more detailed information, please refer to the booklet enclosed with this statement.

These changes will impact your account as follows:

Transactions made on or after 4/9/12: As of 5/10/12, any changes to APRs described below will apply to these transactions.

Transactions made before 4/9/12: Current APRs will continue to apply to these transactions.

If you are already being charged a higher Penalty APR for purchases: In this case, any changes to APRs described below will not go into effect at this time. These changes will go into effect when the Penalty APR no longer applies to your account.

Revised Terms, as of 5/10/12	
APR for Cash Advances	16.99%

EXHIBIT K – KWIK-CASH SAMPLE CHANGE-IN-TERMS (INCREASE IN FEES)

(Adapted from Reg. Z Appendix G, Form G-21)

Important Changes to Your Account Terms

The following is a summary of changes that are being made to your account terms. These changes will take effect on 5/10/12. For more detailed information, please refer to the booklet enclosed with this statement.

You have the right to reject these changes, unless you become more than 60 days late on your account. However, if you reject these changes you will not be able to use your account for new transactions. You can reject changes by calling us at 1-800-xxx-xxxx.

Revised Terms, as of 5/10/12	
Late Payment Fee	\$32 if your balance is less than or equal to \$1,000; \$39 if your balance is more than \$1,000
Returned Payment Fee	\$39

EXHIBIT L – SAMPLE FORM WISCONSIN OPEN-END CREDIT PAYMENT WAIVER AGREEMENT (WCUL #83004)

The copyrighted text of the WCUL #83004 is provided here for educational purposes, to illustrate some of the concepts described in this ii Release. See the main body of the ii Release for compliance issues relating to the form. Numbers inserted into the blank lines below are keyed to the line by line instructions in Exhibit M. The working .pdf of the form may be purchased online at www.theleague.coop > Solutions > Credit Union Forms > Consumer Loan Forms.

WISCONSIN OPEN-END CREDIT PAYMENT WAIVER AGREEMENT

(For use with WCUL Kwik-Cash or R.E.A.P.® Loan Agreements)

1 _____ Credit Union Loan Number: _____ 2

1. In consideration of the mutual promises and agreements exchanged, and notwithstanding anything to the contrary in the Loan Agreement, it is hereby agreed by and between the undersigned credit union ("the Credit Union") and borrower(s) ("the Borrower," whether one or more) that certain payment(s) due or to become due under the terms of the open-end line of credit ☐ Consumer Kwik-Cash Loan Agreement ☐ R.E.A.P.® Real-Estate Equity Advance Plan Loan Agreement (the "Loan Agreement") executed by the Borrower on _____ 5 _____ be waived as hereinafter provided.

2. The borrower and the Credit Union agree to waive _____ 6 _____ monthly payments scheduled for the following dates: _____ 7 _____. Required monthly payments will automatically resume on _____ 8 _____, with the amount calculated as provided in the repayment terms of the Loan Agreement.

3. Because interest and credit insurance charges accrue for the actual number of days that a principal loan balance on the Loan Agreement remains unpaid, the total finance charge, credit insurance charges, if any, the amounts of payments, and the total payments may be greater than the amounts that would have been incurred if payments were made without this waiver.

4. Any obligation of the Borrower to pay taxes, insurance, or other charges directly or through escrow payments, relating to any property securing the Loan Agreement shall continue without waiver.

5. All terms and provisions of the Loan Agreement not expressly altered by this Waiver Agreement shall remain in full force and effect. Nothing in this Waiver Agreement shall be understood or construed to satisfy, cancel, or release in whole or in part the Loan Agreement or any security agreement or mortgage that may secure the Loan Agreement.

6. For the purpose of this Waiver Agreement, "the Borrower" shall include any cosigner or guarantor of the Loan Agreement. Each cosigner or guarantor signing below hereby acknowledges that their liability under the Loan Agreement is not affected by this Waiver Agreement.

Payment of Arrears

7. The Credit Union has accepted or will hereby accept from the Borrower the sum of \$ _____ 9 _____, which is to be applied to the unpaid principal balance (including advances, if any), and the sum of \$ _____ 10 _____ which is to be applied to the delinquent interest due on the principal balance (including advances, if any), each of which amounts shall be applied as of the date of this Waiver Agreement.

Additional Terms

11 _____

Each of the undersigned hereby acknowledges receipt of an exact copy of this Agreement.

Dated: _____ 12 _____

_____ 13 _____ Credit Union

By: _____ 14 _____

Title: _____ 15 _____

Borrower _____ 16 _____

Borrower _____ 17 _____

Borrower _____ 18 _____

WCUL 83004 (Rev. 10/20) _____ 19 _____ © 2020 W.C.U.L. Services Corp.

_____ 20 _____ Page 1 of 1

EXHIBIT M – WISCONSIN OPEN-END CREDIT PAYMENT WAIVER AGREEMENT (WCUL #83004) LINE-BY-LINE INSTRUCTIONS

This form may be used to agree with the borrower(s) that one or more specified payments on a line of credit will be waived and to provide the date upon which required monthly payments will resume. The form is designed for use with the WCUL Kwik-Cash and R.E.A.P.[®] HELOC line of credit agreements. Do not use it with another vendor's loan forms.

The form is designed for loans subject to Wisconsin law. It has been approved by the Wisconsin Department of Financial Institutions as compliant with the Wisconsin Consumer Act.

The form must be signed by a credit union representative and the borrower(s), and it specifies the date when the regular payment schedule resumes. As a result, no other notification is required by Truth in Lending or the Wisconsin Consumer Act. However, a credit union will normally bill the borrower in advance on their monthly statement, stating the upcoming due date and minimum monthly payment.

This form does not authorize other changes to the line of credit agreement, such as interest rate changes, adjustment in payment level, additional fees (other than a waiver fee), extension of the draw period, etc.

For important compliance considerations for use of the form, see *ii Release No B046* when used for Consumer Kwik-Cash lines of credit and *ii Release No. B064* when used for Consumer or Non-Consumer R.E.A.P.[®] home equity lines of credit.

Line-by-line instructions

All fillable blanks in the form must be completed or marked N/A. A credit union authorized person and each borrower, cosigner and guarantor and must sign the form.

1. Insert the name of the credit union.
2. Insert the loan number.
3. Check the appropriate box to indicate the type of agreement, Kwik-Cash or R.E.A.P., affected.
4. Check the appropriate box to indicate the type of agreement, Kwik-Cash or R.E.A.P., affected.
5. Insert the date the borrower signed the original Kwik-Cash or R.E.A.P. agreement.
6. Insert the number of monthly payments being waived.
7. Insert the dates of the monthly payments being waived.
8. Insert the date that the monthly payments will resume.

Payment of Arrears (Optional)

9. If the borrower(s) must pay arrears up front as a condition of the payment waiver, insert the amount that will be applied to principal, if any.
10. If the borrower(s) must pay arrears up front as a condition of the payment waiver, insert the amount that will be applied to delinquent interest, if any..

Additional Terms (Optional)

11. Insert any additional clauses (optional). The only additional clause we contemplate being considered is: *Borrower has paid a waiver fee of \$_____.*

For any other language added, consult your attorney for its legality, compatibility with the original agreement, the other terms of the waiver form, and legally sound phrasing. Evaluate whether the additional clauses will raise Wisconsin Consumer Act or Regulation Z issues. add compliance steps, or have any adverse effects on mortgage or mobile home loans

Signature block

12. Insert date of the payment waiver agreement.
13. Insert the name of the credit union.
14. Insert the name of the credit union official who will sign above the line.
15. Insert the title of credit union official who signs above.
16. Insert the names of borrowers, cosigners, and guarantors who will sign above these lines.
17. Insert the names of borrowers, cosigners, and guarantors who will sign above these lines.

18. Insert the names of borrowers, cosigners, and guarantors who will sign above these lines.
19. Insert copy label, e.g., Borrower, Credit Union (*optional*).
20. Complete footer field with any desired non-contractual language (*optional*).