

1700 G Street NW, Washington, DC 20552

March 13, 2018

Unofficial Redline of the 2018 Amendments to the Prepaid Accounts Rule

On January 25, 2018, the Consumer Financial Protection Bureau (Bureau) issued a final rule (2018 Amendments Final Rule) amending and clarifying certain provisions of Regulation E and Regulation Z related to prepaid accounts.¹ The Bureau is releasing this unofficial, informal redline to assist industry and other stakeholders in reviewing the changes that the 2018 Amendments Final Rule, as published in the *Federal Register* on February 13, 2018, made to the Bureau's 2016 rule governing prepaid accounts (2016 Prepaid Accounts Rule).^{2 3}

The underlying (clean) text in this document reflects the text of the 2016 Prepaid Accounts Rule, as amended by the 2017 Effective Date Rule. The changes marked (in red) are the changes made by the 2018 Amendments Final Rule. This document does not restate the entirety of Regulations E and Z. Asterisks are used to indicate other intervening regulatory text or commentary that is not reprinted here.

This redline is not a substitute for reviewing the 2018 Amendments Final Rule. The 2018 Amendments Final Rule is the definitive source regarding its requirements. If any conflicts exist between this redline and the text of the 2016 Prepaid Accounts Rule, the 2017 Effective Date Rule, or the 2018 Amendments Final Rule, the rules themselves, as published in the *Federal Register*, are the controlling documents.

¹ <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/rules-concerning-prepaid-accounts-under-electronic-fund-transfer-act-regulation-e-and-truth-lending-act-regulation-z/>.

² The Bureau issued the 2016 Prepaid Accounts Rule, which amends Regulation E and Regulation Z to add consumer protections related to prepaid accounts, on October 5, 2016. 81 FR 83934 (Nov. 22, 2016). On April 20, 2017, the Bureau issued a final rule extending the 2016 Prepaid Accounts Rule's general effective date to April 1, 2018 (2017 Effective Date Rule). 82 FR 18975 (April 25, 2017). The 2018 Amendments Final Rule amends and clarifies the 2016 Prepaid Accounts Rule, and further extends its effective date to April 1, 2019. 83 FR 6364 (Feb. 13, 2018).

³ This redline has been updated to include technical, non-substantive modifications made to the 2018 Amendments Final Rule when it was published in the *Federal Register*.

PART 1005—ELECTRONIC FUND TRANSFERS (REGULATION E)

Authority: 12 U.S.C. 5512, 5532, 5581; 15 U.S.C. 1693b. Subpart B is also issued under 12 U.S.C. 5601 and 15 U.S.C. 1693o–1.

Subpart A—General

§ 1005.2 Definitions.

* * * * *

(b) * * *

(2) The term does not include an account held by a financial institution under a bona fide trust agreement.

(3) The term includes a prepaid account.

(i) “Prepaid account” means:

(A) A “payroll card account,” which is an account that is directly or indirectly established through an employer and to which electronic fund transfers of the consumer’s wages, salary, or other employee compensation (such as commissions) are made on a recurring basis, whether the account is operated or managed by the employer, a third-party payroll processor, a depository institution, or any other person; or

(B) A “government benefit account,” as defined in § 1005.15(a)(2); or

(C) An account that is marketed or labeled as “prepaid” and that is redeemable upon presentation at multiple, unaffiliated merchants for goods or services or usable at automated teller machines; or

(D) An account:

(1) That is issued on a prepaid basis in a specified amount or not issued on a prepaid basis but capable of being loaded with funds thereafter,

(2) Whose primary function is to conduct transactions with multiple, unaffiliated merchants for goods or services, or at automated teller machines, or to conduct person-to-person transfers, and

(3) That is not a checking account, share draft account, or negotiable order of withdrawal account.

(ii) For purposes of paragraphs (b)(3)(i)(C) and (D) of this section, the term “prepaid account” does not include:

(A) An account that is loaded only with funds from a health savings account, flexible spending arrangement, medical savings account, health reimbursement arrangement, dependent care assistance program, or transit or parking reimbursement arrangement;

(B) An account that is directly or indirectly established through a third party and loaded only with qualified disaster relief payments;

(C) The person-to-person functionality of an account established by or through the United States government whose primary function is to conduct closed-loop transactions on U.S. military installations or vessels, or similar government facilities;

(D)(1) A gift certificate as defined in § 1005.20(a)(1) and (b);

(2) A store gift card as defined in § 1005.20(a)(2) and (b);

(3) A loyalty, award, or promotional gift card as defined in § 1005.20(a)(4) ~~and (b), or that satisfies the criteria in § 1005.20(a)(4)(i) and (ii) and is excluded from § 1005.20 pursuant to § 1005.20(b)(4);~~ or

(4) A general-use prepaid card as defined in § 1005.20(a)(3) and (b) that is both marketed and labeled as a gift card or gift certificate; or

(E) An account established for distributing needs-tested benefits in a program established under state or local law or administered by a state or local agency, as set forth in § 1005.15(a)(2).

* * * * *

§ 1005.10 Preauthorized transfers.

* * * * *

(e) *Compulsory use*—(1) *Credit*. No financial institution or other person may condition an extension of credit to a consumer on the consumer's repayment by preauthorized electronic fund transfers, except for credit extended under an overdraft credit plan or extended to maintain a specified minimum balance in the consumer's account. This exception does not apply to a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in Regulation Z, 12 CFR 1026.61.

(2) *Employment or government benefit*. No financial institution or other person may require a consumer to establish an account for receipt of electronic fund transfers with a particular institution as a condition of employment or receipt of a government benefit.

§ 1005.11 Procedures for resolving errors.

* * * * *

(c) * * *

(2) * * *

(i) * * *

(A) The institution requires but does not receive written confirmation within 10 business days of an oral notice of error; or

(B) The alleged error involves an account that is subject to Regulation T of the Board of Governors of the Federal Reserve System (Securities Credit by Brokers and Dealers, 12 CFR part 220); ~~or~~.

~~(C) The alleged error involves a prepaid account, other than a payroll card account or government benefit account, for which the financial institution has not completed its consumer identification and verification process, as set forth in § 1005.18(e)(3)(ii).~~

* * * * *

§ 1005.12 Relation to other laws.

(a) * * *

(1) * * *

(ii) The issuance of an access device (other than an access device for a prepaid account) that permits credit extensions (under a preexisting agreement between a consumer and a financial institution) only when the consumer's account is overdrawn or to maintain a specified minimum balance in the consumer's account, or under an overdraft service, as defined in § 1005.17(a) of this part;

* * * * *

(iv) A consumer's liability for an unauthorized electronic fund transfer and the investigation of errors involving:

(A) Except with respect to a prepaid account, an extension of credit that is incident to an electronic fund transfer that occurs under an agreement between the consumer and a financial institution to extend credit when the consumer's account is overdrawn or to maintain a specified minimum balance in the consumer's account, or under an overdraft service, as defined in § 1005.17(a);

(B) With respect to transactions that involve a covered separate credit feature and an asset feature on a prepaid account that are both accessible by a hybrid prepaid-credit card as those terms are defined in Regulation Z, 12 CFR 1026.61, an extension of credit that is incident

to an electronic fund transfer that occurs when the hybrid prepaid-credit card accesses both funds in the asset feature of the prepaid account and a credit extension from the credit feature with respect to a particular transaction;

(C) Transactions that involves credit extended through a negative balance to the asset feature of a prepaid account that meets the conditions set forth in Regulation Z, 12 CFR 1026.61(a)(4); and

(D) With respect to transactions involving a prepaid account and a non-covered separate credit feature as defined in Regulation Z, 12 CFR 1026.61, transactions that access the prepaid account, as applicable.

(2) * * *

(i) The addition of a credit feature or plan to an accepted access device, including an access device for a prepaid account, that would make the access device into a credit card under Regulation Z (12 CFR part 1026);

(ii) Except as provided in paragraph (a)(1)(ii) of this section, the issuance of a credit card that is also an access device; and

(iii) With respect to transactions involving a prepaid account and a non-covered separate credit feature as defined in Regulation Z, 12 CFR 1026.61, a consumer's liability for unauthorized use and the investigation of errors involving transactions that access the non-covered separate credit feature, as applicable.

* * * * *

§ 1005.15 Electronic fund transfer of government benefits.

(a) *Government agency subject to regulation.* (1) A government agency is deemed to be a financial institution for purposes of the Act and this part if directly or indirectly it issues an access device to a consumer for use in initiating an electronic fund transfer of government benefits from an account, other than needs-tested benefits in a program established under state or local law or administered by a state or local agency. The agency shall comply with all applicable requirements of the Act and this part except as modified by this section.

(2) For purposes of this section, the term “account” or “government benefit account” means an account established by a government agency for distributing government benefits to a consumer electronically, such as through automated teller machines or point-of-sale terminals, but does not include an account for distributing needs-tested benefits in a program established under state or local law or administered by a state or local agency.

(b) *Issuance of access devices.* For purposes of this section, a consumer is deemed to request an access device when the consumer applies for government benefits that the agency disburses or will disburse by means of an electronic fund transfer. The agency shall verify the identity of the consumer receiving the device by reasonable means before the device is activated.

(c) *Pre-acquisition disclosure requirements.* (1) Before a consumer acquires a government benefit account, a government agency shall comply with the pre-acquisition disclosure requirements applicable to prepaid accounts as set forth in § 1005.18(b).

(2) *Additional content for government benefit accounts—(i) Statement regarding consumer’s payment options.* As part of its short form pre-acquisition disclosures, the agency must provide a statement that the consumer does not have to accept the government benefit account and directing the consumer to ask about other ways to receive their benefit payments from the agency instead of receiving them via the account, using the following clause or a substantially similar clause: “You do not have to accept this benefits card. Ask about other ways to receive your benefits.” Alternatively, an agency may provide a statement that the consumer has several options to receive benefit payments, followed by a list of the options available to the consumer, and directing the consumer to indicate which option the consumer chooses using the following clause or a substantially similar clause: “You have several options to receive your payments: [list of options available to the consumer]; or this benefits card. Tell the benefits office which option you choose.” This statement must be located above the information required by § 1005.18(b)(2)(i) through (iv). This statement must appear in a minimum type size of eight points (or 11 pixels) and appear in no larger a type size than what is used for the fee headings required by § 1005.18(b)(2)(i) through (iv).

(ii) *Statement regarding state-required information or other fee discounts and waivers.* An agency may, but is not required to, include a statement in one additional line of text in the short form disclosure directing the consumer to a particular location outside the short form disclosure for information on ways the consumer may access government benefit account funds and balance information for free or for a reduced fee. This statement must be located directly below any statements disclosed pursuant to § 1005.18(b)(3)(i) and (ii), or, if no such statements are disclosed, above the statement required by § 1005.18(b)(2)(x). This statement must appear in the same type size used to disclose variable fee information pursuant to § 1005.18(b)(3)(i) and (ii), or, if none, the same type size used for the information required by § 1005.18(b)(2)(x) through (xiii).

(3) *Form of disclosures.* When a short form disclosure required by paragraph (c) of this section is provided in writing or electronically, the information required by § 1005.18(b)(2)(i) through (ix) shall be provided in the form of a table. Except as provided in § 1005.18(b)(6)(iii)(B), the short form disclosure required by § 1005.18(b)(2) shall be provided in a form substantially similar to Model Form A–10(a) of appendix A of this part. Sample Form A–10(f) in appendix A of this part provides an example of the long form disclosure required by § 1005.18(b)(4) when the agency does not offer multiple service plans.

(d) *Access to account information—(1) Periodic statement alternative.* A government agency need not furnish periodic statements required by § 1005.9(b) if the agency makes available to the consumer:

(i) The consumer’s account balance, through a readily available telephone line and at a terminal (such as by providing balance information at a balance-inquiry terminal or providing it, routinely or upon request, on a terminal receipt at the time of an electronic fund transfer);

(ii) An electronic history of the consumer's account transactions, such as through a Web site, that covers at least 12 months preceding the date the consumer electronically accesses the account; and

(iii) A written history of the consumer's account transactions that is provided promptly in response to an oral or written request and that covers at least 24 months preceding the date the agency receives the consumer's request.

(2) *Additional access to account information requirements.* For government benefit accounts, a government agency shall comply with the account information requirements applicable to prepaid accounts as set forth in § 1005.18(c)(3) through (5).

(e) *Modified disclosure, limitations on liability, and error resolution requirements.* A government agency that provides information under paragraph (d)(1) of this section shall comply with the following:

(1) *Initial disclosures.* The agency shall modify the disclosures under § 1005.7(b) by disclosing:

(i) *Access to account information.* A telephone number that the consumer may call to obtain the account balance, the means by which the consumer can obtain an electronic account history, such as the address of a Web site, and a summary of the consumer's right to receive a written account history upon request (in place of the summary of the right to receive a periodic statement required by § 1005.7(b)(6)), including a telephone number to call to request a history. The disclosure required by this paragraph (e)(1)(i) may be made by providing a notice substantially similar to the notice contained in paragraph (a) of appendix A–5 of this part.

(ii) *Error resolution.* A notice concerning error resolution that is substantially similar to the notice contained in paragraph (b) of appendix A–5 of this part, in place of the notice required by § 1005.7(b)(10).

(2) *Annual error resolution notice.* The agency shall provide an annual notice concerning error resolution that is substantially similar to the notice contained in paragraph (b) of appendix A–5 of this part, in place of the notice required by § 1005.8(b). Alternatively, the agency may include on or with each electronic or written history provided in accordance with paragraph (d)(1) of this section, a notice substantially similar to the abbreviated notice for periodic statements contained in paragraph (b) in appendix A–3 of this part, modified as necessary to reflect the error resolution provisions set forth in this section.

(3) *Modified limitations on liability requirements.* (i) For purposes of § 1005.6(b)(3), the 60-day period for reporting any unauthorized transfer shall begin on the earlier of:

(A) The date the consumer electronically accesses the consumer's account under paragraph (d)(1)(ii) of this section, provided that the electronic history made available to the consumer reflects the unauthorized transfer; or

(B) The date the agency sends a written history of the consumer's account transactions requested by the consumer under paragraph (d)(1)(iii) of this section in which the unauthorized transfer is first reflected.

(ii) An agency may comply with paragraph (e)(3)(i) of this section by limiting the consumer's liability for an unauthorized transfer as provided under § 1005.6(b)(3) for any transfer reported by the consumer within 120 days after the transfer was credited or debited to the consumer's account.

(4) *Modified error resolution requirements.* (i) The agency shall comply with the requirements of § 1005.11 in response to an oral or written notice of an error from the consumer that is received by the earlier of:

(A) Sixty days after the date the consumer electronically accesses the consumer's account under paragraph (d)(1)(ii) of this section, provided that the electronic history made available to the consumer reflects the alleged error; or

(B) Sixty days after the date the agency sends a written history of the consumer's account transactions requested by the consumer under paragraph (d)(1)(iii) of this section in which the alleged error is first reflected.

(ii) In lieu of following the procedures in paragraph (e)(4)(i) of this section, an agency complies with the requirements for resolving errors in § 1005.11 if it investigates any oral or written notice of an error from the consumer that is received by the agency within 120 days after the transfer allegedly in error was credited or debited to the consumer's account.

(f) *Disclosure of fees and other information.* For government benefit accounts, a government agency shall comply with the disclosure and change-in-terms requirements applicable to prepaid accounts as set forth in § 1005.18(f).

(g) *Government benefit accounts accessible by hybrid prepaid-credit cards.* For government benefit accounts accessible by hybrid prepaid-credit cards as defined in Regulation Z, 12 CFR 1026.61, a government agency shall comply with prohibitions and requirements applicable to prepaid accounts as set forth in § 1005.18(g).

* * * * *

§ 1005.17 Requirements for overdraft services.

(a) * * *

(2) A service that transfers funds from another account held individually or jointly by a consumer, such as a savings account;

(3) A line of credit or other transaction exempt from Regulation Z (12 CFR part 1026) pursuant to 12 CFR 1026.3(d); or

(4) A covered separate credit feature accessible by a hybrid prepaid-credit card as defined in Regulation Z, 12 CFR 1026.61; or credit extended through a negative balance on the asset feature of the prepaid account that meets the conditions of 12 CFR 1026.61(a)(4).

* * * * *

§ 1005.18 Requirements for financial institutions offering prepaid accounts.

(a) *Coverage.* A financial institution shall comply with all applicable requirements of the Act and this part with respect to prepaid accounts except as modified by this section. For rules governing government benefit accounts, see § 1005.15.

(b) *Pre-acquisition disclosure requirements—(1) Timing of disclosures—(i) General.* Except as provided in paragraphs (b)(1)(ii) or (iii) of this section, a financial institution shall provide the disclosures required by paragraph (b) of this section before a consumer acquires a prepaid account. When a prepaid account is used for disbursing funds to a consumer, and the financial institution or third party making the disbursement does not offer any alternative means for the consumer to receive those funds in lieu of accepting the prepaid account, for purposes of this paragraph, the disclosures required by paragraph (b) of this section may be provided at the time the consumer receives the prepaid account.

(ii) *Disclosures for prepaid accounts acquired in retail locations.* A financial institution is not required to provide the long form disclosures required by paragraph (b)(4) of this section before a consumer acquires a prepaid account in person at a retail location if the following conditions are met:

(A) The prepaid account access device is contained inside the packaging material.

(B) The disclosures required by paragraph (b)(2) of this section ~~are~~is provided on or are visible through an outward-facing, external surface of a prepaid account access device's packaging material.

(C) The disclosures required by paragraph (b)(2) of this section includes the information set forth in paragraph (b)(2)(xiii) of this section that allows a consumer to access the information required to be disclosed by paragraph (b)(4) of this section by telephone and via a ~~Web site~~website.

(D) The long form disclosures required by paragraph (b)(4) of this section ~~are~~is provided after the consumer acquires the prepaid account. If a financial institution does not provide the long form disclosure inside the prepaid account packaging material, and it is not otherwise already mailing or delivering to the consumer written account-related communications within 30 days of obtaining the consumer's contact information, it may provide the long form disclosure pursuant to this paragraph in electronic form without regard to the consumer notice and consent requirements of section 101(c) of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 et seq.).

(iii) *Disclosures for prepaid accounts acquired orally by telephone.* A financial institution is not required to provide the long form disclosures required by paragraph (b)(4) of

this section before a consumer acquires a prepaid account orally by telephone if the following conditions are met:

(A) The financial institution communicates to the consumer orally, before the consumer acquires the prepaid account, that the information required to be disclosed by paragraph (b)(4) of this section is available both by telephone and on a Web site.

(B) The financial institution makes the information required to be disclosed by paragraph (b)(4) of this section available both by telephone and on a Web site.

(C) The long form disclosures required by paragraph (b)(4) of this section ~~are~~is provided after the consumer acquires the prepaid account.

(2) *Short form disclosure content.* In accordance with paragraph (b)(1) of this section, a financial institution shall provide a disclosure setting forth the following fees and information for a prepaid account, as applicable:

(i) *Periodic fee.* The periodic fee charged for holding the prepaid account, assessed on a monthly or other periodic basis, using the term “Monthly fee,” “Annual fee,” or a substantially similar term.

(ii) *Per purchase fee.* The fee for making a purchase using the prepaid account, using the term “Per purchase” or a substantially similar term.

(iii) *ATM withdrawal fees.* Two fees for using an automated teller machine to initiate a withdrawal of cash in the United States from the prepaid account, both within and outside of the financial institution’s network or a network affiliated with the financial institution, using the term “ATM withdrawal” or a substantially similar term, and “in-network” or “out-of-network,” respectively, or substantially similar terms.

(iv) *Cash reload fee.* The fee for reloading cash into the prepaid account using the term “Cash reload” or a substantially similar term. The fee disclosed must be the total of all charges from the financial institution and any third parties for a cash reload.

(v) *ATM balance inquiry fees.* Two fees for using an automated teller machine to check the balance of the prepaid account in the United States, both within and outside of the financial institution’s network or a network affiliated with the financial institution, using the term “ATM balance inquiry” or a substantially similar term, and “in-network” or “out-of-network,” respectively, or substantially similar terms.

(vi) *Customer service fees.* Two fees for calling the financial institution about the prepaid account, both for calling an interactive voice response system and a live customer service agent, using the term “Customer service” or a substantially similar term, and “automated” or “live agent,” or substantially similar terms, respectively, and “per call” or a substantially similar term. When providing a short form disclosure for multiple service plans pursuant to paragraph (b)(6)(iii)(B)(2) of this section, disclose only the fee for calling the live agent customer service about the prepaid account, using the term “Live customer service” or a substantially similar term and “per call” or a substantially similar term.

(vii) *Inactivity fee.* The fee for nonuse, dormancy, or inactivity of the prepaid account, using the term “Inactivity” or a substantially similar term, as well as the conditions that trigger the financial institution to impose that fee.

(viii) *Statements regarding additional fee types—(A) Statement regarding number of additional fee types charged.* A statement disclosing the number of additional fee types the financial institution may charge consumers with respect to the prepaid account, using the following clause or a substantially similar clause: “We charge [x] other types of fees.” The number of additional fee types disclosed must reflect the total number of fee types under which the financial institution may charge fees, excluding:

(1) Fees required to be disclosed pursuant to paragraphs (b)(2)(i) through (vii) and (b)(5) of this section; and

(2) Any finance charges as described in Regulation Z, 12 CFR 1026.4(b)(11), imposed in connection with a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in 12 CFR 1026.61.

(B) *Statement directing consumers to disclosure of additional fee types.* If a financial institution makes a disclosure pursuant to paragraph (b)(2)(ix) of this section, a statement directing consumers to that disclosure, located after but on the same line of text as the statement regarding the number of additional fee types required by paragraph (b)(2)(viii)(A) of this section, using the following clause or a substantially similar clause: “Here are some of them:”.

(ix) *Disclosure of additional fee types—(A) Determination of which additional fee types to disclose.* The two fee types that generate the highest revenue from consumers for the prepaid account program or across prepaid account programs that share the same fee schedule during the time period provided in paragraphs (b)(2)(ix)(D) and (E) of this section, excluding:

(1) Fees required to be disclosed pursuant to paragraphs (b)(2)(i) through (vii) and (b)(5) of this section;

(2) Any fee types that generated less than 5 percent of the total revenue from consumers for the prepaid account program or across prepaid account programs that share the same fee schedule during the time period provided in paragraphs (b)(2)(ix)(D) and (E) of this section; and

(3) Any finance charges as described in Regulation Z, 12 CFR 1026.4(b)(11), imposed in connection with a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in 12 CFR 1026.61.

(B) *Disclosure of fewer than two additional fee types.* A financial institution that has only one additional fee type that satisfies the criteria in paragraph (b)(2)(ix)(A) of this section must disclose that one additional fee type; it may, but is not required to, also disclose another additional fee type of its choice. A financial institution that has no additional fee types that satisfy the criteria in paragraph (b)(2)(ix)(A) of this section is not required to make a

disclosure under this paragraph (b)(2)(ix); it may, but is not required to, disclose one or two fee types of its choice.

(C) *Fee variations in additional fee types.* If an additional fee type required to be disclosed pursuant to paragraph (b)(2)(ix)(A) of this section has more than two fee variations, or when providing a short form disclosure for multiple service plans pursuant to paragraph (b)(6)(iii)(B)(2) of this section, the financial institution must disclose the name of the additional fee type and the highest fee amount in accordance with paragraph (b)(3)(i) of this section; for disclosures other than for multiple service plans, it may, but is not required to, consolidate the fee variations into two categories and disclose the names of those two fee variation categories and the fee amounts in a format substantially similar to that used to disclose the two-tier fees required by paragraphs (b)(2)(v) and (vi) of this section and in accordance with paragraphs (b)(3)(i) and (b)(7)(ii)(B)(1) of this section. Except when providing a short form disclosure for multiple service plans pursuant to paragraph (b)(6)(iii)(B)(2) of this section, if an additional fee type has two fee variations, the financial institution must disclose the name of the additional fee type together with the names of the two fee variations and the fee amounts in a format substantially similar to that used to disclose the two-tier fees required by paragraphs (b)(2)(v) and (vi) of this section and in accordance with paragraph (b)(7)(ii)(B)(1) of this section. If a financial institution only charges one fee under a particular fee type, the financial institution must disclose the name of the additional fee type and the fee amount; it may, but is not required to, disclose also the name of the one fee variation for which the fee amount is charged, in a format substantially similar to that used to disclose the two-tier fees required by paragraphs (b)(2)(v) and (vi) of this section, except that the financial institution would disclose only the one fee variation name and fee amount instead of two.

(D) *Timing of initial assessment of additional fee types disclosure—(1) Existing prepaid account programs as of April 1, 20182019.* For a prepaid account program in effect as of April 1, 20182019, the financial institution must disclose the additional fee types based on revenue for a 24-month period that begins no earlier than October 1, 2014.

(2) *Existing prepaid account programs as of April 1, 20182019 with unavailable data.* If a financial institution does not have 24 months of fee revenue data for a particular prepaid account program from which to calculate the additional fee types disclosure in advance of April 1, 20182019, the financial institution must disclose the additional fee types based on revenue it reasonably anticipates the prepaid account program will generate over the 24-month period that begins on April 1, 20182019.

(3) *New prepaid account programs created on or after April 1, 20182019.* For a prepaid account program created on or after April 1, 20182019, the financial institution must disclose the additional fee types based on revenue it reasonably anticipates the prepaid account program will generate over the first 24 months of the program.

(E) *Timing of periodic reassessment and update of additional fee types disclosure—(1) General.* A financial institution must reassess its additional fee types disclosure periodically as described in paragraph (b)(2)(ix)(E)(2) of this section and upon a fee schedule change as described in paragraph (b)(2)(ix)(E)(3) of this section. The financial institution must

update its additional fee types disclosure if the previous disclosure no longer complies with the requirements of this paragraph (b)(2)(ix).

(2) *Periodic reassessment.* A financial institution must reassess whether its previously disclosed additional fee types continue to comply with the requirements of this paragraph (b)(2)(ix) every 24 months based on revenue for the previous 24-month period. The financial institution must complete this reassessment and update its disclosures, if applicable, within three months of the end of the 24-month period, except as provided in the update printing exception in paragraph (b)(2)(ix)(E)(4) of this section. A financial institution may, but is not required to, carry out this reassessment and update, if applicable, more frequently than every 24 months, at which time a new 24-month period commences.

(3) *Fee schedule change.* If a financial institution revises the fee schedule for a prepaid account program, it must determine whether it reasonably anticipates that the previously disclosed additional fee types will continue to comply with the requirements of this paragraph (b)(2)(ix) for the 24 months following implementation of the fee schedule change. If the financial institution reasonably anticipates that the previously disclosed additional fee types will not comply with the requirements of this paragraph (b)(2)(ix), it must update the disclosure based on its reasonable anticipation of what those additional fee types will be at the time the fee schedule change goes into effect, except as provided in the update printing exception in paragraph (b)(2)(ix)(E)(4) of this section. If an immediate change in terms and conditions is necessary to maintain or restore the security of an account or an electronic fund transfer system as described in § 1005.8(a)(2) and that change affects the prepaid account program's fee schedule, the financial institution must complete its reassessment and update its disclosures, if applicable, within three months of the date it makes the change permanent, except as provided in the update printing exception in paragraph (b)(2)(ix)(E)(4) of this section.

(4) *Update printing exception.* Notwithstanding the requirements to update an additional fee types disclosures in paragraph (b)(2)(ix)(E) of this section, a financial institution is not required to update the listing of additional fee types that are provided on, in, or with prepaid account packaging materials that were manufactured, printed, or otherwise produced prior to a periodic reassessment and update pursuant to paragraph (b)(2)(ix)(E)(2) of this section or prior to a fee schedule change pursuant to paragraph (b)(2)(ix)(E)(3) of this section.

(x) *Statement regarding overdraft credit features.* If a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in Regulation Z, 12 CFR 1026.61, may be offered at any point to a consumer in connection with the prepaid account, a statement that overdraft/credit may be offered, the time period after which it may be offered, and that fees would apply, using the following clause or a substantially similar clause: "You may be offered overdraft/credit after [x] days. Fees would apply." If no such credit feature will be offered at any point to a consumer in connection with the prepaid account, a statement that no overdraft credit feature is offered, using the following clause or a substantially similar clause: "No overdraft/credit feature."

(xi) *Statement regarding registration and FDIC or NCUA insurance.* A statement regarding the prepaid account program's eligibility for FDIC deposit insurance or NCUA share

insurance, as appropriate, and directing the consumer to register the prepaid account for insurance and other account protections, where applicable, as follows:

(A) *Account is insurance eligible and does not have pre-acquisition ~~customer~~ ~~consumer~~ identification/verification.* If a prepaid account program is set up to be eligible for FDIC deposit or NCUA share insurance, and ~~customer-consumer~~ identification and verification does not occur before the account is opened, using the following clause or a substantially similar clause: “Register your card for [FDIC insurance eligibility] [NCUA insurance, if eligible,] and other protections.”

(B) *Account is not insurance eligible and does not have pre-acquisition ~~customer~~ ~~consumer~~ identification/verification.* If a prepaid account program is not set up to be eligible for FDIC deposit or NCUA share insurance, and ~~customer-consumer~~ identification and verification does not occur before the account is opened, using the following clause or a substantially similar clause: “Not [FDIC] [NCUA] insured. Register your card for other protections.”

(C) *Account is insurance eligible and has pre-acquisition ~~customer-consumer~~ identification/verification.* If a prepaid account program is set up to be eligible for FDIC deposit or NCUA share insurance, and ~~customer-consumer~~ identification and verification occurs for all prepaid accounts within the prepaid program before the account is opened, using the following clause or a substantially similar clause: “Your funds are [eligible for FDIC insurance] [NCUA insured, if eligible].”

(D) *Account is not insurance eligible and has pre-acquisition ~~customer-consumer~~ identification/verification.* If a prepaid account program is not set up to be eligible for FDIC deposit or NCUA share insurance, and ~~customer-consumer~~ identification and verification occurs for all prepaid accounts within the prepaid account program before the account is opened, using the following clause or a substantially similar clause: “Your funds are not [FDIC] [NCUA] insured.”

(E) *No ~~customer-consumer~~ identification/verification.* If a prepaid account program is set up such that there is no ~~customer-consumer~~ identification and verification process for any prepaid accounts within the prepaid account program, using the following clause or a substantially similar clause: “Treat this card like cash. Not [FDIC] [NCUA] insured.”

(xii) *Statement regarding CFPB Web site.* A statement directing the consumer to a Web site URL of the Consumer Financial Protection Bureau (cfpb.gov/prepaid) for general information about prepaid accounts, using the following clause or a substantially similar clause: “For general information about prepaid accounts, visit cfpb.gov/prepaid.”

(xiii) *Statement regarding information on all fees and services.* A statement directing the consumer to the location of the long form disclosure required by paragraph (b)(4) of this section to find details and conditions for all fees and services. For a financial institution offering prepaid accounts at a retail location pursuant to the retail location exception in paragraph (b)(1)(ii) of this section, this statement must also include a telephone number and a Web site URL that a consumer may use to directly access, respectively, an oral and an electronic version of the long form disclosure required under paragraph (b)(4) of this section. The disclosure

required by this paragraph must be made using the following clause or a substantially similar clause: “Find details and conditions for all fees and services in [location]” or, for prepaid accounts offered at retail locations pursuant to paragraph (b)(1)(ii) of this section, made using the following clause or a substantially similar clause: “Find details and conditions for all fees and services inside the package, or call [telephone number] or visit [Web site].” The Web site URL may not exceed 22 characters and must be meaningfully named. A financial institution may, but is not required to, disclose an SMS code at the end of the statement disclosing the telephone number and Web site URL, if the SMS code can be accommodated on the same line of text as the statement required by this paragraph.

(xiv) *Additional content for payroll card accounts—(A) Statement regarding wage or salary payment options.* For payroll card accounts, a statement that the consumer does not have to accept the payroll card account and directing the consumer to ask about other ways to receive wages or salary from the employer instead of receiving them via the payroll card account using the following clause or a substantially similar clause: “You do not have to accept this payroll card. Ask your employer about other ways to receive your wages.” Alternatively, a financial institution may provide a statement that the consumer has several options to receive wages or salary, followed by a list of the options available to the consumer, and directing the consumer to tell the employer which option the consumer chooses using the following clause or a substantially similar clause: “You have several options to receive your wages: [list of options available to the consumer]; or this payroll card. Tell your employer which option you choose.” This statement must be located above the information required by paragraphs (b)(2)(i) through (iv).

(B) *Statement regarding state-required information or other fee discounts and waivers.* For payroll card accounts, a financial institution may, but is not required to, include a statement in one additional line of text directing the consumer to a particular location outside the short form disclosure for information on ways the consumer may access payroll card account funds and balance information for free or for a reduced fee. This statement must be located directly below any statements disclosed pursuant to paragraphs (b)(3)(i) and (ii) of this section, or, if no such statements are disclosed, above the statement required by paragraph (b)(2)(x) of this section.

(3) *Short form disclosure of variable fees and third-party fees and prohibition on disclosure of finance charges—(i) General disclosure of variable fees.* If the amount of any fee that is required to be disclosed in the short form disclosure pursuant to paragraphs (b)(2)(i) through (vii) and (ix) of this section could vary, a financial institution shall disclose the highest amount it may impose for that fee, followed by a symbol, such as an asterisk, linked to a statement explaining that the fee could be lower depending on how and where the prepaid account is used, using the following clause or a substantially similar clause: “This fee can be lower depending on how and where this card is used.” Except as provided in paragraph (b)(3)(ii) of this section, a financial institution must use the same symbol and statement for all fees that could vary. The linked statement must be located above the statement required by paragraph (b)(2)(x) of this section.

(ii) *Disclosure of variable periodic fee.* If the amount of the periodic fee disclosed in the short form disclosure pursuant to paragraph (b)(2)(i) of this section could vary, as an

alternative to the disclosure required by paragraph (b)(3)(i) of this section, the financial institution may disclose the highest amount it may impose for the periodic fee, followed by a symbol, such as a dagger, that is different from the symbol the financial institution uses pursuant to paragraph (b)(3)(i) of this section, to indicate that a waiver of the fee or a lower fee might apply, linked to a statement in one additional line of text disclosing the waiver or reduced fee amount and explaining the circumstances under which the fee waiver or reduction may occur. The linked statement must be located directly above or in place of the linked statement required by paragraph (b)(3)(i) of this section, as applicable.

(iii) *Single disclosure for like fees.* As an alternative to the two-tier fee disclosure required by paragraphs (b)(2)(iii), (v), and (vi) of this section and any two-tier fee required by paragraph (b)(2)(ix) of this section, a financial institution may disclose a single fee amount when the amount is the same for both fees.

(iv) *Third-party fees in general.* Except as provided in paragraph (b)(3)(v) of this section, a financial institution may not include any third-party fees in a disclosure made pursuant to paragraph (b)(2) of this section.

(v) *Third-party cash reload fees.* Any third-party fee included in the cash reload fee disclosed in the short form pursuant to paragraph (b)(2)(iv) of this section must be the highest fee known by the financial institution at the time it prints, or otherwise prepares, the short form disclosure required by paragraph (b)(2) of this section. A financial institution is not required to revise its short form disclosure to reflect a cash reload fee change by a third party until such time that the financial institution manufactures, prints, or otherwise produces new prepaid account packaging materials or otherwise updates the short form disclosure.

(vi) *Prohibition on disclosure of finance charges.* A financial institution may not include in a disclosure made pursuant to paragraphs (b)(2)(i) through (ix) of this section any finance charges as described in Regulation Z, 12 CFR 1026.4(b)(11), imposed in connection with a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in 12 CFR 1026.61.

(4) *Long form disclosure content.* In accordance with paragraph (b)(1) of this section, a financial institution shall provide a disclosure setting forth the following fees and information for a prepaid account, as applicable:

(i) *Title for long form disclosure.* A heading stating the name of the prepaid account program and that the long form disclosure contains a list of all fees for that particular prepaid account program.

(ii) *Fees.* All fees that may be imposed in connection with a prepaid account. For each fee, the financial institution must disclose the amount of the fee and the conditions, if any, under which the fee may be imposed, waived, or reduced. A financial institution may not use any symbols, such as an asterisk, to explain conditions under which any fee may be imposed. A financial institution may, but is not required to, include in the long form disclosure any service or feature it provides or offers at no charge to the consumer. The financial institution must also disclose any third-party fee amounts known to the financial institution that may apply. For any

such third-party fee disclosed, the financial institution may, but is not required to, include either or both a statement that the fee is accurate as of or through a specific date or that the third-party fee is subject to change. If a third-party fee may apply but the amount of that fee is not known by the financial institution, it must include a statement indicating that the third-party fee may apply without specifying the fee amount. A financial institution is not required to revise the long form disclosure required by paragraph (b)(4) of this section to reflect a fee change by a third party until such time that the financial institution manufactures, prints, or otherwise produces new prepaid account packaging materials or otherwise updates the long form disclosure.

(iii) *Statement regarding registration and FDIC or NCUA insurance.* The statement required by paragraph (b)(2)(xi) of this section, together with an explanation of FDIC or NCUA insurance coverage and the benefit of such coverage or the consequence of the lack of such coverage, as applicable.

(iv) *Statement regarding overdraft credit features.* The statement required by paragraph (b)(2)(x) of this section.

(v) *Statement regarding financial institution contact information.* A statement directing the consumer to a telephone number, mailing address, and Web site URL of the person or office that a consumer may contact to learn about the terms and conditions of the prepaid account, to obtain prepaid account balance information, to request a copy of transaction history pursuant to paragraph (c)(1)(iii) of this section if the financial institution does not provide periodic statements pursuant to § 1005.9(b), or to notify the financial institution when the consumer believes that an unauthorized electronic fund transfer occurred as required by § 1005.7(b)(2) and paragraph (d)(1)(ii) of this section.

(vi) *Statement regarding CFPB Web site and telephone number.* A statement directing the consumer to a Web site URL of the Consumer Financial Protection Bureau (cfpb.gov/prepaid) for general information about prepaid accounts, and a statement directing the consumer to a Consumer Financial Protection Bureau telephone number (1-855-411-2372) and Web site URL (cfpb.gov/complaint) to submit a complaint about a prepaid account, using the following clause or a substantially similar clause: “For general information about prepaid accounts, visit cfpb.gov/prepaid. If you have a complaint about a prepaid account, call the Consumer Financial Protection Bureau at 1-855-411-2372 or visit cfpb.gov/complaint.”

(vii) *Regulation Z disclosures for overdraft credit features.* The disclosures described in Regulation Z, 12 CFR 1026.60(e)(1), in accordance with the requirements for such disclosures in 12 CFR 1026.60, if, at any point, a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in 12 CFR 1026.61, may be offered in connection with the prepaid account. A financial institution may, but is not required to, include above the Regulation Z disclosures required by this paragraph a heading and other explanatory information introducing the overdraft credit feature. A financial institution is not required to revise the disclosure required by this paragraph to reflect a change in the fees or other terms disclosed therein until such time as the financial institution manufactures, prints, or otherwise produces new prepaid account packaging materials or otherwise updates the long form disclosure.

(5) *Disclosure requirements outside the short form disclosure.* At the time a financial institution provides the short form disclosure, it must also disclose the following information: the name of the financial institution; the name of the prepaid account program; the purchase price for the prepaid account, if any; and the fee for activating the prepaid account, if any. In a setting other than in a retail location, this information must be disclosed in close proximity to the short form. In a retail location, this information, other than the purchase price, must be disclosed on the exterior of the access device's packaging material. In a retail location, the purchase price must be disclosed either on the exterior of or in close proximity to the prepaid account access device's packaging material.

(6) *Form of pre-acquisition disclosures—(i) General—(A) Written disclosures.* Except as provided in paragraphs (b)(6)(i)(B) and (C) of this section, disclosures required by paragraph (b) of this section must be in writing.

(B) *Electronic disclosures.* Unless provided in written form prior to acquisition pursuant to paragraph (b)(1)(i) of this section, ~~the~~ disclosures required by paragraph (b) of this section must be provided in electronic form when a consumer acquires a prepaid account through electronic means, including via a ~~Web site~~website or mobile application, and must be viewable across all screen sizes. The long form disclosure must be provided electronically through a ~~Web site~~website when a financial institution is offering prepaid accounts at a retail location pursuant to the retail location exception in paragraph (b)(1)(ii) of this section. Electronic disclosures must be provided in a manner which is reasonably expected to be accessible in light of how a consumer is acquiring the prepaid account, in a responsive form, and using machine-readable text that is accessible via Web browsers or mobile applications, as applicable, and via screen readers. Electronic disclosures provided pursuant to paragraph (b) of this section need not meet the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 *et seq.*).

(C) *Oral disclosures.* Unless provided in written form prior to acquisition pursuant to paragraph (b)(1)(i) of this section, ~~the~~ disclosures required by paragraphs (b)(2) and (5) of this section must be provided orally when a consumer acquires a prepaid account orally by telephone ~~as described~~pursuant to the exception in paragraph (b)(1)(iii) of this section. For prepaid accounts acquired in retail locations or orally by telephone, the disclosures required by paragraph (b)(4) of this section provided by telephone pursuant to paragraph (b)(1)(ii)(~~BC~~) or (b)(1)(iii)(B) of this section also must be made orally.

(ii) *Retainable form.* Pursuant to § 1005.4(a)(1), disclosures required by paragraph (b) of this section must be made in a form that a consumer may keep, except for disclosures provided orally pursuant to paragraphs (b)(1)(ii) or (iii) of this section, a long form disclosures provided via SMS as permitted by paragraph (b)(2)(xiii) of this section for a prepaid account sold at retail locations pursuant to the retail location exception in paragraph (b)(1)(ii) of this section, and the disclosure of a purchase price pursuant to paragraph (b)(5) of this section that is not disclosed on the exterior of the packaging material for a prepaid account sold at a retail location pursuant to the retail location exception in paragraph (b)(1)(ii) of this section.

(iii) *Tabular format—(A) General.* When a short form disclosure is provided in writing or electronically, the information required by paragraphs (b)(2)(i) through (ix) of this

section shall be provided in the form of a table. Except as provided in paragraph (b)(6)(iii)(B) of this section, the short form disclosures required by paragraph (b)(2) of this section shall be provided in a form substantially similar to Model Forms A–10(a) through (d) in appendix A of this part, as applicable. When a long form disclosure is provided in writing or electronically, the information required by paragraph (b)(4)(ii) of this section shall be provided in the form of a table. Sample Form A–10(f) in appendix A of this part provides an example of the long form disclosure required by paragraph (b)(4) of this section when the financial institution does not offer multiple service plans.

(B) Multiple service plans—(1) Short form disclosure for default service plan.

When a financial institution offers multiple service plans within a particular prepaid account program and each plan has a different fee schedule, the information required by paragraphs (b)(2)(i) through (ix) of this section may be provided in the tabular format described in paragraph (b)(6)(iii)(A) of this section for the service plan in which a consumer is initially enrolled by default upon acquiring the prepaid account.

(2) Short form disclosure for multiple service plans. As an alternative to disclosing the default service plan pursuant to paragraph (b)(6)(iii)(B)(1) of this section, when a financial institution offers multiple service plans within a particular prepaid account program and each plan has a different fee schedule, fee disclosures required by paragraphs (b)(2)(i) through (vii) and (ix) of this section may be provided in the form of a table with separate columns for each service plan, in a form substantially similar to Model Form A–10(e) in appendix A of this part. Column headings must describe each service plan included in the table, using the terms “Pay-as-you-go plan,” “Monthly plan,” “Annual plan,” or substantially similar terms; or, for multiple service plans offering preferred rates or fees for the prepaid accounts of consumers who also use another non-prepaid service, column headings must describe each service plan included in the table for the preferred- and non-preferred service plans, as applicable.

(3) Long form disclosure. The information in the long form disclosure required by paragraph (b)(4)(ii) of this section must be presented in the form of a table for all service plans.

(7) Specific formatting requirements for pre-acquisition disclosures—(i) Grouping—(A) Short form disclosure. The information required in the short form disclosure by paragraphs (b)(2)(i) through (iv) of this section must be grouped together and provided in that order. The information required by paragraphs (b)(2)(v) through (ix) of this section must be generally grouped together and provided in that order. The information required by paragraphs (b)(3)(i) and (ii) of this section, as applicable, must be generally grouped together and in the location described by paragraphs (b)(3)(i) and (ii) of this section. The information required by paragraphs (b)(2)(x) through (xiii) of this section must be generally grouped together and provided in that order. The statement regarding wage or salary payment options for payroll card accounts required by paragraph (b)(2)(xiv)(A) of this section must be located above the information required by paragraphs (b)(2)(i) through (iv) of this section, as described in paragraph (b)(2)(xiv)(A) of this section. The statement regarding state-required information or other fee discounts or waivers permitted by paragraph (b)(2)(xiv)(B) of this section, when applicable, must appear in the location described by paragraph (b)(2)(xiv)(B) of this section.

(B) *Long form disclosure.* The information required by paragraph (b)(4)(i) of this section must be located in the first line of the long form disclosure. The information required by paragraph (b)(4)(ii) of this section must be generally grouped together and organized under subheadings by the categories of function for which a financial institution may impose the fee. Text describing the conditions under which a fee may be imposed must appear in the table required by paragraph (b)(6)(iii)(A) of this section in close proximity to the fee amount. The ~~information statements~~ in the long form disclosure required by paragraphs (b)(4)(iii) through (vi) of this section must be generally grouped together, provided in that order, and appear below the information required by paragraph (b)(4)(ii) of this section. If, pursuant to ~~§ 1005.18~~ paragraph (b)(4)(vii) ~~of this section~~, the financial institution includes the disclosures described in Regulation Z, 12 CFR 1026.60(e)(1), such disclosures must appear below the ~~disclosures statements~~ required by paragraph (b)(4)(vi) of this section.

(C) *Multiple service plan disclosure.* When providing a short form disclosure for multiple service plans pursuant to paragraph (b)(6)(iii)(B)(2) of this section, in lieu of the requirements in paragraph (b)(7)(i)(A) of this section for grouping of the disclosures required by paragraphs (b)(2)(i) through (iv) and (v) through (ix) of this section, the information required by paragraphs (b)(2)(i) through (ix) of this section must be grouped together and provided in that order.

(ii) *Prominence and size—(A) General.* All text used to disclose information in the short form or in the long form disclosure pursuant to paragraphs (b)(2), (b)(3)(i) and (ii), and (b)(4) of this section must be in a single, easy-to-read type that is all black or one color and printed on a background that provides a clear contrast.

(B) *Short form disclosure—(1) Fees and other information.* The information required in the short form disclosure by paragraphs (b)(2)(i) through (iv) of this section must appear as follows: Fee amounts in bold-faced type; single fee amounts in a minimum type size of 15 points (or 21 pixels); two-tier fee amounts for ATM withdrawal in a minimum type size of 11 points (or 16 pixels) and in no larger a type size than what is used for the single fee amounts; and fee headings in a minimum type size of eight points (or 11 pixels) and in no larger a type size than what is used for the single fee amounts. The information required by paragraphs (b)(2)(v) through (ix) of this section must appear in a minimum type size of eight points (or 11 pixels) and appear in the same or a smaller type size than what is used for the fee headings required by paragraphs (b)(2)(i) through (iv) of this section. The information required by paragraphs (b)(2)(x) through (xiii) of this section must appear in a minimum type size of seven points (or nine pixels) and appear in no larger a type size than what is used for the information required to be disclosed by paragraphs (b)(2)(v) through (ix) of this section. Additionally, the statements disclosed pursuant to paragraphs (b)(2)(viii)(A) and (b)(2)(x) of this section and the telephone number and URL disclosed pursuant to paragraph (b)(2)(xiii) of this section, where applicable, must appear in bold-faced type. The following information must appear in a minimum type size of six points (or eight pixels) and appear in no larger a type size than what is used for the information required by paragraphs (b)(2)(x) through (xiii) of this section: text used to distinguish each of the two-tier fees pursuant to paragraphs (b)(2)(iii), (v), (vi), and (ix) of this section; text used to explain that the fee required by paragraph (b)(2)(vi) of this section applies “per call,” where applicable; and text used to explain the conditions that trigger an inactivity fee

and that the fee applies monthly or for the applicable time period, pursuant to paragraph (b)(2)(vii) of this section.

(2) *Variable fees.* The symbols and corresponding statements regarding variable fees disclosed in the short form pursuant to paragraphs (b)(3)(i) and (ii) of this section, when applicable, must appear in a minimum type size of seven points (or nine pixels) and appear in no larger a type size than what is used for the information required by paragraphs (b)(2)(x) through (xiii) of this section. A symbol required next to the fee amount pursuant to paragraphs (b)(3)(i) and (ii) of this section must appear in the same type size or pixel size as what is used for the corresponding fee amount.

(3) *Payroll card account additional content.* The statement regarding wage or salary payment options for payroll card accounts required by paragraph (b)(2)(xiv)(A) of this section, when applicable, must appear in a minimum type size of eight points (or 11 pixels) and appear in no larger a type size than what is used for the fee headings required by paragraphs (b)(2)(i) through (iv) of this section. The statement regarding state-required information and other fee discounts or waivers permitted by paragraph (b)(2)(xiv)(B) of this section must appear in the same type size used to disclose variable fee information pursuant to paragraph (b)(3)(i) and (ii) of this section, or, if none, the same type size used for the information required by paragraphs (b)(2)(x) through (xiii) of this section.

(C) *Long form disclosure.* ~~The L~~ong form disclosures required by paragraph (b)(4) of this section must appear in a minimum type size of eight points (or 11 pixels).

(D) *Multiple service plan short form disclosure.* When providing a short form disclosure for multiple service plans pursuant to paragraph (b)(6)(iii)(B)(2) of this section, the fee headings required by paragraphs (b)(2)(i) through (iv) of this section must appear in bold-faced type. The information required by paragraphs (b)(2)(i) through (xiii) of this section must appear in a minimum type size of seven points (or nine pixels), except the following must appear in a minimum type size of six points (or eight pixels) and appear in no larger a type size than what is used for the information required by paragraphs (b)(2)(i) through (xiii) of this section: Text used to distinguish each of the two-tier fees required by paragraphs (b)(2)(iii) and (v) of this section; text used to explain that the fee required by paragraph (b)(2)(vi) of this section applies “per call,” where applicable; text used to explain the conditions that trigger an inactivity fee pursuant to paragraph (b)(2)(vii) of this section; and text used to distinguish that fees required by paragraphs (b)(2)(i) and (vii) of this section apply monthly or for the applicable time period.

(iii) *Segregation.* Short form and long form disclosures required by paragraphs (b)(2) and (4) of this section must be segregated from other information and must contain only information that is required or permitted for those disclosures by paragraph (b) of this section.

(8) *Terminology of pre-acquisition disclosures.* Fee names and other terms must be used consistently within and across the disclosures required by paragraph (b) of this section.

(9) *Prepaid accounts acquired in foreign languages—(i) General.* A financial institution must provide the pre-acquisition disclosures required by paragraph (b) of this section in a foreign

language, if the financial institution uses that same foreign language in connection with the acquisition of a prepaid account in the following circumstances:

(A) The financial institution principally uses a foreign language on the prepaid account packaging material;

(B) The financial institution principally uses a foreign language to advertise, solicit, or market a prepaid account and provides a means in the advertisement, solicitation, or marketing material that the consumer uses to acquire the prepaid account by telephone or electronically; or

(C) The financial institution provides a means for the consumer to acquire a prepaid account by telephone or electronically principally in a foreign language. However, foreign language pre-acquisition disclosures are not required for payroll card accounts and government benefit accounts where the foreign language is offered by telephone via a real-time language interpretation service provided by a third party or by the employer or government agency on an informal or ad hoc basis as an accommodation to prospective payroll card account or government benefit account holders.

(ii) *Long form disclosures in English upon request.* A financial institution required to provide pre-acquisition disclosures in a foreign language pursuant to paragraph (b)(9)(i) of this section must also provide the information required to be disclosed in its pre-acquisition long form disclosure pursuant to paragraph (b)(4) of this section in English upon a consumer's request and on any part of the Web site where it discloses this information in a foreign language.

(c) *Access to prepaid account information—(1) Periodic statement alternative.* A financial institution need not furnish periodic statements required by § 1005.9(b) if the financial institution makes available to the consumer:

(i) The consumer's account balance, through a readily available telephone line;

(ii) An electronic history of the consumer's account transactions, such as through a Web site, that covers at least 12 months preceding the date the consumer electronically accesses the account; and

(iii) A written history of the consumer's account transactions that is provided promptly in response to an oral or written request and that covers at least 24 months preceding the date the financial institution receives the consumer's request.

(2) *Periodic statement alternative for unverified prepaid accounts.* For prepaid accounts that are not payroll card accounts or government benefit accounts, a financial institution is not required to provide a written history of the consumer's account transactions pursuant to paragraph (c)(1)(iii) of this section for any prepaid account for which the financial institution has not completed its consumer identification and verification process as described in paragraph (e)(3)(i)(A) through (C) of this section.

(3) *Information included on electronic or written histories.* The history of account transactions provided under paragraphs (c)(1)(ii) and (iii) of this section must include the information set forth in § 1005.9(b).

(4) *Inclusion of all fees charged.* A financial institution must disclose the amount of any fees assessed against the account, whether for electronic fund transfers or otherwise, on any periodic statement provided pursuant to § 1005.9(b) and on any history of account transactions provided or made available by the financial institution.

(5) *Summary totals of fees.* A financial institution must display a summary total of the amount of all fees assessed by the financial institution against the consumer's prepaid account for the prior calendar month and for the calendar year to date on any periodic statement provided pursuant to § 1005.9(b) and on any history of account transactions provided or made available by the financial institution.

(d) *Modified disclosure requirements.* A financial institution that provides information under paragraph (c)(1) of this section shall comply with the following:

(1) *Initial disclosures.* The financial institution shall modify the disclosures under § 1005.7(b) by disclosing:

(i) *Access to account information.* A telephone number that the consumer may call to obtain the account balance, the means by which the consumer can obtain an electronic account transaction history, such as the address of a Web site, and a summary of the consumer's right to receive a written account transaction history upon request (in place of the summary of the right to receive a periodic statement required by § 1005.7(b)(6)), including a telephone number to call to request a history. The disclosure required by this paragraph may be made by providing a notice substantially similar to the notice contained in paragraph (a) of appendix A-7 of this part.

(ii) *Error resolution.* A notice concerning error resolution that is substantially similar to the notice contained in paragraph (b) of appendix A-7 of this part, in place of the notice required by § 1005.7(b)(10). Alternatively, for prepaid account programs for which the financial institution does not have a consumer identification and verification process, the financial institution must describe its error resolution process and limitations on consumers' liability for unauthorized transfers or, if none, state that there are no such protections.

(2) *Annual error resolution notice.* The financial institution shall provide an annual notice concerning error resolution that is substantially similar to the notice contained in paragraph (b) of appendix A-7 of this part, in place of the notice required by § 1005.8(b). Alternatively, a financial institution may include on or with each electronic and written account transaction history provided in accordance with paragraph (c)(1) of this section, a notice substantially similar to the abbreviated notice for periodic statements contained in paragraph (b) of appendix A-3 of this part, modified as necessary to reflect the error resolution provisions set forth in paragraph (e) of this section.

(e) *Modified limitations on liability and error resolution requirements—(1) Modified limitations on liability requirements.* A financial institution that provides information under paragraph (c)(1) of this section shall comply with the following:

(i) For purposes of § 1005.6(b)(3), the 60-day period for reporting any unauthorized transfer shall begin on the earlier of:

(A) The date the consumer electronically accesses the consumer's account under paragraph (c)(1)(ii) of this section, provided that the electronic account transaction history made available to the consumer reflects the unauthorized transfer; or

(B) The date the financial institution sends a written history of the consumer's account transactions requested by the consumer under paragraph (c)(1)(iii) of this section in which the unauthorized transfer is first reflected.

(ii) A financial institution may comply with paragraph (e)(1)(i) of this section by limiting the consumer's liability for an unauthorized transfer as provided under § 1005.6(b)(3) for any transfer reported by the consumer within 120 days after the transfer was credited or debited to the consumer's account.

(2) *Modified error resolution requirements.* A financial institution that provides information under paragraph (c)(1) of this section shall comply with the following: (i) The financial institution shall comply with the requirements of § 1005.11 in response to an oral or written notice of an error from the consumer that is received by the earlier of:

(A) Sixty days after the date the consumer electronically accesses the consumer's account under paragraph (c)(1)(ii) of this section, provided that the electronic account transaction history made available to the consumer reflects the alleged error; or

(B) Sixty days after the date the financial institution sends a written history of the consumer's account transactions requested by the consumer under paragraph (c)(1)(iii) of this section in which the alleged error is first reflected.

(ii) In lieu of following the procedures in paragraph (e)(2)(i) of this section, a financial institution complies with the requirements for resolving errors in § 1005.11 if it investigates any oral or written notice of an error from the consumer that is received by the institution within 120 days after the transfer allegedly in error was credited or debited to the consumer's account.

(3) *Limitations on liability and Error resolution for unverified accounts.* —(i) ~~*Provisional credit for errors on accounts that have not been verified. As set forth in § 1005.11(e)(2)(i)(C), f*~~For prepaid accounts that are not payroll card accounts or government benefit accounts, a financial institution ~~*may take up to the maximum length of time permitted under § 1005.11(e)(2)(i) or (e)(3)(ii), as applicable, to investigate and determine whether an error occurred without provisionally crediting a consumer's account if the financial institution is not required to comply with the liability limits and error resolution requirements in §§ 1005.6 and 1005.11 for any prepaid account for which it*~~ has not successfully completed its consumer identification and verification process ~~*with respect to that prepaid account.*~~

(ii) For purposes of paragraph (e)(3)(i) of this section, a financial institution has not successfully completed its consumer identification and verification process where:

(A) ~~The financial institution~~ has not concluded its consumer identification and verification process with respect to a particular prepaid account, provided ~~the financial institution~~that it has disclosed to the consumer the risks of not registering and verifying the account using a notice that is substantially similar to the model notice contained in paragraph (c) of appendix A–7 of this part.

(B) ~~The financial institution~~ has concluded its consumer identification and verification process with respect to a particular prepaid account, but could not verify the identity of the consumer, provided ~~the financial institution~~that it has disclosed to the consumer the risks of not registering and verifying the account using a notice that is substantially similar to the model notice contained in paragraph (c) of appendix A–7 of this part; or

(C) ~~The financial institution~~ does not have a consumer identification and verification process by which the consumer can register for the prepaid account program, provided that it has made the alternative disclosure described in paragraph (d)(1)(ii) of this section and complies with the process it has disclosed.

(iii) *Resolution of ~~pre-verification~~ errors following successful verification.* ~~If a consumer's account has been verified, the financial institution must comply with the provisions set forth in § 1005.11(c) in full with respect to any errors that satisfy the timing requirements of~~Once a financial institution successfully completes its consumer identification and verification process with respect to a prepaid account, the financial institution must limit the consumer's liability for unauthorized transfers and resolve errors that occur following verification in accordance with § 1005.6 or § 1005.11, or the modified timing requirements in this paragraph (e), as applicable,~~including with respect to errors that occurred prior to verification.~~

~~(A) Notwithstanding paragraph (e)(3)(iii) of this section, if, at the time the financial institution was required to provisionally credit the account (pursuant to § 1005.11(c)(2)(i) or (c)(3)(ii), as applicable), the financial institution has not yet completed its identification and verification process with respect to that account, the financial institution may take up to the maximum length of time permitted under § 1005.11(c)(2)(i) or (c)(3)(ii), as applicable, to investigate and determine whether an error occurred without provisionally crediting the account.~~

(f) *Disclosure of fees and other information—(1) Initial disclosure of fees and other information.* A financial institution must include, as part of the initial disclosures given pursuant to § 1005.7, all of the information required to be disclosed in its pre-acquisition long form disclosure pursuant to paragraph (b)(4) of this section.

(2) *Change-in-terms notice.* The change-in-terms notice provisions in § 1005.8(a) apply to any change in a term or condition that is required to be disclosed under § 1005.7 or paragraph (f)(1) of this section. If a financial institution discloses the amount of a third-party fee in its pre-acquisition long form disclosure pursuant to paragraph (b)(4)(ii) of this section and initial disclosures pursuant to paragraph (f)(1) of this section, the financial institution is not required to provide a change-in-terms notice solely to reflect a change in that fee amount imposed by the third party. If a financial institution provides pursuant to paragraph (f)(1) of this section the Regulation Z disclosures required by paragraph (b)(4)(vii) of this section for an overdraft credit

feature, the financial institution is not required to provide a change-in-terms notice solely to reflect a change in the fees or other terms disclosed therein.

(3) *Disclosures on prepaid account access devices.* The name of the financial institution and the Web site URL and a telephone number a consumer can use to contact the financial institution about the prepaid account must be disclosed on the prepaid account access device. If a financial institution does not provide a physical access device in connection with a prepaid account, the disclosure must appear on the Web site, mobile application, or other entry point a consumer must visit to access the prepaid account electronically.

(g) *Prepaid accounts accessible by hybrid prepaid-credit cards—(1) In general.* Except as provided in paragraph (g)(2) of this section, with respect to a prepaid account program where consumers may be offered a covered separate credit feature accessible by a hybrid prepaid-credit card as defined by Regulation Z, 12 CFR 1026.61, a financial institution must provide to any prepaid account without a covered separate credit feature the same account terms, conditions, and features that it provides on prepaid accounts in the same prepaid account program that have such a credit feature.

(2) *Exception for higher fees or charges.* A financial institution is not prohibited under paragraph (g)(1) of this section from imposing a higher fee or charge on the asset feature of a prepaid account with a covered separate credit feature accessible by a hybrid prepaid-credit card than the amount of a comparable fee or charge that it imposes on any prepaid account in the same prepaid account program that does not have such a credit feature.

(h) *Effective date and special transition rules for disclosure provisions—(1) Effective date generally.* Except as provided in paragraphs (h)(2) and (3) of this section, the requirements of this subpart, as modified by this section, apply to prepaid accounts as defined in § 1005.2(b)(3), including government benefit accounts subject to § 1005.15, beginning April 1, ~~2018~~2019.

(2) *Early disclosures—(i) Exception for disclosures on existing prepaid account access devices and prepaid account packaging materials.* The disclosure requirements of this subpart, as modified by this section, shall not apply to any disclosures that are provided, or that would otherwise be required to be provided, on prepaid account access devices, or on, in, or with prepaid account packaging materials that were manufactured, printed, or otherwise produced in the normal course of business prior to April 1, ~~2018~~2019.

(ii) *Disclosures for prepaid accounts acquired on or after April 1, ~~2018~~2019.* This paragraph applies to prepaid accounts acquired by consumers on or after April 1, ~~2018~~2019 via packaging materials that were manufactured, printed, or otherwise produced prior to April 1, ~~2018~~2019.

(A) *Notices of certain changes.* If a financial institution has changed a prepaid account's terms and conditions as a result of paragraph (h)(1) of this section taking effect such that a change-in-terms notice would have been required under § 1005.8(a) or paragraph (f)(2) of this section for existing customers, the financial institution must provide to the consumer a notice of the change within 30 days of obtaining the consumer's contact information.

(B) *Initial disclosures.* The financial institution must mail or deliver to the consumer initial disclosures pursuant to § 1005.7 and paragraph (f)(1) of this section that have been updated as a result of paragraph (h)(1) of this section taking effect, within 30 days of obtaining the consumer's contact information.

(iii) *Disclosures for prepaid accounts acquired before April 1, 20182019.* This paragraph applies to prepaid accounts acquired by consumers before April 1, 20182019. If a financial institution has changed a prepaid account's terms and conditions as a result of paragraph (h)(1) of this section taking effect such that a change-in-terms notice would have been required under § 1005.8(a) or paragraph (f)(2) of this section for existing customers, the financial institution must provide to the consumer a notice of the change at least 21 days in advance of the change becoming effective, provided the financial institution has the consumer's contact information. If the financial institution obtains the consumer's contact information less than 30 days in advance of the change becoming effective or after it has become effective, the financial institution is permitted instead to notify the consumer of the change in accordance with the timing requirements set forth in paragraph (h)(2)(ii)(A) of this section.

(iv) *Method of providing notice to consumers.* With respect to prepaid accounts governed by paragraph (h)(2)(ii) or (iii) of this section, if a financial institution has not obtained a consumer's consent to provide disclosures in electronic form pursuant to the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 *et seq.*), or is not otherwise already mailing or delivering to the consumer written account-related communications within the respective time periods specified in paragraphs (h)(2)(ii) or (iii) of this section, the financial institution may provide to the consumer a notice of a change in terms and conditions pursuant to paragraph (h)(2)(ii) or (iii) of this section or required or voluntary updated initial disclosures as a result of paragraph (h)(1) of this section taking effect in electronic form without regard to the consumer notice and consent requirements of section 101(c) of the E-Sign Act.

(3) *Account information not available on April 1, 20182019*—(i) *Electronic and written account transaction history.* If, on April 1, 20182019, a financial institution does not have readily accessible the data necessary to make available 12 months of electronic account transaction history pursuant to paragraph (c)(1)(ii) of this section or to provide 24 months of written account transaction history upon request pursuant to paragraph (c)(1)(iii) of this section, the financial institution may make available or provide such histories using the data for the time period it has until the financial institution has accumulated the data necessary to comply in full with the requirements set forth in paragraphs (c)(1)(ii) and (iii) of this section.

(ii) *Summary totals of fees.* If, on April 1, 20182019, the financial institution does not have readily accessible the data necessary to calculate the summary totals of the amount of all fees assessed by the financial institution on the consumer's prepaid account for the prior calendar month and for the calendar year to date pursuant to paragraph (c)(5) of this section, the financial institution may display the summary totals using the data it has until the financial institution has accumulated the data necessary to display the summary totals as required by paragraph (c)(5) of this section.

§ 1005.19 Internet posting of prepaid account agreements.

(a) *Definitions*—(1) *Agreement*. For purposes of this section, “agreement” or “prepaid account agreement” means the written document or documents evidencing the terms of the legal obligation, or the prospective legal obligation, between a prepaid account issuer and a consumer for a prepaid account. “Agreement” or “prepaid account agreement” also includes fee information, as defined in paragraph (a)(3) of this section.

(2) *Amends*. For purposes of this section, an issuer “amends” an agreement if it makes a substantive change (an “amendment”) to the agreement. A change is substantive if it alters the rights or obligations of the issuer or the consumer under the agreement. Any change in the fee information, as defined in paragraph (a)(3) of this section, is deemed to be substantive.

(3) *Fee information*. For purposes of this section, “fee information” means the short form disclosure for the prepaid account pursuant to § 1005.18(b)(2) and the fee information and statements required to be disclosed in the pre-acquisition long form disclosure for the prepaid account pursuant to § 1005.18(b)(4).

(4) *Issuer*. For purposes of this section, “issuer” or “prepaid account issuer” means the entity to which a consumer is legally obligated, or would be legally obligated, under the terms of a prepaid account agreement.

(5) *Offers*. For purposes of this section, an issuer “offers” an agreement if the issuer markets, solicits applications for, or otherwise makes available a prepaid account that would be subject to that agreement, regardless of whether the issuer offers the prepaid account to the general public.

(6) *Offers to the general public*. For purposes of this section, an issuer “offers to the general public” an agreement if the issuer markets, solicits applications for, or otherwise makes available to the general public a prepaid account that would be subject to that agreement.

(7) *Open account*. For purposes of this section, a prepaid account is an “open account” or “open prepaid account” if: There is an outstanding balance in the account; the consumer can load funds to the account even if the account does not currently hold a balance; or the consumer can access credit from a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in Regulation Z, 12 CFR 1026.61, in connection with the account. A prepaid account that has been suspended temporarily (for example, due to a report by the consumer of unauthorized use of the card) is considered an “open account” or “open prepaid account.”

(8) *Prepaid account*. For purposes of this section, “prepaid account” means a prepaid account as defined in § 1005.2(b)(3).

(b) *Submission of agreements to the Bureau*—(1) *Submissions on a rolling basis*. An issuer must make submissions of prepaid account agreements to the Bureau on a rolling basis, in the form and manner specified by the Bureau. Rolling submissions must be sent to the Bureau no later than 30 days after an issuer offers, amends, or ceases to offer any prepaid account agreement as described in paragraphs (b)(1)(ii) through (iv) of this section. Each submission must contain:

(i) Identifying information about the issuer and the agreements submitted, including the issuer's name, address, and identifying number (such as an RSSD ID number or tax identification number), the effective date of the prepaid account agreement, the name of the program manager, if any, and the list of names of other relevant parties, if applicable (such as the employer for a payroll card program or the agency for a government benefit program);

(ii) Any prepaid account agreement offered by the issuer that has not been previously submitted to the Bureau;

(iii) Any prepaid account agreement previously submitted to the Bureau that has been amended, as described in paragraph (b)(2)(i) of this section; and

(iv) Notification regarding any prepaid account agreement previously submitted to the Bureau that the issuer is withdrawing, as described in paragraphs (b)(3), (b)(4)(ii), and (b)(5)(ii) of this section.

(2) *Amended agreements—(i) Submission of amended agreements generally.* If a prepaid account agreement previously submitted to the Bureau is amended, the issuer must submit the entire amended agreement to the Bureau, in the form and manner specified by the Bureau, no later than 30 days after the change becomes effective. If other identifying information about the issuer and its submitted agreements pursuant to paragraph (b)(1)(i) of this section previously submitted to the Bureau is amended, the issuer must submit updated information to the Bureau, in the form and manner specified by the Bureau, no later than 30 days after the change becomes effective.

(ii) Submission of updated list of names of other relevant parties. Notwithstanding paragraph (b)(2)(i) of this section, an issuer may delay submitting a change to the list of names of other relevant parties to a particular agreement until the earlier of:

(A) Such time as the issuer is otherwise submitting an amended agreement or changes to other identifying information about the issuer and its submitted agreements pursuant to paragraph (b)(1)(i) of this section; or

(B) May 1 of each year, for any updates to the list of names of other relevant parties for that agreement that occurred between the issuer's last submission of relevant party information and April 1 of that year.

(3) *Withdrawal of agreements no longer offered.* If an issuer no longer offers a prepaid account agreement that was previously submitted to the Bureau, the issuer must notify the Bureau, in the form and manner specified by the Bureau, no later than 30 days after the issuer ceases to offer the agreement, that it is withdrawing the agreement.

(4) *De minimis exception.* (i) An issuer is not required to submit any prepaid account agreements to the Bureau if the issuer has fewer than 3,000 open prepaid accounts. If the issuer has 3,000 or more open prepaid accounts as of the last day of the calendar quarter, the issuer must submit to the Bureau its prepaid account agreements no later than 30 days after the last day of that calendar quarter.

(ii) If an issuer that did not previously qualify for the de minimis exception newly qualifies for the de minimis exception, the issuer must continue to make submissions to the Bureau on a rolling basis until the issuer notifies the Bureau that the issuer is withdrawing all agreements it previously submitted to the Bureau.

(5) *Product testing exception.* (i) An issuer is not required to submit a prepaid account agreement to the Bureau if the agreement meets the criteria set forth in paragraphs (b)(5)(i)(A) through (C) of this section. If the agreement fails to meet the criteria set forth in paragraphs (b)(5)(i)(A) through (C) of this section as of the last day of the calendar quarter, the issuer must submit to the Bureau that prepaid account agreement no later than 30 days after the last day of that calendar quarter. An agreement qualifies for the product testing exception if the agreement:

(A) Is offered as part of a product test offered to only a limited group of consumers for a limited period of time;

(B) Is used for fewer than 3,000 open prepaid accounts; and

(C) Is not offered other than in connection with such a product test.

(ii) If an agreement that did not previously qualify for the product testing exception newly qualifies for the exception, the issuer must continue to make submissions to the Bureau on a rolling basis with respect to that agreement until the issuer notifies the Bureau that the issuer is withdrawing the agreement.

(6) *Form and content of agreements submitted to the Bureau—(i) Form and content generally.* (A) Each agreement must contain the provisions of the agreement and the fee information currently in effect.

(B) Agreements must not include any personally identifiable information relating to any consumer, such as name, address, telephone number, or account number.

(C) The following are not deemed to be part of the agreement for purposes of this section, and therefore are not required to be included in submissions to the Bureau:

(1) Ancillary disclosures required by state or Federal law, such as affiliate marketing notices, privacy policies, or disclosures under the E-Sign Act;

(2) Solicitation or marketing materials;

(3) Periodic statements; and

(4) Documents that may be sent to the consumer along with the prepaid account or prepaid account agreement such as a cover letter, a validation sticker on the card, or other information about card security.

(D) Agreements must be presented in a clear and legible font.

(ii) *Fee information.* Fee information must be set forth either in the prepaid account agreement or in ~~a single addendum~~addenda to that agreement that attach either or both the short form disclosure for the prepaid account pursuant to § 1005.18(b)(2) and the fee information and statements required to be disclosed in the long form disclosure for the prepaid account pursuant to § 1005.18(b)(4). The agreement or ~~addendum~~addenda thereto must contain all of the fee information, as defined by paragraph (a)(3) of this section.

(iii) *Integrated agreement.* An issuer may not provide provisions of the agreement or fee information to the Bureau in the form of change-in-terms notices or riders (other than the optional fee information ~~addendum~~addenda described in paragraph (b)(6)(ii) of this section). Changes in provisions or fee information must be integrated into the text of the agreement, or the optional fee information ~~addendum~~addenda, as appropriate.

(c) *Posting of agreements offered to the general public.* (1) An issuer must post and maintain on its publicly available Web site any prepaid account agreements offered to the general public that the issuer is required to submit to the Bureau under paragraph (b) of this section.

(2) Agreements posted pursuant to this paragraph (c) must conform to the form and content requirements for agreements submitted to the Bureau set forth in paragraph (b)(6) of this section.

(3) The issuer must post and update the agreements posted on its Web site pursuant to this paragraph (c) as frequently as the issuer is required to submit new or amended agreements to the Bureau pursuant to paragraph (b)(2)(i) of this section.

(4) Agreements posted pursuant to this paragraph (c) may be posted in any electronic format that is readily usable by the general public. Agreements must be placed in a location that is prominent and readily accessible to the public and must be accessible without submission of personally identifiable information.

(d) *Agreements for all open accounts—(1) Availability of an individual consumer’s prepaid account agreement.* With respect to any open prepaid account, an issuer must either:

(i) Post and maintain the consumer’s agreement on its Web site; or

(ii) Promptly provide a copy of the consumer’s agreement to the consumer upon the consumer’s request. If the issuer makes an agreement available upon request, the issuer must provide the consumer with the ability to request a copy of the agreement by telephone. The issuer must send to the consumer a copy of the consumer’s prepaid account agreement no later than five business days after the issuer receives the consumer’s request.

(2) *Form and content of agreements.* (i) Except as provided in this paragraph (d), agreements posted on the issuer’s Web site pursuant to paragraph (d)(1)(i) of this section or sent to the consumer upon the consumer’s request pursuant to paragraph (d)(1)(ii) of this section must conform to the form and content requirements for agreements submitted to the Bureau as set forth in paragraph (b)(6) of this section.

(ii) If the issuer posts an agreement on its Web site under paragraph (d)(1)(i) of this section, the agreement may be posted in any electronic format that is readily usable by the general public and must be placed in a location that is prominent and readily accessible to the consumer.

(iii) Agreements posted or otherwise provided pursuant to this paragraph (d) may contain personally identifiable information relating to the consumer, such as name, address, telephone number, or account number, provided that the issuer takes appropriate measures to make the agreement accessible only to the consumer or other authorized persons.

(iv) Agreements posted or otherwise provided pursuant to this paragraph (d) must set forth the specific provisions and fee information applicable to the particular consumer.

(v) Agreements posted pursuant to paragraph (d)(1)(i) of this section must be updated as frequently as the issuer is required to submit amended agreements to the Bureau pursuant to paragraph (b)(2)(i) of this section. Agreements provided upon consumer request pursuant to paragraph (d)(1)(ii) of this section must be accurate as of the date the agreement is sent to the consumer.

(vi) Agreements provided upon consumer request pursuant to paragraph (d)(1)(ii) of this section must be provided by the issuer in paper form, unless the consumer agrees to receive the agreement electronically.

(e) *E-Sign Act requirements.* Except as otherwise provided in this section, issuers may provide prepaid account agreements in electronic form under paragraphs (c) and (d) of this section without regard to the consumer notice and consent requirements of section 101(c) of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 *et seq.*).

(f) ~~Effective-Initial submission date. —(1) Effective date generally. Except as provided in paragraph (f)(2) of this section, the requirements of this section apply to prepaid accounts beginning on April 1, 2018~~2019.

~~(2) Delayed effective date for the agreement submission requirement. The requirement to submit prepaid account agreements to the Bureau on a rolling basis pursuant to paragraph (b) of this section is delayed until October 1, 2018. An issuer must submit to the Bureau no later than October 31, 2018~~May 1, 2019 all prepaid account agreements it offers as of ~~October 1, 2018~~April 1, 2019.

~~(3) Requirements to post and provide consumers agreements. Nothing in paragraph (f)(2) of this section shall affect the requirements to post prepaid account agreements on an issuer's Web site pursuant to paragraphs (c) and (d) of this section or the requirement to provide a copy of the consumer's agreement to the consumer upon request pursuant to paragraph (d) of this section.~~

* * * * *

Subpart B—Requirements for Remittance Transfers

* * * * *

§ 1005.32 Estimates.

(a) * * *

(1) * * *

(iii) The remittance transfer is sent from the sender's account with the institution; provided however, for the purposes of this paragraph, a sender's account does not include a prepaid account, unless the prepaid account is a payroll card account or a government benefit account.

* * * * *

APPENDIX A TO PART 1005—MODEL DISCLOSURE CLAUSES AND FORMS

* * * * *

A-5—MODEL CLAUSES FOR GOVERNMENT AGENCIES (§ 1005.15(E)(1) AND (2))

(a) Disclosure by government agencies of information about obtaining account information for government benefit accounts (§ 1005.15(e)(1)(i)).

You may obtain information about the amount of benefits you have remaining by calling [telephone number]. That information is also available [on the receipt you get when you make a transfer with your card at (an ATM) (a POS terminal)] [when you make a balance inquiry at an ATM] [when you make a balance inquiry at specified locations]. This information, along with a 12-month history of account transactions, is also available online at [Internet address].

You also have the right to obtain at least 24 months of written history of account transactions by calling [telephone number], or by writing to us at [address]. You will not be charged a fee for this information unless you request it more than once per month. [Optional: Or you may request a written history of account transactions by contacting your caseworker.]

(b) Disclosure of error resolution procedures for government agencies that do not provide periodic statements (§ 1005.15(e)(1)(ii) and (e)(2)).

In Case of Errors or Questions About Your Electronic Transfers Telephone us at [telephone number] Write us at [address] [or email us at [email address]] as soon as you can, if you think an error has occurred in your [agency's name for program] account. We must allow you to report an error until 60 days after the earlier of the date you electronically access your account, if the error could be viewed in your electronic history, or the date we sent the FIRST written history on which the error appeared. You may request a written history of your transactions at any time by calling us at [telephone number] or writing us at [address] [optional: or by contacting your caseworker]. You will need to tell us:

- Your name and [case] [file] number.
- Why you believe there is an error, and the dollar amount involved.
- Approximately when the error took place.

If you tell us orally, we may require that you send us your complaint or question in writing within 10 business days.

We will determine whether an error occurred within 10 business days after we hear from you and will correct any error promptly. If we need more time, however, we may take up to 45 days to investigate your complaint or question. If we decide to do this, we will credit your account within 10 business days for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within 10 business days, we may not credit your account.

For errors involving new accounts, point-of-sale, or foreign-initiated transactions, we may take up to 90 days to investigate your complaint or question. For new accounts, we may take up to 20 business days to credit your account for the amount you think is in error.

We will tell you the results within three business days after completing our investigation. If we decide that there was no error, we will send you a written explanation.

You may ask for copies of the documents that we used in our investigation.

If you need more information about our error resolution procedures, call us at [telephone number][the telephone number shown above].

* * * * *

A-7—MODEL CLAUSES FOR FINANCIAL INSTITUTIONS OFFERING PREPAID ACCOUNTS (§ 1005.18(D) AND (E)(3))

(a) Disclosure by financial institutions of information about obtaining account information for prepaid accounts (§ 1005.18(d)(1)(i)).

You may obtain information about the amount of money you have remaining in your prepaid account by calling [telephone number]. This information, along with a 12-month history of account transactions, is also available online at [~~I~~Internet address].

[For accounts that are or can be registered:] [If your account is registered with us,] You also have the right to obtain at least 24 months of written history of account transactions by calling [telephone number], or by writing us at [address]. You will not be charged a fee for this information unless you request it more than once per month.

(b) Disclosure of error-resolution procedures for financial institutions that do not provide periodic statements (§ 1005.18(d)(1)(ii) and (d)(2)).

In Case of Errors or Questions About Your Prepaid Account Telephone us at [telephone number] or Write us at [address] [or email us at [email address]] as soon as you can, if you think an error has occurred in your prepaid account. We must allow you to report an error until 60 days after the earlier of the date you electronically access your account, if the error could be viewed in your electronic history, or the date we sent the FIRST written history on which the error appeared. You may request a written history of your transactions at any time by calling us at [telephone number] or writing us at [address]. You will need to tell us:

Your name and [prepaid account] number.

Why you believe there is an error, and the dollar amount involved.

Approximately when the error took place.

If you tell us orally, we may require that you send us your complaint or question in writing within 10 business days.

We will determine whether an error occurred within 10 business days after we hear from you and will correct any error promptly. If we need more time, however, we may take up to 45 days to investigate your complaint or question. If we decide to do this, [and your account is registered with us,] we will credit your account within 10 business days for the amount you think is in error, so that you will have the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within 10 business days, we may not credit your account. [Keep reading to learn more about how to register your card.]

For errors involving new accounts, point-of-sale, or foreign-initiated transactions, we may take up to 90 days to investigate your complaint or question. For new accounts, we may take up to 20 business days to credit your account for the amount you think is in error.

We will tell you the results within three business days after completing our investigation. If we decide that there was no error, we will send you a written explanation.

You may ask for copies of the documents that we used in our investigation.

If you need more information about our error-resolution procedures, call us at [telephone number] [the telephone number shown above] [or visit [~~the~~internet address]].

(c) Warning regarding ~~unregistered~~~~unverified~~ prepaid accounts (§ 1005.18(e)(3)).

It is important to register your prepaid account as soon as possible. ~~Unless~~~~Until~~ you register your account, ~~and~~ we ~~may verify your identity, not credit your account in the amount you think is in error until we complete our investigation we are not required to research or resolve any errors regarding your account.~~ To register your account, go to [~~the~~internet address] or call us at [telephone number]. We will ask you for identifying information about yourself (including your full name, address, date of birth, and [Social Security Number] [government-issued identification number]), so that we can verify your identity.

* * * * *

A-10(A)—MODEL FORM FOR SHORT FORM DISCLOSURES FOR GOVERNMENT BENEFIT ACCOUNTS (§§ 1005.15(C) AND 1005.18(B)(2), (3), (6), AND (7))

You have several options to receive your payments: direct deposit to your bank account; direct deposit to your own prepaid account; or this benefits card.
Tell the benefits office which option you choose.

Monthly fee	Per purchase	ATM withdrawal	Cash reload
\$0	\$0	\$0 in-network \$1.95* out-of-network	N/A

ATM balance inquiry (in-network or out-of-network)	\$0 or \$1.95*
--	----------------

Customer service (automated or live agent)	\$0 or \$1.95 per call
--	------------------------

Inactivity	\$0
------------	-----

We charge 4 other types of fees. Here are some of them:

[Additional fee type]	\$0.50 or \$1.00
-----------------------	------------------

[Additional fee type]	\$3.00
-----------------------	--------

* This fee can be lower depending on how and where this card is used.
[See [location] for free ways to access your funds and balance information.]

No overdraft/credit feature.

Your funds are eligible for FDIC insurance.

For general information about prepaid accounts, visit cfpb.gov/prepaid.

Find details and conditions for all fees and services in the cardholder agreement.

A-10(B)—MODEL FORM FOR SHORT FORM DISCLOSURES FOR PAYROLL CARD ACCOUNTS (§ 1005.18(B)(2), (3), (6), AND (7))

You do not have to accept this payroll card. Ask your employer about other ways to receive your wages.			
Monthly fee	Per purchase	ATM withdrawal	Cash reload
\$0	\$0	\$0 in-network \$1.95* out-of-network	N/A
ATM balance inquiry (in-network or out-of-network)			\$0 or \$1.95*
Customer service (automated or live agent)			\$0 or \$1.95 per call
Inactivity			\$0
We charge 4 other types of fees. Here are some of them:			
[Additional fee type]			\$1.00*
[Additional fee type]			\$3.00
* This fee can be lower depending on how and where this card is used. [See [location] for free ways to access your funds and balance information.] No overdraft/credit feature. Your funds are eligible for FDIC insurance. For general information about prepaid accounts, visit cfpb.gov/prepaid. Find details and conditions for all fees and services in the cardholder agreement.			

A-10(C)—MODEL FORM FOR SHORT FORM DISCLOSURES FOR PREPAID ACCOUNTS, EXAMPLE 1 (§ 1005.18(B)(2), (3), (6), AND (7))

Monthly fee	Per purchase	ATM withdrawal	Cash reload
\$5.99[†]	\$0	\$0 in-network \$1.99 out-of-network	\$3.99[*]
ATM balance inquiry (in-network or out-of-network)			\$0 or \$0.50
Customer service (automated or live agent)			\$0 or \$0.50* per call
Inactivity (after 12 months with no transactions)			\$1.00 per month
We charge 4 other types of fees. Here are some of them:			
[Additional fee type]			\$0.50 or \$1.00
[Additional fee type]			\$3.00
[†] No monthly fee with direct deposit or 30 transactions per month. [*] This fee can be lower depending on how and where this card is used.			
You may be offered overdraft/credit after 30 days. Fees would apply. Register your card for FDIC insurance eligibility and other protections. For general information about prepaid accounts, visit cfpb.gov/prepaid . Find details and conditions for all fees and services inside the package, or call 800-234-5678 or visit xyz.com/prepaid .			

A-10(D)—MODEL FORM FOR SHORT FORM DISCLOSURES FOR PREPAID ACCOUNTS, EXAMPLE 2 (§ 1005.18(B)(2), (3), (6), AND (7))

Monthly fee	Per purchase	ATM withdrawal	Cash reload
\$5.99*	\$0	\$0 in-network \$1.99 out-of-network	\$3.99*
ATM balance inquiry (in-network or out-of-network)			\$0 or \$0.50
Customer service (automated or live agent)			\$0 or \$0.50* per call
Inactivity (after 12 months with no transactions)			\$1.00 per month
We charge 4 other types of fees. Here are some of them:			
[Additional fee type]			\$1.00*
[Additional fee type]			\$3.00
* This fee can be lower depending on how and where this card is used.			
No overdraft/credit feature.			
Not FDIC insured. Register your card for other protections.			
For general information about prepaid accounts, visit cfpb.gov/prepaid .			
Find details and conditions for all fees and services inside the package, or call 800-234-5678 or visit xyz.com/prepaid .			

A-10(E)—MODEL FORM FOR SHORT FORM DISCLOSURES FOR PREPAID ACCOUNTS WITH MULTIPLE SERVICE PLANS (§ 1005.18(B)(2), (3), (6), AND (7))

	Pay-as-you-go plan	Monthly plan	Annual plan
Plan fee	\$0	\$5.99 [†] per mo.	\$39.99 per yr.
Per purchase	\$0.25	\$0	\$0
ATM withdrawal (in-net.)	\$0	\$0	\$0
ATM withdrawal (out-net.)	\$2.50	\$1.99	\$1.99
Cash reload	\$4.99*	\$4.99*	\$4.99*
ATM balance inquiry (in-net.)	\$0.50	\$0.50	\$0.50
ATM balance inquiry (out-net.)	\$1.00	\$1.00	\$1.00
Live customer service (per call)	\$1.50	\$0.50	\$0.50
Inactivity (after 12 mo. w/ no trans.)	\$2.50 per mo.	\$2.50 per mo.	\$2.50 per mo.
We charge 4 other types of fees. Here are some of them:			
[Additional fee type]	\$1.00*	\$1.00*	\$1.00*
[Additional fee type]	\$3.00	\$3.00	\$3.00
[†] \$1.00 monthly fee with direct deposit. * This fee can be lower depending on how and where this card is used. No overdraft/credit feature. Not FDIC insured. Register your card for other protections. For general information about prepaid accounts, visit cfpb.gov/prepaid . Find details and conditions for all fees and services inside the package, or call 800-234-5678 or visit xyz.com/prepaid .			

A-10(F)—SAMPLE FORM FOR LONG FORM DISCLOSURES FOR PREPAID ACCOUNTS (§ 1005.18(B)(4), (6), AND (7))

List of all fees for XYZ Prepaid Card

All fees	Amount	Details
Get started		
Card purchase	\$3.95	
Monthly usage		
Monthly fee	\$5.99	Monthly fee is waived in any month in which you receive a direct deposit or conduct at least 30 transactions.
Add money		
Direct deposit	\$0.50	
Cash reload	\$3.99	Fees of up to \$3.99 may apply when reloading your card at XYZ reload agents. Locations may be found at xyzbank.com/prepaid/reloads .
Spend money		
Bill payment (regular delivery)	\$0.50	Bill pay available when you log in to your account at xyzbank.com/prepaid or using the XYZ Bank mobile app. Regular bill pay transactions will be completed within 3 business days for electronic payments and within approximately 7 days if we have to mail a paper check to pay your bill.
Bill payment (expedited delivery)	\$1.00	Bill pay available when you log in to your account at xyzbank.com/prepaid or using the XYZ Bank mobile app. Expedited bill pay transactions will be completed within 1 business day. Electronic payments only.
Get cash		
ATM withdrawal (in-network)	\$0	"In-network" refers to the XYZ Bank ATM Network. Locations can be found at xyzbank.com/ATMs .
ATM withdrawal (out-of-network)	\$1.99	This is our fee. We will not charge you this fee for your first 3 out-of-network ATM withdrawals each month. "Out-of-network" refers to all the ATMs outside of the XYZ Bank ATM Network. You may also be charged a fee by the ATM operator, even if you do not complete a transaction.
Information		
Customer service (automated)	\$0	No fee for calling our automated customer service line, including for balance inquiries.
Customer service (live agent)	\$0.50	Per call. First 3 calls per month are free.
ATM balance inquiry (in-network)	\$0	"In-network" refers to the XYZ Bank ATM Network. Locations can be found at xyzbank.com/ATMs .
ATM balance inquiry (out-of-network)	\$0.50	This is our fee. "Out-of-network" refers to all the ATMs outside of the XYZ Bank ATM Network. You may also be charged a fee by the ATM operator.
Using your card outside the U.S.		
International transaction	3%	Of the U.S. dollar amount of each transaction.
International ATM withdrawal	\$3.00	This is our fee. You may also be charged a fee by the ATM operator, even if you do not complete a transaction.
International ATM balance inquiry	\$2.00	This is our fee. You may also be charged a fee by the ATM operator.
Other		
Inactivity	\$1.00	You will be charged \$1.00 each month after you have not completed a transaction using your card for 12 months.

Register your card for FDIC insurance eligibility and other protections. Your funds will be held at or transferred to XYZ Bank, an FDIC-insured institution. Once there, your funds are insured up to \$250,000 by the FDIC in the event XYZ Bank fails, if specific deposit insurance requirements are met and your card is registered. See fdic.gov/deposit/deposits/prepaid.html for details.

No overdraft/credit feature.

Contact XYZ Bank by calling 1-800-555-5555, by mail at 555 Street Name, Anytown, NY, or visit xyzbank.com/prepaid.

For general information about prepaid accounts, visit cfpb.gov/prepaid.

If you have a complaint about a prepaid account, call the Consumer Financial Protection Bureau at 1-855-411-2372 or visit cfpb.gov/complaint.

* * * * *

Supplement I to Part 1005—Official Interpretations

Section 1005.2—Definitions

* * * * *

2(b) Account

1. *Consumer asset account.* The term “consumer asset account” includes:

i. Club accounts, such as vacation clubs. In many cases, however, these accounts are exempt from the regulation under § 1005.3(c)(5) because all electronic transfers to or from the account have been preauthorized by the consumer and involve another account of the consumer at the same institution.

ii. A retail repurchase agreement (repo), which is a loan made to a financial institution by a consumer that is collateralized by government or government-insured securities.

2. Examples of accounts not covered by Regulation E (12 CFR part 1005) include:

i. Profit-sharing and pension accounts established under a trust agreement, which are exempt under § 1005.2(b)(2).

ii. Escrow accounts, such as those established to ensure payment of items such as real estate taxes, insurance premiums, or completion of repairs or improvements.

iii. Accounts for accumulating funds to purchase U.S. savings bonds.

* * * * *

Paragraph 2(b)(3)

Paragraph 2(b)(3)(i)

1. *Debit card includes prepaid card.* For purposes of subpart A of Regulation E, unless otherwise specified, the term debit card also includes a prepaid card.

2. *Certain employment-related cards not covered as payroll card accounts.* The term “payroll card account” does not include an account used solely to disburse incentive-based payments (other than commissions which can represent the primary means through which a consumer is paid), such as bonuses, which are unlikely to be a consumer’s primary source of salary or other compensation. The term also does not include an account used solely to make disbursements unrelated to compensation, such as petty cash reimbursements or travel per diem payments. Similarly, a payroll card account does not include an account that is used in isolated instances to which an employer typically does not make recurring payments, such as when providing final payments or in emergency situations when other payment methods are unavailable. While such accounts would not be payroll card accounts, such accounts could constitute prepaid accounts generally, provided the other conditions of the definition of that term

in § 1005.2(b)(3) are satisfied. In addition, all transactions involving the transfer of funds to or from a payroll card account or prepaid account are covered by the regulation, even if a particular transaction involves payment of a bonus, other incentive-based payment, or reimbursement, or the transaction does not represent a transfer of wages, salary, or other employee compensation.

3. *Marketed or labeled as “prepaid.”* The term “marketed or labeled as ‘prepaid’ ” means promoting or advertising an account using the term “prepaid.” For example, an account is marketed or labeled as prepaid if the term “prepaid” appears on the access device associated with the account or the access device’s packaging materials, or on a display, advertisement, or other publication to promote purchase or use of the account. An account may be marketed or labeled as prepaid if the financial institution, its service provider, including a program manager, or the payment network on which an access device for the account is used, promotes or advertises, or contracts with another party to promote or advertise, the account using the label “prepaid.” A product or service that is marketed or labeled as prepaid is not a “prepaid account” pursuant to § 1005.2(b)(3)(i)(C) if it does not otherwise meet the definition of account under § 1005.2(b)(1).

4. *Issued on a prepaid basis.* To be issued on a prepaid basis, a prepaid account must be loaded with funds when it is first provided to the consumer for use. For example, if a consumer purchases a prepaid account and provides funds that are loaded onto a card at the time of purchase, the prepaid account is issued on a prepaid basis.

5. *Capable of being loaded with funds.* A prepaid account that is not issued on a prepaid basis but is capable of being loaded with funds thereafter includes a prepaid card issued to a consumer with a zero balance to which funds may be loaded by the consumer or a third party subsequent to issuance.

6. ~~Prepaid account~~Product acting as a pass-through vehicle for funds. To satisfy § 1005.2(b)(3)(i)(D), a prepaid account must be issued on a prepaid basis or be capable of being loaded with funds. This means that the prepaid account must be capable of holding funds, rather than merely acting as a pass-through vehicle. For example, if a product, such as a digital wallet, is only capable of storing a consumer’s payment credentials for other accounts but is incapable of having funds stored on it, such a product is not a prepaid account. However, if a product allows a consumer to transfer funds, which can be stored before the consumer designates a destination for the funds, the product satisfies § 1005.2(b)(3)(i)(D).

7. *Not required to be reloadable.* Prepaid accounts need not be reloadable by the consumer or a third party.

8. *Primary function.* To satisfy § 1005.2(b)(3)(i)(D), an account’s primary function must be to provide consumers with general transaction capability, which includes the general ability to use loaded funds to conduct transactions with multiple, unaffiliated merchants for goods or services, or at automated teller machines, or to conduct person-to-person transfers. This definition excludes accounts that provide such capability only incidentally. For example, the primary function of a brokerage account is to hold funds so that the consumer can conduct transactions through a licensed broker or firm, not to conduct transactions with multiple, unaffiliated merchants for good or services, or at automated teller machines, or to conduct person-to-person transfers. Similarly, the primary function of a savings account is to accrue

interest on funds held in the account; such accounts restrict the extent to which the consumer can conduct general transactions and withdrawals. Accordingly, brokerage accounts and savings accounts do not satisfy § 1005.2(b)(3)(i)(D), and thus are not prepaid accounts as defined by § 1005.2(b)(3). The following examples provide additional guidance:

i. An account's primary function is to enable a consumer to conduct transactions with multiple, unaffiliated merchants for goods or services, at automated teller machines, or to conduct person-to-person transfers, even if the account also enables a third party to disburse funds to a consumer. For example, a prepaid account that conveys tax refunds or insurance proceeds to a consumer meets the primary function test if the account can be used, *e.g.*, to purchase goods or services at multiple, unaffiliated merchants.

ii. Whether an account satisfies § 1005.2(b)(3)(i)(D) is determined by reference to the account, not the access device associated with the account. An account satisfies § 1005.2(b)(3)(i)(D) even if the account's access device can be used for other purposes, for example, as a form of identification. Such accounts may include, for example, a prepaid account used to disburse student loan proceeds via a card device that can be used at unaffiliated merchants or to withdraw cash from an automated teller machine, even if that access device also acts as a student identification card.

iii. Where multiple accounts are associated with the same access device, the primary function of each account is determined separately. One or more accounts can satisfy § 1005.2(b)(3)(i)(D) even if other accounts associated with the same access device do not. For example, a student identification card may act as an access device associated with two separate accounts: An account used to conduct transactions with multiple, unaffiliated merchants for goods or services, and an account used to conduct closed-loop transactions on campus. The account used to conduct transactions with multiple, unaffiliated merchants for goods or services satisfies § 1005.2(b)(3)(i)(D), even though the account used to conduct closed-loop transactions does not (and as such the latter is not a prepaid account as defined by § 1005.2(b)(3)).

iv. An account satisfies § 1005.2(b)(3)(i)(D) if its primary function is to provide general transaction capability, even if an individual consumer does not in fact use it to conduct multiple transactions. For example, the fact that a consumer may choose to withdraw the entire account balance at an automated teller machine or transfer it to another account held by the consumer does not change the fact that the account's primary function is to provide general transaction capability.

v. An account whose primary function is other than to conduct transactions with multiple, unaffiliated merchants for goods or services, or at automated teller machines, or to conduct person-to-person transfers, does not satisfy § 1005.2(b)(3)(i)(D). Such accounts may include, for example, a product whose only function is to make a one-time transfer of funds into a separate prepaid account.

9. *Redeemable upon presentation at multiple, unaffiliated merchants.* For guidance, see comments 20(a)(3)–1 and –2.

10. *Person-to-person transfers.* A prepaid account whose primary function is to conduct person-to-person transfers is an account that allows a consumer to send funds by electronic fund transfer to another consumer or business. An account may qualify as a prepaid account if its primary function is person-to-person transfers even if it is neither redeemable upon presentation at multiple, unaffiliated merchants for goods or services, nor usable at automated teller machines. A transaction involving a store gift card would not be a person-to-person transfer if it could only be used to make payments to the merchant or affiliated group of merchants on whose behalf the card was issued.

Paragraph 2(b)(3)(ii)

1. *Excluded health care and employee benefit related prepaid products.* For purposes of § 1005.2(b)(3)(ii)(A), “health savings account” means a health savings account as defined in 26 U.S.C. 223(d); “flexible spending arrangement” means a health benefits or a health flexible spending arrangement pursuant to 26 U.S.C. 125; “medical savings account” means an Archer MSA as defined in 26 U.S.C. 220(d); “health reimbursement arrangement” means a health reimbursement arrangement which is treated as employer-provided coverage under an accident or health plan for purposes of 26 U.S.C. 106; “dependent care assistance program” means a dependent care assistance program pursuant to 26 U.S.C. 129; and “transit or parking reimbursement arrangement” means a qualified transportation fringe benefit provided by an employer pursuant to 26 U.S.C. 132.

2. *Excluded disaster relief funds.* For purposes of § 1005.2(b)(3)(ii)(B), “qualified disaster relief funds” means funds made available through a qualified disaster relief program as defined in 26 U.S.C. 139(b).

3. *Marketed and labeled as a gift card or gift certificate.* Section 1005.2(b)(3)(ii)(D) excludes, among other things, reloadable general-use prepaid cards that are both marketed and labeled as gift cards or gift certificates, whereas § 1005.20(b)(2) excludes such products that are marketed or labeled as gift cards or gift certificates. Comment 20(b)(2)–2 describes, in part, a network-branded GPR card that is principally advertised as a less-costly alternative to a bank account but is promoted in a television, radio, newspaper, or ~~I~~Internet advertisement, or on signage as “the perfect gift” during the holiday season. For purposes of § 1005.20, such a product would be considered marketed as a gift card or gift certificate because of this occasional holiday marketing activity. For purposes of § 1005.2(b)(3)(ii)(D), however, such a product would not be considered to be both marketed and labeled as a gift card or gift certificate and thus would be covered by the definition of prepaid account.

4. *Loyalty, award, or promotional gift cards.* Section 1005.2(b)(3)(ii)(D)(3) excludes loyalty, award, or promotional gift cards as defined in § 1005.20(a)(4); those cards are excluded from coverage under § 1005.20 pursuant to § 1005.20(b)(3). Section 1005.2(b)(3)(ii)(D)(3) also excludes cards that satisfy the criteria in § 1005.20(a)(4)(i) and (ii) and are excluded from coverage under § 1005.20 pursuant to § 1005.20(b)(4) because they are not marketed to the general public; such products are not required to set forth the disclosures enumerated in § 1005.20(a)(4)(iii) in order to be excluded pursuant to § 1005.2(b)(3)(ii)(D)(3).

* * * * *

Section 1005.4—General Disclosure Requirements; Jointly Offered Services

4(a) Form of Disclosures

1. *General.* The disclosures required by this part must be in a clear and readily understandable written form that the consumer may retain. Additionally, except as otherwise set forth in §§ 1005.18(b)(7) and 1005.31(c), no particular rules govern type size, number of pages, or the relative conspicuousness of various terms. Numbers or codes are considered readily understandable if explained elsewhere on the disclosure form.

* * * * *

Section 1005.10—Preauthorized Transfers

* * * * *

10(e) Compulsory Use

10(e)(1) Credit

1. *General rule for loan payments.* Creditors may not require repayment of loans by electronic means on a preauthorized, recurring basis.

2. *Overdraft credit plans not accessible by hybrid prepaid-credit cards.* i. Section 1005.10(e)(1) provides an exception from the general rule for an overdraft credit plan other than for a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in Regulation Z, 12 CFR 1026.61. A financial institution may therefore require the automatic repayment of an overdraft credit plan, other than a covered separate credit feature accessible by a hybrid prepaid-credit card, even if the overdraft extension is charged to an open-end account that may be accessed by the consumer in ways other than by overdrafts.

ii. Credit extended through a negative balance on the asset feature of a prepaid account that meets the conditions of Regulation Z, 12 CFR 1026.61(a)(4), is considered credit extended pursuant to an overdraft credit plan for purposes of § 1005.10(e)(1). Thus, the exception for overdraft credit plans in § 1005.10(e)(1) applies to this credit.

3. *Applicability to covered separate credit features accessible by hybrid prepaid-credit cards.* i. Under § 1005.10(e)(1), creditors may not require by electronic means on a preauthorized, recurring basis repayment of credit extended under a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in Regulation Z, 12 CFR 1026.61. The prohibition in § 1005.10(e)(1) applies to any credit extended under such a credit feature, including preauthorized checks. See Regulation Z, 12 CFR 1026.61, and comment 61(a)(1)–3.

ii. Under Regulation Z, 12 CFR 1026.12(d)(1), a card issuer may not take any action, either before or after termination of credit card privileges, to offset a cardholder's indebtedness arising from a consumer credit transaction under the relevant credit card plan against funds of the cardholder held on deposit with the card issuer. Under Regulation Z, 12 CFR 1026.12(d)(3), with respect to covered separate credit features accessible by hybrid prepaid-credit cards as defined in

12 CFR 1026.61, a card issuer generally is not prohibited from periodically deducting all or part of the cardholder's credit card debt from a deposit account (such as a prepaid account) held with the card issuer under a plan that is authorized in writing by the cardholder, so long as the card issuer does not make such deductions to the plan more frequently than once per calendar month. A card issuer is prohibited under Regulation Z, 12 CFR 1026.12(d), from automatically deducting all or part of the cardholder's credit card debt under a covered separate credit feature from a deposit account (such as a prepaid account) held with the card issuer on a daily or weekly basis, or whenever deposits are made to the deposit account. Section 1005.10(e)(1) further restricts the card issuer from requiring payment from a deposit account (such as a prepaid account) of credit card balances of a covered separate credit feature accessible by a hybrid prepaid-credit card by electronic means on a preauthorized, recurring basis.

4. *Incentives.* A creditor may offer a program with a reduced annual percentage rate or other cost-related incentive for an automatic repayment feature, provided the program with the automatic payment feature is not the only loan program offered by the creditor for the type of credit involved. Examples include:

i. Mortgages with graduated payments in which a pledged savings account is automatically debited during an initial period to supplement the monthly payments made by the borrower.

ii. Mortgage plans calling for preauthorized biweekly payments that are debited electronically to the consumer's account and produce a lower total finance charge.

10(e)(2) Employment or Government Benefit

1. *Payroll.* An employer (including a financial institution) may not require its employees to receive their salary by direct deposit to any particular institution. An employer may require direct deposit of salary by electronic means if employees are allowed to choose the institution that will receive the direct deposit. Alternatively, an employer may give employees the choice of having their salary deposited at a particular institution (designated by the employer) or receiving their salary by another means, such as by check or cash.

2. *Government benefit.* A government agency may not require consumers to receive government benefits by direct deposit to any particular institution. A government agency may require direct deposit of benefits by electronic means if recipients are allowed to choose the institution that will receive the direct deposit. Alternatively, a government agency may give recipients the choice of having their benefits deposited at a particular institution (designated by the government agency) or receiving their benefits by another means.

* * * * *

Section 1005.12—Relation to Other Laws

12(a) Relation to Truth in Lending

1. *Issuance rules for access devices other than access devices for prepaid accounts.* For access devices that also constitute credit cards (other than access devices for prepaid accounts),

the issuance rules of Regulation E apply if the only credit feature is a preexisting credit line attached to the asset account to cover overdrafts (or to maintain a specified minimum balance) or an overdraft service, as defined in § 1005.17(a). Regulation Z (12 CFR part 1026) rules apply if there is another type of credit feature; for example, one permitting direct extensions of credit that do not involve the asset account.

2. *Overdraft services.* The addition of an overdraft service, as that term is defined in § 1005.17(a), to an accepted access device does not constitute the addition of a credit feature subject to Regulation Z. Instead, the provisions of Regulation E apply, including the liability limitations (§ 1005.6) and the requirement to obtain consumer consent to the service before any fees or charges for paying an overdraft may be assessed on the account (§ 1005.17).

3. *Issuance of prepaid access devices that can access a covered separate credit feature subject to Regulation Z.* An access device for a prepaid account cannot access a covered separate credit feature as defined in Regulation Z, 12 CFR 1026.61, when the access device is issued if the access device is issued prior to the expiration of the 30-day period set forth in 12 CFR 1026.61(c). Regulation Z, 12 CFR 1026.61(c), provides that with respect to a covered separate credit feature that could be accessible by a hybrid prepaid-credit card at any point, a card issuer must not do any of the following until 30 days after the prepaid account has been registered: (1) Open a covered separate credit feature accessible by the hybrid prepaid-credit card; (2) make a solicitation or provide an application to open a covered separate credit feature accessible by the hybrid prepaid-credit card; or (3) allow an existing credit feature that was opened prior to the consumer to become a covered separate credit feature accessible by the hybrid prepaid-credit card. An access device for a prepaid account that is not a hybrid prepaid-credit card as that term is defined in Regulation Z, 12 CFR 1026.61, is subject to the issuance rules in Regulation E.

4. *Addition of a covered separate credit feature to an existing access device for a prepaid account.* Regulation Z governs the addition of a covered separate credit feature as that term is defined in Regulation Z, 12 CFR 1026.61, to an existing access device for a prepaid account. In this case, the access device would become a hybrid prepaid-credit card under Regulation Z (12 CFR part 1026). A covered separate credit feature may be added to a previously issued access device for a prepaid account only upon the consumer's application or specific request as described in Regulation Z, 12 CFR 1026.12(a)(1), and only in compliance with 12 CFR 1026.61(c).

5. *Determining applicable regulation related to liability and error resolution.* i. Under § 1005.12(a)(1)(iv)(B), with respect to a transaction that involves a covered separate credit feature and an asset feature on a prepaid account that are both accessible by a hybrid prepaid-credit card as those terms are defined in Regulation Z, 12 CFR 1026.61, where credit is extended under a covered separate credit feature accessible by a hybrid prepaid-credit card that is incident to an electronic fund transfer when the hybrid prepaid-credit card accesses both funds in the asset feature of a prepaid account and credit extensions from the credit feature with respect to a particular transaction, Regulation E's liability limitations and error resolution provisions apply to the transaction, in addition to Regulation Z, 12 CFR 1026.13(d) and (g) (which apply because of the extension of credit associated with the covered separate credit feature). Section 1005.12(a)(1)(iv)(C) provides that with respect to transactions that involves credit extended through a negative balance to the asset feature of a prepaid account that meets the conditions set

forth in Regulation Z, 12 CFR 1026.61(a)(4), these transactions are governed solely by the liability limitations and error resolution procedures in Regulation E, and Regulation Z does not apply. Section 1005.12(a)(1)(iv)(D) and (a)(2)(iii), taken together, provide that with respect to transactions involving a prepaid account and a non-covered separate credit feature as defined in Regulation Z, 12 CFR 1026.61, a financial institution must comply with Regulation E's liability limitations and error resolution procedures with respect to transactions that access the prepaid account as applicable, and the creditor must comply with Regulation Z's liability limitations and error resolution procedures with respect to transactions that access the non-covered separate credit feature, as applicable.

ii. Under § 1005.12(a)(1)(iv)(A), with respect to an account (other than a prepaid account) where credit is extended incident to an electronic fund transfer under an agreement to extend overdraft credit between the consumer and the financial institution, Regulation E's liability limitations and error resolution provisions apply to the transaction, in addition to Regulation Z, 12 CFR 1026.13(d) and (g) (which apply because of the extension of credit associated with the overdraft feature on the asset account).

iii. For transactions involving access devices that also function as credit cards under Regulation Z (12 CFR part 1026), whether Regulation E or Regulation Z applies depends on the nature of the transaction. For example, if the transaction solely involves an extension of credit, and does not access funds in a consumer asset account, such as a checking account or prepaid account, the liability limitations and error resolution requirements of Regulation Z apply. If the transaction accesses funds in an asset account only (with no credit extended), the provisions of Regulation E apply. If the transaction access funds in an asset account but also involves an extension of credit under the overdraft credit feature subject to Regulation Z attached to the account, Regulation E's liability limitations and error resolution provisions apply, in addition to Regulation Z, 12 CFR 1026.13(d) and (g) (which apply because of the extension of credit associated with the overdraft feature on the asset account). If a consumer's access device is also a credit card and the device is used to make unauthorized withdrawals from an asset account, but also is used to obtain unauthorized cash advances directly from a credit feature that is subject to Regulation Z that is separate from the asset account, both Regulation E and Regulation Z apply.

iv. The following examples illustrate these principles:

A. A consumer has a card that can be used either as a credit card or an access device that draws on the consumer's checking account. When used as a credit card, the card does not first access any funds in the checking account but draws only on a separate credit feature subject to Regulation Z. If the card is stolen and used as a credit card to make purchases or to get cash advances at an ATM from the line of credit, the liability limits and error resolution provisions of Regulation Z apply; Regulation E does not apply.

B. In the same situation, if the card is stolen and is used as an access device to make purchases or to get cash withdrawals at an ATM from the checking account, the liability limits and error resolution provisions of Regulation E apply; Regulation Z does not apply.

C. In the same situation, assume the card is stolen and used both as an access device for the checking account and as a credit card; for example, the thief makes some

purchases using the card to access funds in the checking account and other purchases using the card as a credit card. Here, the liability limits and error resolution provisions of Regulation E apply to the unauthorized transactions in which the card was used as an access device for the checking account, and the corresponding provisions of Regulation Z apply to the unauthorized transactions in which the card was used as a credit card.

D. Assume a somewhat different type of card, one that draws on the consumer's checking account and can also draw on an overdraft credit feature subject to Regulation Z attached to the checking account. The overdraft credit feature associated with the card is accessed only when the consumer uses the card to make a purchase (or other transaction) for which there are insufficient or unavailable funds in the checking account. In this situation, if the card is stolen and used to make purchases funded entirely by available funds in the checking account, the liability limits and the error resolution provisions of Regulation E apply. If the use of the card results in an extension of credit that is incident to an electronic fund transfer where the transaction is funded partially by funds in the consumer's asset account and partially by credit extended under the overdraft credit feature, the error resolution provisions of Regulation Z, 12 CFR 1026.13(d) and (g), apply in addition to the Regulation E provisions, but the other liability limit and error resolution provisions of Regulation Z do not. Relatedly, if the use of the card is funded entirely by credit extended under the overdraft credit feature, the transaction is governed solely by the liability limitations and error resolution requirements of Regulation Z. See Regulation Z, 12 CFR 1026.13(i).

E. The same principles in comment 12(a)–5.iv.A, B, C, and D apply to an access device for a prepaid account that also is a hybrid prepaid-credit card with respect to a covered separate credit feature under Regulation Z, 12 CFR 1026.61. See also Regulation Z, 12 CFR 1026.13(i)(2) and comment 13(i)–4.

12(b) Preemption of Inconsistent State Laws

* * * * *

2. *Preemption determinations generally.* The Bureau recognizes state law preemption determinations made by the Board of Governors of the Federal Reserve System prior to July 21, 2011, until and unless the Bureau makes and publishes any contrary determination.

3. *Preemption determination—Michigan.* The Board of Governors of the Federal Reserve System determined that certain provisions in the state law of Michigan are preempted by the Federal law, effective March 30, 1981:

i. *Definition of unauthorized use.* Section 488.5(4) of the state law of Michigan, governing electronic fund transfers, is preempted to the extent that it relates to the section of state law governing consumer liability for unauthorized use of an access device.

ii. *Consumer liability for unauthorized use of an account.* Section 488.14 of the state law of Michigan, governing electronic fund transfers, is preempted because it is inconsistent with § 1005.6 and is less protective of the consumer than the Federal law. The state law places liability on the consumer for the unauthorized use of an account in cases involving the consumer's negligence. Under the Federal law, a consumer's liability for unauthorized use is not

related to the consumer's negligence and depends instead on the consumer's promptness in reporting the loss or theft of the access device.

iii. *Error resolution.* Section 488.15 of the state law of Michigan, governing electronic fund transfers, is preempted because it is inconsistent with § 1005.11 and is less protective of the consumer than the Federal law. The state law allows financial institutions up to 70 days to resolve errors, whereas the Federal law generally requires errors to be resolved within 45 days.

iv. *Receipts and periodic statements.* Sections 488.17 and 488.18 of the state law of Michigan, governing electronic fund transfers, are preempted because they are inconsistent with § 1005.9, other than for transfers of \$15 or less pursuant to § 1005.9(e). The state provisions require a different disclosure of information than does the Federal law. The receipt provision is also preempted because it allows the consumer to be charged for receiving a receipt if a machine cannot furnish one at the time of a transfer.

4. *Preemption determination—Tennessee.* The Bureau determined that the following provision in the state law of Tennessee is preempted by the Federal law, effective April 25, 2013:

i. *Gift certificates, store gift cards, and general-use prepaid cards.* Section 66–29–116 of Tennessee's Uniform Disposition of Unclaimed (Personal) Property Act is preempted to the extent that it permits gift certificates, store gift cards, and general-use prepaid cards, as defined in § 1005.20(a), to be declined at the point-of-sale sooner than the gift certificates, store gift cards, or general-use prepaid cards and their underlying funds are permitted to expire under § 1005.20(e).

* * * * *

Section 1005.15—Electronic Fund Transfer of Government Benefits

15(c) Pre-Acquisition Disclosure Requirements

1. *Disclosing the short and long form before acquisition.* Section 1005.15(c)(1) requires that, before a consumer acquires an account governed by § 1005.15, a government agency must comply with the pre-acquisition disclosure requirements applicable to prepaid accounts as set forth in § 1005.18(b). Section 1005.18(b)(1)(i) generally requires delivery of both the short form disclosure required by § 1005.18(b)(2), accompanied by the information in § 1005.18(b)(5), and the long form disclosure required by § 1005.18(b)(4) before a consumer acquires a prepaid account. For purposes of § 1005.15(c), a consumer is deemed to have received the disclosures required by § 1005.18(b) prior to acquisition when the consumer receives the disclosures before choosing to receive benefits via the government benefit account. The following example illustrates when a consumer receives disclosures before acquisition of an account for purposes of § 1005.15(c):

i. A government agency informs a consumer that she can receive distribution of benefits via a government benefit account in the form of a prepaid card. The consumer receives the prepaid card and the disclosures required by § 1005.18(b) to review at the time the consumer receives benefits eligibility information from the agency. After receiving the disclosures, the

consumer chooses to receive benefits via the government benefit account. These disclosures were provided to the consumer pre-acquisition, and the agency has complied with § 1005.15(c). By contrast, if the consumer does not receive the disclosures required by § 1005.18(b) to review until the time at which the consumer received the first benefit payment deposited into the government benefit account, these disclosures were provided to the consumer post-acquisition, and were not provided in compliance with § 1005.15(c).

2. Acquisition and disclosures given during the same appointment. The disclosures and notice required by § 1005.15(c) may be given in the same process or appointment during which the consumer receives a government benefit card. When a consumer receives benefits eligibility information and enrolls to receive benefits during the same process or appointment, a government agency that gives the disclosures and notice required by § 1005.15(c) before the consumer chooses to receive the first benefit payment on the card complies with the timing requirements of § 1005.15(c).

3. Form and formatting requirements for government benefit account disclosures. The form and formatting requirements for government benefit accounts in § 1005.15(c) correspond to those for payroll card accounts set forth in § 1005.18(b). See comments 18(b)(2)(xiv)(A)–1 and 18(b)(2)(xiv)(B)–1 for additional guidance regarding the requirements set forth in § 1005.15(c)(2)(i) and (ii), respectively.

4. Disclosure requirements outside the short form disclosure. Section 1005.18(b)(5) requires that the name of the financial institution be disclosed outside the short form disclosure. For government benefit accounts, the financial institution that must be disclosed pursuant to § 1005.18(b)(5) is the financial institution that directly holds the account or issues the account's access device. The disclosure provided outside the short form disclosure may, but is not required to, also include the name of the government agency that established the government benefit account.

15(d) Access to Account Information

1. Access to account information. For guidance, see comments 18(c)–1 through –3 and 18(c)–5 through –9.

15(e) Modified Disclosure, Limitations on Liability, and Error Resolution Requirements

1. Modified limitations on liability and error resolution requirements. For guidance, see comments 18(e)–1 through –3.

15(f) Disclosure of Fees and Other Information

1. Disclosures on prepaid account access devices. Pursuant to § 1005.18(f)(3), the name of the financial institution and the Web site URL and a telephone number a consumer can use to contact the financial institution about the prepaid account must be disclosed on the prepaid account access device. For government benefit accounts, the financial institution whose name and contact information must be disclosed pursuant to § 1005.18(f)(3) is the financial institution that directly holds the account or issues the account's access device.

* * * * *

Section 1005.18—Requirements for Financial Institutions Offering Prepaid Accounts

18(a) Coverage

1. *Issuance of access device.* Consistent with § 1005.5(a) and except as provided, as applicable, in § 1005.5(b), a financial institution may issue an access device only in response to an oral or written request for the device, or as a renewal or substitute for an accepted access device. A consumer is deemed to request an access device for a payroll card account when the consumer chooses to receive salary or other compensation through a payroll card account. A consumer is deemed to request an access device for a prepaid account when, for example, the consumer acquires a prepaid account offered for sale at a retail location or applies for a prepaid account by telephone or online. If an access device for a prepaid account is provided on an unsolicited basis where the prepaid account is used for disbursing funds to a consumer, and the financial institution or third party making the disbursement does not offer any alternative means for the consumer to receive those funds in lieu of accepting the prepaid account, in order to satisfy § 1005.5(b)(2), the financial institution must inform the consumer that the consumer has no other means by which to initially receive the funds in the prepaid account other than by accepting the access device, as well as the consequences of disposing of the access device.

2. *Application to employers and service providers.* Typically, employers and third-party service providers do not meet the definition of a “financial institution” subject to the regulation because they neither hold prepaid accounts (including payroll card accounts) nor issue prepaid cards and agree with consumers to provide EFT services in connection with prepaid accounts. However, to the extent an employer or a service provider undertakes either of these functions, it would be deemed a financial institution under the regulation.

18(b) Pre-Acquisition Disclosure Requirements

1. *Written and electronic pre-acquisition disclosures.* Section 1005.4(a)(1) generally requires that disclosures be made in writing; written disclosures may be provided in electronic form in accordance with the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 *et seq.*). Because § 1005.18(b)(6)(i)(B) provides that electronic disclosures required by § 1005.18(b) need not meet the consumer consent or other applicable provisions of the E-Sign Act, § 1005.18(b) addresses certain requirements for written and electronic pre-acquisition disclosures separately. Section 1005.18(b) also addresses specific requirements for pre-acquisition disclosures provided orally.

2. *Currency.* Fee amounts required to be disclosed by § 1005.18(b) may be disclosed in a foreign currency for a prepaid account denominated in that foreign currency, other than the fee for the purchase price required by § 1005.18(b)(5). For example, a prepaid account sold in a U.S. airport intended for use in England may disclose in pound sterling (£) the fees required to be disclosed in the short form and long form disclosures and outside the short form disclosure, except for the purchase price.

18(b)(1) Timing of Disclosures

18(b)(1)(i) General

1. *Disclosing the short form and long form before acquisition.* Section 1005.18(b)(1)(i) generally requires delivery of a short form disclosure as described in § 1005.18(b)(2), accompanied by the information required to be disclosed by § 1005.18(b)(5), and a long form disclosure as described in § 1005.18(b)(4) before a consumer acquires a prepaid account.

i. For purposes of § 1005.18(b)(1)(i), a consumer acquires a prepaid account by purchasing, opening or choosing to be paid via a prepaid account, as illustrated by the following examples:

iiA. A consumer inquires about obtaining a prepaid account at a branch location of a bank. A consumer then receives the disclosures required by § 1005.18(b). After receiving the disclosures, a consumer then opens a prepaid account with the bank. This consumer received the short form and long form pre-acquisition in accordance with § 1005.18(b)(1)(i).

iiB. A consumer learns that he or she can receive wages via a payroll card account, at which time the consumer is provided with a payroll card and the disclosures required by § 1005.18(b) to review. The consumer then chooses to receive wages via a payroll card account. These disclosures were provided pre-acquisition in compliance with § 1005.18(b)(1)(i). By contrast, if a consumer receives the disclosures required by § 1005.18(b) to review at the end of the first pay period, after the consumer received the first payroll payment on the payroll card, these disclosures were provided to a consumer post-acquisition, and thus not provided in compliance with § 1005.18(b)(1)(i).

ii. Section 1005.18(b)(1)(i) permits delivery of the disclosures required by § 1005.18(b) at the time the consumer receives the prepaid account, rather than prior to acquisition, for prepaid accounts that are used for disbursing funds to consumers when the financial institution or third party making the disbursement does not offer any alternative means for the consumer to receive those funds in lieu of accepting the prepaid account. For example, a utility company refunds consumers' initial deposits for its utility services via prepaid accounts delivered to consumers by mail. Neither the utility company nor the financial institution that issues the prepaid accounts offer another means for a consumer to receive that refund other than by accepting the prepaid account. In this case, the financial institution may provide the disclosures required by § 1005.18(b) together with the prepaid account (e.g., in the same envelope as the prepaid account); it is not required to deliver the disclosures separately prior to delivery of the prepaid account.

2. *Disclosures provided electronically.* Disclosures required by § 1005.18(b) may be provided before or after a consumer has initiated the process of acquiring a prepaid account electronically. When the disclosures required by § 1005.18(b) are presented after a consumer has initiated the process for acquiring a prepaid account online or via a mobile device, but before a consumer chooses to accept the prepaid account, such disclosures are also made pre-acquisition in accordance with § 1005.18(b)(1)(i). The disclosures required by § 1005.18(b) that are provided electronically when a consumer acquires a prepaid account electronically are not

considered to be given pre-acquisition unless a consumer must view the ~~W~~web page containing the disclosures before choosing to accept the prepaid account. The following examples illustrate several methods by which a financial institution may present § 1005.18(b) disclosures before a consumer acquires a prepaid account electronically in compliance with § 1005.18(b)(1)(i):

i. A financial institution presents the short form disclosure required by § 1005.18(b)(2), together with the information required by § 1005.18(b)(5), and the long form disclosure required by § 1005.18(b)(4) on the same ~~W~~web page. A consumer must view the ~~W~~web page before choosing to accept the prepaid account.

ii. A financial institution presents the short form disclosure required by § 1005.18(b)(2), together with the information required by § 1005.18(b)(5), on a ~~W~~web page. The financial institution includes, after the short form disclosure or as part of the statement required by § 1005.18(b)(2)(xiii), a link that directs the consumer to a separate ~~W~~web page containing the long form disclosure required by § 1005.18(b)(4). The consumer must view the ~~W~~web page containing the long form disclosure before choosing to accept the prepaid account.

iii. A financial institution presents on a ~~W~~web page the short form disclosure required by § 1005.18(b)(2), together with the information required by § 1005.18(b)(5), followed by the initial disclosures required by § 1005.7(b), which contains the long form disclosure required by § 1005.18(b)(4), in accordance with § 1005.18(f)(1). The financial institution includes, after the short form disclosure or as part of the statement required by § 1005.18(b)(2)(xiii), a link that directs the consumer to the section of the initial disclosures containing the long form disclosure pursuant to § 1005.18(b)(4). A consumer must view this ~~W~~web page before choosing to accept the prepaid account.

18(b)(1)(ii) Disclosures for Prepaid Accounts Acquired in Retail Locations

1. *Retail locations.* Section 1005.18(b)(1)(ii) sets forth an alternative timing regime for pre-acquisition disclosures for prepaid accounts acquired in person at retail locations. For purposes of § 1005.18(b)(1)(ii), a retail location is a store or other physical site where a consumer can purchase a prepaid account in person and that is operated by an entity other than the financial institution that issues the prepaid account. A branch of a financial institution that offers its own prepaid accounts is not a retail location with respect to those accounts and, thus, both the short form and the long form disclosure must be provided pre-acquisition pursuant to the timing requirement set forth in § 1005.18(b)(1)(i).

2. *Disclosures provided inside prepaid account access device packaging material.* Except when providing the long form disclosure post-acquisition in accordance with the retail location exception set forth in § 1005.18(b)(1)(ii), the disclosures required by § 1005.18(b)(2), (4), and (5) must be provided to a consumer pre-acquisition in compliance with § 1005.18(b)(1)(i). A short form disclosure~~s~~ is not considered to have been provided pre-acquisition if, for example, it is inside the packaging material accompanying a prepaid account access device such that the consumer cannot see or access the disclosures~~s~~ before acquiring the prepaid account.

3. *Consumers working in retail locations.* A payroll card account offered to consumers working in retail locations is not eligible for the retail location exception in § 1005.18(b)(1)(ii);

thus, a consumer employee must receive both the short form and long form disclosures for the payroll card account pre-acquisition pursuant to the timing requirement set forth in § 1005.18(b)(1)(i).

4. *Providing the long form disclosure by telephone and ~~Web-site~~website pursuant to the retail location exception.* Pursuant to § 1005.18(b)(1)(ii), a financial institution may provide the long form disclosure described in § 1005.18(b)(4) after a consumer acquires a prepaid account in a retail location, if the conditions set forth in § 1005.18(b)(1)(ii)(A) through (D) are met. Pursuant to § 1005.18(b)(1)(ii)(C), a financial institution must make the long form disclosure accessible to consumers by telephone and via a ~~Web-site~~website when not providing a written version of the long form disclosure pre-acquisition. A financial institution may, for example, provide the long form disclosure by telephone using an interactive voice response or similar system or by using a customer service agent. A financial institution that has not obtained the consumer's contact information is not required to comply with the requirements set forth in § 1005.18(b)(1)(ii)(D). A financial institution is able to contact the consumer when, for example, it has the consumer's mailing address or email address.

18(b)(1)(iii) Disclosures for Prepaid Accounts Acquired Orally by Telephone

1. *Prepaid accounts acquired by telephone.* Section 1005.18(b)(1)(iii) sets forth requirements for prepaid accounts acquired orally by telephone. For purposes of § 1005.18(b)(1)(iii), a prepaid account is considered to have been acquired orally by telephone when a consumer speaks to a customer service agent or communicates with an automated system, such as an interactive voice response system, to provide personally identifiable information to acquire a prepaid account. Prepaid accounts acquired using a mobile device without speaking to a customer service agent or communicating with an automated system are not considered to have been acquired orally by telephone.

~~2. Disclosures for prepaid accounts acquired by telephone. Pursuant to § 1005.18(b)(1)(iii), a financial institution must disclose the information required by § 1005.18(b)(2) and (5) orally before a consumer acquires a prepaid account orally by telephone. A financial institution may, for example, provide these disclosures by using an interactive voice response or similar system or by using a customer service agent, after the consumer has initiated the purchase of a prepaid account by telephone, but before the consumer acquires the prepaid account. In addition, a financial institution must provide the initial disclosures required by § 1005.7, as modified by § 1005.18(f)(1), before the first electronic fund transfer is made involving the prepaid account.~~

18(b)(2) Short Form Disclosure Content

1. *Disclosures that are not applicable or are free.* The short form disclosures required by § 1005.18(b)(2) must always be provided prior to prepaid account acquisition, even when a particular feature is free or is not applicable to a specific prepaid account product. For example, if a financial institution does not charge a fee to a consumer for withdrawing money at an automated teller machine in the financial institution's network or an affiliated network, which is required to be disclosed pursuant to § 1005.18(b)(2)(iii), the financial institution would list "ATM withdrawal in-network" on the short form disclosure and list "\$0" as the fee. If, however,

the financial institution does not have its own network or an affiliated network from which a consumer can withdraw money via automated teller machine, the financial institution would list “ATM withdrawal in-network” on the short form disclosure but instead of disclosing a fee amount, state “N/A.” (The financial institution must still disclose any fee it charges for out-of-network ATM withdrawals.)

2. Prohibition on disclosure of finance charges. Pursuant to § 1005.18(b)(3)(vi), a financial institution may not include in the short form disclosure finance charges as described in Regulation Z, 12 CFR 1026.4(b)(11), imposed in connection with a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in § 1026.61. *See also* comment 18(b)(3)(vi)–1.

18(b)(2)(i) Periodic Fee

1. Periodic fee variation. If the amount of a fee disclosed on the short form could vary, the financial institution must disclose in the short form the information required by § 1005.18(b)(3)(i). If the amount of the periodic fee could vary, the financial institution may opt instead to use an alternative disclosure pursuant to § 1005.18(b)(3)(ii). *See* comments 18(b)(3)(i)–1 and 18(b)(3)(ii)–1.

18(b)(2)(iii) ATM Withdrawal Fees

1. International ATM withdrawal fees. Pursuant to § 1005.18(b)(2)(iii), a financial institution must disclose the fees imposed when a consumer uses an automated teller machine to initiate a withdrawal of cash in the United States from the prepaid account, both within and outside of the financial institution’s network or a network affiliated with the financial institution. A financial institution may not disclose its fee (if any) for using an automated teller machine to initiate a withdrawal of cash in a foreign country in the disclosure required by § 1005.18(b)(2)(iii), although it may be required to disclose that fee as an additional fee type pursuant to § 1005.18(b)(2)(ix).

18(b)(2)(iv) Cash Reload Fee

1. Total of all charges. Pursuant to § 1005.18(b)(2)(iv), a financial institution must disclose the total of all charges imposed when a consumer reloads cash into a prepaid account, including charges imposed by the financial institution as well as any charges that may be imposed by third parties for the cash reload. The cash reload fee includes the cost of adding cash to the prepaid account at a point-of-sale terminal, the cost of purchasing an additional card or other device on which cash is loaded and then transferred into the prepaid account, or any other method a consumer may use to reload cash into the prepaid account. For example, a financial institution does not have its own proprietary cash reload network and instead contracts with a third-party reload network for this service. The financial institution itself does not charge any fee related to cash reloads but the third-party reload network charges a fee of \$3.95 per cash reload. The financial institution must disclose the cash reload fee as \$3.95. If the financial institution offers more than one method to reload cash into the prepaid account, § 1005.18(b)(3)(i) requires disclosure of the highest cash reload fee. For example, a financial institution contracts with two third-party cash reload networks; one third party charges \$3.95 for a point-of-sale reload and the

other third party charges \$2.95 for purchase of a reload pack. In addition to the third-party cash reload charge, the financial institution charges a \$1 fee for every cash reload. The financial institution must disclose the cash reload fee on the short form as \$4.95, that is, the highest third-party fee plus the financial institution's \$1 fee. See comments 18(b)(3)(v)–1 for additional guidance regarding third-party fees for cash reloads.

2. *Cash deposit fee.* If a financial institution does not permit cash reloads via a third-party reload network but instead permits cash deposits, for example, in a bank branch, the term “cash deposit” may be substituted for “cash reload.”

18(b)(2)(v) ATM Balance Inquiry Fees

1. *International ATM balance inquiry fees.* Pursuant to § 1005.18(b)(2)(v), a financial institution must disclose the fees imposed when a consumer uses an automated teller machine to check the balance of the prepaid account in the United States, both within and outside of the financial institution's network or a network affiliated with the financial institution. A financial institution may not disclose its fee (if any) for using an automated teller machine to check the balance of the prepaid account in a foreign country in the disclosure required by § 1005.18(b)(2)(v), although it may be required to disclose that fee as an additional fee type pursuant to § 1005.18(b)(2)(ix).

18(b)(2)(vii) Inactivity Fee

1. *Inactivity fee conditions.* Section 1005.18(b)(2)(vii) requires disclosure of any fee for non-use, dormancy, or inactivity of the prepaid account as well as the conditions that trigger the financial institution to impose that fee. For example, a financial institution that imposes an inactivity fee of \$1 per month after 12 months without any transactions on the prepaid account would disclose on the short form “Inactivity (after 12 months with no transactions)” and “\$1.00 per month.”

18(b)(2)(viii) Statements Regarding Additional Fee Types

18(b)(2)(viii)(A) Statement Regarding Number of Additional Fee Types Charged

1. *Fee types counted in total number of additional fee types.* Section 1005.18(b)(2)(viii)(A) requires a statement disclosing the number of additional fee types the financial institution may charge consumers with respect to the prepaid account, using the following clause or a substantially similar clause: “We charge [x] other types of fees.” The number of additional fee types disclosed must reflect the total number of fee types under which the financial institution may charge fees, excluding fees required to be disclosed pursuant to § 1005.18(b)(2)(i) through (vii) and (b)(5) and any finance charges as described in Regulation Z, 12 CFR 1026.4(b)(11), imposed in connection with a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in 12 CFR 1026.61. The following clarify which fee types to include in the total number of additional fee types:

i. *Fee types excluded from the number of additional fee types.* The number of additional fee types required to be disclosed pursuant to § 1005.18(b)(2)(viii)(A) does not include the fees otherwise required to be disclosed in the short form pursuant to

§ 1005.18(b)(2)(i) through (vii), nor any purchase fee or activation fee required to be disclosed outside the short form pursuant to § 1005.18(b)(5). It also does not include any finance charges as described in Regulation Z, 12 CFR 1026.4(b)(11), imposed in connection with a credit feature defined in 12 CFR 1026.61. The number of additional fee types includes only fee types under which the financial institution may charge fees; accordingly, third-party fees are not included unless they are imposed for services performed on behalf of the financial institution. In addition, the number of additional fee types includes only fee types the financial institution may charge consumers with respect to the prepaid account; accordingly, additional fee types does not include other revenue sources such as interchange fees or fees paid by employers for payroll card programs, government agencies for government benefit programs, or other entities sponsoring prepaid account programs for financial disbursements.

ii. *Fee types counted in the number of additional fee types.* Fee types that bear a relationship to, but are separate from, the static fee types disclosed in the short form must be counted as additional fees for purposes of § 1005.18(b)(2)(viii). For example, the ATM withdrawal and ATM balance inquiry fee types required to be disclosed respectively by § 1005.18(b)(2)(iii) and (v) that are excluded from the number of additional fee types pursuant to § 1005.18(b)(2)(viii) do not include such services outside of the United States. Thus, any international ATM fees charged by the financial institution for ATM withdrawal or balance inquiries must each be counted in the total number of additional fee types. Similarly, any fees for reloading funds into a prepaid account in a form other than cash (such as electronic reload and check reload, as described in comment 18(b)(2)(viii)(A)–2) must be counted in the total number of additional fee types because § 1005.18(b)(2)(iv) is limited to cash reloads. Also, additional fee types disclosed in the short form pursuant to § 1005.18(b)(2)(ix) must be counted in the total number of additional fee types.

2. *Examples of fee types and fee variations.* The term fee type, as used in § 1005.18(b)(2)(viii) and (ix), is a general category under which a financial institution charges fees to consumers. A financial institution may charge only one fee within a particular fee type, or may charge two or more variations of fees within the same fee type. The following is a list of examples of fee types a financial institution may use when determining both the number of additional fee types charged pursuant to § 1005.18(b)(2)(viii)(A) and any additional fee types to disclose pursuant to § 1005.18(b)(2)(ix). A financial institution may create an appropriate name for other additional fee types.

i. *Fee types related to reloads of funds.* Fees types for reloading funds into a prepaid account. Fees for cash reloads are required to be disclosed in the short form pursuant to § 1005.18(b)(2)(iv) and that such fees are not counted in the total number of additional fee types or disclosed as an additional fee type pursuant to § 1005.18(b)(2)(ix). Fee types for other methods to reload funds, such as Electronic reload or Check reload, would be counted in the total number of additional fee types and may be required to be disclosed as additional fee types pursuant to § 1005.18(b)(2)(ix).

A. *Electronic reload.* Fees for reloading a prepaid account through electronic methods. Fee variations within this fee type may include fees for transferring funds from a consumer's bank account via ACH, reloads conducted using a debit card or credit card, and for incoming wire transfers.

B. *Check reload.* Fees for reloading a prepaid account using checks. Fee variations within this fee type may include fees for depositing checks at an ATM, depositing checks with a teller at the financial institution's branch location, mailing checks to the financial institution for deposit, and depositing checks using remote deposit capture.

ii. *Fee types related to withdrawals of funds.* Fees types for withdrawing funds from a prepaid account. Per purchase fees and ATM withdrawal fees within the United States are fee types required to be disclosed in the short form respectively pursuant to § 1005.18(b)(2)(ii) and (iii) and thus such fees are not counted in the total number of additional fee types or disclosed as an additional fee type pursuant to § 1005.18(b)(2)(ix). Fee types for other methods to withdraw funds, such as Electronic withdrawal, Teller withdrawal, Cash back at point of sale (POS), and Account closure would be counted in the total of additional fee types and may be required to be disclosed as additional fee types pursuant to § 1005.18(b)(2)(ix).

A. *Electronic withdrawal.* Fees for withdrawing funds from a prepaid account through electronic methods other than an ATM. Fee variations within this fee type may include fees for transferring funds from the prepaid account to a consumer's bank account or other destination.

B. *Teller withdrawal.* Fees for withdrawing funds from a prepaid account in person with a teller at a bank or credit union. Fee variations within this fee type may include fees for withdrawing funds, whether at the financial institution's own branch locations or at another bank or credit union.

C. *Cash back at POS.* Fees for withdrawing cash from a prepaid account via cash back at a merchant's point-of-sale terminal.

D. *Account closure.* Fees for closing out a prepaid account, such as for a check refund. Fee variations within this fee type may include fees for regular and expedited delivery of close-out funds.

iii. *Fee types related to international transactions.* Fee types for international transactions and ATM activity.

A. *International ATM withdrawal.* Fees for withdrawing funds at an ATM outside the United States. This fee type does not include fees for ATM withdrawals in the United States, as such fees are required to be disclosed in the short form pursuant to § 1005.18(b)(2)(iii).

B. *International ATM balance inquiry.* Fees for balance inquiries at an ATM outside the United States. This fee type does not include fees for ATM balance inquiries in the United States, as such fees are required to be disclosed in the short form pursuant to § 1005.18(b)(2)(v).

C. *International transaction (excluding ATM withdrawal and balance inquiry).* Fees for transactions outside the United States. Fee variations within this fee type may include fees for currency conversion, foreign exchange processing, and other charges for transactions outside of the United States.

iv. *Bill payment.* Fees for bill payment services. Fee variations within this fee type may include fees for ACH bill payment, paper check bill payment, check cancellation, and expedited delivery of paper check.

v. *Person-to-person or card-to-card transfer of funds.* Fees for transferring funds from one prepaid account to another prepaid account. Fee variations within this fee type may include fees for transferring funds to another prepaid account within or outside of a specified prepaid account program, transferring funds to another cardholder within the United States or outside the United States, and expedited transfer of funds.

vi. *Paper checks.* Fees for providing paper checks that draw on the prepaid account. Fee variations within this fee type may include fees for providing checks and associated shipping costs. This does not include checks issued as part of a bill pay service, which are addressed in comment 18(b)(2)(viii)(A)–2.iv above.

vii. *Stop payment.* Fees for stopping payment of a preauthorized transfer of funds.

viii. *Fee types related to card services.* Fee types for card services.

A. *Card replacement.* Fees for replacing or reissuing a prepaid card that has been lost, stolen, damaged, or that has expired. Fee variations within this fee types may include fees for replacing the card, regular or expedited delivery of the replacement card, and international card replacement.

B. *Secondary card.* Fees for issuing an additional access device assigned to a particular prepaid account.

C. *Personalized card.* Fees for customizing or personalizing a prepaid card.

ix. *Legal.* Fees for legal process. Fee variations within this fee type may include fees for garnishments, attachments, levies, and other court or administrative orders against a prepaid account.

3. *Multiple service plans.* Pursuant to § 1005.18(b)(2)(vi), a financial institution using the multiple service plan short form disclosure pursuant to § 1005.18(b)(6)(iii)(B)(2) must disclose only the fee for calling customer service via a live agent. Thus, pursuant to § 1005.18(b)(2)(viii), any charge for calling customer service via an interactive voice response system must be counted in the total number of additional fee types.

4. *Consistency in additional fee type categorization.* A financial institution must use the same categorization of fee types in the number of additional fee types disclosed pursuant to § 1005.18(b)(2)(viii) and in its determination of which additional fee types to disclose pursuant to § 1005.18(b)(2)(ix).

18(b)(2)(viii)(B) Statement Directing Consumers to Disclosure of Additional Fee Types

1. *Statement clauses.* Section 1005.18(b)(2)(viii)(B) requires, if a financial institution makes a disclosure of additional fee types pursuant to § 1005.18(b)(2)(ix), it must include in the

short form a statement directing consumers to that disclosure, located after but on the same line of text as the statement regarding the number of additional fee types required by § 1005.18(b)(2)(viii)(A), using the following clause or a substantially similar clause: “Here are some of them:”. A financial institution that makes no disclosure pursuant to § 1005.18(b)(2)(ix) may not include a disclosure pursuant to § 1005.18(b)(2)(viii)(B). The following examples provide guidance regarding substantially similar clauses a financial institution may use in certain circumstances to make its disclosures under § 1005.18(b)(2)(viii)(A) and (B):

i. A financial institution that has one additional fee type and discloses that additional fee type pursuant to § 1005.18(b)(2)(ix) might provide the statements required by § 1005.18(b)(2)(viii)(A) and (B) together as: “We charge 1 other type of fee. It is:”.

ii. A financial institution that has five additional fee types and discloses one of those additional fee types pursuant to § 1005.18(b)(2)(ix) might provide the statements required by § 1005.18(b)(2)(viii)(A) and (B) together as: “We charge 5 other types of fees. Here is 1 of them:”.

iii. A financial institution that has two additional fee types and discloses both of those fee types pursuant to § 1005.18(b)(2)(ix) might provide the statement required by § 1005.18(b)(2)(viii)(A) and (B) together as: “We charge 2 other types of fees. They are:”.

18(b)(2)(ix) Disclosure of Additional Fee Types

18(b)(2)(ix)(A) Determination of Which Additional Fee Types To Disclose

1. *Number of fee types to disclose.* Section 1005.18(b)(2)(ix)(A) requires disclosure of the two fee types that generate the highest revenue from consumers for the prepaid account program or across prepaid account programs that share the same fee schedule during the time period provided in § 1005.18(b)(2)(ix)(D) and (E), excluding the categories set forth in § 1005.18(b)(2)(ix)(A)(1) through (3). See comment 18(b)(2)(viii)(A)–2 for guidance on and examples of fee types. If a prepaid account program has two fee types that satisfy the criteria in § 1005.18(b)(2)(ix)(A), it must disclose both fees. If a prepaid account program has three or more fee types that potentially satisfy the criteria in § 1005.18(b)(2)(ix)(A), the financial institution must disclose only the two fee types that generate the highest revenue from consumers. See comment 18(b)(2)(ix)(B)–1 for guidance regarding the disclosure of additional fee types for a prepaid account with fewer than two fee types that satisfy the criteria in § 1005.18(b)(2)(ix)(A).

2. *Abbreviations.* Commonly accepted or readily understandable abbreviations may be used as needed for additional fee types and fee variations disclosed pursuant to § 1005.18(b)(2)(ix). For example, to accommodate on one line in the short form disclosure the additional fee types “international ATM balance inquiry” or “person-to-person transfer of funds,” with or without fee variations, a financial institution may choose to abbreviate the fee type name as “Int’l ATM inquiry” or “P2P transfer.”

3. *Revenue from consumers.* The revenue calculation for the disclosure of additional fee types pursuant to § 1005.18(b)(2)(ix)(A) is based on fee types that the financial institution may charge consumers with respect to the prepaid account. The calculation excludes other revenue

sources such as revenue generated from interchange fees and fees paid by employers for payroll card programs, government agencies for government benefit programs, and other entities sponsoring prepaid account programs for financial disbursements. It also excludes third-party fees, unless they are imposed for services performed on behalf of the financial institution.

4. *Assessing revenue within and across prepaid account programs to determine disclosure of additional fee types.* Pursuant to § 1005.18(b)(2)(ix)(A), the disclosure of the two fee types that generate the highest revenue from consumers must be determined for each prepaid account program or across prepaid account programs that share the same fee schedule. Thus, if a financial institution offers more than one prepaid account program, unless the programs share the same fee schedule, the financial institution must consider the fee revenue data separately for each prepaid account program and not consolidate the fee revenue data across prepaid account programs. Prepaid account programs are deemed to have the same fee schedules if they charge the same fee amounts, including offering the same fee waivers and fee reductions for the same features. The following examples illustrate how to assess revenue within and across prepaid account programs to determine the disclosure of additional fee types:

i. *Prepaid account programs with different fee schedules.* A financial institution offers multiple prepaid account programs and each program has a different fee schedule. The financial institution must consider the revenue from consumers for each program separately; it may not consider the revenue from all of its prepaid account programs together in determining the disclosure of additional fee types for its programs.

ii. *Prepaid account programs with identical fee schedules.* A financial institution offers multiple prepaid account programs and they all share the same fee schedule. The financial institution may consider the revenue across all of its prepaid account programs together in determining the disclosure of additional fee types for its programs.

iii. *Prepaid account programs with both different fee schedules and identical fee schedules.* A financial institution offers multiple prepaid account programs, some of which share the same fee schedule. The financial institution may consider the revenue across all prepaid account programs with identical fee schedules in determining the disclosure of additional fee types for those programs. The financial institution must separately consider the revenue from each of the prepaid account programs with unique fee schedules.

iv. *Multiple service plan prepaid account programs.* A financial institution that discloses multiple service plans on a short form disclosure as permitted by § 1005.18(b)(6)(iii)(B)(2) must consider revenue across all of those plans in determining the disclosure of additional fee types for that program. If, however, the financial institution instead is disclosing the default service plan pursuant to § 1005.18(b)(6)(iii)(B)(1), the financial institution must consider the revenue generated from consumers for the default service plan only. See § 1005.18(b)(6)(iii)(B)(2) and comment 18(b)(6)(iii)(B)(2)–1 for guidance on what constitutes multiple service plans.

5. *Exclusions.* Once the financial institution has calculated the fee revenue data for the prepaid account program or across prepaid account programs that share the same fee schedule during the appropriate time period, it must remove from consideration the categories excluded

pursuant to § 1005.18(b)(2)(ix)(A)(1) through (3) before determining the fee types, if any, that generated the highest revenue.

i. *Exclusion for fee types required to be disclosed elsewhere.* Fee types otherwise required to be disclosed in or outside the short form are excluded from the additional fee types required to be disclosed pursuant to § 1005.18(b)(2)(ix)(A)(1). Thus, the following fee types are excluded: Periodic fee, per purchase fee, ATM withdrawal fees (for ATM withdrawals in the United States), cash reload fee, ATM balance inquiry fees (for ATM balance inquiries in the United States), customer service fees, and inactivity fee. However, while the cash reload fee type is excluded, other reload fee types, such as electronic reload and check reload, are not excluded under § 1005.18(b)(2)(ix)(A)(1) and thus may be disclosed as additional fee types pursuant to § 1005.18(b)(2)(ix). Similarly, while the fee types ATM withdrawal and ATM balance inquiry in the United States are excluded, international ATM withdrawal and international ATM balance inquiry fees are not excluded under § 1005.18(b)(2)(ix)(A)(1) and thus may be disclosed as additional fee types pursuant to § 1005.18(b)(2)(ix). Also pursuant to § 1005.18(b)(2)(ix)(A)(1), the purchase price and activation fee, if any, required to be disclosed outside the short form disclosure pursuant to § 1005.18(b)(5), are excluded from the additional fee types required to be disclosed pursuant to § 1005.18(b)(2)(ix).

ii. *De minimis exclusion.* Any fee types that generated less than 5 percent of the total revenue from consumers for the prepaid account program or across prepaid account programs that share the same fee schedule during the time period provided in § 1005.18(b)(2)(ix)(D) and (E) are excluded from the additional fee types required to be disclosed pursuant to § 1005.18(b)(2)(ix)(A)(2). For example, for a particular prepaid account program over the appropriate time period, bill payment, check reload, and card replacement are the only fee types that generated 5 percent or more of the total revenue from consumers at, respectively, 15 percent, 10 percent, and 7 percent. Two other fee types, legal fee and personalized card, generated revenue below 1 percent of the total revenue from consumers. The financial institution must disclose bill payment and check reload as the additional fee types for that particular prepaid account program because those two fee types generated the highest revenue from consumers from among the categories not excluded from disclosure as additional fee types. For a different prepaid account program over the appropriate time period, bill payment is the only fee type that generated 5 percent or more of the total revenue from consumers. Two other fee types, check reload and card replacement, each generated revenue below 5 percent of the total revenue from consumers. The financial institution must disclose bill payment as an additional fee type for that particular prepaid account program because it is the only fee type that satisfies the criteria of § 1005.18(b)(2)(ix)(A). The financial institution may, but is not required to, disclose either check reload or card replacement on the short form as well, pursuant to § 1005.18(b)(2)(ix)(B). See comment 18(b)(2)(ix)(B)–1.

iii. *Exclusion for credit-related fees.* Any finance charges as described in Regulation Z, 12 CFR 1026.4(b)(11), imposed in connection with a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in 12 CFR 1026.61, are excluded from the additional fee types required to be disclosed pursuant to § 1005.18(b)(2)(ix)(A)(3). Pursuant to § 1005.18(b)(2)(viii)(A)(2), such finance charges are also excluded from the number of additional fee types disclosed.

18(b)(2)(ix)(B) Disclosure of Fewer Than Two Additional Fee Types

1. *Disclosure of one or no additional fee types.* The following examples provide guidance on the additional fee types disclosure pursuant to § 1005.18(b)(2)(ix)(B) for a prepaid account with fewer than two fee types that satisfy the criteria in § 1005.18(b)(2)(ix)(A):

i. A financial institution has a prepaid account program with only one fee type that satisfies the criteria in § 1005.18(b)(2)(ix)(A) and thus, pursuant to § 1005.18(b)(2)(ix)(A), the financial institution must disclose that one fee type. The prepaid account program has three other fee types that generate revenue from consumers, but they do not exceed the de minimis threshold or otherwise satisfy the criteria in § 1005.18(b)(2)(ix)(B). Pursuant to § 1005.18(b)(2)(ix)(B), the financial institution is not required to make any additional disclosure, but it may choose to disclose one of the three fee types that do not meet the criteria in § 1005.18(b)(2)(ix)(A).

ii. A financial institution has a prepaid account program with four fee types that generate revenue from consumers, but none exceeds the de minimis threshold or otherwise satisfy the criteria in § 1005.18(b)(2)(ix)(A). Pursuant to § 1005.18(b)(2)(ix)(B), the financial institution is not required to make any disclosure, but it may choose to disclose one or two of the fee types that do not meet the criteria in § 1005.18(b)(2)(ix)(A).

2. *No disclosure of finance charges as an additional fee type.* Pursuant to § 1005.18(b)(3)(vi), a financial institution may not disclose any finance charges as a voluntary additional fee disclosure under § 1005.18(b)(2)(ix)(B).

18(b)(2)(ix)(C) Fee Variations in Additional Fee Types

1. *Two or more fee variations.* Section 1005.18(b)(2)(ix)(C) specifies how to disclose additional fee types with two fee variations, more than two fee variations, and for multiple service plans pursuant to § 1005.18(b)(6)(iii)(B)(2). See comment 18(b)(2)(viii)(A)–2 for guidance on and examples of fee types and fee variations within those fee types. The following examples illustrate how to disclose two-tier fees and other fee variations in additional fee types:

i. *Two fee variations with different fee amounts.* A financial institution charges a fee of \$1 for providing a card replacement using standard mail service and charges a fee of \$5 for providing a card replacement using expedited delivery. The financial institution must calculate the total revenue generated from consumers for all card replacements, both via standard mail service and expedited delivery, during the required time period to determine whether it is required to disclose card replacement as an additional fee type pursuant to § 1005.18(b)(2)(ix). Because there are only two fee variations for the fee type “card replacement,” if card replacement is required to be disclosed as an additional fee type pursuant to § 1005.18(b)(2)(ix)(A), the financial institution must disclose both fee variations pursuant to § 1005.18(b)(2)(ix)(C). Thus, the financial institution would disclose on the short form the fee type and two variations as “Card replacement (regular or expedited delivery)” and the fee amount as “\$1.00 or \$5.00”.

ii. *More than two fee variations.* A financial institution offers two methods of bill payment—via ACH and paper check—and offers two modes of delivery for bill payments made by paper check—regular standard mail service and expedited delivery. The financial institution

charges \$0.25 for bill pay via ACH, \$0.50 for bill pay via paper check sent by regular standard mail service, and \$3 for bill pay via paper check sent via expedited delivery. The financial institution must calculate the total revenue generated from consumers for all methods of bill pay and all modes of delivery during the required time period to determine whether it must disclose bill payment as an additional fee type pursuant to § 1005.18(b)(2)(ix). Because there are more than two fee variations for the fee type “bill payment,” if bill payment is required to be disclosed as an additional fee type pursuant to § 1005.18(b)(2)(ix)(A), the financial institution ~~must~~has two options for the disclosure. The financial institution may disclose the highest fee, \$3, followed by a symbol, such as an asterisk, linked to a statement explaining that the fee could be lower depending on how and where the prepaid account is used, pursuant to § 1005.18(b)(3)(i). Thus, the financial institution would disclose on the short form the fee type as “Bill payment” and the fee amount as “\$3.00*.” Alternatively, the financial institution may consolidate the fee variations into two categories, such as regular delivery and expedited delivery. In this case, the financial institution would make this disclosure on the short form as: “Bill payment (regular or expedited delivery)” and the fee amount as “\$0.50* or \$3.00”.

iii. *Two fee variations with like fee amounts.* A financial institution offers two methods of check reload for which it charges a fee—depositing checks at an ATM and depositing checks with a teller at the financial institution’s branch locations. There is a fee of \$0.50 for both methods of check deposit. The financial institution must calculate the total revenue generated from both of these check reload methods during the required time period to determine whether it must disclose this fee type as an additional fee type pursuant to § 1005.18(b)(2)(ix). Because the fee amounts are the same for the two methods of check deposit, if the fee type is required to be disclosed as an additional fee type, the financial institution’s options for disclosing this fee type in accordance with § 1005.18(b)(2)(ix)(C) and (b)(3)(iii) include: “Check reload (ATM or teller check dep)” and the fee amount as “\$0.50” or “Check reload” and the fee amount as “\$0.50”.

iv. *Multiple service plans.* A financial institution provides a short form disclosure for multiple service plans pursuant to § 1005.18(b)(6)(iii)(B)(2). Notwithstanding that an additional fee type has only two fee variations, a financial institution must disclose the highest fee in accordance with § 1005.18(b)(3)(i).

2. *One fee variation under a particular fee type.* Section 1005.18(b)(2)(ix)(C) provides in part that, if a financial institution only charges one fee under a particular fee type, the financial institution must disclose the name of the additional fee type and the fee amount; it may, but is not required to, disclose also the name of the one fee variation, if any, for which the fee amount is charged, in a format substantially similar to that used to disclose the two-tier fees required by § 1005.18(b)(2)(v) and (vi), except that the financial institution must disclose only the one fee variation name and fee amount instead of two. For example, a financial institution offers one method of electronic reload for which it charges a fee—electronic reload conducted using a debit card. The financial institution must calculate the total revenue generated from consumers for the fee type electronic reload (*i.e.*, in this case, electronic reloads conducted using a debit card) during the required time period to determine whether it must disclose electronic reload as an additional fee type pursuant to § 1005.18(b)(2)(ix). Because the financial institution only charges one fee variation under the fee type electronic reload, if this fee type is required to be disclosed as an additional fee type, the financial institution has two options for disclosing this fee type in

accordance with § 1005.18(b)(2)(ix)(C): “Electronic reload (debit card)” and the fee amount as “\$1.00” or “Electronic reload” and the fee amount as “\$1.00”.

18(b)(2)(ix)(D) Timing of Initial Assessment of Additional Fee Types Disclosure

18(b)(2)(ix)(D)(1) Existing Prepaid Account Programs as of April 1, ~~2018~~2019

1. *24 month period with available data.* Section 1005.18(b)(2)(ix)(D)(1) requires for a prepaid account program in effect as of April 1, ~~2018~~2019 the financial institution must disclose additional fee types based on revenue for a 24-month period that begins no earlier than October 1, 2014. Thus, a prepaid account program that was in existence as of April 1, ~~2018~~2019 must assess its additional fee types disclosure from data collected during a consecutive 24-month period that took place between October 1, 2014 and April 1, ~~2018~~2019. For example, an existing prepaid account program was first offered to consumers on January 1, 2012 and provides its first short form disclosure on April 1, ~~2018~~2019. The earliest 24-month period from which that financial institution could calculate its first additional fee types disclosure would be from October 1, 2014 to September 30, 2016.

18(b)(2)(ix)(D)(2) Existing Prepaid Account Programs as of April 1, ~~2018~~2019 With Unavailable Data

1. *24 month period without available data.* Section 1005.18(b)(2)(ix)(D)(2) requires that if a financial institution does not have 24 months of fee revenue data for a particular prepaid account program from which to calculate the additional fee types disclosure in advance of April 1, ~~2018~~2019, the financial institution must disclose the additional fee types based on revenue it reasonably anticipates the prepaid account program will generate over the 24-month period that begins on April 1, ~~2018~~2019. For example, a financial institution begins offering to consumers a prepaid account program six months before April 1, ~~2018~~2019. Because the prepaid account program will not have 24 months of fee revenue data prior to April 1, ~~2018~~2019, pursuant to § 1005.18(b)(2)(ix)(D)(2) the financial institution must disclose the additional fee types it reasonably anticipates the prepaid account program will generate over the 24-month period that begins on April 1, ~~2018~~2019. The financial institution would take into account the data it had accumulated at the time of its calculation to arrive at the reasonably anticipated additional fee types for the prepaid account program.

18(b)(2)(ix)(E) Timing of Periodic Reassessment and Update of Additional Fee Types Disclosure

18(b)(2)(ix)(E)(2) Periodic Reassessment

1. *Periodic reassessment and, if applicable, update of additional fee types disclosure.* Pursuant to § 1005.18(b)(2)(ix)(E)(2), a financial institution must reassess whether its previously disclosed additional fee types continue to comply with the requirements of § 1005.18(b)(2)(ix) every 24 months based on revenue for the previous 24-month period. The financial institution must complete this reassessment and update its disclosures, if applicable, within three months of the end of the 24-month period, except as provided in the update printing exception in § 1005.18(b)(2)(ix)(E)(4). The following examples provide guidance on the periodic assessment

and, if applicable, update of the disclosure of additional fee types pursuant to § 1005.18(b)(2)(ix)(E)(2):

i. *Reassessment with no change in the additional fee types disclosed.* A financial institution disclosed two additional fee types (bill payment and card replacement) for a particular prepaid account program on April 1, ~~2018~~2019. Starting on April 1, ~~2020~~2021, the financial institution assessed the fee revenue data it collected over the previous 24 months, and the two additional fee types previously disclosed continue to qualify as additional fee types pursuant to § 1005.18(b)(2)(ix). The financial institution is not required to take any action with regard to the disclosure of additional fee types for that prepaid account program.

ii. *Reassessment with a change in the additional fee types disclosed.* A financial institution disclosed two additional fee types (bill payment and card replacement) for a particular prepaid account program on April 1, ~~2018~~2019. Starting on April 1, ~~2020~~2021, the financial institution assessed the fee revenue data it collected over the previous 24 months, and bill payment continued to qualify as an additional fee type pursuant to § 1005.18(b)(2)(ix) but check reload qualified as the second additional fee type instead of card replacement. The financial institution must update the additional fee types disclosure in its short form disclosures provided electronically, orally, and in writing (other than for printed materials that qualify for the update printing exception in § 1005.18(b)(2)(ix)(E)(4)) no later than July 1, ~~2020~~2021, which is three months after the end of the 24-month period.

iii. *Reassessment with the addition of an additional fee type already voluntarily disclosed.* A financial institution disclosed one additional fee type (bill payment) and voluntarily disclosed one other additional fee type (card replacement, both for regular and expedited delivery) for a particular prepaid account program on April 1, ~~2018~~2019. Starting on April 1, ~~2020~~2021, the financial institution assessed the fee revenue data it collected over the previous 24 months, and bill payment continued to qualify as an additional fee type pursuant to § 1005.18(b)(2)(ix) and card replacement now qualified as the second additional fee type. Because the financial institution already had disclosed its card replacement fees in the format required for an additional fee type disclosure, the financial institution is not required to take any action with regard to the additional fee types disclosure in the short form for that prepaid account program.

2. *Reassessment more frequently than every 24 months.* Pursuant to § 1005.18(b)(2)(ix)(E)(2), a financial institution may, but is not required to, carry out the reassessment and update, if applicable, more frequently than every 24 months, at which time a new 24-month period commences. A financial institution may choose to do this, for example, to sync its reassessment process for additional fee types with its financial reporting schedule or other financial analysis it performs regarding the particular prepaid account program. If a financial institution chooses to reassess its additional fee types disclosure more frequently than every 24 months, it is still required to use 24 months of fee revenue data to conduct the reassessment. For example, a financial institution first offered a particular prepaid account program on ~~October 1, 2016~~April 1, 2018 and thus was required to estimate its initial additional fee types disclosure pursuant to § 1005.18(b)(2)(ix)(D)(2). If the financial institution chooses to begin its reassessment of its fee revenue data on ~~October 1, 2018~~April 1, 2020, it would use the data it collected over the previous 24 months (~~October 1, 2016~~April 1, 2018 to ~~September 30,~~

~~2018~~March 31, 2020) and complete its reassessment and its update, if applicable, by ~~January 1, 2019~~July 1, 2020.

18(b)(2)(ix)(E)(3) Fee Schedule Change

1. *Revised prepaid account programs.* Section 1005.18(b)(2)(ix)(E)(3) requires that if a financial institution revises the fee schedule for a prepaid account program, it must determine whether it reasonably anticipates that the previously disclosed additional fee types will continue to comply with the requirements of § 1005.18(b)(2)(ix) for the 24 months following implementation of the fee schedule change. A fee schedule change resets the 24-month period for assessment; a financial institution must comply with the requirements of § 1005.18(b)(2)(ix)(E)(2) at the end of the 24-month period following implementation of the fee schedule change. If the financial institution reasonably anticipates that the previously disclosed additional fee types will not comply with the requirements of § 1005.18(b)(2)(ix), it must update the disclosure based on its reasonable anticipation of what those additional fee types will be at the time the fee schedule change goes into effect, except as provided in the update printing exception in § 1005.18(b)(2)(ix)(E)(4). For example, if a financial institution lowers its card replacement fee from \$4 to \$3 on ~~December 1, 2018~~June 1, 2019 after having first assessed its additional fee types disclosure as of April 1, ~~2018~~2019, the financial institution would assess whether it reasonably anticipates that the existing additional fee types disclosure will continue to reflect the additional fee types that generate the highest revenue from consumers for that prepaid account program for the next 24 months (until ~~December 1, 2020~~June 1, 2021). If the financial institution reasonably anticipates that its additional fee types will remain unchanged over the next 24 months, the financial institution is not required to take any action with regard to the additional fee types disclosure for that prepaid account program. In the same example, if the financial institution reasonably anticipates that the previously disclosed additional fee types will not comply with the requirements of § 1005.18(b)(2)(ix) for the 24 months following implementation of the fee schedule change, the financial institution must update the listing of additional fee types at the time the fee schedule change goes into effect, except as provided in the update printing exception pursuant to § 1005.18(b)(2)(ix)(E)(4).

18(b)(2)(ix)(E)(4) Update Printing Exception

1. *Application of the update printing exception to prepaid accounts sold in retail locations.* Pursuant to § 1005.18(b)(2)(ix)(E)(4), notwithstanding the requirements to update the additional fee types disclosures in § 1005.18(b)(2)(ix)(E), a financial institution is not required to update the listing of additional fee types that are provided on, in, or with prepaid account packaging materials that were manufactured, printed, or otherwise produced prior to a periodic reassessment and update pursuant to § 1005.18(b)(2)(ix)(E)(2) or prior to a fee schedule change pursuant to § 1005.18(b)(2)(ix)(E)(3). For prepaid accounts sold in retail locations, for example, § 1005.18(b)(2)(ix)(E)(4) permits a financial institution to implement any necessary updates to the listing of the additional fee types ~~disclosures~~ on the short form disclosure that appear on its physical prepaid account packaging materials at the time the financial institution prints new materials. Section 1005.18(b)(2)(ix)(E)(4) does not require financial institutions to destroy existing inventory in retail locations or elsewhere in the distribution channel, to the extent the disclosures on such packaging materials are otherwise accurate, to comply with this requirement. For example, a financial institution determines that an additional fee type listed on a short form

disclosure in a retail location no longer qualifies as an additional fee type pursuant to § 1005.18(b)(2)(ix). The financial institution must update any electronic and oral short form disclosures pursuant to the timing requirements set forth in § 1005.18(b)(2)(ix)(E). Pursuant to § 1005.18(b)(2)(ix)(E)(4), the financial institution may continue selling any previously printed prepaid account packages that contain the prior listing of additional fee types; prepaid account packages printed after that time must contain the updated listing of additional fee types.

18(b)(2)(x) Statement Regarding Overdraft Credit Features

1. *Short form disclosure when overdraft credit feature may be offered.* Section 1005.18(b)(2)(x) requires disclosure of a statement if a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in Regulation Z, 12 CFR 1026.61, may be offered at any point to a consumer in connection with the prepaid account. This statement must be provided on the short form disclosures for all prepaid accounts that may offer such a feature, regardless of whether some consumers may never be solicited or qualify to enroll in such a feature.

18(b)(2)(xi) Statement Regarding Registration and FDIC or NCUA Insurance

1. *Disclosure of FDIC or NCUA insurance.* Section 1005.18(b)(2)(xi) requires a statement regarding the prepaid account program's eligibility for FDIC deposit insurance or NCUA share insurance, as appropriate, and directing the consumer to register the prepaid account for insurance and other account protections, where applicable. If the consumer's prepaid account funds are held at a credit union, the disclosure must indicate NCUA insurance eligibility. If the consumer's prepaid account funds are held at a financial institution other than a credit union, the disclosure must indicate FDIC insurance eligibility.

2. ~~Customer-Consumer~~ *identification and verification processes.* For additional guidance on the timing of ~~customer-consumer~~ identification and verification processes, and on prepaid account programs for which there is no ~~customer-consumer~~ identification and verification process for any prepaid accounts within the prepaid account program, see § 1005.18(e)(3) and comments 18(e)-4 ~~and 5~~ through 6.

18(b)(2)(xiii) Statement Regarding Information on All Fees and Services

1. *Financial institution's telephone number.* For a financial institution offering prepaid accounts at a retail location pursuant to the retail location exception in § 1005.18(b)(1)(ii), the statement required by § 1005.18(b)(2)(xiii) must also include a telephone number (and the ~~Web~~ website URL) that a consumer may use to directly access an oral version of the long form disclosure. To provide the long form disclosure by telephone, a financial institution could use a live customer service agent or an interactive voice response system. The financial institution could use a telephone number specifically dedicated to providing the long form disclosure or a more general customer service telephone number for the prepaid account program. For example, a financial institution would be deemed to provide direct access pursuant to § 1005.18(b)(2)(xiii) if a consumer navigates one or two prompts to reach the oral long form disclosure via a live customer service agent or an interactive voice response system using either a specifically dedicated telephone number or a more general customer service telephone number.

2. *Financial institution's ~~Web site~~website.* For a financial institution offering prepaid accounts at a retail location pursuant to the retail location exception in § 1005.18(b)(1)(ii), the statement required by § 1005.18(b)(2)(xiii) must also include a ~~Web site~~website URL (and a telephone number) that a consumer may use to directly access an electronic version of the long form disclosure. For example, a financial institution that requires a consumer to navigate various other ~~W~~web pages before viewing the long form disclosure would not be deemed to provide direct access pursuant to § 1005.18(b)(2)(xiii). Trademark and product names and their commonly accepted or readily understandable abbreviations comply with the requirement in § 1005.18(b)(2)(xiii) that the URL be meaningfully named. For example, ABC or ABCard would be readily understandable abbreviations for a prepaid account program named the Alpha Beta Card.

18(b)(2)(xiv) Additional Content for Payroll Card Accounts

18(b)(2)(xiv)(A) Statement Regarding Wage or Salary Payment Options

1. *Statement options for payroll card accounts.* Section 1005.18(b)(2)(xiv)(A) requires a financial institution to include at the top of the short form disclosure for payroll card accounts, above the information required by § 1005.18(b)(2)(i) through (iv), one of two statements regarding wage payment options. Financial institutions offering payroll card accounts may choose which of the two statements required by § 1005.18(b)(2)(xiv)(A) to use in the short form disclosure. The list of other options required in the second statement might include the following, as applicable: Direct deposit to the consumer's bank account, direct deposit to the consumer's own prepaid account, paper check, or cash. A financial institution may, but is not required to, provide more specificity as to whom consumers must ask or inform of their choice of wage payment method, such as specifying the employer's Human Resources Department.

2. *Statement options for government benefit accounts.* See § 1005.15(c)(2)(i) for statement options for government benefit accounts.

3. *Statement permitted for other prepaid accounts.* A financial institution offering a prepaid account other than a payroll card account or government benefit account may, but is not required to, include a statement in the short form disclosure regarding payment options that is similar to either of the statements required for payroll card accounts pursuant to § 1005.18(b)(2)(xiv)(A) or government benefit accounts pursuant to § 1005.15(c)(2)(i). For example, a financial institution issuing a prepaid account to disburse student financial aid proceeds may disclose a statement such as the following: "You have several options to receive your financial aid payments: Direct deposit to your bank account, direct deposit to your own prepaid card, paper check, or this prepaid card. Tell your school which option you choose."

18(b)(2)(xiv)(B) Statement Regarding State-Required Information or Other Fee Discounts and Waivers

1. *Statement options for state-required information or other fee discounts or waivers.* Section 1005.18(b)(2)(xiv)(B) permits, but does not require, a financial institution to include in the short form disclosure for payroll card accounts one additional line of text directing the consumer to a particular location outside the short form disclosure for information on ways the

consumer may access payroll card account funds and balance information for free or for a reduced fee. For example, a financial institution might include the following line of text in the short form disclosure: “See below for free ways to access your funds and balance information” and then list below, but on the same page as, the short form disclosure several ways consumers can access their prepaid account funds and balance information for free. Alternatively, the financial institution might direct the consumer to another location for that information, such as by stating “See the cardholder agreement for free ways to access your funds and balance information.” A similar statement is permitted for government benefit accounts pursuant to § 1005.15(c)(2)(ii).

18(b)(3) Short Form Disclosure of Variable Fees and Third-Party Fees and Prohibition on Disclosure of Finance Charges

18(b)(3)(i) General Disclosure of Variable Fees

1. *Short form disclosure of variable fees.* Section 1005.18(b)(3)(i) requires disclosure in the short form of the highest fee when a fee can vary, followed by a symbol, such as an asterisk, linked to a statement explaining that the fee could be lower depending on how and where the prepaid account is used. For example, a financial institution provides interactive voice response (IVR) customer service for free and provides the first three live agent customer service calls per month for free, after which it charges \$0.50 for each additional live agent customer service call during that month. Pursuant to § 1005.18(b)(2)(vi), the financial institution must disclose both its IVR and live agent customer service fees on the short form disclosure. The financial institution would disclose the IVR fee as \$0 and the live agent customer service fee as \$0.50, followed by an asterisk (or other symbol) linked to a statement explaining that the fee can be lower depending on how and where the prepaid account is used. Except as described in § 1005.18(b)(3)(ii), § 1005.18(b)(3)(i) does not permit a financial institution to describe in the short form disclosure the specific conditions under which a fee may be reduced or waived, but the financial institution could use, for example, any other part of the prepaid account’s packaging or other printed materials to disclose that information. The conditions under which a fee may be lower are required to be disclosed in the long form disclosure pursuant to § 1005.18(b)(4)(ii).

18(b)(3)(ii) Disclosure of Variable Periodic Fee

1. *Periodic fee variation alternative.* If the amount of the periodic fee disclosed in the short form pursuant to § 1005.18(b)(2)(i) could vary, a financial institution has two alternatives for disclosing the variation, as set forth in § 1005.18(b)(3)(i) and (ii). For example, a financial institution charges a monthly fee of \$4.95, but waives this fee if a consumer receives direct deposit into the prepaid account or conducts 30 or more transactions during that month. Pursuant to § 1005.18(b)(3)(ii), the financial institution could list its monthly fee of \$4.95 on the short form disclosure followed by a dagger symbol that links to a statement that states, for example, “No monthly fee with direct deposit or 30 transactions per month.” This statement may take up no more than one line of text in the short form disclosure and must be located directly above or in place of the linked statement required by § 1005.18(b)(3)(i). Alternatively, pursuant to § 1005.18(b)(3)(i), the financial institution could list its monthly fee of \$4.95 on the short form disclosure followed by an asterisk that links to a statement that states, “This fee can be lower depending on how and where this card is used.”

18(b)(3)(iii) Single Disclosure for Like Fees

1. *Alternative for two-tier fees in the short form disclosure.* Pursuant to § 1005.18(b)(3)(iii), a financial institution may opt to disclose one fee instead of the two fees required by § 1005.18(b)(2)(iii), (v), and (vi) and any two-tier fee required by § 1005.18(b)(2)(ix), when the amount is the same for both fees. The following examples illustrate how to provide a single disclosure for like fees on both the short form disclosure and the multiple service plan short form disclosure:

i. A financial institution charges \$1 for both in-network and out-of-network automated teller machine withdrawals in the United States. The financial institution may list the \$1 fee once under the general heading “ATM withdrawal” required by § 1005.18(b)(2)(iii); in that case, it need not disclose the terms “in-network” or “out-of-network.”

ii. A financial institution using the multiple service plan short form disclosure pursuant to § 1005.18(b)(6)(iii)(B)(2) charges \$1 under each of its service plans for both in-network and out-of-network automated teller machine withdrawals in the United States. The financial institution may disclose the ATM withdrawal fee on one line, instead of two, using the general heading “ATM withdrawal” required by § 1005.18(b)(2)(iii); in that case, it need not disclose the terms “in-network” or “out-of-network.”

18(b)(3)(iv) Third-Party Fees in General

1. *General prohibition on disclosure of third-party fees in the short form.* Section 1005.18(b)(3)(iv) states that a financial institution may not include any third-party fees in a disclosure made pursuant to § 1005.18(b)(2), except for, as provided by § 1005.18(b)(3)(v), the cash reload fee required to be disclosed by § 1005.18(b)(2)(iv). Fees imposed by another party, such as a program manager, for services performed on behalf of the financial institution are not third-party fees and therefore must be disclosed pursuant to § 1005.18(b)(3)(iv). For example, if a program manager performs customer service functions for a financial institution’s prepaid account program, and charges a fee for live agent customer service, that fee must be disclosed pursuant to § 1005.18(b)(2)(iv).

18(b)(3)(v) Third-Party Cash Reload Fees

1. *Updating third-party fees.* Section 1005.18(b)(3)(v) provides that a financial institution is not required to revise its short form disclosure to reflect a cash reload fee change by a third party until such time that the financial institution manufactures, prints, or otherwise produces new prepaid account packaging materials or otherwise updates the short form disclosure. For example, at the time a financial institution first prints packaging material for its prepaid account program, it discloses on the short form the \$3.99 fee charged by the third-party reload network with which it contracts to provide cash reloads. Ten months later, the third-party reload network raises its cash reload fee to \$4.25. The financial institution is not required to update its on-package disclosures to reflect the change in the cash reload fee until the financial institution next prints packaging materials for that prepaid account program. With respect to that financial institution’s electronic and oral disclosures for that prepaid account program, the financial institution may, but is not required to, update its short form disclosure immediately upon learning

of the third-party reload network's change to its cash reload fee. Alternatively, the financial institution may wait to update its electronic and oral short form disclosures to reflect the change in the cash reload fee until it otherwise updates those disclosures.

18(b)(3)(vi) Prohibition on Disclosure of Finance Charges

1. *No disclosure of finance charges in the short form.* Section 1005.18(b)(3)(vi) provides that a financial institution may not include in a disclosure made pursuant to § 1005.18(b)(2)(i) through (ix) any finance charges as described in Regulation Z, 12 CFR 1026.4(b)(11), imposed in connection with a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in 12 CFR 1026.61. If a financial institution imposes a higher fee or charge on the asset feature of a prepaid account with a covered separate credit feature accessible by a hybrid prepaid-credit card than the amount of a comparable fee or charge it imposes on any prepaid account in the same prepaid account program that does not have such a credit feature, it must disclose on the short form for purposes of § 1005.18(b)(2)(i) through (vii) and (ix) the amount of the comparable fee rather than the higher fee. *See, e.g.,* § 1005.18(g)(2) and related commentary.

18(b)(4) Long Form Disclosure Content

18(b)(4)(ii) Fees

1. *Disclosure of all fees.* Section 1005.18(b)(4)(ii) requires a financial institution to disclose in the long form all fees that may be imposed in connection with a prepaid account, not just fees for electronic fund transfers or the right to make transfers. The requirement to disclose all fees in the long form includes any finance charges imposed on the prepaid account as described in Regulation Z, 12 CFR 1026.4(b)(11)(ii), in connection with a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in 12 CFR 1026.61 but does not include finance charges imposed on the covered separate credit feature as described in 12 CFR 1026.4(b)(11)(i). *See* comment 18(b)(7)(i)(B)–2 for guidance on disclosure of finance charges as part of the § 1005.18(b)(4)(ii) fee disclosure in the long form. A financial institution may also be required to include finance charges in the Regulation Z disclosures required pursuant to § 1005.18(b)(4)(vii).

2. *Disclosure of conditions.* Section 1005.18(b)(4)(ii) requires a financial institution to disclose the amount of each fee and the conditions, if any, under which the fee may be imposed, waived, or reduced. For example, if a financial institution charges a cash reload fee, the financial institution must list the amount of the cash reload fee and also specify any circumstances under which a consumer can qualify for a lower fee. Similarly, if a financial institution discloses both a periodic fee and an inactivity fee, it must indicate whether the inactivity fee will be charged in addition to, or instead of, the periodic fee. A financial institution may, but is not required to, also include on the long form disclosure additional information or limitations related to the service or feature for which a fee is charged, such as, for cash reloads, any limit on the amount of cash a consumer may load into the prepaid account in a single transaction or during a particular time period. The general requirement in § 1005.18(b)(4)(ii) does not apply to individual fee waivers or reductions granted to a particular consumer or group of consumers on a discretionary or case-by-case basis.

3. *Disclosure of a service or feature without a charge.* Pursuant to § 1005.18(b)(4)(ii), a financial institution may, but is not required to, list in the long form disclosure any service or feature it provides or offers at no charge to the consumer. For example, a financial institution may list “online bill pay” in its long form disclosure and indicate a fee amount of “\$0” when the financial institution does not charge consumers a fee for that feature. By contrast, where a fee is waived or reduced under certain circumstances or where a service or feature is available for an introductory period without a fee, the financial institution may not list the fee amount as “\$0”. Rather, the financial institution must list the highest fee, accompanied by an explanation of the waived or reduced fee amount and any conditions for the waiver or discount. For example, if a financial institution waives its monthly fee for any consumer who receives direct deposit payments into the prepaid account or conducts 30 or more transactions in a given month, the long form disclosure must list the regular monthly fee amount along with an explanation that the monthly fee is waived if the consumer receives direct deposit or conducts 30 or more transactions each month. Similarly, for an introductory fee, the financial institution would list the highest fee, and explain the introductory fee amount, the duration of the introductory period, and any conditions that apply during the introductory period.

4. *Third-party fees.* Section 1005.18(b)(4)(ii) requires disclosure in the long form of any third-party fee amounts known to the financial institution that may apply. Fees imposed by another party, such as a program manager, for services performed on behalf of the financial institution are not third-party fees and therefore must be disclosed on the long form pursuant to § 1005.18(b)(4)(ii). Also pursuant to § 1005.18(b)(4)(ii), for any third-party fee disclosed, a financial institution may, but is not required to, include either or both a statement that the fee is accurate as of or through a specific date or that the third-party fee is subject to change. For example, a financial institution that contracts with a third-party remote deposit capture service must include in the long form disclosure the amount of the fee known to the financial institution that is charged by the third party for remote deposit capture services. The financial institution may, but is not required to, also state that the third-party remote deposit capture fee is accurate as of or through a specific date, such as the date the financial institution prints the long form disclosure. The financial institution may also state that the fee is subject to change. Section 1005.18(b)(4)(ii) also provides that, if a third-party fee may apply but the amount of the fee is not known by the financial institution, it must include a statement indicating that a third-party fee may apply without specifying the fee amount. For example, a financial institution that permits out-of-network ATM withdrawals would disclose that, for ATM withdrawals that occur outside the financial institution’s network, the ATM operator may charge the consumer a fee for the withdrawal, but the financial institution is not required to disclose the out-of-network ATM operator’s fee amount if it does not know the amount of the fee.

18(b)(4)(iii) Statement Regarding Registration and FDIC or NCUA Insurance

1. *Statement regarding registration and FDIC or NCUA insurance, including implications thereof.* Section 1005.18(b)(4)(iii) requires that the long form disclosure include the same statement regarding prepaid account registration and FDIC or NCUA insurance eligibility required by § 1005.18(b)(2)(xi) in the short form disclosure, together with an explanation of FDIC or NCUA insurance coverage and the benefit of such coverage or the consequence of the lack of such coverage, as applicable.

i. *Bank disclosure of FDIC insurance.* For example, XYZ Bank offers a prepaid account program for sale at retail locations that is set up to be eligible for FDIC deposit insurance, but does not conduct ~~customer-consumer~~ identification and verification before consumers purchase the prepaid account. XYZ Bank may disclose the required statements as “Register your card for FDIC insurance eligibility and other protections. Your funds will be held at or transferred to XYZ Bank, an FDIC-insured institution. Once there, your funds are insured up to \$250,000 by the FDIC in the event XYZ Bank fails, if specific deposit insurance requirements are met and your card is registered. See [fdic.gov/deposit/deposits/prepaid.html](https://www.fdic.gov/deposit/deposits/prepaid.html) for details.” Conversely, if XYZ Bank offers another prepaid account program for sale at retail locations for which it conducts ~~customer-consumer~~ identification and verification after purchase of the prepaid account, but the program is not set up to be eligible for FDIC insurance, XYZ Bank may disclose the required statements as “Not FDIC insured. Your funds will be held at or transferred to XYZ Bank. If XYZ Bank fails, you are not protected by FDIC deposit insurance and could lose some or all of your money. Register your card for other protections.”

ii. *Credit union disclosure of NCUA insurance.* For example, ABC Credit Union offers a prepaid account program for sale at its own branches that is set up to be eligible for NCUA share insurance, but does not conduct ~~customer-consumer~~ identification and verification before consumers purchase the prepaid account. ABC Credit Union may disclose the requirement statements as “Register your card for NCUA insurance, if eligible, and other protections. Your funds will be held at or transferred to ABC Credit Union, an NCUA-insured institution. Once there, if specific share insurance requirements are met and your card is registered, your funds are insured up to \$250,000 by the NCUA in the event ABC Credit Union fails.” See comment 18(b)(2)(xi)–1 for guidance as to when NCUA insurance coverage should be disclosed instead of FDIC insurance coverage.

18(b)(4)(vii) Regulation Z Disclosures for Overdraft Credit Features

1. *Long form Regulation Z disclosure of overdraft credit features.* Section 1005.18(b)(4)(vii) requires that the long form include the disclosures described in Regulation Z, 12 CFR 1026.60(e)(1), in accordance with the requirements for such disclosures in 12 CFR 1026.60, if, at any point, a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in Regulation Z, 12 CFR 1026.61, may be offered to a consumer in connection with the prepaid account. If the financial institution includes the disclosures described in Regulation Z, 12 CFR 1026.60(e)(1), pursuant to § 1005.18(b)(7)(i)(B), such disclosures must appear below the ~~disclosuresstatements~~ required by § 1005.18(b)(4)(vi). If the disclosures provided pursuant to Regulation Z, 12 CFR 1026.60(e)(1), are provided in writing, these disclosures must be provided in the form required by 12 CFR 1026.60(a)(2), and to the extent possible, on the same page as the other disclosures required by § 1005.18(b)(4).

2. *Updates to the long form for changes to the Regulation Z disclosures.* Pursuant to § 1005.18(b)(4)(vii), a financial institution is not required to revise the disclosure required by that paragraph to reflect a change in the fees or other terms disclosed therein until such time as the financial institution manufactures, prints, or otherwise produces new prepaid account packaging materials or otherwise updates the long form disclosure. This exception does not extend to any finance charges imposed on the prepaid account as described in Regulation Z, 12 CFR 1026.4(b)(11)(ii), in connection with a covered separate credit feature accessible by a

hybrid prepaid-credit card as defined in 12 CFR 1026.61 that are required to be disclosed on the long form pursuant to § 1005.18(b)(4)(ii). See comment 18(b)(4)(ii)–1.

18(b)(5) Disclosure Requirements Outside the Short Form Disclosure

1. *Content of disclosure.* Section 1005.18(b)(5) requires that the name of the financial institution, the name of the prepaid account program, and any purchase price or activation fee for the prepaid account be disclosed outside the short form disclosure. A financial institution may, but is not required to, also disclose the name of the program manager or other service provider involved in the prepaid account program.

2. *Location of disclosure.* In addition to setting forth the required content for disclosures outside the short form disclosure, § 1005.18(b)(5) requires that, in a setting other than a retail location, the information required by § 1005.18(b)(5) must be disclosed in close proximity to the short form. For example, if the financial institution provides the short form disclosure online, the information required by § 1005.18(b)(5) is deemed disclosed in close proximity to the short form if it appears on the same ~~W~~web page as the short form disclosure. If the financial institution offers the prepaid account in its own branch locations and provides the short form disclosure on the exterior of its preprinted packaging materials, the information required by § 1005.18(b)(5) is deemed disclosed in close proximity to the short form disclosure if it appears on the exterior of the packaging. If the financial institution provides a written short form disclosures in a manner other than on preprinted packaging materials, such as on paper, the information required by § 1005.18(b)(5) is deemed disclosed in close proximity if it appears on the same piece of paper as the short form disclosure. If the financial institution provides the short form disclosure orally, the information required by § 1005.18(b)(5) is deemed disclosed in close proximity to the short form disclosure if it is provided immediately before or after disclosing the fees and information required pursuant to § 1005.18(b)(2). For prepaid accounts sold in a retail location pursuant to the retail location exception in § 1005.18(b)(1)(ii), § 1005.18(b)(5) requires the information other than purchase price be disclosed on the exterior of the access device's packaging material. If the purchase price, if any, is not also disclosed on the exterior of the packaging, disclosure of the purchase price on or near the sales rack or display for the packaging material is deemed in close proximity to the ~~short form disclosure~~access device's packaging material.

18(b)(6) Form of Pre-Acquisition Disclosures

18(b)(6)(i) General

1. *Written pre-acquisition disclosures.* If a financial institution provides the disclosures required by § 1005.18(b) in written form prior to acquisition pursuant to § 1005.18(b)(1)(i), they need not also be provided electronically or orally. For example, an employer distributes to new employees printed copies of the disclosures required by § 1005.18(b) for a payroll card account, together with instructions to complete the payroll card account acquisition process online if the employee wishes to be paid via a payroll card account. The financial institution is not required to provide the § 1005.18(b) disclosures electronically via the website because the consumer has already received the disclosures pre-acquisition in written form.

18(b)(6)(i)(B) Electronic Disclosures

1. *Providing pre-acquisition disclosures electronically.* Unless provided in written form prior to acquisition pursuant to § 1005.18(b)(1)(i), Section § 1005.18(b)(6)(i)(B) requires electronic delivery of the disclosures required by § 1005.18(b) when a consumer acquires a prepaid account through electronic means, including via a ~~Web site~~website or mobile application, and, among other things, in a manner which is reasonably expected to be accessible in light of how a consumer is acquiring the prepaid account. For example, if a consumer is acquiring a prepaid account via a ~~Web site~~website or mobile application, it would be reasonable to expect that a consumer would be able to access the disclosures required by § 1005.18(b) on the first page or via a direct link from the first page of the ~~Web site~~website or mobile application or on the first page that discloses the details about the specific prepaid account program. See comment 18(b)(1)(i)–2 for additional guidance on placement of the short form and long form disclosures on a ~~W~~web page.

2. *Disclosures responsive to smaller screens.* In accordance with the requirement in § 1005.18(b)(6)(i)(B) that electronic disclosures be provided in a responsive form, electronic disclosures provided pursuant to § 1005.18(b) must be provided in a way that responds to different screen sizes, for example, by stacking elements of the disclosures in a manner that accommodates consumer viewing on smaller screens, while still meeting the other formatting requirements set forth in § 1005.18(b)(7). For example, the disclosures permitted by § 1005.18(b)(2)(xiv)(B) or (b)(3)(ii) must take up no more than one additional line of text in the short form disclosure. If a consumer is acquiring a prepaid account using a mobile device with a screen too small to accommodate these disclosures on one line of text in accordance with the size requirements set forth in § 1005.18(b)(7)(ii)(B), a financial institution is permitted to display the disclosures permitted by § 1005.18(b)(2)(xiv)(B) and (b)(3)(ii), for example, by stacking those disclosures in a way that responds to smaller screen sizes, while still meeting the other formatting requirements in § 1005.18(b)(7).

3. *Machine-readable text.* Section 1005.18(b)(6)(i)(B) requires that electronic disclosures must be provided using machine-readable text that is accessible via both Web browsers (or mobile applications, as applicable) and screen readers. A disclosure would not be deemed to comply with this requirement if it was not provided in a form that can be read automatically by ~~I~~nternet search engines or other computer systems.

18(b)(6)(i)(C) Oral Disclosures

1. *Disclosures for prepaid accounts acquired by telephone.* Unless it provides disclosures in written form prior to acquisition pursuant to § 1005.18(b)(1)(i), a financial institution must disclose the information required by § 1005.18(b)(2) and (5) orally before a consumer acquires a prepaid account orally by telephone pursuant to the exception in § 1005.18(b)(1)(iii). A financial institution may, for example, provide these disclosures by using an interactive voice response or similar system or by using a customer service agent, after the consumer has initiated the purchase of a prepaid account by telephone, but before the consumer acquires the prepaid account. In addition, a financial institution must provide the initial disclosures required by § 1005.7, as modified by § 1005.18(f)(1), before the first electronic fund transfer is made involving the prepaid account.

18(b)(6)(ii) Retainable Form

1. *Retainable disclosures.* Section 1005.18(b)(6)(ii) requires that, except for disclosures provided orally pursuant to § 1005.18(b)(1)(ii) or (iii), long form disclosures provided via SMS as permitted by § 1005.18(b)(2)(xiii) for a prepaid account sold at retail locations pursuant to the retail location exception in § 1005.18(b)(1)(ii), and the disclosure of a purchase price pursuant to § 1005.18(b)(5) that is not disclosed on the exterior of the packaging material for a prepaid account sold at a retail location pursuant to the retail location exception in § 1005.18(b)(1)(ii), disclosures provided pursuant to § 1005.18(b) must be made in a form that a consumer may keep. For example, a short form disclosure with a tear strip running through it would not be deemed retainable because use of the tear strip to gain access to the prepaid account access device inside the packaging would destroy part of the short form disclosure. Electronic disclosures are deemed retainable if the consumer is able to print, save, and email the disclosures from the Web site or mobile application on which they are displayed.

18(b)(6)(iii) Tabular Format

18(b)(6)(iii)(B) Multiple Service Plans

18(b)(6)(iii)(B)(1) Short Form Disclosure for Default Service Plan

1. *Disclosure of default service plan excludes short-term or promotional service plans.* Section 1005.18(b)(6)(iii)(B)(1) provides that when a financial institution offers multiple service plans within a particular prepaid account program and each plan has a different fee schedule, the information required by final § 1005.18(b)(2)(i) through (ix) may be provided in the tabular format described in final § 1005.18(b)(6)(iii)(A) for the service plan in which a consumer is initially enrolled by default upon acquiring a prepaid account. Pursuant to the requirement in § 1005.18(b)(3)(i) to disclose the highest amount a financial institution may impose for a fee disclosed pursuant to § 1005.18(b)(2)(i) through (vii) and (ix), a financial institution would not be permitted to disclose any short-term or promotional service plans as a default service plan.

18(b)(6)(iii)(B)(2) Short Form Disclosure for Multiple Service Plans

1. *Disclosure of multiple service plans.* The multiple service plan disclosure requirements in § 1005.18(b)(6)(iii)(B)(2) apply when a financial institution offers more than one service plan within a particular prepaid account program, each plan has a different fee schedule, and the financial institution opts not to disclose the default service plan pursuant to § 1005.18(b)(6)(iii)(B)(1). See Model Form A–10(e). For example, a financial institution that offers a prepaid account program with one service plan for which a consumer pays no periodic fee but instead pays a fee for each transaction, and another plan that includes a monthly fee but no per transaction fee may use the short form disclosure for multiple service plans pursuant to § 1005.18(b)(6)(iii)(B)(2). Similarly, a financial institution that offers a prepaid account program with preferred rates or fees for the prepaid accounts of consumers who also use another non-prepaid service (e.g., a mobile phone service), often referred to as “loyalty plans,” may also use the short form disclosure for multiple service plans pursuant to § 1005.18(b)(6)(iii)(B)(2). Pricing variations based on whether a consumer elects to use a specific feature of a prepaid account, such as waiver of the monthly fee for consumers electing to receive direct deposit, does

not constitute multiple service plans or a loyalty plan. See comment 18(b)(3)(iii)–1.ii for guidance on providing a single disclosure for like fees for multiple service plan short form disclosures.

18(b)(7) Specific Formatting Requirements for Pre-Acquisition Disclosures

18(b)(7)(i) Grouping

18(b)(7)(i)(B) Long Form Disclosure

1. *Conditions must be in close proximity to fee amount.* Pursuant to § 1005.18(b)(4)(ii), the long form disclosure generally must disclose all fees that may be imposed in connection with a prepaid account, including the amount of the fee and any conditions under which the fee may be imposed, waived, or reduced. Pursuant to § 1005.18(b)(7)(i)(B), text describing the conditions under which a fee may be imposed must appear in the table in the long form disclosure in close proximity to the fee amount disclosed pursuant to § 1005.18(b)(4)(ii). For example, a financial institution is deemed to comply with this requirement if the text describing the conditions is located directly to the right of the fee amount in the long form disclosure, as illustrated in Sample Form A–10(f). See comment 18(b)(6)(i)(B)–2 regarding stacking of electronic disclosures for display on smaller screen sizes.

2. *Category of function for finance charges.* Section 1005.18(b)(7)(i)(B) requires that the information required by § 1005.18(b)(4)(ii) must be generally grouped together and organized under subheadings by the categories of function for which a financial institution may impose the fee. If any finance charges may be imposed on the prepaid account as described in Regulation Z, 12 CFR 1026.4(b)(11)(ii), in connection with a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in 12 CFR 1026.61, the financial institution may, but is not required to, group all finance charges together under a single subheading. This includes situations where the financial institution imposes a higher fee or charge on the asset feature of a prepaid account with a covered separate credit feature accessible by a hybrid prepaid-credit card than the amount of a comparable fee or charge it imposes on any prepaid account in the same prepaid account program that does not have such a credit feature. For example, if a financial institution charges on the prepaid account a \$0.50 per transaction fee for each transaction that accesses funds in the asset feature of a prepaid account and a \$1.25 per transaction fee for each transaction where the hybrid prepaid-credit card accesses credit from the covered separate credit feature in the course of the transaction, the financial institution is permitted to disclose the \$0.50 per transaction fee under a general transactional subheading and disclose the additional \$0.75 per transaction fee under a separate subheading together with any other finance charges that may be imposed on the prepaid account.

18(b)(7)(ii) Prominence and Size

1. *Minimum type size.* Section 1005.18(b)(7)(ii) sets forth minimum ~~type~~point/pixel size requirements for each element of the disclosures required by § 1005.18(b)(2), (b)(3)(i) and (ii), and (b)(4). A financial institution may provide disclosures in a type size larger than the required minimum to enhance consumer comprehension in any acquisition scenario, as long as the

financial institution complies with the ~~type~~point/pixel size hierarchy set forth in § 1005.18(b)(7)(ii).

2. *“Point” refers to printed disclosures and “pixel” refers to electronic disclosures.* References in § 1005.18(b)(7)(ii) to “point” size correspond to printed disclosures and references to “pixel” size correspond to disclosures provided via electronic means.

18(b)(7)(ii)(A) General

1. *Contrast required between type color and background of disclosures.* Section § 1005.18(b)(7)(ii)(A) requires that all text used to disclose information in the short form or in the long form disclosure pursuant to § 1005.18(b)(2), (b)(3)(i) and (ii), and (b)(4) must be in a single, easy-to-read type that is all black or one color and printed on a background that provides a clear contrast. A financial institution complies with the color requirements if, for example, it provides the disclosures required by § 1005.18(b)(2), (b)(3)(i) and (ii), and (b)(4) printed in black type on a white background or white type on a black background. Also, pursuant to § 1005.18(b)(7)(ii)(A), the type and color may differ between the short form disclosure and the long form disclosure provided for a particular prepaid account program. For example, a financial institution may use one font/type style for the short form disclosure for a particular prepaid account program and use a different font/type style for the long form disclosure for that same prepaid account program. Similarly, a financial institution may use black type for the short form disclosure for a particular prepaid account program and use blue type for the long form disclosure for that same prepaid account program.

18(b)(7)(iii) Segregation

1. *Permitted information outside the short form and long form disclosures.* Section 1005.18(b)(7)(iii) requires that the short form and long form disclosures required by § 1005.18(b)(2) and (4) be segregated from other information and contain only information that is required or permitted for those disclosures by § 1005.18(b). This segregation requirement does not prohibit the financial institution from providing information elsewhere on the same page as the short form disclosure, such as the information required by § 1005.18(b)(5), additional disclosures required by state law for payroll card accounts, or any other information the financial institution wishes to provide about the prepaid account. Similarly, the segregation requirement does not prohibit a financial institution from providing the long form disclosure on the same page as other disclosures or information, or as part of a larger document, such as the prepaid account agreement. *See also* § 1005.18(b)(1) and (f)(1).

18(b)(8) Terminology of Pre-Acquisition Disclosures

1. *Consistent terminology.* Section 1005.18(b)(8) requires that fee names and other terms be used consistently within and across the disclosures required by § 1005.18(b). For example, a financial institution may not name the fee required to be disclosed by § 1005.18(b)(2)(vii) an “inactivity fee” in the short form disclosure and a “dormancy fee” in the long form disclosure. However, a financial institution may substitute the term prepaid “account” for the term prepaid “card,” as appropriate, wherever it is used in § 1005.18(b).

18(b)(9) Prepaid Accounts Acquired in Foreign Languages

1. *Prepaid accounts acquired in foreign languages.* Section 1005.18(b)(9)(i) requires a financial institution to provide the pre-acquisition disclosures required by § 1005.18(b)(2) ~~of this section~~ in a foreign language in certain circumstances.

i. *Examples of situations in which foreign language disclosures are required.* The following examples illustrate situations in which a financial institution must provide the pre-acquisition disclosures in a foreign language in connection with the acquisition of that prepaid account:

A. The financial institution principally uses a foreign language on the packaging material of a prepaid account sold in a retail location or distributed at a bank or credit union branch, even though a few words appear in English on the packaging.

B. The financial institution principally uses a foreign language in a television advertisement for a prepaid account. That advertisement includes a telephone number a consumer can call to acquire the prepaid account, whether by speaking to a customer service representative or interacting with an interactive voice response (IVR) system.

C. The financial institution principally uses a foreign language in an online advertisement for a prepaid account. That advertisement includes a ~~Web site~~website URL through which a consumer can acquire the prepaid account.

D. The financial institution principally uses a foreign language on a printed advertisement for a prepaid account. That advertisement includes a telephone number or a ~~Web site~~website URL a consumer can call or visit to acquire the prepaid account. The pre-acquisition disclosures must be provided to the consumer in that same foreign language prior to the consumer acquiring the prepaid account.

E. The financial institution does not principally use a foreign language on prepaid account packaging material nor does it principally use a foreign language to advertise, solicit, or market a prepaid account. A consumer calls the financial institution and has the option to proceed with the prepaid account acquisition process in a foreign language, whether by speaking to a customer service representative or interacting with an IVR system. (But see § 1005.18(b)(9)(i)(C), which limits the obligation to provide foreign language disclosures for payroll card accounts and government benefit accounts acquired orally by telephone in certain circumstances.)

F. The financial institution does not principally use a foreign language on prepaid account packaging material nor does it principally use a foreign language to advertise, solicit, or market a prepaid account. A consumer visits the financial institution's ~~Web site~~website. On that ~~Web site~~website, the consumer has the option to proceed with the prepaid account acquisition process in a foreign language.

ii. *Examples of situations in which foreign language disclosures are not required.* The following examples illustrate situations in which a financial institution is not required to provide the pre-acquisition disclosures in a foreign language:

A. A consumer visits the financial institution's branch location in person and speaks to an employee in a foreign language about acquiring a prepaid account. The consumer proceeds with the acquisition process in that foreign language.

B. The financial institution does not principally use a foreign language on prepaid account packaging material nor does it principally use a foreign language to advertise, solicit, or market a prepaid account. A consumer calls the financial institution's customer service line and speaks to a customer service representative in a foreign language. However, if the customer service representative proceeds with the prepaid account acquisition process over the telephone, the financial institution would be required to provide the pre-acquisition disclosures in that foreign language. (But see § 1005.18(b)(9)(i)(C), which limits the obligation to provide foreign language disclosures for payroll card accounts and government benefit accounts acquired orally by telephone in certain circumstances.)

C. The financial institution principally uses a foreign language in an advertisement for a prepaid account. That advertisement includes a telephone number a consumer can call to acquire the prepaid account. The consumer calls the telephone number provided on the advertisement and has the option to proceed with the prepaid account acquisition process in English or in a foreign language. The consumer chooses to proceed with the acquisition process in English.

D. A consumer calls a government agency to enroll in a government benefits program. The government agency does not offer through its telephone system an option for consumers to proceed in a foreign language. An employee of the government agency assists the consumer with the enrollment process, including helping the consumer acquire a government benefits account. The employee also happens to speak the foreign language in which the consumer is most comfortable communicating, and chooses to communicate with the consumer in that language to facilitate the enrollment process. In this case, the employee offered language interpretation assistance on an informal or ad hoc basis to accommodate the prospective government benefits account holder.

2. *Principally used.* All relevant facts and circumstances determine whether a foreign language is principally used by the financial institution to advertise, solicit, or market under § 1005.18(b)(9). Whether a foreign language is principally used is determined at the packaging material, advertisement, solicitation, or marketing communication level, not at the prepaid account program level or across the financial institution's activities as a whole. A financial institution that advertises a prepaid account program in multiple languages would evaluate its use of foreign language in each advertisement to determine whether it has principally used a foreign language therein.

3. *Advertise, solicit, or market a prepaid account.* Any commercial message, appearing in any medium, that promotes directly or indirectly the availability of prepaid accounts constitutes advertising, soliciting, or marketing for purposes of § 1005.18(b)(9). Examples illustrating advertising, soliciting, or marketing include, but are not limited to:

- i. Messages in a leaflet, promotional flyer, newspaper, or magazine.

- ii. Electronic messages, such as on a ~~Web-site~~website or mobile application.
- iii. Telephone solicitations.
- iv. Solicitations sent to the consumer by mail or email.
- v. Television or radio commercials.

4. *Information in the long form disclosure in English.* Section 1005.18(b)(9)(ii) states that a financial institution required to provide pre-acquisition disclosures in a foreign language pursuant to § 1005.18(b)(9)(i) must also provide the information required to be disclosed in its pre-acquisition long form disclosure pursuant to § 1005.18(b)(4) in English upon a consumer's request and on any part of the ~~Web-site~~website where it discloses this information in a foreign language. A financial institution may, but is not required to, provide the English version of the information required by § 1005.18(b)(4) in accordance with the formatting, grouping, size and other requirements set forth in § 1005.18(b) for the long form disclosure.

18(c) Access to Prepaid Account Information

1. *Posted transactions.* The electronic and written history of the consumer's account transactions provided under § 1005.18(c)(1)(ii) and (iii), respectively, shall reflect transfers once they have been posted to the account. Thus, a financial institution does not need to include transactions that have been authorized but that have not yet posted to the account.

2. *Electronic history.* The electronic history required under § 1005.18(c)(1)(ii) must be made available in a form that the consumer may keep, as required under § 1005.4(a)(1). Financial institutions may satisfy this requirement if they make the electronic history available in a format that is capable of being retained. For example, a financial institution satisfies the requirement if it provides electronic history on a ~~Web-site~~website in a format that is capable of being printed or stored electronically using a web browser.

3. *Written history.* Requests that exceed the requirements of § 1005.18(c)(1)(iii) for providing written account transaction history, and which therefore a financial institution may charge a fee, include the following:

- i. A financial institution may assess a fee or charge to a consumer for responding to subsequent requests for written account transaction history made in a single calendar month. For example, if a consumer requests written account transaction history on June 1 and makes another request on August 5, the financial institution may not assess a fee or charge to the consumer for responding to either request. However, if the consumer requests written account transaction history on June 1 and then makes another request on June 15, the financial institution may assess a fee or charge to the consumer for responding to the request made on June 15, as this is the second response in the same month.

- ii. If a financial institution maintains more than 24 months of written account transaction history, it may assess a fee or charge to the consumer for providing a written history for transactions occurring more than 24 months preceding the date the financial institution

receives the consumer's request, provided the consumer specifically requests the written account transaction history for that time period.

iii. If a financial institution offers a consumer the ability to request automatic mailings of written account transaction history on a monthly or other periodic basis, it may assess a fee or charge for such automatic mailings but not for the written account transaction history requested pursuant to § 1005.18(c)(1)(iii). *See comment 18(c)–6.*

4. *12 months of electronic account transaction history.* Section 1005.18(c)(1)(ii) requires a financial institution to make available at least 12 months of account transaction history electronically. If a prepaid account has been opened for fewer than 12 months, the financial institution need only provide electronic account transaction history pursuant to § 1005.18(c)(1)(ii) since the time of account opening. If a prepaid account is closed or becomes inactive, as defined by the financial institution, the financial institution need not make available electronic account transaction history. *See comment 9(b)–3.* If an inactive account becomes active, the financial institution must again make available 12 months of electronic account transaction history.

5. *24 months of written account transaction history.* Section 1005.18(c)(1)(iii) requires a financial institution to provide at least 24 months of account transaction history in writing upon the consumer's request. A financial institution may provide fewer than 24 months of written account transaction history if the consumer requests a shorter period of time. If a prepaid account has been opened for fewer than 24 months, the financial institution need only provide written account transaction history pursuant to § 1005.18(c)(1)(iii) since the time of account opening. Even if a prepaid account is closed or becomes inactive, the financial institution must continue to provide upon request at least 24 months of written account transaction history preceding the date the request is received. When a prepaid account has been closed or inactive for 24 months or longer, the financial institution is no longer required to ~~make available~~provide any written account transaction history pursuant to § 1005.18(c)(1)(iii).

6. *Periodic statement alternative for unverified prepaid accounts.* For prepaid accounts that are not payroll card accounts or government benefit accounts, a financial institution is not required to provide a written history of the consumer's account transactions for any prepaid account for which the financial institution has not completed its consumer identification and verification process as described in § 1005.18(e)(3)(i)(A) through (C). If a prepaid account is verified, a financial institution must provide written account transaction history upon the consumer's request that includes the period during which the account was not verified, provided that the period is within the 24-month time frame specified in § 1005.18(c)(1)(iii).

7. *Inclusion of all fees charged.* A financial institution that furnishes a periodic statement pursuant to § 1005.9(b) for a prepaid account must disclose the amount of any fees assessed against the account, whether for electronic fund transfers or otherwise, on the periodic statement as well as on any electronic or written account transaction history the financial institution makes available or provides to the consumer. For example, if a financial institution sends periodic statements and also makes available the consumer's electronic account transaction history on its ~~Web site~~website, the financial institution must disclose the amount of any fees assessed against the account, whether for electronic fund transfers or otherwise, on the periodic statement and on

the consumer's electronic account transaction history made available on its ~~Web-site~~website. Likewise, a financial institution that follows the periodic statement alternative in § 1005.18(c)(1) must disclose the amount of any fees assessed against the account, whether for electronic fund transfers or otherwise, on the electronic history of the consumer's account transactions made available pursuant to § 1005.18(c)(1)(ii) and any written history of the consumer's account transactions provided pursuant to § 1005.18(c)(1)(iii).

8. *Summary totals of fees.* Section 1005.18(c)(5) requires a financial institution to disclose a summary total of the amount of all fees assessed by the financial institution against a prepaid account for the prior calendar month and for the calendar year to date.

i. *Generally.* A financial institution that furnishes a periodic statement pursuant to § 1005.9(b) for a prepaid account must display the monthly and annual fee totals on the periodic statement as well as on any electronic or written account transaction history the financial institution makes available or provides to the consumer. For example, if a financial institution sends periodic statements and also makes available the consumer's electronic account transaction history on its ~~Web-site~~website, the financial institution must display the monthly and annual fee totals on the periodic statement and on the consumer's electronic account transaction history made available on its ~~Web-site~~website. Likewise, a financial institution that follows the periodic statement alternative in § 1005.18(c)(1) must display the monthly and annual fee totals on the electronic history of the consumer's account transactions made available pursuant to § 1005.18(c)(1)(ii) and any written history of the consumer's account transactions provided pursuant to § 1005.18(c)(1)(iii). If a financial institution provides periodic statements pursuant to § 1005.9(b), fee totals may be disclosed for each statement period rather than each calendar month, if different. The summary totals of fees should be net of any fee reversals.

ii. *Third-party fees.* A financial institution may, but is not required to, include third-party fees in its summary totals of fees provided pursuant to § 1005.18(c)(5). For example, a financial institution must include in the summary totals of fees the fee it charges a consumer for using an out-of-network ATM, but it need not include any fee charged by an ATM operator, with whom the financial institution has no relationship, for the consumer's use of that operator's ATM. Similarly, a financial institution need not include in the summary totals of fees the fee charged by a third-party reload network for the service of adding cash to a prepaid account at a point-of-sale terminal. A financial institution may, but is not required to, inform consumers of third-party fees such as by providing a disclaimer to indicate that the summary totals do not include certain third-party fees or to explain when third-party fees may occur or through some other method.

9. *Display of summary totals of fees.* A financial institution may, but is not required to, also include sub-totals of the types of fees that make up the summary totals of fees as required by § 1005.18(c)(5). For example, if a financial institution distinguishes optional fees (e.g., custom card design fees) from fees to use the account, in displaying the summary totals of fees, the financial institution may include sub-totals of those fees, provided the financial institution also presents the combined totals of all fees.

18(e) Modified Limitations on Liability and Error Resolution Requirements

1. *Error resolution safe harbor provision.* Institutions that choose to investigate notices of error provided up to 120 days from the date a transaction has posted to a consumer's account may still disclose the error resolution time period required by the regulation (as set forth in the model clause in paragraph (b) of appendix A–7 of this part). Specifically, an institution may disclose to prepaid account holders that the institution will investigate any notice of error provided within 60 days of the consumer electronically accessing an account or receiving a written history upon request that reflects the error, even if, for some or all transactions, the institution investigates any notice of error provided up to 120 days from the date that the transaction alleged to be in error has posted to the consumer's account. Similarly, an institution's summary of the consumer's liability (as required under § 1005.7(b)(1)) may disclose that liability is based on the consumer providing notice of error within 60 days of the consumer electronically accessing an account or receiving a written history reflecting the error, even if, for some or all transactions, the institution allows a consumer to assert a notice of error up to 120 days from the date of posting of the alleged error.

2. *Electronic access.* A consumer is deemed to have accessed a prepaid account electronically when the consumer enters a user identification code or password or otherwise complies with a security procedure used by an institution to verify the consumer's identity and to provide access to a ~~Web site~~website or mobile application through which account information can be viewed. An institution is not required to determine whether a consumer has in fact accessed information about specific transactions to trigger the beginning of the 60-day periods for liability limits and error resolution under §§ 1005.6 and 1005.11. A consumer is not deemed to have accessed a prepaid account electronically when the consumer receives an automated text message or other automated account alert, or checks the account balance by telephone.

3. *Untimely notice of error.* An institution that provides a transaction history under § 1005.18(c)(1) is not required to comply with the requirements of § 1005.11 for any notice of error from the consumer received more than 60 days after the earlier of the date the consumer electronically accesses the account transaction history or the date the financial institution sends a written account transaction history upon the consumer's request. (Alternatively, as provided in § 1005.18(e)(2)(ii), an institution need not comply with the requirements of § 1005.11 with respect to any notice of error received from the consumer more than 120 days after the date of posting of the transfer allegedly in error.) Where the consumer's assertion of error involves an unauthorized EFT, however, the institution must comply with § 1005.6 (including the extension of time limits in § 1005.6(b)(4)) before it may impose any liability on the consumer.

4. *Verification of accounts.* Section 1005.18(e)(3)(i) provides that for prepaid accounts that are not payroll card accounts or government benefit accounts, a financial institution ~~need not extend provisional credit~~is not required to comply with the liability limits and error resolution requirements in §§ 1005.6 and 1005.11 for any prepaid account for which it has not successfully completed its ~~collection of~~ consumer identification and verification process. Consumer identifying information may include the consumer's full name, address, date of birth, and Social Security number or other government-issued identification number. Section 1005.18(e)(3)(iii) provides that once a financial institution successfully completes its consumer identification and verification process with respect to a prepaid account, the financial institution must limit the

consumer's liability for unauthorized transfers and resolve errors that occur following verification in accordance with § 1005.6 or § 1005.11, or the modified timing requirements in § 1005.18(e), as applicable. A financial institution is not required to limit a consumer's liability for unauthorized transfers or resolve errors that occur prior to the financial institution's successful completion of its consumer identification and verification process with respect to a prepaid account.

5. *Financial institution has not successfully completed verification.* Section 1005.18(e)(3)(ii)(A) states that, provided it discloses to the consumer the risks of not registering and verifying a prepaid account, a financial institution has not successfully completed its consumer identification and verification process where it has not concluded the process with respect to a particular ~~consumer~~prepaid account. For example, a financial institution initiates ~~the its consumer~~ identification and verification process by collecting identifying information about a consumer, and ~~informing the consumer of the nature of the outstanding information, but despite efforts to obtain additional information from the consumer, the attempts to verify the~~ consumer's identity. The financial institution is unable to conclude the process because of conflicting information about the consumer's current address. The financial institution informs the consumer about the nature of the information at issue and requests additional documentation, but the consumer does not provide the requested documentation. As long as the information needed to complete the verification process remains outstanding, the financial institution has not concluded its consumer identification and verification process with respect to that consumer. A financial institution may not delay completing its ~~customer~~consumer identification and verification process or refuse to verify a consumer's identity based on the consumer's assertion of an error.

6. *Account verification prior to acquisition.* A financial institution that collects and verifies consumer identifying information, or that obtains such information after it has been collected and verified by a third party, prior to or as part of the account acquisition process, is deemed to have successfully completed its consumer identification and verification process with respect to that account. For example, a university contracts with a financial institution to disburse financial aid to students via the financial institution's prepaid accounts. To facilitate the accurate disbursement of aid awards, the university provides the financial institution with identifying information about the university's students, whose identities the university had previously verified. The financial institution is deemed to have successfully completed its consumer identification and verification process with respect to those accounts.

18(f) Disclosure of Fees and Other Information

1. *Initial disclosure of fees and other information.* Section 1005.18(f)(1) requires a financial institution to include, as part of the initial disclosures given pursuant to § 1005.7, all of the information required to be disclosed in its pre-acquisition long form disclosure pursuant to § 1005.18(b)(4). Section 1005.18(b)(4)(ii) requires a financial institution to disclose in its pre-acquisition long form disclosure all fees imposed in connection with a prepaid account. Section 1005.18(b)(4) also contains several specific statements that must be provided as part of the long form disclosure. A financial institution may, but is not required to, disclose the information required by § 1005.18(b)(4) in accordance with the formatting, grouping, size and other requirements set forth in § 1005.18(b) for the long form disclosure as part of its initial

disclosures provided pursuant to § 1005.7; a financial institution may choose to do so, however, in order to satisfy other requirements in § 1005.18. See, *e.g.*, § 1005.18(b)(1)(ii) regarding the retail location exception.

2. *Changes to the Regulation Z disclosures for overdraft credit features.* Pursuant to § 1005.18(f)(2), if a financial institution provides pursuant § 1005.18(f)(1) the Regulation Z disclosures required by § 1005.18(b)(4)(vii) for an overdraft credit feature, the financial institution is not required to provide a change-in-terms notice solely to reflect a change in the fees or other terms disclosed therein. This exception does not extend to any finance charges imposed on the prepaid account as described in Regulation Z, 12 CFR 1026.4(b)(11)(ii), in connection with a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in 12 CFR 1026.61 that are required to be disclosed pursuant to § 1005.18(b)(4)(ii). See comment 18(b)(4)(ii)–1.

3. *Web site and telephone number on a prepaid account access device.* Section 1005.18(f)(3) requires that the name of a financial institution and the Web site URL and a telephone number that a consumer can use to contact the financial institution about the prepaid account must be disclosed on the prepaid account access device. A disclosure made on an accompanying document, such as a terms and conditions document, on packaging material surrounding an access device, or on a sticker or other label affixed to an access device does not constitute a disclosure on the access device. The financial institution must provide this information to allow consumers to, for example, contact the financial institution to learn about the terms and conditions of the prepaid account, obtain prepaid account balance information, request a copy of transaction history pursuant to § 1005.18(c)(1)(iii) if the financial institution does not provide periodic statements pursuant to § 1005.9(b), or to notify the financial institution when the consumer believes that an unauthorized electronic fund transfer has occurred as required by §§ 1005.7(b)(2) and 1005.18(d)(1)(ii).

18(g) Prepaid Accounts Accessible by Hybrid Prepaid-Credit Cards

1. *Covered separate credit feature accessible by a hybrid prepaid-credit card.* Regulation Z, 12 CFR 1026.61, defines the term covered separate credit feature accessible by a hybrid prepaid-credit card.

2. *Asset feature.* i. Regulation Z, 12 CFR 1026.61(a)(5)(ii), defines the term asset feature.

ii. Section 1005.18(g) applies to account terms, conditions, and features that apply to the asset feature of the prepaid account. Section 1005.18(g) does not apply to the account terms, conditions, or features that apply to the covered separate credit feature, regardless of whether it is structured as a separate credit account or as a credit subaccount of the prepaid account that is separate from the asset feature of the prepaid account.

3. *Scope of § 1005.18(g).* Under § 1005.18(g), a financial institution may offer different terms on different prepaid account programs. For example, the terms may differ between a prepaid account program where a covered separate credit feature accessible by a hybrid prepaid-credit card is not offered in connection with any prepaid accounts within the prepaid account program, and a prepaid account program where a covered separate credit feature accessible by a

hybrid prepaid-credit card may be offered to some consumers in connection with their prepaid accounts.

4. *Variation in account terms, conditions, or features.* i. Account terms, conditions, and features subject to § 1005.18(g) include, but are not limited to:

A. Interest paid on funds deposited into the asset feature of the prepaid account, if any;

B. Fees or charges imposed on the asset feature of the prepaid account. See comment 18(g)–5 for additional guidance on how § 1005.18(g) applies to fees or charges imposed on the asset feature of the prepaid account.

C. The type of access device provided to the consumer. For instance, an institution may not provide a PIN-only card on prepaid accounts without a covered separate credit feature that is accessible by a hybrid prepaid-credit card, while providing a prepaid card with both PIN and signature-debit functionality for prepaid accounts in the same prepaid account program with such a credit feature;

D. Minimum balance requirements on the asset feature of the prepaid account; or

E. Account features offered in connection with the asset feature of the prepaid account, such as online bill payment services.

5. *Fees.* i. With respect to a prepaid account program where consumers may be offered a covered separate credit feature accessible by a hybrid prepaid-credit card as defined by Regulation Z, 12 CFR 1026.61, § 1005.18(g) only permits a financial institution to charge the same or higher fees on the asset feature of a prepaid account with a covered separate credit feature than the amount of a comparable fee it charges on prepaid accounts in the same prepaid account program that do not have a such a credit feature. Section 1005.18(g) prohibits a financial institution from imposing a lower fee or charge on prepaid accounts with a covered separate credit feature than the amount of a comparable fee or charge it charges on prepaid accounts in the same prepaid account program without such a credit feature. With regard to a covered separate credit feature and an asset feature of a prepaid account that are both accessible by a hybrid prepaid-credit card as defined in Regulation Z, 12 CFR 1026.61, a fee or charge imposed on the asset feature of the prepaid account generally is a finance charge under Regulation Z (12 CFR part 1026) to the extent that the amount of the fee or charge exceeds the amount of a comparable fee or charge imposed on prepaid accounts in the same prepaid account program that do not have such a credit feature. See Regulation Z, 12 CFR 1026.4(b)(11)(ii). With regard to a covered separate credit feature and an asset feature of a prepaid account that are both accessible by a hybrid prepaid-credit card as defined in Regulation Z, 12 CFR 1026.61, this comment below provides illustrations of how § 1005.18(g) applies to fees or charges imposed on the asset feature of a prepaid account. The term “non-covered separate credit feature” refers to a separate credit feature that is not accessible by a hybrid prepaid-credit card as defined in Regulation Z, 12 CFR 1026.61.

ii. The following examples illustrate how § 1005.18(g) applies to per transaction fees for each transaction to access funds available in the asset feature of the prepaid account.

A. Assume that a consumer has selected a prepaid account program where a covered separate credit feature accessible by a hybrid prepaid-credit card may be offered. For prepaid accounts without such a credit feature, the financial institution charges \$0.50 for each transaction conducted that accesses funds available in the prepaid account. For prepaid accounts with a credit feature, the financial institution also charges \$0.50 on the asset feature for each transaction conducted that accesses funds available in the asset feature of the prepaid account. In this case, for purposes of § 1005.18(g), the financial institution is imposing the same fee for each transaction that accesses funds in the asset feature of the prepaid account, regardless of whether the prepaid account has a covered separate credit feature accessible by a hybrid prepaid-credit card. Also, with regard to a covered separate credit feature and an asset feature of a prepaid account that are both accessible by a hybrid prepaid-credit card as those terms are defined in Regulation Z, 12 CFR 1026.61, the \$0.50 per transaction fee imposed on the asset feature for each transaction that accesses funds available in the asset feature of the prepaid account is not a finance charge under 12 CFR 1026.4(b)(11)(ii). See Regulation Z, 12 CFR 1026.4(b)(11)(ii) and comment 4(b)(11)(ii)–1, for a discussion of the definition of finance charge with respect to fees or charges imposed on the asset feature of a prepaid account with regard to a covered separate credit feature and an asset feature of a prepaid account that are both accessible by a hybrid prepaid-credit card as defined in 12 CFR 1026.61.

B. Same facts as in paragraph A, except that for prepaid accounts with a covered separate credit feature, the financial institution imposes a \$1.25 fee for each transaction conducted that accesses funds available in the asset feature of the prepaid account. In this case, the financial institution is permitted to charge a higher fee under § 1005.18(g)(2) on prepaid accounts with a covered separate credit feature than it charges on prepaid accounts without such a credit feature. The \$0.75 excess is a finance charge under Regulation Z, 12 CFR 1026.4(b)(11)(ii).

C. Same facts as in paragraph A, except that for prepaid accounts with a covered separate credit feature, the financial institution imposes a \$0.25 fee for each transaction conducted that accesses funds available in the asset feature of the prepaid account. In this case, the financial institution is in violation of § 1005.18(g) because it is imposing a lower fee on the asset feature of a prepaid account with a covered separate credit feature than it imposes on prepaid accounts in the same program without such a credit feature.

iii. Where the hybrid prepaid-credit card accesses credit from a covered separate credit feature in the course of authorizing, settling, or otherwise completing a transaction conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers, any per transaction fees imposed on the asset feature of prepaid accounts, including load and transfer fees, with such a credit feature are comparable only to per transaction fees for each transaction to access funds in the asset feature of a prepaid account that are imposed on prepaid accounts in the same prepaid account program that does not have such a credit feature. Per transaction fees for a transaction that is conducted to load or draw funds into a prepaid account from a source other than the funds in the asset feature are not comparable for purposes of § 1005.18(g). To illustrate:

A. Assume a financial institution charges \$0.50 on prepaid accounts for each transaction that accesses funds in the asset feature of the prepaid accounts without a covered

separate credit feature. Also, assume that the financial institution charges \$0.50 per transaction on the asset feature of prepaid accounts in the same prepaid program where the hybrid prepaid-credit card accesses credit from a covered separate credit feature in the course of a transaction. In this case, for purposes of § 1005.18(g), the financial institution is imposing the same fee for each transaction it pays, regardless of whether the transaction accesses funds available in the asset feature of the prepaid accounts without a covered separate credit feature, or is paid from credit from a covered separate credit feature in the course of authorizing, settling, or otherwise completing a transaction conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers. Also, for purposes of Regulation Z, 12 CFR 1026.4(b)(11)(ii), the \$0.50 per transaction fee imposed on the asset feature of the prepaid account with a covered separate credit feature is not a finance charge.

B. Assume same facts as in paragraph A above, except that assume the financial institution charges \$1.25 on the asset feature of a prepaid account for each transaction where the hybrid prepaid-credit card accesses credit from the covered separate credit feature in the course of the transaction. The financial institution is permitted to charge the higher fee under § 1005.18(g) for transactions that access the covered separate credit feature in the course of the transaction than the amount of the comparable fee it charges for each transaction that accesses funds available in the asset feature of the prepaid accounts without such a credit feature. The \$0.75 excess is a finance charge under Regulation Z, 12 CFR 1026.4(b)(11)(ii).

C. Same facts as in paragraph A, except that the financial institution imposes \$0.25 on the asset feature of the prepaid account for each transaction conducted where the hybrid prepaid-credit card accesses credit from the covered separate credit feature in the course of the transaction. In this case, the financial institution is in violation of § 1005.18(g) because it is imposing a lower fee on the asset feature of a prepaid account with a covered separate credit feature than the amount of the comparable fee it imposes on prepaid accounts in the same program without such a credit feature.

D. Assume a financial institution charges \$0.50 on prepaid accounts for each transaction that accesses funds in the asset feature of the prepaid accounts without a covered separate credit feature. Assume also that the financial institution charges both a \$0.50 per transaction fee and a \$1.25 transfer fee on the asset feature of prepaid accounts in the same prepaid program where the hybrid prepaid-credit card accesses credit from a covered separate credit feature in the course of a transaction. In this case, both fees charged on a per-transaction basis for the credit transaction (*i.e.*, a combined fee of \$1.75 per transaction) must be compared to the \$0.50 per transaction fee to access funds in the asset feature of the prepaid account without a covered separate credit feature. The financial institution is permitted to charge a higher fee under § 1005.18(g) for transactions that access the covered separate credit feature in the course of the transaction than the amount of the comparable fee it charges for each transaction that accesses funds available in the asset feature of the prepaid accounts without such a credit feature. The \$1.25 excess is a finance charge under Regulation Z, 12 CFR 1026.4(b)(11)(ii).

E. Assume same facts as in paragraph D above, except that assume the financial institution also charges a load fee of \$1.25 whenever funds are transferred or loaded from a separate asset account, such as from a deposit account via a debit card, in the course of a transaction on prepaid accounts without a covered separate credit feature, in addition to charging

a \$0.50 per transaction fee. In this case, both fees charged on a per-transaction basis for the credit transaction (*i.e.*, a combined fee of \$1.75 per transaction) must be compared to the per transaction fee (*i.e.*, the fee of \$0.50) to access funds available in the asset feature of the prepaid accounts on a prepaid account without a covered separate credit feature. Per transaction fees for a transaction that is conducted by drawing funds into a prepaid account from some other source (*i.e.*, the fee of \$1.25) are not comparable for purposes of § 1005.18(g). The financial institution is permitted to charge a higher fee under § 1005.18(g) for transactions that access the covered separate credit feature in the course of the transaction than the amount of the comparable fee it charges for each transaction to access funds available in the asset feature of the prepaid accounts without such a credit feature. The \$1.25 excess is a finance charge under Regulation Z, 12 CFR 1026.4(b)(11)(ii).

iv. A consumer may choose in a particular circumstance to draw or transfer credit from the covered separate credit feature outside the course of a transaction conducted with the card to obtain goods or service, obtain cash, or conduct person-to-person transfers. For example, a consumer may use the prepaid card at the financial institution's Web site to load funds from the covered separate credit feature outside the course of a transaction conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers. *See* Regulation Z, 12 CFR 1026.61(a)(2)(i)(B) and comment 61(a)(2)–4.ii. In these situations, load or transfer fees imposed for draws or transfers of credit from the covered separate credit feature outside the course of a transaction are compared only with fees, if any, to load funds as a direct deposit of salary from an employer or a direct deposit of government benefits that are charged on prepaid accounts without a covered separate credit feature. Fees imposed on prepaid accounts without a covered separate credit feature for a one-time load or transfer of funds from a separate asset account or from a non-covered separate credit feature are not comparable for purposes of § 1005.18(g). To illustrate:

A. Assume a financial institution charges a \$1.25 load fee to transfer funds from a non-covered separate credit feature, such as a non-covered separate credit card account, into prepaid accounts that do not have a covered separate credit feature and does not charge a fee for a direct deposit of salary from an employer or a direct deposit of government benefits on those prepaid accounts. Assume the financial institution charges \$1.25 on the asset feature of a prepaid account with a covered separate credit feature to load funds from the covered separate credit feature outside the course of a transaction. In this case, the load or transfer fees imposed for draws or transfers of credit from the covered separate credit feature outside the course of a transaction (*i.e.*, the fee of \$1.25) is compared with the fees to load funds as a direct deposit of salary from an employer or a direct deposit of government benefits that are charged on prepaid accounts without a covered separate credit feature (*i.e.*, the fee of \$0). Fees imposed on prepaid accounts without a covered separate credit feature for a one-time load or transfer of funds from a separate asset account (*i.e.*, the fee of \$1.25) is not comparable for purposes of § 1005.18(g). In this case, the financial institution is permitted to charge a higher fee under § 1005.18(g) for transactions that access the covered separate credit feature on prepaid accounts with a credit feature than the amount of the comparable fee it charges on prepaid accounts in the same program without such a credit feature. The \$1.25 fee imposed on the asset feature of the prepaid account with a separate credit feature is a finance charge under Regulation Z, 12 CFR 1026.4(b)(11)(ii).

B. Assume that a financial institution charges a \$1.25 load fee for a one-time transfer of funds from a separate asset account, such as from a deposit account via a debit card, to a prepaid account without a covered separate credit feature and does not charge a fee for a direct deposit of salary from an employer or a direct deposit of government benefits on those prepaid accounts. Assume the financial institution charges \$1.25 on the asset feature of a prepaid account with a covered separate credit feature to load funds from the covered separate credit feature outside the course of a transaction. In this case, the load or transfer fees imposed for draws or transfers of credit from the covered separate credit feature outside the course of a transaction (*i.e.*, the fee of \$1.25) is compared with the fees to load funds as a direct deposit of salary from an employer or a direct deposit of government benefits that are charged on prepaid accounts without a covered separate credit feature (*i.e.*, the fee of \$0). Fees imposed on prepaid accounts without a covered separate credit feature for a one-time load or transfer of funds from a separate asset account (*i.e.*, the fee of \$1.25) is not comparable for purposes of § 1005.18(g). In this case, the financial institution is permitted to charge a higher fee under § 1005.18(g) for transactions that access the covered separate credit feature on prepaid accounts with a credit feature than the amount of the comparable fee it charges on prepaid accounts in the same program without such a credit feature. The \$1.25 fee imposed on the asset feature of the prepaid account with a covered separate credit feature is a finance charge under Regulation Z, 12 CFR 1026.4(b)(11)(ii).

18(h) Effective Date and Special Transition Rules for Disclosure Provisions

1. *Disclosures not on prepaid account access devices and prepaid account packaging materials.* Section 1005.18(h)(1) provides that, except as provided in § 1005.18(h)(2) and (3), the disclosure requirements of subpart A, as modified by § 1005.18, apply to prepaid accounts as defined in § 1005.2(b)(3), including government benefit accounts subject to § 1005.15, beginning April 1, ~~2018~~2019. This effective date applies to disclosures made available or provided to consumers electronically, orally by telephone, or in a form other than on pre-printed materials, such as disclosures printed on paper by a financial institution upon a consumer's request.

2. *Disclosures on prepaid account access devices and prepaid account packaging materials.* Section 1005.18(h)(2)(i) provides that the disclosure requirements of subpart A, as modified by § 1005.18, do not apply to any disclosures that are provided, or that would otherwise be required to be provided, on prepaid account access devices, or on, in, or with prepaid account packaging materials that were manufactured, printed, or otherwise produced in the normal course of business prior to April 1, ~~2018~~2019. This includes, for example, disclosures contained on or in packages for prepaid accounts sold at retail, or disclosures for payroll card accounts or government benefit accounts that are distributed to employees or benefits recipients in packages or envelopes. Disclosures ~~and on, in, or with~~ access devices or packaging materials that are manufactured, printed, or otherwise produced on or after April 1, ~~2018~~2019 must comply with all the requirements of subpart A.

3. *Form of notice to consumers.* A financial institution that is required to notify consumers of a change in terms and conditions pursuant to § 1005.18(h)(2)(ii) or (iii), or that otherwise provides updated initial disclosures as a result of § 1005.18(h)(1) taking effect, may provide the notice or disclosures either as a separate document or included in another notice or

mailing that the consumer receives regarding the prepaid account to the extent permitted by other laws and regulations.

4. *Ability to contact the consumer.* A financial institution that has not obtained the consumer's contact information is not required to comply with the requirements set forth in § 1005.18(h)(2)(ii) or (iii). A financial institution is able to contact the consumer when, for example, it has the consumer's mailing address or email address.

5. *Closed and inactive prepaid accounts.* The requirements of § 1005.18(h)(2)(iii) do not apply to prepaid accounts that are closed or inactive, as defined by the financial institution. However, if an inactive account becomes active, the financial institution must comply with the ~~applicable portions of these provisions~~ requirements of § 1005.18(h)(2)(ii) within 30 days of the account becoming active again in order to avail itself of the timing requirements and accommodations set forth in § 1005.18(h)(2)(iii) and (iv).

6. *Account information not available on April 1, 20182019.* i. *Electronic and written account transaction history.* A financial institution following the periodic statement alternative in § 1005.18(c) must make available 12 months of electronic account transaction history pursuant to § 1005.18(c)(1)(ii) and must provide 24 months of written account transaction history upon request pursuant to § 1005.18(c)(1)(iii) beginning April 1, 20182019. If, on April 1, 20182019, the financial institution does not have readily accessible the data necessary to make available or provide the account histories for the required time periods, the financial institution may make available or provide such histories using the data for the time period it has until the financial institution has accumulated the data necessary to comply in full with the requirements set forth in § 1005.18(c)(1)(ii) and (iii). For example, a financial institution that had been retaining only 60 days of account history before April 1, 20182019 would provide 60 days of written account transaction history upon a consumer's request on April 1, 20182019. If, on May 1, 20182019, the consumer made another request for written account transaction history, the financial institution would be required to provide three months of account history. The financial institution must continue to provide as much account history as it has accumulated at the time of a consumer's request until it has accumulated 24 months of account history. Thus, all financial institutions must fully comply with the electronic account transaction history requirement set forth in § 1005.18(c)(1)(ii) no later than April 1, 20192020 and must fully comply with the written account transaction history requirement set forth in § 1005.18(c)(1)(iii) no later than April 1, 20202021.

ii. *Summary totals of fees.* A financial institution must display a summary total of the amount of all fees assessed by the financial institution on the consumer's prepaid account for the prior calendar month and for the calendar year to date pursuant to § 1005.18(c)(5) beginning April 1, 20182019. If, on April 1, 20182019, the financial institution does not have readily accessible the data necessary to calculate the summary totals of fees for the prior calendar month or the calendar year to date, the financial institution may provide the summary totals using the data it has until the financial institution has accumulated the data necessary to display the summary totals as required by § 1005.18(c)(5). That is, the financial institution would first display the monthly fee total beginning on May 1, 20182019 for the month of April, and the year-to-date fee total beginning on April 1, 20182019, provided the financial institution discloses that it is displaying the year-to-date total beginning on April 1, 2018-2019 rather than for the

entire calendar year ~~2018~~2019. On January 1, ~~2019~~2020, financial institutions must begin displaying year-to-date fee totals for calendar year ~~2019~~2020.

Section 1005.19—Internet Posting of Prepaid Account Agreements

19(a) Definitions

19(a)(1) Agreement

1. *Provisions contained in separate documents included.* Section 1005.19(a)(1) defines a prepaid account agreement, for purposes of § 1005.19, as the written document or documents evidencing the terms of the legal obligation, or the prospective legal obligation, between a prepaid account issuer and a consumer for a prepaid account. An agreement may consist of several documents that, taken together, define the legal obligation between the issuer and consumer.

19(a)(2) Amends

1. *Substantive changes.* A change to an agreement is substantive, and therefore is deemed an amendment of the agreement, if it alters the rights or obligations of the parties. Section 1005.19(a)(2) provides that any change in the fee information, as defined in § 1005.19(a)(3), is deemed to be substantive. Examples of other changes that generally would be considered substantive include:

i. Addition or deletion of a provision giving the issuer or consumer a right under the agreement, such as a clause that allows an issuer to unilaterally change the terms of an agreement.

ii. Addition or deletion of a provision giving the issuer or consumer an obligation under the agreement, such as a clause requiring the consumer to pay an additional fee.

iii. Changes that may affect the cost of the prepaid account to the consumer, such as changes in a provision describing how the prepaid account's monthly fee will be calculated.

iv. Changes that may affect how the terms of the agreement are construed or applied, such as changes to a choice of law provision.

v. Changes that may affect the parties to whom the agreement may apply, such as changes to provisions regarding authorized users or assignment of the agreement.

vi. Changes to the corporate name of the issuer or program manager, or to the issuer's address or identifying number, such as its RSSD ID number or tax identification number.

vii. Changes to the list of names of other relevant parties, such as the employer for a payroll card program or the agency for a government benefit program. But see § 1005.19(b)(2)(ii) regarding the timing of submitting such changes to the Bureau.

viii. Changes to the name of the prepaid account program to which the agreement applies.

2. *Non-substantive changes.* Changes that generally would not be considered substantive include, for example:

i. Correction of typographical errors that do not affect the meaning of any terms of the agreement.

ii. Changes to the issuer's corporate logo or tagline.

iii. Changes to the format of the agreement, such as conversion to a booklet from a full-sheet format, changes in font, or changes in margins.

iv. Reordering sections of the agreement without affecting the meaning of any terms of the agreement.

v. Adding, removing, or modifying a table of contents or index.

vi. Changes to titles, headings, section numbers, or captions.

19(a)(4) Issuer

1. *Issuer.* Section 1005.19(a)(4) provides that, for purposes of § 1005.19, issuer or prepaid account issuer means the entity to which a consumer is legally obligated, or would be legally obligated, under the terms of a prepaid account agreement. For example, Bank X and Bank Y work together to issue prepaid accounts. A consumer that obtains a prepaid account issued pursuant to this arrangement between Bank X and Bank Y is subject to an agreement that states "This is an agreement between you, the consumer, and Bank X that governs the terms of your Bank Y Prepaid Account." The prepaid account issuer in this example is Bank X, because the agreement creates a legally enforceable obligation between the consumer and Bank X. Bank X is the issuer even if the consumer applied for the prepaid account through a link on Bank Y's ~~Web site~~website and the cards prominently feature the Bank Y logo on the front of the card.

2. *Use of third-party service providers.* An issuer has a legal obligation to comply with the requirements of § 1005.19. However, an issuer generally may use a third-party service provider to satisfy its obligations under § 1005.19, provided that the issuer acts in accordance with regulatory guidance regarding use of third-party service providers and other applicable regulatory guidance. In some cases, an issuer may wish to arrange for the entity with which it partners to issue prepaid accounts to fulfill the requirements of § 1005.19 on the issuer's behalf. For example, Program Manager and Bank work together to issue prepaid accounts. Under the § 1005.19(a)(4) definition of issuer, Bank is the issuer of these prepaid accounts for purposes of § 1005.19. However, Program Manager services the prepaid accounts, including mailing to consumers account opening materials and making available to consumers their electronic account transaction history, pursuant to § 1005.18(c)(1)(ii). While Bank is responsible for ensuring compliance with § 1005.19, Bank may arrange for Program Manager (or another appropriate third-party service provider) to ~~submit~~make submissions of prepaid account

agreements to the Bureau under § 1005.19 on Bank's behalf. Bank must comply with regulatory guidance regarding use of third-party service providers and other applicable regulatory guidance.

3. *Third-party ~~Web sites~~websites*. As explained in comment 19(c)–2, if an issuer provides consumers with access to specific information about their individual accounts, such as making available to consumers their electronic account transaction history, pursuant to § 1005.18(c)(1)(ii), through a third-party ~~Web site~~website, the issuer is deemed to maintain that ~~Web site~~website for purposes of § 1005.19. Such a ~~Web site~~website is deemed to be maintained by the issuer for purposes of § 1005.19 even where, for example, an unaffiliated entity designs the ~~Web site~~website and owns and maintains the information technology infrastructure that supports the ~~Web site~~website, consumers with prepaid accounts from multiple issuers can access individual account information through the same ~~Web site~~website, and the ~~Web site~~website is not labeled, branded, or otherwise held out to the public as belonging to the issuer. A partner institution's ~~Web site~~website is an example of a third-party ~~Web site~~website that may be deemed to be maintained by the issuer for purposes of § 1005.19. For example, Program Manager and Bank work together to issue prepaid accounts. Under the § 1005.19(a)(4) definition of issuer, Bank is the issuer of these prepaid accounts for purposes of § 1005.19. Bank does not maintain a ~~Web site~~website specifically related to prepaid accounts. However, consumers can access information about their individual accounts, such as an electronic account transaction history, through a ~~Web site~~website maintained by Program Manager. Program Manager designs the ~~Web site~~website and owns and maintains the information technology infrastructure that supports the ~~Web site~~website. The ~~Web site~~website is branded and held out to the public as belonging to Program Manager. Because consumers can access information about their individual accounts through this ~~Web site~~website, the ~~Web site~~website is deemed to be maintained by Bank for purposes of § 1005.19. Bank therefore may comply with § 1005.19(c) or (d)(1) by ensuring that agreements offered by Bank are posted on Program Manager's ~~Web site~~website in accordance with § 1005.19(c) or (d)(1), respectively. Bank need not create and maintain a ~~Web site~~website branded and held out to the public as belonging to Bank in order to comply with § 1005.19(c) and (d) as long as Bank ensures that Program Manager's ~~Web site~~website complies with these sections.

19(a)(6) Offers to the General Public

1. *Prepaid accounts offered to limited groups*. An issuer is deemed to offer a prepaid account agreement to the general public even if the issuer markets, solicits applications for, or otherwise makes available prepaid accounts only to a limited group of persons. For example, an issuer may solicit only residents of a specific geographic location for a particular prepaid account; in this case, the agreement would be considered to be offered to the general public. Similarly, agreements for prepaid accounts issued by a credit union are considered to be offered to the general public even though such prepaid accounts are available only to credit union members.

2. *Prepaid account agreements not offered to the general public*. A prepaid account agreement is not offered to the general public when a consumer is offered the agreement only by virtue of the consumer's relationship with a third party. Examples of agreements not offered to the general public include agreements for payroll card accounts, government benefit accounts, or

for prepaid accounts used to distribute student financial aid disbursements, or property and casualty insurance payouts, and other similar programs.

19(a)(7) Open Account

1. *Open account.* A prepaid account is an open account if (i) there is an outstanding balance in the account; (ii) the consumer can load more funds to the account even if the account does not currently hold a balance; or (iii) the consumer can access credit from a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in Regulation Z, 12 CFR 1026.61, in connection with a prepaid account. Under this definition, an account that meets any of these criteria is considered to be open even if the account is deemed inactive by the issuer.

19(a)(8) Prepaid Account

1. *Prepaid account.* Section 1005.19(a)(7) provides that, for purposes of § 1005.19, the term prepaid account means a prepaid account as defined in § 1005.2(b)(3). Therefore, for purposes of § 1005.19, a prepaid account includes, among other things, a payroll card account as defined in § 1005.2(b)(3)(iii) and a government benefit account as defined in §§ 1005.2(b)(3)(iii) and 1005.15(a)(2).

19(b) Submission of Agreements to the Bureau

19(b)(1) Submissions on a Rolling Basis

1. *Rolling submission requirement.* Section 1005.19(b)(1) requires issuers to send submissions to the Bureau no later than 30 days after offering, amending, or ceasing to offer any prepaid account agreement, as described in § 1005.19(b)(1)(ii) through (iv). For example, if on July 1 an issuer offers a prepaid account agreement that has not been previously submitted to the Bureau, it must submit that agreement to the Bureau by July 31 of the same year. Similarly, if on August 1 an issuer amends a prepaid account agreement previously submitted to the Bureau, and the change becomes effective on September 15, the issuer must submit the entire amended agreement as required by § 1005.19(b)(2)(i) by October 15 of the same year. Furthermore, if on December 31 an issuer ceases to offer a prepaid account agreement that was previously submitted to the Bureau, it must submit notification to the Bureau that it is withdrawing that agreement as required by § 1005.19(b)(3) by January 30 of the following year.

2. *Prepaid accounts offered in conjunction with multiple issuers.* If a program manager offers prepaid account agreements in conjunction with multiple issuers, each issuer must submit its own agreement to the Bureau. Alternatively, each issuer may use the program manager to submit the agreement on its behalf, in accordance with comment 19(a)(4)–2.

19(b)(2) Amended Agreements

1. *Change-in-terms notices not permissible.* Section 1005.19(b)(2)(i) requires that if an agreement previously submitted to the Bureau is amended, the issuer must submit the entire revised agreement to the Bureau. An issuer may not fulfill this requirement by submitting a change-in-terms or similar notice covering only the terms that have changed. Amendments must

be integrated into the text of the agreement (or the optional ~~addendum~~addenda described in § 1005.19(b)(6)), not provided as separate riders.

2. Updates to the list of names of other relevant parties to an agreement. Section 1005.19(b)(2)(ii) permits an issuer to delay making a submission to the Bureau regarding a change in the list of other relevant parties to a particular agreement until the earlier of such time as the issuer is otherwise submitting an amended agreement or changes to other identifying information about the issuer and its submitted agreements pursuant to § 1005.19(b)(1)(i); or May 1 of each year, for any updates to the list of names of other relevant parties that occurred between the issuer's last submission of relevant party information for that agreement and April 1 of that year. Section 1005.19(b)(2)(ii) thus ensures that the Bureau has a list of names of other relevant parties for all submitted agreements that is up-to-date as of April 1 of each year. The following examples illustrate these requirements:

i. An issuer first submits to the Bureau a payroll card agreement, along with a list of names of the other relevant parties (i.e., employers) to that agreement, on May 1, 2019. On July 1, 2020, the issuer adds four new employers under the agreement. The issuer is not required to make a submission to the Bureau regarding the addition of other relevant parties to that agreement at that time.

ii. On January 1, 2020, a change to the payroll card agreement becomes effective reflecting a new feature and accompanying fee that the issuer has added to the program. The issuer is required, by January 31, 2020, to submit to the Bureau its entire revised agreement and an updated list of the names of other relevant parties to that agreement.

iii. If the issuer has not added any other employers to the agreement by April 1, 2020, the issuer is not required to submit to the Bureau an updated list of names of other relevant parties to that agreement, because the list it previously submitted to the Bureau remains current.

iv. If, however, on March 1, 2020, the issuer adds two new employers under the agreement but makes no other changes to the agreement, then as of April 1 there are new relevant parties to the agreement that the issuer has not submitted to the Bureau. The issuer is required, by May 1, 2020, to submit to the Bureau an updated list of names of other relevant parties to that agreement reflecting the two employers it added in March. Because the issuer has not made any other changes to the agreement since it was submitted in January, the issuer is not required to re-submit the agreement itself by May 1, 2020.

19(b)(3) Withdrawal of Agreements No Longer Offered

1. *No longer offers agreement.* Section 1005.19(b)(3) provides that, if an issuer no longer offers an agreement that was previously submitted to the Bureau, the issuer must notify the Bureau no later than 30 days after the issuer ceases to offer the agreement that it is withdrawing the agreement. An issuer no longer offers an agreement when it no longer allows a consumer to activate or register a new account in connection with that agreement.

19(b)(4) De Minimis Exception

1. *Relationship to other exceptions.* The de minimis exception in § 1005.19(b)(4) is distinct from the product testing exception under § 1005.19(b)(5). The de minimis exception provides that an issuer with fewer than 3,000 open prepaid accounts is not required to submit any agreements to the Bureau, regardless of whether those agreements qualify for the product testing exception. In contrast, the product testing exception provides that an issuer is not required to submit to the Bureau agreements offered solely in connection with certain types of prepaid account programs with fewer than 3,000 open accounts, regardless of the issuer's total number of open accounts.

2. *De minimis exception.* Under § 1005.19(b)(4), an issuer is not required to submit any prepaid account agreements to the Bureau under § 1005.19(b)(1) if the issuer has fewer than 3,000 open prepaid accounts. For example, an issuer has 2,000 open prepaid accounts. The issuer is not required to submit any agreements to the Bureau because the issuer qualifies for the de minimis exception.

3. *Date for determining whether issuer qualifies.* Whether an issuer qualifies for the de minimis exception is determined as of the last day of each calendar quarter. For example, an issuer has 2,500 open prepaid accounts as of December 31, the last day of the calendar quarter. As of January 30, the issuer has 3,100 open prepaid accounts. As of March 31, the last day of the following calendar quarter, the issuer has 2,700 open prepaid accounts. Even though the issuer had 3,100 open prepaid accounts at one time during the calendar quarter, the issuer qualifies for the de minimis exception because the number of open prepaid accounts was less than 3,000 as of March 31. The issuer therefore is not required to submit any agreements to the Bureau under § 1005.19(b)(1).

4. *Date for determining whether issuer ceases to qualify.* Whether an issuer ceases to qualify for the de minimis exception under § 1005.19(b)(4) is determined as of the last day of the calendar quarter. For example, an issuer has 2,500 open prepaid accounts as of June 30, the last day of the calendar quarter. The issuer is not required to submit any agreements to the Bureau under § 1005.19(b) by July 30 (the 30th day after June 30) because the issuer qualifies for the de minimis exception. As of July 15, the issuer has 3,100 open prepaid accounts. The issuer is not required to take any action at this time, because whether an issuer qualifies for the de minimis exception under § 1005.19(b)(4) is determined as of the last day of the calendar quarter. The issuer still has 3,100 open prepaid accounts as of September 30. Because the issuer had 3,100 open prepaid accounts as of September 30, the issuer ceases to qualify for the de minimis exception and must submit its agreements to the Bureau by October 30, the 30th day after the last day of the calendar quarter.

5. *Option to withdraw agreements.* Section 1005.19(b)(4) provides that if an issuer that did not previously qualify for the de minimis exception newly qualifies for the de minimis exception, the issuer must continue to make rolling submissions to the Bureau as required by § 1005.19(b)(1) until the issuer notifies the Bureau that the issuer is withdrawing all agreements it previously submitted to the Bureau. For example, an issuer offers three agreements and has 3,001 open accounts as of December 31. The issuer submitted each of the three agreements to the Bureau by January 30 as required under § 1005.19(b). As of March 31, the issuer has only 2,999

open accounts. The issuer has two options. First, the issuer may notify the Bureau that the issuer is withdrawing each of the three agreements it previously submitted. Once the issuer has notified the Bureau, the issuer is no longer required to make rolling submissions to the Bureau under § 1005.19(b) unless it later ceases to qualify for the de minimis exception. Alternatively, the issuer may choose not to notify the Bureau that it is withdrawing its agreements. In this case, the issuer must continue making rolling submissions to the Bureau as required by § 1005.19(b). The issuer might choose not to withdraw its agreements if, for example, the issuer believes it will likely cease to qualify for the de minimis exception again in the near future.

19(b)(6) Form and Content of Agreements Submitted to the Bureau

1. *Agreements currently in effect.* Agreements submitted to the Bureau must contain the provisions of the agreement and fee information currently in effect. For example, on June 1, an issuer decides to decrease the out-of-network ATM withdrawal fee associated with one of the agreements it offers. The change in that fee will become effective on August 1. The issuer must submit and post the amended agreement with the decreased out-of-network ATM withdrawal fee to the Bureau by August 31 as required by § 1005.19(b)(2)(i) and (c).

2. *Fee information variations do not constitute separate agreements.* Fee information that may vary from one consumer to another depending on the consumer's state of residence or other factors must be disclosed by setting forth all the possible variations. For example, an issuer offers a prepaid account with a monthly fee of \$4.95 or \$0 if the consumer regularly receives direct deposit to the prepaid account. The issuer must submit to the Bureau one agreement with fee information listing the possible monthly fees of \$4.95 or \$0 and including the explanation that the latter fee is dependent upon the consumer regularly receiving direct deposit.

3. *Integrated agreement requirement.* Issuers may not submit provisions of the agreement or fee information in the form of change-in-terms notices or riders. The only ~~addendum~~addenda that may be submitted as part of an agreement ~~is~~are the optional fee information ~~addendum~~addenda described in § 1005.19(b)(6)(ii). Changes in provisions or fee information must be integrated into the body of the agreement or the optional fee information ~~addendum~~addenda described in § 1005.19(b)(6)(ii). For example, it would be impermissible for an issuer to submit to the Bureau an agreement in the form of a terms and conditions document on January 1 and subsequently submit a change-in-terms notice ~~or an addendum~~ to indicate amendments to the previously submitted agreement. Instead, the issuer must submit a document that integrates the changes made by each of the change-in-terms notices into the body of the original terms and conditions document and ~~a single~~the optional ~~addendum~~addenda displaying variations in fee information.

19(c) Posting of Agreements Offered to the General Public

1. *Requirement applies only to agreements offered to the general public.* An issuer is only required to post and maintain on its publicly available Web site the prepaid account agreements that the issuer offers to the general public as defined by § 1005.19(a)(6) and must submit to the Bureau under § 1005.19(b). For agreements not offered to the general public, the issuer is not required to post and maintain the agreements on its publicly available Web site, but is still required to provide each individual consumer with access to his or her specific prepaid account

agreement under § 1005.19(d). This posting requirement is distinct from that of § 1005.7, as modified by § 1005.18(f)(1), which requires an issuer to provide certain disclosures at the time a consumer contracts for an electronic fund transfer service or before the first electronic fund transfer is made involving the consumer's account, and the change-in-terms notice required under § 1005.8(a), as modified by § 1005.18(f)(2). This requirement is also distinct from that of § 1005.18(b)(4), which requires issuers to make the long form disclosure available to consumers prior to prepaid account acquisition and which, depending on the methods an issuer offers prepaid accounts to consumers, may require posting of the long form disclosure on the issuer's Web site. Additionally, if an issuer is not required to submit any agreements to the Bureau because the issuer qualifies for the de minimis exception under § 1005.19(b)(4) or the agreement qualifies for the product testing exception under § 1005.19(b)(5), the issuer is not required to post and maintain any agreements on its Web site under § 1005.19(c). The issuer is still required to provide each individual consumer with access to his or her specific prepaid account agreement under § 1005.19(d) by posting and maintaining the agreement on the issuer's Web site or by providing a copy of the agreement upon the consumer's request.

2. Issuers that do not otherwise maintain Web sites. If an issuer offers an agreement to the general public as defined by § 1005.19(a)(6), that issuer must post that agreement on a publicly available Web site it maintains. If an issuer provides consumers with access to specific information about their individual accounts, such as balance information or copies of statements, through a third-party Web site, the issuer is considered to maintain that Web site for purposes of § 1005.19. Such a third-party Web site is deemed to be maintained by the issuer for purposes of § 1005.19(c) even where, for example, an unaffiliated entity designs the Web site and owns and maintains the information technology infrastructure that supports the Web site, consumers with prepaid accounts from multiple issuers can access individual account information through the same Web site, and the Web site is not labeled, branded, or otherwise held out to the public as belonging to the issuer. Therefore, issuers that provide consumers with access to account-specific information through a third-party Web site can comply with § 1005.19(c) by ensuring that the agreements the issuer submits to the Bureau are posted on the third-party Web site in accordance with § 1005.19(c).

19(d) Agreements for All Open Accounts

1. Requirement applies to all open accounts. The requirement to provide access to prepaid account agreements under § 1005.19(d) applies to all open prepaid accounts. For example, an issuer that is not required to post agreements on its Web site because it qualifies for the de minimis exception under § 1005.19(b)(4) would still be required to provide consumers with access to their specific agreements under § 1005.19(d). Similarly, an agreement that is no longer offered would not be required to be posted on the issuer's Web site, but would still need to be provided to the consumer to whom it applies under § 1005.19(d). Additionally, an issuer is not required to post on its Web site agreements not offered to the general public, such as agreements for payroll card accounts and government benefit accounts, as explained in comment 19(c)–1, but the issuer must still provide consumers with access to their specific agreements under § 1005.19(d).

2. Agreements sent to consumers. Section 1005.19(d)(1)(ii) provides, in part, that if an issuer makes an agreement available upon request, the issuer must send the consumer a copy of

the consumer's prepaid account agreement no later than five business days after the issuer receives the consumer's request. If the issuer mails the agreement, the agreement must be posted in the mail five business days after the issuer receives the consumer's request. If the issuer hand delivers or provides the agreement electronically, the agreement must be hand delivered or provided electronically five business days after the issuer receives the consumer's request. For example, if the issuer emails the agreement, the email with the attached agreement must be sent no later than five business days after the issuer receives the consumer's request.

~~19(f) Effective Date~~

~~1. Delayed effective date for the agreement submission requirement. Section 1005.19(f)(2) provides that the requirement to submit prepaid account agreements to the Bureau on a rolling basis pursuant to § 1005.19(b) is delayed until October 1, 2018. An issuer must submit to the Bureau no later than October 31, 2018 all prepaid account agreements it offers as of October 1, 2018. After October 1, 2018, issuers must submit on a rolling basis prepaid account agreements or notifications of withdrawn agreements to the Bureau within 30 days after offering, amending, or ceasing to offer the agreements.~~

~~2. Continuing obligation to post and provide consumer agreements. Pursuant to § 1005.19(f)(3), during the delayed agreement submission period set forth in § 1005.19(f)(2), an issuer must post agreements on its Web site as required by § 1005.19(c) and (d)(1)(i) using the agreements it would have otherwise submitted to the Bureau under § 1005.19(b) and must provide a copy of the consumer's agreement to the consumer upon request pursuant to § 1005.19(d)(1)(ii). For purposes of § 1005.19(c)(2) and (d)(2), agreements posted by an issuer on its Web site must conform to the form and content requirements set forth in § 1005.19(b)(6). For purposes of § 1005.19(c)(3) and (d)(2)(v), amended agreements must be posted to the issuer's Web site no later than 30 days after the change becomes effective as required by § 1005.19(b)(2).~~

* * * * *

Section 1005.30—Remittance Transfer Definitions

* * * * *

30(c) Designated Recipient

* * * * *

*2. * * **

ii. For transfers to a prepaid account (other than a prepaid account that is a payroll card account or a government benefit account), where the funds are to be received in a location physically outside of any State depends on whether the provider at the time the transfer is requested has information indicating that funds are to be received in a foreign country. See comments 30(c)–2.iii and 30(e)–3.i.C for illustrations of when a remittance transfer provider would have such information and when the provider would not. For transfers to all other accounts, whether funds are to be received at a location physically outside of any State depends

on where the account is located. If the account is located in a State, the funds will not be received at a location in a foreign country. Further, for these accounts, if they are located on a U.S. military installation that is physically located in a foreign country, then these accounts are located in a State.

* * * * *

30(g) Sender

1. *Determining whether a consumer is located in a State.* Under § 1005.30(g), the definition of “sender” means a consumer in a State who, primarily for personal, family, or household purposes, requests a remittance transfer provider to send a remittance transfer to a designated recipient. A sender located on a U.S. military installation that is physically located in a foreign country is located in a State. For transfers sent from a prepaid account (other than a prepaid account that is a payroll card account or a government benefit account), whether the consumer is located in a State depends on the location of the consumer. If the provider does not know where the consumer is at the time the consumer requests the transfer from the consumer’s prepaid account (other than a prepaid account that is a payroll card account or a government benefit account) the provider may make the determination of whether a consumer is located in a State based on information that is provided by the consumer and on any records associated with the consumer that the provider may have, such as an address provided by the consumer. For transfers from all other accounts belonging to a consumer, whether a consumer is located in a State depends on where the consumer’s account is located. If the account is located in a State, the consumer will be located in a State for purposes of the definition of “sender” in § 1005.30(g), notwithstanding comment 3(a)–3. For these accounts, if they are located on a U.S. military installation that is physically located in a foreign country, then these accounts are located in a State. Where a transfer is requested electronically or by telephone and the transfer is not from an account, the provider may make the determination of whether a consumer is located in a State based on information that is provided by the consumer and on any records associated with the consumer that the provider may have, such as an address provided by the consumer.

* * * * *

3. *Non-consumer accounts.* A transfer that is requested to be sent from an account that was not established primarily for personal, family, or household purposes, such as an account that was established as a business or commercial account or an account held by a business entity such as a corporation, not-for-profit corporation, professional corporation, limited liability company, partnership, or sole proprietorship, is not requested primarily for personal, family, or household purposes. A consumer requesting a transfer from such an account therefore is not a sender under § 1005.30(g). Additionally, a transfer that is requested to be sent from an account held by a financial institution under a *bona fide* trust agreement pursuant to § 1005.2(b)(2) is not requested primarily for personal, family, or household purposes, and a consumer requesting a transfer from such an account is therefore not a sender under § 1005.30(g).

* * * * *

Appendix A—Model Disclosure Clauses and Forms

* * * * *

2. *Use of forms.* The appendix contains model disclosure clauses for optional use by financial institutions and remittance transfer providers to facilitate compliance with the disclosure requirements of §§ 1005.5(b)(2) and (3), 1005.6(a), 1005.7, 1005.8(b), 1005.14(b)(1)(ii), 1005.15(c), 1005.15(e)(1) and (2), 1005.18(b)(2), (3), (6) and (7), 1005.18(d)(1) and (2), 1005.31, 1005.32 and 1005.36. The use of appropriate clauses in making disclosures will protect a financial institution and a remittance transfer provider from liability under sections 916 and 917 of the act provided the clauses accurately reflect the institution's EFT services and the provider's remittance transfer services, respectively.

3. *Altering the clauses.* Unless otherwise expressly addressed in the rule, the following applies. Financial institutions may use clauses of their own design in conjunction with the Bureau's model clauses. The inapplicable words or portions of phrases in parentheses should be deleted. The catchlines are not part of the clauses and need not be used. Financial institutions may make alterations, substitutions, or additions in the clauses to reflect the services offered, such as technical changes (including the substitution of a trade name for the word "card," deletion of inapplicable services, or substitution of lesser liability limits). Several of the model clauses include references to a telephone number and address. Where two or more of these clauses are used in a disclosure, the telephone number and address may be referenced and need not be repeated.

* * * * *

PART 1026—TRUTH IN LENDING (REGULATION Z)

Authority: 12 U.S.C. 2601, 2603–2605, 2607, 2609, 2617, 3353, 5511, 5512, 5532, 5581; 15 U.S.C. 1601 *et seq.*

Subpart A—General

§ 1026.2 Definitions and rules of construction.

(a) * * *

(15)(i) *Credit card* means any card, plate, or other single credit device that may be used from time to time to obtain credit. The term credit card includes a hybrid prepaid-credit card as defined in § 1026.61.

(ii) * * *

(A) A home-equity plan subject to the requirements of § 1026.40 that is accessed by a credit card;

(B) An overdraft line of credit that is accessed by a debit card; or

(C) An overdraft line of credit that is accessed by an account number, except if the account number is a hybrid prepaid-credit card that can access a covered separate credit feature as defined in § 1026.61.

* * * * *

(iv) *Debit card* means any card, plate, or other single device that may be used from time to time to access an asset account other than a prepaid account as defined in § 1026.61. The term *debit card* does not include a prepaid card as defined in § 1026.61.

* * * * *

§ 1026.4 Finance charge.

* * * * *

(b) * * *

(2) Service, transaction, activity, and carrying charges, including any charge imposed on a checking or other transaction account (except a prepaid account as defined in § 1026.61) to the extent that the charge exceeds the charge for a similar account without a credit feature.

* * * * *

(11) With regard to a covered separate credit feature and an asset feature on a prepaid account that are both accessible by a hybrid prepaid-credit card as defined in § 1026.61:

(i) Any fee or charge described in paragraphs (b)(1) through (10) of this section imposed on the covered separate credit feature, whether it is structured as a credit subaccount of the prepaid account or a separate credit account.

(ii) Any fee or charge imposed on the asset feature of the prepaid account to the extent that the amount of the fee or charge exceeds comparable fees or charges imposed on prepaid accounts in the same prepaid account program that do not have a covered separate credit feature accessible by a hybrid prepaid-credit card.

(c) * * *

(3) Charges imposed by a financial institution for paying items that overdraw an account, unless the payment of such items and the imposition of the charge were previously agreed upon in writing. This paragraph does not apply to credit offered in connection with a prepaid account as defined in § 1026.61.

(4) Fees charged for participation in a credit plan, whether assessed on an annual or other periodic basis. This paragraph does not apply to a fee to participate in a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in § 1026.61, regardless of whether this fee is imposed on the credit feature or on the asset feature of the prepaid account.

* * * * *

Subpart B—Open-End Credit

* * * * *

§ 1026.6 Account-opening disclosures.

* * * * *

(b) * * *

(3) * * *

(iii) * * *

(D) With regard to a covered separate credit feature and an asset feature on a prepaid account that are both accessible by a hybrid prepaid-credit card as defined in § 1026.61, any fee or charge imposed on the asset feature of the prepaid account to the extent that the amount of the fee or charge does not exceed comparable fees or charges imposed on prepaid accounts in the same prepaid account program that do not have a covered separate credit feature accessible by a hybrid prepaid-credit card.

(E) With regard to a non-covered separate credit feature accessible by a prepaid card as defined in § 1026.61, any fee or charge imposed on the asset feature of the prepaid account.

* * * * *

§ 1026.7 Periodic statement.

* * * * *

(b) * * *

(11) * * *

(ii) * * *

(A) Periodic statements provided solely for charge card accounts, other than covered separate credit features that are charge card accounts accessible by hybrid prepaid-credit cards as defined in § 1026.61; and

* * * * *

§ 1026.12 Special credit card provisions.

* * * * *

(d) *Offsets by card issuer prohibited*—(1) *General rule.* A card issuer may not take any action, either before or after termination of credit card privileges, to offset a cardholder's indebtedness arising from a consumer credit transaction under the relevant credit card plan against funds of the cardholder held on deposit with the card issuer.

(2) *Rights of the card issuer.* This paragraph (d) does not alter or affect the right of a card issuer acting under state or Federal law to do any of the following with regard to funds of a cardholder held on deposit with the card issuer if the same procedure is constitutionally available to creditors generally: Obtain or enforce a consensual security interest in the funds; attach or otherwise levy upon the funds; or obtain or enforce a court order relating to the funds.

(3) *Periodic deductions.* (i) This paragraph (d) does not prohibit a plan, if authorized in writing by the cardholder, under which the card issuer may periodically deduct all or part of the cardholder's credit card debt from a deposit account held with the card issuer (subject to the limitations in § 1026.13(d)(1)).

(ii) With respect to a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in § 1026.61, for purposes of this paragraph (d)(3), "periodically" means no more frequently than once per calendar month, such as on a monthly due date disclosed on the applicable periodic statement in accordance with the requirements of § 1026.7(b)(11)(i)(A) or on an earlier date in each calendar month in accordance with a written authorization signed by the consumer.

* * * * *

§ 1026.13 Billing error resolution.

* * * * *

(i) *Relation to Electronic Fund Transfer Act and Regulation E.* A creditor shall comply with the requirements of Regulation E, 12 CFR 1005.11, and 1005.18(e) as applicable, governing error resolution rather than those of paragraphs (a), (b), (c), (e), (f), and (h) of this section if:

(1) Except with respect to a prepaid account as defined in § 1026.61, an extension of credit that is incident to an electronic fund transfer occurs under an agreement between the consumer and a financial institution to extend credit when the consumer's account is overdrawn or to maintain a specified minimum balance in the consumer's account; or

(2) With regard to a covered separate credit feature and an asset feature of a prepaid account where both are accessible by a hybrid prepaid-credit card as defined in § 1026.61, an extension of credit that is incident to an electronic fund transfer occurs when the hybrid prepaid-credit card accesses both funds in the asset feature of the prepaid account and a credit extension from the credit feature with respect to a particular transaction.

* * * * *

Subpart G—Special Rules Applicable to Credit Card Accounts and Open-End Credit Offered to College Students

* * * * *

§ 1026.52 Limitations on fees.

(a) *Limitations during first year after account opening*—* * *

* * * * *

§ 1026.60 Credit and charge card applications and solicitations.

(a) * * *

(5) * * *

(iv) Lines of credit accessed solely by account numbers except for a covered separate credit feature solely accessible by an account number that is a hybrid prepaid-credit card as defined in § 1026.61;

* * * * *

(b) *Required disclosures.* The card issuer shall disclose the items in this paragraph on or with an application or a solicitation in accordance with the requirements of paragraphs (c), (d), (e)(1), or (f) of this section. A credit card issuer shall disclose all applicable items in this paragraph except for paragraph (b)(7) of this section. A charge card issuer shall disclose the applicable items in paragraphs (b)(2), (4), (7) through (12), and (15) of this section. With respect to a

covered separate credit feature that is a charge card account accessible by a hybrid prepaid-credit card as defined in § 1026.61, a charge card issuer also shall disclose the applicable items in paragraphs (b)(3), (13), and (14) of this section.

* * * * *

§ 1026.61 Hybrid prepaid-credit cards.

(a) *Hybrid prepaid-credit card*—(1) *In general.* (i) Credit offered in connection with a prepaid account is subject to this section and this regulation as specified below.

(ii) For purposes of this regulation, except as provided in paragraph (a)(4) of this section, a prepaid card is a hybrid prepaid-credit card with respect to a separate credit feature as described in paragraph (a)(2)(i) of this section when it can access credit from that credit feature, or with respect to a credit feature structured as a negative balance on the asset feature of the prepaid account as described in paragraph (a)(3) of this section when it can access credit from that credit feature. A hybrid prepaid-credit card is a credit card for purposes of this regulation with respect to those credit features.

(iii) With respect to a credit feature structured as a negative balance on the asset feature of the prepaid account as described in paragraph (a)(3) of this section, a prepaid card is not a hybrid prepaid-credit card or a credit card for purposes of this regulation if the ~~only credit offered in connection with the prepaid account meets the~~ conditions set forth in paragraph (a)(4) of this section are met.

(2) *Prepaid card can access credit from a covered separate credit feature*—(i) *Covered separate credit feature.* (A) A separate credit feature that can be accessed by a hybrid prepaid-credit card as described in this paragraph (a)(2)(i) is defined as a covered separate credit feature. A prepaid card is a hybrid prepaid-credit card with respect to a separate credit feature when it is a single device that can be used from time to time to access the separate credit feature where the following two conditions are both satisfied:

(1) The card can be used to draw, transfer, or authorize the draw or transfer of credit from the separate credit feature in the course of authorizing, settling, or otherwise completing transactions conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers; and

(2) The separate credit feature is offered by the prepaid account issuer, its affiliate, or its business partner.

(B) A separate credit feature that meets the conditions set forth in paragraph (a)(2)(i)(A) of this section is a covered separate credit feature accessible by a hybrid prepaid-credit card even with respect to credit that is drawn or transferred, or authorized to be drawn or transferred, from the credit feature outside the course of a transaction conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers.

(ii) *Non-covered separate credit feature.* A separate credit feature that does not meet the two conditions set forth in paragraph (a)(2)(i) of this section is defined as a non-covered

separate credit feature. A prepaid card is not a hybrid prepaid-credit card with respect to a non-covered separate credit feature, even if the prepaid card is a hybrid prepaid-credit card with respect to a covered separate credit feature as described in paragraph (a)(2)(i) of this section. A non-covered separate credit feature is not subject to the rules applicable to hybrid prepaid-credit cards; however, it may be subject to this regulation depending on its own terms and conditions, independent of the connection to the prepaid account.

(3) *Prepaid card can access credit extended through a negative balance on the asset feature of the prepaid account*—(i) *In general*. Except as provided in paragraph (a)(4) of this section, a prepaid card is a hybrid prepaid-credit card when it is a single device that can be used from time to time to access credit extended through a negative balance on the asset feature of the prepaid account.

(ii) *Negative asset balances*. Notwithstanding paragraph (a)(3)(i) of this section with regard to coverage under this regulation, structuring a hybrid prepaid-credit card to access credit through a negative balance on the asset feature violates paragraph (b) of this section. A prepaid account issuer can use a negative asset balance structure to extend credit on an asset feature of a prepaid account only if the prepaid card is not a hybrid prepaid-credit card with respect to that credit as described in paragraph (a)(4) of this section.

(4) *Exception for credit extended through a negative balance*. A prepaid card is not a hybrid prepaid-credit card with respect to credit extended through a negative balance on the asset feature of the prepaid account and is not a credit card for purposes of this regulation with respect to that credit where:

(i) The prepaid card cannot access credit from a covered separate credit feature as described in paragraph (a)(2)(i) of this section that is offered by a prepaid account issuer or its affiliate; and

(ii) The prepaid card only can access credit extended through a negative balance on the asset feature of the prepaid account where both paragraphs (a)(4)(ii)(A) and (B) of this section are satisfied.

(A) The prepaid account issuer has an established policy and practice of either declining to authorize any transaction for which it reasonably believes the consumer has insufficient or unavailable funds in the asset feature of the prepaid account at the time the transaction is authorized to cover the amount of the transaction, or declining to authorize any such transactions except in one or more of the following circumstances:

(1) The amount of the transaction will not cause the asset feature balance to become negative by more than \$10 at the time of the authorization; or

(2) In cases where the prepaid account issuer has received an instruction or confirmation for an incoming electronic fund transfer originated from a separate asset account to load funds to the prepaid account or where the prepaid account issuer has received a request from the consumer to load funds to the prepaid account from a separate asset account but in either case the funds from the separate asset account have not yet settled, the amount of the transaction will

not cause the asset feature balance to become negative at the time of the authorization by more than the incoming or requested load amount, as applicable.

(B) The following fees or charges are not imposed on the asset feature of the prepaid account:

(1) Any fees or charges for opening, issuing, or holding a negative balance on the asset feature, or for the availability of credit, whether imposed on a one-time or periodic basis. This paragraph does not include fees or charges to open, issue, or hold the prepaid account where the amount of the fee or charge imposed on the asset feature is not higher based on whether credit might be offered or has been accepted, whether or how much credit the consumer has accessed, or the amount of credit available;

(2) Any fees or charges that will be imposed only when credit is extended on the asset feature or when there is a negative balance on the asset feature, except that a prepaid account issuer may impose fees or charges for the actual costs of collecting the credit extended if otherwise permitted by law; or

(3) Any fees or charges where the amount of the fee or charge is higher when credit is extended on the asset feature or when there is a negative balance on the asset feature.

(C) A prepaid account issuer may still satisfy the exception in paragraph (a)(4) of this section even if it debits fees or charges from the asset feature when there are insufficient or unavailable funds in the asset feature to cover those fees or charges at the time they are imposed, so long as those fees or charges are not the type of fees or charges enumerated in paragraph (a)(4)(ii)(B) of this section.

(5) *Definitions.* For purposes of this section and other provisions in the regulation that relate to hybrid prepaid-credit cards:

(i) *Affiliate* means any company that controls, is controlled by, or is under common control with another company, as set forth in the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*).

(ii) *Asset feature* means an asset account that is a prepaid account, or an asset subaccount of a prepaid account.

(iii) *Business partner* means a person (other than the prepaid account issuer or its affiliates) that can extend credit through a separate credit feature where the person or its affiliate has an arrangement with a prepaid account issuer or its affiliate except as provided in paragraph (a)(5)(iii)(D) of this section.

(A) *Arrangement defined.* For purposes of paragraph (a)(5)(iii) of this section, a person that can extend credit through a separate credit feature or the person's affiliate has an arrangement with a prepaid account issuer or its affiliate if the circumstances in either paragraph (a)(5)(iii)(B) or (C) of this section are met.

(B) Arrangement by agreement. A person that can extend credit through a separate credit feature or its affiliate has an arrangement with a prepaid account issuer or its affiliate if the parties have an agreement that allows the prepaid card from time to time to draw, transfer, or authorize a draw or transfer of credit in the course of authorizing, settling, or otherwise completing transactions conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers.

(C) Marketing arrangement. A person that can extend credit through a separate credit feature or its affiliate has an arrangement with a prepaid account issuer or its affiliate if:

(1) The parties have a business, marketing, or promotional agreement or other arrangement which provides that prepaid accounts offered by the prepaid account issuer will be marketed to the customers of the person that can extend credit; or the separate credit feature offered by the person who can extend credit will be marketed to the holders of prepaid accounts offered by the prepaid account issuer (including any marketing to customers to encourage them to authorize the prepaid card to access the separate credit feature as described in paragraph (a)(5)(iii)(C)(2) of this section); and

(2) At the time of the marketing agreement or arrangement described in paragraph (a)(5)(iii)(C)(1) of this section, or at any time afterwards, the prepaid card from time to time can draw, transfer, or authorize the draw or transfer of credit from the separate credit feature offered by the person that can extend credit in the course of authorizing, settling, or otherwise completing transactions conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers. This requirement is satisfied even if there is no specific agreement between the parties that the card can access the credit feature, as described in paragraph (a)(5)(iii)(B) of this section.

(D) Exception for certain credit card account arrangements. For purposes of paragraph (a)(5)(iii) of this section, a person that can extend credit through a credit card account is not a business partner of a prepaid account issuer with which it has an arrangement as defined in paragraphs (a)(5)(iii)(A) through (C) of this section with regard to such credit card account if all of the following conditions are met:

(1) The credit card account is a credit card account under an open-end (not home-secured) consumer credit plan that a consumer can access through a traditional credit card.

(2) The prepaid account issuer and the card issuer do not allow the prepaid card to draw, transfer, or authorize the draw or transfer of credit from the credit card account from time to time in the course of authorizing, settling, or otherwise completing transactions conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers, except where the prepaid account issuer or the card issuer has received from the consumer a written request that is separately signed or initialized to authorize the prepaid card to access the credit card account as described above. If the credit card account is linked to the prepaid account prior to April 1, 2019, or prior to the arrangement between the prepaid account issuer and the card issuer as described in paragraphs (a)(5)(iii)(A) through (C) of this section, the prepaid account issuer and the card issuer will be deemed to have satisfied this condition even if

they have not received from the consumer a written request that is separately signed or initialized to authorize the prepaid card to access the credit card account as described in this paragraph.

(3) The prepaid account issuer and the card issuer do not condition the acquisition or retention of the prepaid account or the credit card account on whether a consumer authorizes the prepaid card to access the credit card account as described in paragraph (a)(5)(iii)(D)(2) of this section. If the credit card account is linked to the prepaid account prior to April 1, 2019, this condition only applies to the retention of the prepaid account and the credit card account on or after April 1, 2019.

(4) The prepaid account issuer applies the same terms, conditions, or features to the prepaid account when a consumer authorizes linking the prepaid card to the credit card account as described in paragraph (a)(5)(iii)(D)(2) of this section as it applies to the consumer's prepaid account when the consumer does not authorize such a linkage. In addition, the prepaid account issuer applies the same fees to load funds from the credit card account that is linked to the prepaid account as described above as it charges for a comparable load on the consumer's prepaid account to access a credit feature offered by a person that is not the prepaid account issuer, its affiliate, or a person with which the prepaid account issuer has an arrangement as described in paragraphs (a)(5)(iii)(A) through (C) of this section.

(5) The card issuer applies the same specified terms and conditions to the credit card account when a consumer authorizes linking the prepaid card to the credit card account as described in paragraph (a)(5)(iii)(D)(2) of this section as it applies to the consumer's credit card account when the consumer does not authorize such a linkage. In addition, the card issuer applies the same specified terms and conditions to extensions of credit accessed by the prepaid card from the credit card account as it applies to extensions of credit accessed by the traditional credit card. For purposes of this paragraph, "specified terms and conditions" means the terms and conditions required to be disclosed under § 1026.6(b), any repayment terms and conditions, and the limits on liability for unauthorized credit transactions.

(iv) *Credit feature* means a separate credit account or a credit subaccount of a prepaid account through which credit can be extended in connection with a prepaid card, or a negative balance on an asset feature of a prepaid account through which credit can be extended in connection with a prepaid card.

(v) *Prepaid account* means a prepaid account as defined in Regulation E, 12 CFR 1005.2(b)(3).

(vi) *Prepaid account issuer* means a financial institution as defined in Regulation E, 12 CFR 1005.2(i), with respect to a prepaid account.

(vii) *Prepaid card* means any card, code, or other device that can be used to access a prepaid account.

(viii) *Separate credit feature* means a credit account or a credit subaccount of a prepaid account through which credit can be extended in connection with a prepaid card that is separate from the asset feature of the prepaid account. This term does not include a negative balance on an asset feature of a prepaid account.

(b) *Structure of credit features accessible by hybrid prepaid-credit cards.* With respect to a credit feature that is accessible by a hybrid prepaid-credit card, a card issuer shall not structure the credit feature as a negative balance on the asset feature of a prepaid account. A card issuer shall structure the credit feature as a separate credit feature, either as a separate credit account, or as a credit subaccount of a prepaid account that is separate from the asset feature of the prepaid account. The separate credit feature is a covered separate credit feature accessible by a hybrid prepaid-credit card under § 1026.61(a)(2)(i).

(c) *Timing requirement for credit card solicitation or application with respect to hybrid prepaid-credit cards.* (1) With respect to a covered separate credit feature that could be accessible by a hybrid prepaid-credit card at any point, a card issuer must not do any of the following until 30 days after the prepaid account has been registered:

(i) Open a covered separate credit feature that could be accessible by the hybrid prepaid-credit card;

(ii) Make a solicitation or provide an application to open a covered separate credit feature that could be accessible by the hybrid prepaid-credit card; or

(iii) Allow an existing credit feature that was opened prior to the consumer obtaining the prepaid account to become a covered separate credit feature accessible by the hybrid prepaid-credit card.

(2) For purposes of paragraph (c) of this section, the term *solicitation* has the meaning set forth in § 1026.60(a)(1).

* * * * *

Supplement I to Part 1026—Official Interpretations

* * * * *

Subpart A—General

* * * * *

Section 1026.2—Definitions and Rules of Construction

* * * * *

2(a)(7) Card Issuer

1. *Agent.* i. An agent of a card issuer is considered a card issuer. Except as provided in comment 2(a)(7)–1.ii, because agency relationships are traditionally defined by contract and by state or other applicable law, the regulation does not define agent. Merely providing services relating to the production of credit cards or data processing for others, however, does not make one the agent of the card issuer. In contrast, a financial institution may become the agent of the card issuer if an agreement between the institution and the card issuer provides that the

cardholder may use a line of credit with the financial institution to pay obligations incurred by use of the credit card.

ii. Under § 1026.2(a)(7), with respect to a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in § 1026.61 where that credit feature is offered by an affiliate or business partner of the prepaid account issuer as those terms are defined in § 1026.61, the affiliate or business partner offering the credit feature is an agent of the prepaid account issuer and thus, is itself a card issuer with respect to the hybrid prepaid-credit card.

2. *Prepaid cards that are not hybrid prepaid-credit cards.* See § 1026.61(a) and comments 61(a)(2)–5.iii and 61(a)(4)–1.iv for guidance on the applicability of this regulation in connection with credit accessible by prepaid cards that are not hybrid prepaid-credit cards.

* * * * *

2(a)(14) Credit

* * * * *

3. *Transactions on the asset features of prepaid accounts when there are insufficient or unavailable funds.* Credit includes authorization of a transaction on the asset feature of a prepaid account as defined in § 1026.61 where the consumer has insufficient or unavailable funds in the asset feature of the prepaid account at the time the transaction is authorized to cover the amount of the transaction. It also includes settlement of a transaction on the asset feature of a prepaid account where the consumer has insufficient or unavailable funds in the asset feature of the prepaid account at the time the transaction is settled to cover the amount of the transaction. This includes a transaction where the consumer has sufficient or available funds in the asset feature of a prepaid account to cover the amount of the transaction at the time the transaction is authorized but insufficient or unavailable funds in the asset feature of the prepaid account to cover the transaction amount at the time the transaction is settled. See § 1026.61 and related commentary on the applicability of this regulation to credit that is extended in connection with a prepaid account.

Paragraph 2(a)(15)

* * * * *

2. * * *

i. * * *

B. A debit card (other than a debit card that is solely an account number) that also accesses a credit account (that is, a debit-credit card). See comment 2(a)(15)–2.ii.C for guidance on whether a debit card that is solely an account number is a credit card.

* * * * *

F. A prepaid card that is a hybrid prepaid-credit card as defined in § 1026.61.

ii. * * *

C. An account number that accesses a credit account, unless the account number can access an open-end line of credit to purchase goods or services or as provided in § 1026.61 with respect to a hybrid prepaid-credit card. For example, if a creditor provides a consumer with an open-end line of credit that can be accessed by an account number in order to transfer funds into another account (such as an asset account with the same creditor), the account number is not a credit card for purposes of § 1026.2(a)(15)(i). However, if the account number can also access the line of credit to purchase goods or services (such as an account number that can be used to purchase goods or services on the Internet), the account number is a credit card for purposes of § 1026.2(a)(15)(i), regardless of whether the creditor treats such transactions as purchases, cash advances, or some other type of transaction. Furthermore, if the line of credit can also be accessed by a card (such as a debit card), that card is a credit card for purposes of § 1026.2(a)(15)(i).

D. A prepaid card that is not a hybrid prepaid-credit card as defined in § 1026.61.

3. *Charge card.* i. Charge cards are credit cards where no periodic rate is used to compute the finance charge. Under the regulation, a reference to credit cards generally includes charge cards. In particular, references to credit card accounts under an open-end (not home-secured) consumer credit plan in subparts B and G generally include charge cards. The term *charge card* is, however, distinguished from credit card or credit card account under an open-end (not home-secured) consumer credit plan in §§ 1026.6(b)(2)(xiv), 1026.7(b)(11) (except as described in comment 2(a)(15)–3.ii below), 1026.7(b)(12), 1026.9(e), 1026.9(f), 1026.28(d), 1026.52(b)(1)(ii)(C), 1026.60, and appendices G–10 through G–13.

ii. A hybrid prepaid-credit card as defined in § 1026.61 is a charge card with respect to a covered separate credit feature if no periodic rate is used to compute the finance charge in connection with the covered separate credit feature. Unlike other charge card accounts, the requirements in § 1026.7(b)(11) apply to a covered separate credit feature accessible by a hybrid prepaid-credit card that is a charge card when that covered separate credit feature is a credit card account under an open-end (not home-secured) consumer credit plan. Thus, under § 1026.5(b)(2)(ii)(A), with respect to a covered separate credit feature that is a credit card account under an open-end (not home-secured) consumer credit plan, a card issuer of a hybrid prepaid-credit card that meets the definition of a charge card because no periodic rate is used to compute a finance charge in connection with the covered separate credit feature must adopt reasonable procedures for the covered separate credit feature designed to ensure that (1) periodic statements are mailed or delivered at least 21 days prior to the payment due date disclosed on the statement pursuant to § 1026.7(b)(11)(i)(A); and (2) the card issuer does not treat as late for any purposes a required minimum periodic payment received by the card issuer within 21 days after mailing or delivery of the periodic statement disclosing the due date for that payment.

4. *Credit card account under an open-end (not home-secured) consumer credit plan.* i. An open-end consumer credit account is a credit card account under an open-end (not home-secured) consumer credit plan for purposes of § 1026.2(a)(15)(ii) if:

A. The account is accessed by a credit card, as defined in § 1026.2(a)(15)(i); and

B. The account is not excluded under § 1026.2(a)(15)(ii)(A) through (C).

ii. As noted in § 1026.2(a)(15)(ii)(C), the exclusion from credit card account under an open-end (not home-secured) consumer credit plan provided by that paragraph for an overdraft line of credit that is accessed by an account number does not apply to a covered separate credit feature accessible by a hybrid prepaid-credit card (including a hybrid prepaid-credit card that is solely an account number) as defined in § 1026.61.

* * * * *

2(a)(17) Creditor

* * * * *

Paragraph 2(a)(17)(i)

* * * * *

8. *Prepaid cards that are not hybrid prepaid-credit cards.* See § 1026.61(a) and comments 61(a)(2)–5.iii and 61(a)(4)–1.iv for guidance on the applicability of this regulation in connection with credit accessible by prepaid cards that are not hybrid prepaid-credit cards.

* * * * *

Paragraph 2(a)(17)(iii)

* * * * *

2. *Prepaid cards that are not hybrid prepaid-credit cards.* See § 1026.61(a) and comments 61(a)(2)–5.iii and 61(a)(4)–1.iv for guidance on the applicability of this regulation in connection with credit accessible by prepaid cards that are not hybrid prepaid-credit cards.

* * * * *

2(a)(20) Open-End Credit

* * * * *

2. *Existence of a plan.* i. The definition requires that there be a plan, which connotes a contractual arrangement between the creditor and the consumer.

ii. With respect to a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in § 1026.61, a plan means a program where the consumer is obligated contractually to repay any credit extended by the creditor. For example, a plan includes a program under which a creditor routinely extends credit from a covered separate credit feature offered by the prepaid account issuer, its affiliate, or its business partner where the prepaid card can be used from time to time to draw, transfer, or authorize the draw or transfer of credit from the covered separate credit feature in the course of authorizing, settling, or otherwise completing transactions conducted with the card to obtain goods or services, obtain cash, or conduct person-

to-person transfers, and the consumer is obligated contractually to repay those credit transactions. Such a program constitutes a plan notwithstanding that, for example, the creditor has not agreed in writing to extend credit for those transactions, the creditor retains discretion not to extend credit for those transactions, or the creditor does not extend credit for those transactions once the consumer has exceeded a certain amount of credit. See § 1026.61(a) and related commentary for guidance on the applicability of this regulation to credit accessible by hybrid prepaid-credit cards.

iii. Some creditors offer programs containing a number of different credit features. The consumer has a single account with the institution that can be accessed repeatedly via a number of sub-accounts established for the different program features and rate structures. Some features of the program might be used repeatedly (for example, an overdraft line) while others might be used infrequently (such as the part of the credit line available for secured credit). If the program as a whole is subject to prescribed terms and otherwise meets the definition of open-end credit, such a program would be considered a single, multifeatured plan.

* * * * *

4. *Finance charge on an outstanding balance.* i. The requirement that a finance charge may be computed and imposed from time to time on the outstanding balance means that there is no specific amount financed for the plan for which the finance charge, total of payments, and payment schedule can be calculated. A plan may meet the definition of open-end credit even though a finance charge is not normally imposed, provided the creditor has the right, under the plan, to impose a finance charge from time to time on the outstanding balance. For example, in some plans, a finance charge is not imposed if the consumer pays all or a specified portion of the outstanding balance within a given time period. Such a plan could meet the finance charge criterion, if the creditor has the right to impose a finance charge, even though the consumer actually pays no finance charges during the existence of the plan because the consumer takes advantage of the option to pay the balance (either in full or in installments) within the time necessary to avoid finance charges.

ii. With regard to a covered separate credit feature and an asset feature on a prepaid account that are both accessible by a hybrid prepaid-credit card as defined in § 1026.61, any service, transaction, activity, or carrying charges imposed on the covered separate credit feature, and any such charges imposed on the asset feature of the prepaid account to the extent that the amount of the charge exceeds comparable charges imposed on prepaid accounts in the same prepaid account program that do not have a covered separate credit feature accessible by a hybrid prepaid-credit card, generally is a finance charge. See § 1026.4(a) and (b)(11). Such charges include a periodic fee to participate in the covered separate credit feature, regardless of whether this fee is imposed on the credit feature or on the asset feature of the prepaid account. With respect to credit from a covered separate credit feature accessible by a hybrid prepaid-credit card, any service, transaction, activity, or carrying charges that are finance charges under § 1026.4 constitute finance charges imposed from time to time on an outstanding unpaid balance as described in § 1026.2(a)(20) if there is no specific amount financed for the credit feature for which the finance charge, total of payments, and payment schedule can be calculated.

* * * * *

Section 1026.4—Finance Charge

4(a) Definition

* * * * *

4. *Treatment of transaction fees on credit card plans.* Except with regard to a covered separate credit feature and an asset feature on a prepaid account that are both accessible by a hybrid prepaid-credit card as defined in § 1026.61, which are addressed in more detail in §§ 1026.4(b)(11) and 1026.61, any transaction charge imposed on a cardholder by a card issuer is a finance charge, regardless of whether the issuer imposes the same, greater, or lesser charge on withdrawals of funds from an asset account such as a checking or savings account. For example:

* * * * *

4(b) Examples of Finance Charges

* * * * *

Paragraph 4(b)(2)

1. *Checking or transaction account charges.* A charge imposed in connection with a credit feature on a checking or transaction account (other than a prepaid account as defined in § 1026.61) is a finance charge under § 1026.4(b)(2) to the extent the charge exceeds the charge for a similar account without a credit feature. If a charge for an account with a credit feature does not exceed the charge for an account without a credit feature, the charge is not a finance charge under § 1026.4(b)(2). To illustrate:

i. A \$5 service charge is imposed on an account with an overdraft line of credit (where the institution has agreed in writing to pay an overdraft), while a \$3 service charge is imposed on an account without a credit feature; the \$2 difference is a finance charge. (If the difference is not related to account activity, however, it may be excludable as a participation fee. See the commentary to § 1026.4(c)(4).)

ii. A \$5 service charge is imposed for each item that results in an overdraft on an account with an overdraft line of credit, while a \$25 service charge is imposed for paying or returning each item on a similar account without a credit feature; the \$5 charge is not a finance charge.

2. *Prepaid accounts.* Fee or charges related to credit offered in connection with prepaid accounts as defined in § 1026.61 are discussed in §§ 1026.4(b)(11) and 1026.61 and related commentary.

* * * * *

Paragraph 4(b)(11)

1. *Credit in connection with a prepaid card.* Section 1026.61 governs credit offered in connection with a prepaid card.

i. A separate credit feature that meets the conditions of § 1026.61(a)(2)(i) is defined as a covered separate credit feature accessible by a hybrid prepaid-credit card. See § 1026.61(a)(2)(i) and comment 61(a)(2)–4. In this case, the hybrid prepaid-credit card can access both the covered separate credit feature and the asset feature of the prepaid account. The rules for classification of fees or charges as finance charges ~~in connection with this account structure~~with respect to the covered separate credit feature are specified in § 1026.4(b)(11) and related commentary.

ii. If a prepaid card can access a non-covered separate credit feature as described in § 1026.61(a)(2)(ii), the card is not a hybrid prepaid-credit card with respect to that credit feature. In that case:

A. Section 1026.4(b)(11) and related commentary do not apply to fees or charges imposed on the non-covered separate credit feature; instead, the general rules set forth in § 1026.4 determine whether these fees or charges are finance charges; and

B. Fees or charges on the asset feature of the prepaid account are not finance charges under § 1026.4 with respect to the non-covered separate credit feature. See comment 61(a)(2)–5.iii for guidance on the applicability of this regulation in connection with non-covered credit features accessible by prepaid cards.

iii. If the prepaid card is not a hybrid prepaid-credit card ~~because the only~~with respect to credit extended through a negative balance on the asset feature of the prepaid account ~~is~~ pursuant to § 1026.61(a)(4), with regard to that credit, fees charged on the asset feature of the prepaid account in accordance with § 1026.61(a)(4)(ii)(B) are not finance charges.

Paragraph 4(b)(11)(i)

1. *Transaction fees imposed on the covered separate credit feature.* Consistent with comment 4(a)–4, any transaction charge imposed on a cardholder by a card issuer on a covered separate credit feature accessible by a hybrid prepaid-credit card is a finance charge. Transaction charges that are imposed on the asset feature of a prepaid account are subject to § 1026.4(b)(11)(ii) and related commentary, instead of § 1026.4(b)(11)(i).

Paragraph 4(b)(11)(ii)

1. *Fees or charges imposed on the asset feature of a prepaid account.* i. Under § 1026.4(b)(11)(ii), with regard to a covered separate credit feature and an asset feature of a prepaid account that are both accessible by a hybrid prepaid-credit card as defined § 1026.61, any fee or charge imposed on the asset feature of the prepaid account is a finance charge to the extent that the amount of the fee or charge exceeds comparable fees or charges imposed on prepaid accounts in the same prepaid account program that do not have a covered separate credit feature accessible by a hybrid prepaid-credit card. This comment provides guidance with respect

to comparable fees under § 1026.4(b)(11)(ii) for the two types of credit extensions on a covered separate credit feature. See § 1026.61(a)(2)(i)(B) and comment 61(a)(2)–4.ii. Comment 4(b)(11)(ii)–1.ii provides guidance for credit extensions where the hybrid prepaid-credit card accesses credit from the covered separate credit feature in the course of authorizing, settling, or otherwise completing a transaction conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers. Comment 4(b)(11)(ii)–1.iii provides guidance for credit extensions where a consumer draws or transfers credit from the covered separate credit feature outside the course of a transaction conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers.

ii. Where the hybrid prepaid-credit card accesses credit from a covered separate credit feature in the course of authorizing, settling, or otherwise completing a transaction conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers, any per transaction fees imposed on the asset feature of prepaid accounts, including load and transfer fees, for such credit from the credit feature are comparable only to per transaction fees for each transaction to access funds in the asset feature of a prepaid account that are imposed on prepaid accounts in the same prepaid account program that does not have such a credit feature. Per transaction fees for a transaction that is conducted to load or draw funds into a prepaid account from some other source are not comparable for purposes of § 1026.4(b)(11)(ii). To illustrate:

A. Assume a prepaid account issuer charges \$0.50 on prepaid accounts without a covered separate credit feature for each transaction that accesses funds in the asset feature of the prepaid accounts. Also, assume that the prepaid account issuer charges \$0.50 per transaction on the asset feature of prepaid accounts in the same prepaid program where the hybrid prepaid-credit card accesses credit from a covered separate credit feature in the course of a transaction. In this case, the \$0.50 per transaction fee imposed on the asset feature of the prepaid account with a covered separate credit feature is not a finance charge.

B. Assume same facts as in paragraph A above, except that assume the prepaid account issuer charges \$1.25 on the asset feature of a prepaid account for each transaction where the hybrid prepaid-credit card accesses credit from the covered separate credit feature in the course of the transaction. In this case, the additional \$0.75 is a finance charge.

C. Assume a prepaid account issuer charges \$0.50 on prepaid accounts without a covered separate credit feature for each transaction that accesses funds in the asset feature of the prepaid accounts. Assume also that the prepaid account issuer charges both a \$0.50 per transaction fee and a \$1.25 transfer fee on the asset feature of prepaid accounts in the same prepaid program where the hybrid prepaid-credit card accesses credit from a covered separate credit feature in the course of a transaction. In this case, both fees charged on a per-transaction basis for the credit transaction (*i.e.*, a combined fee of \$1.75 per transaction) must be compared to the \$0.50 per transaction fee to access funds in the asset feature of the prepaid account without a covered separate credit feature. Accordingly, the \$1.25 excess is a finance charge.

D. Assume same facts as in paragraph C above, except that assume the prepaid account issuer also charges a load fee of \$1.25 whenever funds are transferred or loaded from a separate asset account, such as from a deposit account via a debit card, in the course of a transaction on prepaid accounts without a covered separate credit feature, in addition to charging

a \$0.50 per transaction fee. The \$1.25 excess in paragraph C is still a finance charge because load or transfer fees that are charged on the asset feature of prepaid account for credit from the covered separate credit feature are compared only to per transaction fees imposed for accessing funds in the asset feature of the prepaid account for prepaid accounts without such a credit feature. Per transaction fees for a transaction that is conducted to load or draw funds into a prepaid account from some other source are not comparable for purposes of § 1026.4(b)(11)(ii).

iii. A consumer may choose in a particular circumstance to draw or transfer credit from the covered separate credit feature outside the course of a transaction conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers. For example, a consumer may use the prepaid card at the prepaid account issuer's ~~Web site~~[website](#) to load funds from the covered separate credit feature outside the course of a transaction conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers. See § 1026.61(a)(2)(i)(B) and comment 61(a)(2)–4.ii. In these situations, load or transfer fees imposed for draws or transfers of credit from the covered separate credit feature outside the course of a transaction are compared only with fees, if any, to load funds as a direct deposit of salary from an employer or a direct deposit of government benefits that are charged on prepaid accounts without a covered separate credit feature. Fees imposed on prepaid accounts without a covered separate credit feature for a one-time load or transfer of funds from a separate asset account or from a non-covered separate credit feature are not comparable for purposes of § 1026.4(b)(11)(ii). To illustrate:

A. Assume a prepaid account issuer charges a \$1.25 load fee to transfer funds from a non-covered separate credit feature, such as a non-covered separate credit card account, into prepaid accounts that do not have a covered separate credit feature and does not charge a fee for a direct deposit of salary from an employer or a direct deposit of government benefits on those prepaid accounts. Assume the prepaid account issuer charges \$1.25 on the asset feature of a prepaid account with a covered separate credit feature to load funds from the covered separate credit feature outside the course of a transaction. In this case, the \$1.25 fee imposed on the asset feature of the prepaid account with a covered separate credit feature is a finance charge because no fee is charged for a direct deposit of salary from an employer or a direct deposit of government benefits on prepaid accounts without such a credit feature. Fees imposed on prepaid accounts without a covered separate credit feature for a one-time load or transfer of funds from a non-covered separate credit feature are not comparable for purposes of § 1026.4(b)(11)(ii).

B. Assume that a prepaid account issuer charges a \$1.25 load fee for a one-time transfer of funds from a separate asset account, such as from a deposit account via a debit card, to a prepaid account without a covered separate credit feature and does not charge a fee for a direct deposit of salary from an employer or a direct deposit of government benefits on those prepaid accounts. Assume the prepaid account issuer charges \$1.25 on the asset feature of a prepaid account with a covered separate credit feature to load funds from the covered separate credit feature outside the course of a transaction. In this case, the \$1.25 fee imposed on the asset feature of the prepaid account with a covered separate credit feature is a finance charge because no fee is charged for a direct deposit of salary from an employer or a direct deposit of government benefits on prepaid accounts without a covered separate credit feature. Fees imposed on prepaid accounts without a covered separate credit feature for a one-time load or transfer of funds from a separate asset account are not comparable for purposes of § 1026.4(b)(11)(ii).

2. *Relation to Regulation E.* See Regulation E, 12 CFR 1005.18(g), which only permits a financial institution to charge the same or higher fees on the asset feature of a prepaid account with a covered separate credit feature accessible by a hybrid prepaid-credit card than the amount of a comparable fee it charges on prepaid accounts in the same prepaid account program without such a credit feature. Under that provision, a financial institution cannot charge a lower fee on the asset feature of a prepaid account with a covered separate credit feature accessible by a hybrid prepaid-credit card than the amount of a comparable fee it charges on prepaid accounts without such a credit feature in the same prepaid account program.

4(c) Charges Excluded From the Finance Charge

* * * * *

Paragraph 4(c)(3)

1. *Assessing interest on an overdraft balance.* Except with respect to credit offered in connection with a prepaid account as defined in § 1026.61, a charge on an overdraft balance computed by applying a rate of interest to the amount of the overdraft is not a finance charge, even though the consumer agrees to the charge in the account agreement, unless the financial institution agrees in writing that it will pay such items.

2. *Credit accessed in connection with a prepaid account.* See comment 4(b)(11)–1 for guidance on when fees imposed with regard to credit accessed in connection with a prepaid account as defined in § 1026.61 are finance charges.

Paragraph 4(c)(4)

1. *Participation fees—periodic basis.* The participation fees described in § 1026.4(c)(4) do not necessarily have to be formal membership fees, nor are they limited to credit card plans. Except as provided in § 1026.4(c)(4) for covered separate credit features accessible by hybrid prepaid-credit cards as defined in § 1026.61, the provision applies to any credit plan in which payment of a fee is a condition of access to the plan itself, but it does not apply to fees imposed separately on individual closed-end transactions. The fee may be charged on a monthly, annual, or other periodic basis; a one-time, non-recurring fee imposed at the time an account is opened is not a fee that is charged on a periodic basis, and may not be treated as a participation fee.

* * * * *

3. *Credit accessed in connection with by a prepaid account.* See comment 4(b)(11)–1 for guidance on when fees imposed with regard to credit accessed in connection with a prepaid account as defined in § 1026.61 are finance charges.

* * * * *

Subpart B—Open-End Credit

Section 1026.5—General Disclosure Requirements

* * * * *

5(b) Time of Disclosures

* * * * *

5(b)(2) Periodic Statements

* * * * *

5(b)(2)(ii) Timing Requirements

* * * * *

*4. * * **

i. *Charge card accounts.* For purposes of § 1026.5(b)(2)(ii)(A)(1), the payment due date for a credit card account under an open-end (not home-secured) consumer credit plan is the date the card issuer is required to disclose on the periodic statement pursuant to § 1026.7(b)(11)(i)(A). Because § 1026.7(b)(11)(ii) provides that § 1026.7(b)(11)(i) does not apply to periodic statements provided solely for charge card accounts other than covered separate credit features that are charge card accounts accessible by hybrid prepaid-credit cards as defined in § 1026.61, § 1026.5(b)(2)(ii)(A)(1) also does not apply to the mailing or delivery of periodic statements provided solely for such accounts. However, in these circumstances, § 1026.5(b)(2)(ii)(A)(2) requires the card issuer to have reasonable procedures designed to ensure that a payment is not treated as late for any purpose during the 21-day period following mailing or delivery of the statement. A card issuer that complies with § 1026.5(b)(2)(ii)(A) as discussed above with respect to a charge card account has also complied with § 1026.5(b)(2)(ii)(B)(2). Section 1026.5(b)(2)(ii)(B)(1) does not apply to charge card accounts because, for purposes of § 1026.5(b)(2)(ii)(B), a grace period is a period within which any credit extended may be repaid without incurring a finance charge due to a periodic interest rate and, consistent with § 1026.2(a)(15)(iii), charge card accounts do not impose a finance charge based on a periodic rate.

* * * * *

Section 1026.6—Account-Opening Disclosures

* * * * *

6(b) Rules Affecting Open-End (Not Home-Secured) Plans

* * * * *

6(b)(2) Required Disclosures for Account-Opening Table for Open-End (Not Home-Secured) Plans

1. *Fees imposed on the asset feature of a prepaid account in connection with a covered separate credit feature accessible by a hybrid prepaid-credit card.* With regard to a covered separate credit feature and an asset feature on a prepaid account that are both accessible by a hybrid prepaid-credit card as defined in § 1026.61, a creditor is required to disclose under § 1026.6(b)(2) any fees or charges imposed on the asset feature that are charges imposed as part of the plan under § 1026.6(b)(3) to the extent those fees fall within the categories of fees or charges required to be disclosed under § 1026.6(b)(2). For example, assume that a creditor imposes a \$1.25 per transaction fee on an asset feature of the prepaid account for purchases when a hybrid prepaid-credit card accesses a covered separate credit feature in the course of authorizing, settling, or otherwise completing purchase transactions conducted with the card, and a \$0.50 transaction fee for purchases that access funds in the asset feature of a prepaid account in the same program without such a credit feature. In this case, the \$0.75 excess is a charge imposed as part of the plan under § 1026.6(b)(3) and must be disclosed under § 1026.6(b)(2)(iv).

2. *Fees imposed on the asset feature of a prepaid account that are not charges imposed as part of the plan.* A creditor is not required to disclose under § 1026.6(b)(2) any fee or charge imposed on the asset feature of a prepaid account that is not a charge imposed as part of the plan under § 1026.6(b)(3). See § 1026.6(b)(3)(iii)(D) and (E) and related commentary regarding fees imposed on the asset feature of the prepaid account that are not charges imposed as part of the plan under § 1026.6(b)(3).

* * * * *

6(b)(3) Disclosure of Charges Imposed as Part of Open-End (Not Home-Secured) Plans

* * * * *

Paragraph 6(b)(3)(iii)

* * * * *

Paragraph 6(b)(3)(iii)(D)

1. *Fees imposed on the asset feature of the prepaid account in connection with a covered separate credit feature accessible by a hybrid prepaid-credit card.* Under § 1026.6(b)(3)(iii)(D), with regard to a covered separate credit feature and an asset feature on a prepaid account that are both accessible by a hybrid prepaid-credit card as defined in § 1026.61, a fee or charge imposed on the asset feature of the prepaid account is not a charge imposed as part of the plan under § 1026.6(b)(3) with respect to a covered separate credit feature to the extent that the amount of the fee or charge does not exceed comparable fees or charges imposed on prepaid accounts in the same prepaid account program that do not have a covered separate credit feature ~~ass~~cessed by a hybrid prepaid-credit card. To illustrate:

i. Assume a prepaid account issuer charges a \$0.50 per transaction fee on an asset feature of the prepaid account for purchases when a hybrid prepaid-credit card accesses a

covered separate credit feature in the course of authorizing, settling, or otherwise completing purchase transactions conducted with the card and a \$0.50 transaction fee for purchases that access funds in the asset feature of a prepaid account in the same program without such a credit feature. The \$0.50 fees are comparable fees and the \$0.50 fee for purchases when a hybrid prepaid-credit card accesses a covered separate credit feature in the course of authorizing, settling, or otherwise completing purchase transactions conducted with the card is not a charge imposed as part of the plan. However, if in this example, the prepaid account issuer imposes a \$1.25 per transaction fee on an asset feature of the prepaid account for purchases when a hybrid prepaid-credit card accesses a covered separate credit feature in the course of authorizing, settling, or otherwise completing purchase transactions conducted with the card, the \$0.75 excess is a charge imposed as part of the plan. This \$0.75 excess also is a finance charge under § 1026.4(b)(11)(ii).

ii. See comment 4(b)(11)(ii)–1 for additional illustrations of when a prepaid account issuer is charging comparable per transaction fees or load or transfer fees on the prepaid account.

Paragraph 6(b)(3)(iii)(E)

1. *Fees imposed on the asset feature of a prepaid account in connection with a non-covered separate credit feature.* With regard to a non-covered separate credit feature accessible by a prepaid card as defined in § 1026.61, under § 1026.6(b)(3)(iii)(E), none of the fees or charges imposed on the asset balance of the prepaid account are charges imposed as part of the plan under § 1026.6(b)(3) with respect to the non-covered separate credit feature. In addition, none of these fees or charges imposed on the asset feature of the prepaid account are finance charges with respect to the non-covered separate credit feature as discussed in comment 4(b)(11)–1.ii.B.

* * * * *

Section 1026.7—Periodic Statement

* * * * *

7(b) Rules Affecting Open-End (Not Home-Secured) Plans

* * * * *

7(b)(13) Format Requirements

1. *Combined asset account and credit account statements.* Some financial institutions provide information about deposit account and open-end credit account activity on one periodic statement. For purposes of providing disclosures on the front of the first page of the periodic statement pursuant to § 1026.7(b)(13), the first page of such a combined statement shall be the page on which credit transactions first appear. This guidance also applies to financial institutions that provide information about prepaid accounts and account activity in connection with covered separate credit features accessible by hybrid prepaid-credit cards as defined in § 1026.61 on one periodic statement.

Section 1026.8—Identifying Transactions on Periodic Statements

8(a) Sale Credit

1. *Sale credit.* The term “sale credit” refers to a purchase in which the consumer uses a credit card or otherwise directly accesses an open-end line of credit (see comment 8(b)–1 if access is by means of a check) to obtain goods or services from a merchant, whether or not the merchant is the card issuer or creditor. See comment 8(a)–9 for guidance on when credit accessed by a hybrid prepaid-credit card from a covered separate credit feature is “sale credit” or “nonsale credit.” “Sale credit” includes:

* * * * *

9. *Covered separate credit feature accessible by hybrid prepaid-credit card.* i. A transaction will be treated as a “sale credit” under § 1026.8(a) in cases where a consumer uses a hybrid prepaid-credit card as defined in § 1026.61 to make a purchase to obtain goods or services from a merchant with credit from a covered separate credit feature and the credit is drawn directly from the covered separate credit feature without transferring funds into the asset feature of the prepaid account to cover the amount of the purchase. For example, assume that the consumer has \$10 of funds in the asset feature of the prepaid account and initiates a transaction with a merchant to obtain goods or services with the hybrid prepaid-credit card for \$25. In this case, \$10 is debited from the asset feature, and \$15 of credit is drawn directly from the covered separate credit feature accessed by the hybrid prepaid-credit card without any transfer of funds into the asset feature of the prepaid account to cover the amount of the purchase. The \$15 credit transaction will be treated as “sale credit” under § 1026.8(a).

ii. On the other hand, a transaction will be treated as “nonsale credit” for purposes of § 1026.8(b) in cases where a consumer uses a hybrid prepaid-credit card as defined in § 1026.61 to make a purchase to obtain goods or services from a merchant and credit is transferred from a covered separate credit feature accessed by the hybrid prepaid-credit card into the asset feature of the prepaid account to cover the amount of the purchase. For example, assume the same facts as above, except that the \$15 will be transferred from the credit feature to the asset feature, and a transaction of \$25 is debited from the asset feature of the prepaid account. In this case, the \$15 credit transaction is treated as “nonsale credit” under § 1026.8(b). See comment 8(b)–1.vi below.

iii. If a transaction is “sale credit” as described above in comment 8(a)–9.i, the following applies:

A. If a hybrid prepaid-credit card is used to obtain goods or services from a merchant and the transaction is partially paid with funds in the asset feature of the prepaid account, and partially paid with credit from a covered separate credit feature, the amount to be disclosed under § 1026.8(a) is the amount of the credit extension, not the total amount of the purchase transaction.

B. For a transaction at point of sale where credit from a covered separate credit feature is accessed by a hybrid prepaid-credit card, and that transaction partially involves the purchase of goods or services and partially involves other credit such as cash back given to the

cardholder, the creditor must disclose the entire amount of the credit transaction as sale credit, including the part of the transaction that does not relate to the purchase of goods or services.

8(b) Nonsale Credit

1. * * *

ii. An advance on a credit plan that is accessed by overdrafts on an asset account other than a prepaid account as defined in § 1026.61.

* * * * *

v. An advance at an ATM on a covered separate credit feature accessed by a hybrid prepaid-credit card as defined in § 1026.61. If a hybrid prepaid-credit card is used to obtain an advance at an ATM and the transaction is partially paid with funds from the asset feature of the prepaid account, and partially paid with a credit extension from the covered separate credit feature, the amount to be disclosed under § 1026.8(b) is the amount of the credit extension, not the total amount of the ATM transaction.

vi. A transaction where a consumer uses a hybrid prepaid-credit card as defined in § 1026.61 to make a purchase to obtain goods or services from a merchant and credit is transferred from a covered separate credit feature accessed by the hybrid prepaid-credit card into the asset feature of the prepaid account to cover the amount of the purchase, as described in comment 8(a)–9.ii. In this scenario, the amount to be disclosed under § 1026.8(b) is the amount of the credit extension, not the total amount of the purchase transaction.

2. *Amount—overdraft credit plans.* If credit is extended under an overdraft credit plan tied to an asset account other than a prepaid account as defined in § 1026.61 or by means of a debit card tied to an overdraft credit plan:

* * * * *

Section 1026.10—Payments

10(a) General Rule

* * * * *

2. * * *

ii. In a payroll deduction plan in which funds are deposited to an asset account held by the creditor, and from which payments are made periodically to an open-end credit account, payment is received on the date when it is debited to the asset account (rather than on the date of the deposit), provided the payroll deduction method is voluntary and the consumer retains use of the funds until the contractual payment date. Section 1026.12(d)(3)(ii) defines “periodically” to mean no more frequently than once per calendar month for payments made periodically from a deposit account, including a prepaid account, held by a card issuer to pay credit card debt in a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in § 1026.61

held by the card issuer. In a payroll deduction plan in which funds are deposited to a prepaid account held by the card issuer, and from which payments are made on a monthly basis to a covered separate credit feature accessible by a hybrid prepaid-credit card that is held by the card issuer, payment is received on the date when it is debited to the prepaid account (rather than on the date of the deposit), provided the payroll deduction method is voluntary and the consumer retains use of the funds until the contractual payment date.

* * * * *

10(b) Specific Requirements for Payments

1. *Payment by electronic fund transfer.* A creditor may be prohibited from specifying payment by preauthorized electronic fund transfer. See section 913 of the Electronic Fund Transfer Act and Regulation E, 12 CFR 1005.10(e).

* * * * *

Section 1026.12—Special Credit Card Provisions

* * * * *

12(a) Issuance of Credit Cards

Paragraph 12(a)(1)

* * * * *

2. *Addition of credit features.* If the consumer has a non-credit card, including a prepaid card, the addition of a credit feature or plan to the card that would make the card into a credit card under § 1026.2(a)(15)(i) constitutes issuance of a credit card. For example, the following constitute issuance of a credit card:

i. Granting overdraft privileges on a checking account when the consumer already has a check guarantee card; or

ii. Allowing a prepaid card to access a covered separate credit feature that would make the card into a hybrid prepaid-credit card as defined in § 1026.61 with respect to the covered separate credit feature.

* * * * *

7. *Issuance of non-credit cards.* i. *Issuance of non-credit cards other than prepaid cards.* A. Under § 1026.12(a)(1), a credit card cannot be issued except in response to a request or an application. (See comment 2(a)(15)–2 for examples of cards or devices that are and are not credit cards.) A non-credit card other than a prepaid card may be sent on an unsolicited basis by an issuer that does not propose to connect the card to any credit plan; a credit feature may be added to a previously issued non-credit card other than a prepaid card only upon the consumer’s specific request.

B. *Examples.* A purchase-price discount card may be sent on an unsolicited basis by an issuer that does not propose to connect the card to any credit plan. An issuer demonstrates that it proposes to connect the card to a credit plan by, for example, including promotional materials about credit features or account agreements and disclosures required by § 1026.6. The issuer will violate the rule against unsolicited issuance if, for example, at the time the card is sent a credit plan can be accessed by the card or the recipient of the unsolicited card has been preapproved for credit that the recipient can access by contacting the issuer and activating the card.

ii. *Issuance of a prepaid card.* Section 1026.12(a)(1) does not apply to the issuance of a prepaid card where an issuer does not connect the card to any covered separate credit feature that would make the prepaid card into a hybrid prepaid-credit card as defined in § 1026.61 at the time the card is issued and only opens a covered separate credit feature, or provides an application or solicitation to open a covered separate credit feature, or allows an existing credit feature to become a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in § 1026.61 in compliance with § 1026.61(c). A covered separate credit feature may be added to a previously issued prepaid card only upon the consumer's application or specific request and only in compliance with § 1026.61(c). An issuer does not connect a prepaid card to a covered separate credit feature that would make the card into a credit card simply by providing the disclosures required by Regulation E, 12 CFR 1005.18(b)(2)(x), (b)(4)(iv), and (vii), with the prepaid card. See § 1026.12(a)(2) and related commentary for when a hybrid prepaid-credit card as defined in § 1026.61 may be issued as a replacement or substitution for another hybrid prepaid-credit card. See also Regulation E, 12 CFR 1005.5 and 1005.18(a), and related commentary, governing issuance of access devices under Regulation E.

* * * * *

Paragraph 12(a)(2)

* * * * *

6. * * *

i. Replacing a single card that is both a debit card and a credit card with a credit card and a separate debit card with only debit functions (or debit functions plus an associated overdraft capability), since the latter card could be issued on an unsolicited basis under Regulation E.

ii. Replacing a single card that is both a prepaid card and a credit card with a credit card and a separate prepaid card where the latter card is not a hybrid prepaid-credit card as defined in § 1026.61.

iii. Replacing an accepted card with more than one renewal or substitute card, provided that:

A. No replacement card accesses any account not accessed by the accepted card;

B. For terms and conditions required to be disclosed under § 1026.6, all replacement cards are issued subject to the same terms and conditions, except that a creditor may vary terms for which no change in terms notice is required under § 1026.9(c); and

C. Under the account's terms the consumer's total liability for unauthorized use with respect to the account does not increase.

* * * * *

12(c) Right of Cardholder To Assert Claims or Defenses Against Card Issuer

* * * * *

5. *Prepaid cards.* i. Section 1026.12(c) applies to property or services purchased with the hybrid prepaid-credit card that accesses a covered separate credit feature as defined in § 1026.61. The following examples illustrate when a hybrid prepaid-credit card is used to purchase property or services:

A. A consumer uses a hybrid prepaid-credit card as defined in § 1026.61 to make a purchase to obtain goods or services from a merchant and credit is drawn directly from a covered separate credit feature accessed by the hybrid prepaid-credit card without transferring funds into the asset feature of the prepaid account to cover the amount of the purchase. For example, assume that the consumer has \$10 of funds in the asset feature of the prepaid account and initiates a transaction with a merchant to obtain goods or services with the hybrid prepaid-credit card for \$25. In this case, \$10 is debited from the asset feature and \$15 of credit is drawn directly from the covered separate credit feature accessed by the hybrid prepaid-credit card without any transfer of funds into the asset feature of the prepaid account to cover the amount of the purchase. In this case, the consumer is using credit accessed by the hybrid prepaid-credit card to purchase property or services where credit is drawn directly from the covered separate credit feature accessed by the hybrid prepaid-credit card to cover the amount of the purchase.

B. A consumer uses a hybrid prepaid-credit card as defined in § 1026.61 to make a purchase to obtain goods or services from a merchant and credit is transferred from a covered separate credit feature accessed by the hybrid prepaid-credit card into the asset feature of the prepaid account to cover the amount of the purchase. For example, assume the same facts as above, except that the \$15 will be transferred from a covered separate credit feature to the asset feature, and a transaction of \$25 is debited from the asset feature of the prepaid account. In this case, the consumer is using credit accessed by the hybrid prepaid-credit card to purchase property or services because credit is transferred to the asset feature of the prepaid account to cover the amount of a purchase made with the card. This is true even though the \$15 credit transaction is treated as “nonsale credit” under § 1026.8(b). See comments 8(a)–9.ii and 8(b)–1.vi.

ii. For a transaction at point of sale where a hybrid prepaid-credit card is used to obtain goods or services from a merchant and the transaction is partially paid with funds from the asset feature of the prepaid account, and partially paid with credit from the covered separate credit feature, the amount of the purchase transaction that is funded by credit generally would be

subject to the requirements of § 1026.12(c). The amount of the transaction funded from the prepaid account would not be subject to the requirements of § 1026.12(c).

12(c)(1) General Rule

1. *Situations excluded and included.* The consumer may assert claims or defenses only when the goods or services are “purchased with the credit card.” This would include when the goods or services are purchased by a consumer using a hybrid prepaid-credit card to access a covered separate credit feature as defined in § 1026.61. This could include mail, the Internet or telephone orders, if the purchase is charged to the credit card account. But it would exclude:

* * * * *

ii. The purchase of goods or services by use of a check accessing an overdraft account and a credit card used solely for identification of the consumer. (On the other hand, if the credit card is used to make partial payment for the purchase and not merely for identification, the right to assert claims or defenses would apply to credit extended via the credit card, although not to credit extended by the overdraft line other than a covered separate credit feature accessible by a hybrid prepaid-credit card.)

* * * * *

12(d) Offsets by Card Issuer Prohibited

1. *Meaning of funds on deposit.* For purposes of § 1026.12(d), funds of the cardholder held on deposit include funds in a consumer’s prepaid account as defined in § 1026.61. In addition, for purposes of § 1026.12(d), deposit account includes a prepaid account.

Paragraph 12(d)(1)

* * * * *

2. *Funds intended as deposits.* If the consumer tenders funds as a deposit (to a checking account, for example) or if the card issuer receives funds designated for the consumer’s prepaid account as defined in § 1026.61 with the issuer, such as by means of an ACH deposit or an electronic transmittal of funds the consumer submits as cash at a non-bank location, the card issuer may not apply the funds to repay indebtedness on the consumer’s credit card account.

* * * * *

Paragraph 12(d)(2)

1. * * *

i. The consumer must be aware that granting a security interest is a condition for the credit card account (or for more favorable account terms) and must specifically intend to grant a security interest in a deposit account.

ii. With respect to a credit card account other than a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in § 1026.61, indicia of the consumer's awareness and intent to grant a security interest in a deposit account include at least one of the following (or a substantially similar procedure that evidences the consumer's awareness and intent):

A. Separate signature or initials on the agreement indicating that a security interest is being given.

B. Placement of the security agreement on a separate page, or otherwise separating the security interest provisions from other contract and disclosure provisions.

C. Reference to a specific amount of deposited funds or to a specific deposit account number.

iii. With respect to a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in § 1026.61, in order for a consumer to show awareness and intent to grant a security interest in a deposit account, including a prepaid account, all of the following conditions must be met:

A. In addition to being disclosed in the issuer's account-opening disclosures under § 1026.6, the security agreement must be provided to the consumer in a document separate from the deposit account agreement and the credit card account agreement;

B. The separate document setting forth the security agreement must be signed by the consumer;

C. The separate document setting forth the security agreement must refer to the deposit account number and to a specific amount of funds in the deposit account in which the card issuer is taking a security interest and these two elements of the document must be separately signed or initialed by the consumer;

D. The separate document setting forth the security agreement must specifically enumerate the conditions under which the card issuer will enforce the security interest and each of those conditions must be separately signed or initialed by the consumer.

iv. The security interest must be obtainable and enforceable by creditors generally. If other creditors could not obtain a security interest in the consumer's deposit accounts to the same extent as the card issuer, the security interest is prohibited by § 1026.12(d)(2).

* * * * *

Paragraph 12(d)(3)

1. * * *

iii. If the cardholder has the option to accept or reject the automatic debit feature (such option may be required under section 913 of the Electronic Fund Transfer Act and Regulation E, 12 CFR 1005.10(e)), the fact that the option exists should be clearly indicated.

2. * * *

iii. Automatically deducting from the consumer's deposit account any fee or charge imposed on the asset feature of the prepaid account that is not a charge imposed as part of the plan under § 1026.6(b)(3). See § 1026.6(b)(3)(iii)(D) and (E) and related commentary regarding fees imposed on the asset feature of a prepaid account that are not charges imposed as part of the plan under § 1026.6(b)(3) with respect to covered separate credit features accessible by hybrid prepaid-credit cards and non-covered separate credit features as those terms are defined in § 1026.61.

3. *Prepaid accounts.* With respect to covered separate credit features accessible by hybrid prepaid-credit cards as defined in § 1026.61, a card issuer is not prohibited under § 1026.12(d) from periodically deducting all or part of the cardholder's credit card debt from a deposit account (including the prepaid account) held with the card issuer (subject to the limitations of § 1026.13(d)(1)) under a plan that is authorized in writing by the cardholder, so long as the creditor does not deduct all or part of the cardholder's credit card debt from the deposit account more frequently than once per calendar month, pursuant to such a plan. To illustrate, with respect to a covered separate credit feature accessible by a hybrid prepaid-credit card, assume that a periodic statement is sent out each month to a cardholder on the first day of the month and the payment due date for the amount due on that statement is the 25th day of each month. In this case:

i. The card issuer is not prohibited under § 1026.12(d) from automatically deducting the amount due on the periodic statement on the 25th of each month, or on an earlier date in each calendar month, from a deposit account held by the card issuer, if the deductions are pursuant to a plan that is authorized in writing by the cardholder (as discussed in comment 12(d)(3)–1) and comply with the limitations in § 1026.13(d)(1).

ii. The card issuer is prohibited under § 1026.12(d) from automatically deducting all or part of the cardholder's credit card debt from a deposit account (including the prepaid account) held with the card issuer more frequently than once per calendar month, such as on a daily or weekly basis, or whenever deposits are made or expected to be made to the deposit account.

* * * * *

Section 1026.13—Billing Error Resolution

* * * * *

13(i) Relation to Electronic Fund Transfer Act and Regulation E

* * * * *

2. *Incidental credit under an agreement with respect to an account other than a prepaid account.* Except with respect to a prepaid account as defined in § 1026.61, for credit extended incident to an electronic fund transfer under an agreement between the consumer and the financial institution, § 1026.13(i)(1) provides that certain error resolution procedures in both this part and Regulation E apply. Except with respect to a prepaid account, incidental credit that is not extended under an agreement between the consumer and the financial institution is governed solely by the error resolution procedures in Regulation E. For example, credit inadvertently extended incident to an electronic fund transfer using a debit card, such as under an overdraft service not subject to Regulation Z, is governed solely by the Regulation E error resolution procedures, if the bank and the consumer do not have an agreement to extend credit when the consumer's account is overdrawn.

3. *Application to debit/credit transactions—examples.* If a consumer uses a debit card to withdraw money at an automated teller machine and activates an overdraft credit feature on the checking account:

i. An error asserted with respect to the transaction is subject, for error resolution purposes, to the applicable Regulation E (12 CFR part 1005) provisions (such as timing and notice) for the entire transaction.

* * * * *

iv. The provisions of § 1026.13(d) and (g) apply only to the credit portion of the transaction.

4. *Credit under a covered separate credit feature accessible by a hybrid prepaid-credit card.* For transactions involving a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in § 1026.61, whether Regulation E (12 CFR part 1005) or Regulation Z applies depends on the nature of the transaction. For example:

i. If the transaction solely involves an extension of credit under a covered separate credit feature and does not access funds from the asset feature of the prepaid account, the error resolution requirements of Regulation Z apply. To illustrate, assume that there is \$0 in the asset feature of the prepaid account, and the consumer makes a \$25 transaction with the card. The error resolution requirements of Regulation Z apply to the transaction. This is true regardless of whether the \$25 of credit is drawn directly from the covered separate credit feature without a transfer to the asset feature of the prepaid account to cover the amount of the transaction, or whether the \$25 of credit is transferred from the covered separate credit feature to the asset feature of the prepaid account to cover the amount of the transaction.

ii. If the transaction accesses funds from the asset feature of a prepaid account only (with no credit extended under the credit feature), the provisions of Regulation E apply.

iii. If the transaction accesses funds from the asset feature of a prepaid account but also involves an extension of credit under the covered separate credit feature, a creditor must comply with the requirements of Regulation E, 12 CFR 1005.11, and 1005.18(e) as applicable, governing error resolution rather than those of § 1026.13(a), (b), (c), (e), (f), and (h). To illustrate, assume that there is \$10 in the asset feature of the prepaid account, and the consumer makes a \$25 transaction with the card. The error resolution requirements of Regulations E and Z apply as described above to the transaction. This is true regardless of whether \$10 is debited from the asset feature and \$15 of credit is drawn directly from the covered separate credit feature without a transfer to the asset feature of the prepaid account to cover the amount of the transaction, or whether \$15 of credit is transferred from the covered separate credit feature to the asset feature of the prepaid account and a \$25 transaction is debited from the asset feature to cover the amount of the transaction. When this paragraph applies:

A. An error asserted with respect to the transaction is subject, for error resolution purposes, to the applicable Regulation E (12 CFR part 1005) provisions (such as timing and notice) for the entire transaction.

B. The creditor need not provisionally credit the consumer's account, under Regulation E, 12 CFR 1005.11(c)(2)(i), for any portion of the unpaid extension of credit.

C. The creditor must credit the consumer's account under § 1005.11(c) with any finance or other charges incurred as a result of the alleged error.

D. The provisions of § 1026.13(d) and (g) apply only to the credit portion of the transaction.

5. *Prepaid cards that are not hybrid prepaid-credit cards.* Regulation E, 12 CFR 1005.12(a)(1)(iv)(C) and (D), and (a)(2)(iii) provide guidance on whether error resolution procedures in Regulations E or Z apply to transactions involving credit features that are accessed by prepaid cards that are not hybrid prepaid-credit cards as defined in § 1026.61. Regulation E 12 CFR 1005.12(a)(1)(iv)(C) provides that with respect to transactions that involve credit extended through a negative balance to the asset feature of a prepaid account that meets the conditions set forth in § 1026.61(a)(4), these transactions are governed solely by error resolution procedures in Regulation E, and Regulation Z does not apply. Regulation E 12 CFR 1005.12(a)(1)(iv)(D) and (a)(2)(iii), taken together, provide that with respect to transactions involving a prepaid account and a non-covered separate credit feature as defined in § 1026.61, a financial institution must comply with Regulation E's error resolution procedures with respect to transactions that access the prepaid account as applicable, and the creditor must comply with Regulation Z's error resolution procedures with respect to transactions that access the non-covered separate credit feature, as applicable.

* * * * *

Subpart G—Special Rules Applicable to Credit Card Accounts and Open-End Credit Offered to College Students

* * * * *

Section 1026.52—Limitations on Fees

52(a) Limitations During First Year After Account Opening

52(a)(1) General Rule

1. *Application.* The 25 percent limit in § 1026.52(a)(1) applies to fees that the card issuer charges to the account as well as to fees that the card issuer requires the consumer to pay with respect to the account through other means (such as through a payment from the consumer's asset account, including a prepaid account as defined in § 1026.61, to the card issuer or from another credit account provided by the card issuer). For example:

* * * * *

iii. Assume that a consumer opens a prepaid account accessed by a prepaid card on January 1 of year one and opens a covered separate credit feature accessible by a hybrid prepaid-credit card as defined by § 1026.61 that is a credit card account under an open-end (not home-secured) consumer credit plan on March 1 of year one. Assume that, under the terms of the covered separate credit feature accessible by the hybrid prepaid-credit card, a consumer is required to pay \$50 in fees for the issuance or availability of credit at account opening. At credit account opening on March 1 of year one, the credit limit for the account is \$200. Section 1026.52(a)(1) permits the card issuer to charge the \$50 in fees to the credit account. However, § 1026.52(a)(1) prohibits the card issuer from requiring the consumer to make payments to the card issuer for additional non-exempt fees with respect to the credit account during the first year after account opening. Section 1026.52(a)(1) also prohibits the card issuer from requiring the consumer to open an additional credit feature with the card issuer to fund the payment of additional non-exempt fees during the first year after the covered separate credit feature is opened.

iv. Assume that a consumer opens a prepaid account accessed by a prepaid card on January 1 of year one and opens a covered separate credit feature accessible by a hybrid prepaid-credit card as defined in § 1026.61 that is a credit card account under an open-end (not home-secured) consumer credit plan on March 1 of year one. Assume that, under the terms of the covered separate credit feature accessible by the hybrid prepaid-credit card, a consumer is required to pay \$120 in fees for the issuance or availability of credit at account opening. The consumer is also required to pay a cash advance fee that is equal to 5 percent of any cash advance and a late payment fee of \$15 if the required minimum periodic payment is not received by the payment due date (which is the 25th of the month). At credit account opening on March 1 of year one, the credit limit for the account is \$500. Section 1026.52(a)(1) permits the card issuer to charge to the account the \$120 in fees for the issuance or availability of credit at account opening. On April 1 of year one, the consumer uses the account for a \$100 cash advance. Section 1026.52(a)(1) permits the card issuer to charge a \$5 cash advance fee to the account. On April 26 of year one, the card issuer has not received the consumer's required minimum periodic

payment. Section 1026.52(a)(2) permits the card issuer to charge a \$15 late payment fee to the account. On July 15 of year one, the consumer uses the account for a \$50 cash advance. Section 1026.52(a)(1) does not permit the card issuer to charge a \$2.50 cash advance fee to the account, because the total amount of nonexempt fees reached the 25 percent limit with the \$5 cash advance fee on April 1 (the \$15 late fee on April 26 is exempt pursuant to § 1026.52(a)(2)(i)). Furthermore, § 1026.52(a)(1) prohibits the card issuer from collecting the \$2.50 cash advance fee from the consumer by other means.

* * * * *

52(a)(2) Fees Not Subject to Limitations

1. *Covered fees.* Except as provided in § 1026.52(a)(2) and except as provided in comments 52(a)(2)–2 and–3, § 1026.52(a) applies to any fees or other charges that a card issuer will or may require the consumer to pay with respect to a credit card account during the first year after account opening, other than charges attributable to periodic interest rates. For example, § 1026.52(a) applies to:

* * * * *

2. *Fees in connection with a covered separate credit feature and an asset feature of the prepaid account that are both accessible by a hybrid prepaid-credit card.* With regard to a covered separate credit feature and an asset feature on a prepaid account that are both accessible by a hybrid prepaid-credit card as defined in § 1026.61 where the credit feature is a credit card account under an open-end (not home-secured) consumer credit plan, § 1026.52(a) applies to the following fees:

i. Except as provided in § 1026.52(a)(2), any fee or charge imposed on the covered separate credit feature, other than a charge attributable to a periodic interest rate, during the first year after account opening that the card issuer will or may require the consumer to pay in connection with the credit feature, and

ii. Except as provided in § 1026.52(a)(2), any fee or charge imposed on the asset feature of the prepaid account, other than a charge attributable to a periodic interest rate, during the first year after account opening that the card issuer will or may require the consumer to pay where that fee or charge is a charge imposed as part of the plan under § 1026.6(b)(3).

3. *Fees imposed on the asset feature of a prepaid account that are not charges imposed as part of the plan.* Section 1026.52(a) does not apply to any fee or charge imposed on the asset feature of the prepaid account that is not a charge imposed as part of the plan under § 1026.6(b)(3). See § 1026.6(b)(3)(iii)(D) and (E) and related commentary regarding fees imposed on the asset feature of the prepaid account that are not charges imposed as part of the plan under § 1026.6(b)(3) with respect to covered separate credit features accessible by hybrid prepaid-credit cards and non-covered separate credit features as those terms are defined in § 1026.61.

4. *Fees the consumer is not required to pay.* Section 1026.52(a)(2)(ii) provides that § 1026.52(a) does not apply to fees that the consumer is not required to pay with respect to the

account. For example, § 1026.52(a) generally does not apply to fees for making an expedited payment (to the extent permitted by § 1026.10(e)), fees for optional services (such as travel insurance), fees for reissuing a lost or stolen card, or statement reproduction fees.

5. *Security deposits.* A security deposit that is charged to a credit card account is a fee for purposes of § 1026.52(a). In contrast, however, a security deposit is not subject to the 25 percent limit in § 1026.52(a)(1) if it is not charged to the account. For example, § 1026.52(a)(1) does not prohibit a card issuer from requiring a consumer to provide funds at account opening pledged as security for the account that exceed 25 percent of the credit limit at account opening so long as those funds are not obtained from the account.

* * * * *

52(b) Limitations on Penalty Fees

* * * * *

3. *Fees in connection with covered separate credit features accessible by hybrid prepaid-credit cards.* With regard to a covered separate credit feature and an asset feature on a prepaid account that are both accessible by a hybrid prepaid-credit card as defined in § 1026.61 where the credit feature is a credit card account under an open-end (not home-secured) consumer credit plan, § 1026.52(b) applies to any fee for violating the terms or other requirements of the credit feature, regardless of whether those fees are imposed on the credit feature or on the asset feature of the prepaid account. For example, assume that a late fee will be imposed by the card issuer if the covered separate credit feature becomes delinquent or if a payment is not received by a particular date. This fee is subject to § 1026.52(b) regardless of whether the fee is imposed on the asset feature of the prepaid account or on the separate credit feature.

4. *Fees imposed on the asset feature of a prepaid account that are not charges imposed as part of the plan.* Section 1026.52(b) does not apply to any fee or charge imposed on the asset feature of the prepaid account that is not a charge imposed as part of the plan under § 1026.6(b)(3). See § 1026.6(b)(3)(iii)(D) and (E) and related commentary regarding fees imposed on the asset feature prepaid account that are not charges imposed as part of the plan under § 1026.6(b)(3) with respect to covered separate credit features accessible by hybrid prepaid-credit cards and non-covered separate credit features as those terms are defined in § 1026.61.

* * * * *

52(b)(2) Prohibited Fees

* * * * *

52(b)(2)(i) Fees That Exceed Dollar Amount Associated With Violation

* * * * *

7. *Declined transaction fees.* Section 1026.52(b)(2)(i)(B)(1) states that card issuers must not impose a fee when there is no dollar amount associated with the violation, such as for transactions that the card issuer declines to authorize. With regard to a covered separate credit feature and an asset feature on a prepaid account that are both accessible by a hybrid prepaid-credit card as defined in § 1026.61 where the credit feature is a credit card account under an open-end (not home-secured) consumer credit plan, § 1026.52(b)(2)(i)(B)(1) prohibits a card issuer from imposing declined transaction fees in connection with the credit feature, regardless of whether the declined transaction fee is imposed on the credit feature or on the asset feature of the prepaid account. For example, if the prepaid card attempts to access credit from the covered separate credit feature accessible by the hybrid prepaid-credit card and the transaction is declined, § 1026.52(ab)(2)(i)(B)(1) prohibits the card issuer from imposing a declined transaction fee, regardless of whether the fee is imposed on the credit feature or on the asset feature of the prepaid account. Fees imposed for declining a transaction that would have only accessed the asset feature of the prepaid account and would not have accessed the covered separate credit feature accessible by the hybrid prepaid-credit are not covered by § 1026.52(b)(2)(i)(B)(1).

* * * * *

Section 1026.55—Limitations on Increasing Annual Percentage Rates, Fees, and Charges

55(a) General Rule

* * * * *

3. *Fees in connection with covered separate credit features accessible by hybrid prepaid-credit cards.* With regard to a covered separate credit feature and an asset feature on a prepaid account that are both accessible by a hybrid prepaid-credit card as defined in § 1026.61 where the credit feature is a credit card account under an open-end (not home-secured) consumer credit plan, § 1026.55(a) prohibits card issuers from increasing an annual percentage rate or any fee or charge required to be disclosed under § 1026.6(b)(2)(ii), (iii), or (xii) on a credit card account unless specifically permitted by one of the exceptions in § 1026.55(b). This is true regardless of whether these fees or annual percentage rates are imposed on the asset feature of the prepaid account or on the credit feature.

4. *Fees imposed on the asset feature of a prepaid account that are not charges imposed as part of the plan.* Section 1026.55(a) does not apply to any fee or charge imposed on the asset feature of the prepaid account that is not a charge imposed as part of the plan under § 1026.6(b)(3). See § 1026.6(b)(3)(iii)(D) and (E) and related commentary regarding fees imposed on the asset feature of the prepaid account that are not charges imposed as part of the

plan under § 1026.6(b)(3) with respect to covered separate credit features accessible by hybrid prepaid-credit cards and non-covered separate credit features as those terms are defined in § 1026.61.

* * * * *

Section 1026.57—Reporting and Marketing Rules for College Student Open-End Credit

57(a) Definitions

57(a)(1) College Student Credit Card

1. *Definition.* The definition of college student credit card excludes home-equity lines of credit accessed by credit cards and overdraft lines of credit accessed by debit cards. A college student credit card includes a college affinity card within the meaning of TILA section 127(r)(1)(A). In addition, a card may fall within the scope of the definition regardless of the fact that it is not intentionally targeted at or marketed to college students. For example, an agreement between a college and a card issuer may provide for marketing of credit cards to alumni, faculty, staff, and other non-student consumers who have a relationship with the college, but also contain provisions that contemplate the issuance of cards to students. A credit card issued to a student at the college in connection with such an agreement qualifies as a college student credit card. The definition of college student credit card includes a hybrid prepaid-credit card as defined by § 1026.61 that is issued to any college student where the card can access a covered separate credit feature that is a credit card account under an open-end (not home-secured) consumer credit plan. The definition of college student credit card also includes a prepaid account as defined in § 1026.61 that is issued to any college student where a covered separate credit feature that is a credit card account under an open-end (not home-secured) consumer credit plan accessible by a hybrid prepaid-credit card as defined by § 1026.61 may be added in the future to the prepaid account.

57(a)(5) College Credit Card Agreement

1. *Definition.* Section 1026.57(a)(5) defines “college credit card agreement” to include any business, marketing or promotional agreement between a card issuer and a college or university (or an affiliated organization, such as an alumni club or a foundation) if the agreement provides for the issuance of credit cards to full-time or part-time students. Business, marketing or promotional agreements may include a broad range of arrangements between a card issuer and an institution of higher education or affiliated organization, including arrangements that do not meet the criteria to be considered college affinity card agreements as discussed in TILA section 127(r)(1)(A). For example, TILA section 127(r)(1)(A) specifies that under a college affinity card agreement, the card issuer has agreed to make a donation to the institution or affiliated organization, the card issuer has agreed to offer discounted terms to the consumer, or the credit card will display pictures, symbols, or words identified with the institution or affiliated organization; even if these conditions are not met, an agreement may qualify as a college credit card agreement, if the agreement is a business, marketing or promotional agreement that contemplates the issuance of college student credit cards to college students currently enrolled (either full-time or part-time) at the institution. An agreement may qualify as a college credit

card agreement even if marketing of cards under the agreement is targeted at alumni, faculty, staff, and other non-student consumers, as long as cards may also be issued to students in connection with the agreement. This definition also includes a business, marketing, or promotional agreement between a card issuer and a college or university (or an affiliated organization, such as an alumni club or a foundation) if the agreement provides for the addition of a covered separate credit feature that is a credit card account under an open-end (not home-secured) consumer credit plan accessible by a hybrid prepaid-credit card as defined by § 1026.61 to prepaid accounts previously issued to full-time or part-time students. This definition also includes a business, marketing, or promotional agreement between a card issuer and a college or university (or an affiliated organization, such as an alumni club or a foundation) if (1) the agreement provides for the issuance of prepaid accounts as defined in § 1026.61 to full-time or part-time students; and (2) a covered separate credit feature that is a credit card account under an open-end (not home-secured) consumer credit plan accessible by a hybrid prepaid-credit card as defined by § 1026.61 may be added in the future to the prepaid account.

57(b) Public Disclosure of Agreements

* * * * *

3. *Credit card accounts in connection with prepaid accounts.* Section 1026.57(b) applies to any contract or other agreement that an institution of higher education makes with a card issuer or creditor for the purpose of marketing either (1) the addition of a covered separate credit feature that is a credit card account under an open-end (not home-secured) consumer credit plan accessible by a hybrid prepaid-credit card as defined in § 1026.61 to prepaid accounts previously issued to full-time or part-time students; or (2) new prepaid accounts as defined in § 1026.61 where a covered separate credit feature that is a credit card account under an open-end (not home-secured) consumer credit plan accessible by a hybrid prepaid-credit card as defined in § 1026.61 may be added in the future to the prepaid account. Thus, under § 1026.57(b), an institution of higher education must publicly disclose such agreements.

57(c) Prohibited Inducements

* * * * *

7. *Credit card accounts in connection with prepaid accounts.* Section 1026.57(c) applies to (1) the application for or opening of a covered separate credit feature that is a credit card account under an open-end (not home-secured) consumer credit plan accessible by a hybrid prepaid-credit card as defined in § 1026.61 that is being added to a prepaid account previously issued to a full-time or part-time student as well as (2) the application for or opening of a prepaid account as defined in § 1026.61 where a covered separate credit feature that is a credit card account under an open-end (not home-secured) consumer credit plan accessible by a hybrid prepaid-credit card as defined in § 1026.61 may be added in the future to the prepaid account.

* * * * *

Section 1026.60—Credit and Charge Card Applications and Solicitations

1. *General.* Section 1026.60 generally requires that credit disclosures be contained in application forms and solicitations initiated by a card issuer to open a credit or charge card account. (See § 1026.60(a)(5) and (e)(2) for exceptions; see § 1026.60(a)(1) and accompanying commentary for the definition of solicitation; see also § 1026.2(a)(15) and accompanying commentary for the definition of charge card and § 1026.61(c) for restrictions on when credit or charge card accounts can be added to previously issued prepaid accounts.)

* * * * *

60(b) Required Disclosures

* * * * *

3. *Fees imposed on the asset feature of a prepaid account in connection with a covered separate credit feature accessible by a hybrid prepaid-credit card.* With regard to a covered separate credit feature and an asset feature on a prepaid account that are both accessible by a hybrid prepaid-credit card as defined in § 1026.61, a card issuer is required to disclose under § 1026.60(b) any fees or charges imposed on the asset feature of the prepaid account that are charges imposed as part of the plan under § 1026.6(b)(3) to the extent those fees or charges fall within the categories of fees or charges required to be disclosed under § 1026.60(b). For example, assume that a card issuer imposes a \$1.25 per transaction fee on the asset feature of a prepaid account for purchases when a hybrid prepaid-credit card accesses a covered separate credit feature in the course of authorizing, settling, or otherwise completing purchase transactions conducted with the card, and the card issuer charges \$0.50 per transaction for purchases that access funds in the asset feature of the prepaid account in the same program without such a credit feature. In this case, the \$0.75 excess is a charge imposed as part of the plan under § 1026.6(b)(3) and must be disclosed under § 1026.60(b)(4).

4. *Fees imposed on the asset feature of a prepaid account that are not charges imposed as part of the plan.* A card issuer is not required under § 1026.60(b) to disclose any fee or charge imposed on the asset feature of the prepaid account that is not a charge imposed as part of the plan under § 1026.6(b)(3). See § 1026.6(b)(3)(iii)(D) and (E) and related commentary regarding fees imposed on the asset feature of the prepaid account that are not charges imposed as part of the plan under § 1026.6(b)(3) with respect to covered separate credit features accessible by hybrid prepaid-credit cards and non-covered separate credit features as those terms are defined in § 1026.61.

* * * * *

60(b)(4) Transaction Charges

* * * * *

3. *Prepaid cards.* i. With respect to a covered separate credit feature accessible by a hybrid prepaid-credit card as defined by § 1026.61, if a card issuer assesses a fee (other than a periodic rate that may be used to compute the finance charge on an outstanding balance) to make

a purchase where this fee is imposed as part of the plan as described in § 1026.6(b)(3), that fee is a transaction charge described in § 1026.60(b)(4). *See* comments 60(b)–3 and –4. This is so whether the fee is a per transaction fee to make a purchase, or a flat fee for each day (or other period) the consumer has an outstanding balance of purchase transactions.

ii. A fee for a transaction will be treated as a fee to make a purchase under § 1026.60(b)(4) in cases where a consumer uses a hybrid prepaid-credit card as defined in § 1026.61 to make a purchase to obtain goods or services from a merchant and credit is drawn directly from a covered separate credit feature accessed by the hybrid prepaid-credit card without transferring funds into the asset feature of the prepaid account to cover the amount of the purchase. For example, assume that the consumer has \$10 of funds in the asset feature of the prepaid account and initiates a transaction with a merchant to obtain goods or services with the hybrid prepaid-credit card for \$25. In this case, \$10 is debited from the asset feature and \$15 of credit is drawn directly from the covered separate credit feature accessed by the hybrid prepaid-credit card without any transfer of funds into the asset feature of the prepaid account to cover the amount of the purchase. A per transaction fee imposed for the \$15 credit transaction must be disclosed under § 1026.60(b)(4).

iii. On the other hand, a fee for a transaction will be treated as a cash advance fee under § 1026.60(b)(8) in cases where a consumer uses a hybrid prepaid-credit card as defined in § 1026.61 to make a purchase to obtain goods or services from a merchant and credit is transferred from a covered separate credit feature accessed by the hybrid prepaid-credit card into the asset feature of the prepaid account to cover the amount of the purchase. For example, assume the same facts as above, except that the \$15 will be transferred from the covered separate credit feature to the asset feature, and a transaction of \$25 is debited from the asset feature of the prepaid account. In this case, a per transaction fee for the \$15 credit transaction must be disclosed under § 1026.60(b)(8).

* * * * *

60(b)(8) Cash Advance Fee

* * * * *

4. *Prepaid cards.* i. With respect to a covered separate credit feature accessible by a hybrid prepaid-credit card as defined by § 1026.61, if a card issuer assesses a fee (other than a periodic rate that may be used to compute the finance charge on an outstanding balance) for a cash advance, such as a cash withdrawal at an ATM, where the fee is imposed as part of the plan as described in § 1026.6(b)(3), that fee is a cash advance fee. *See* comments 60(b)–3 and –4. In addition, a fee for a transaction will be treated as a cash advance fee under § 1026.60(b)(8) in cases where a consumer uses a hybrid prepaid-credit card as defined in § 1026.61 to make a purchase to obtain goods or services from a merchant and credit is transferred from a covered separate credit feature accessed by the hybrid prepaid-credit card into the asset feature of the prepaid account to cover the amount of the purchase. *See* comment 60(b)(4)–3.iii.

ii. If the cash advance fee is the same dollar amount as the transaction charge for purchases described in § 1026.60(b)(4), the card issuer may disclose the fee amount under a

heading that indicates the fee applies to both purchase transactions and cash advances. Examples of how fees for purchase transactions described in § 1026.60(b)(4) and fees for cash advances described in § 1026.60(b)(8) must be disclosed are as follows. Assume that all the fees in the examples below are charged on the covered separate credit feature.

A. A card issuer assesses a \$15 fee for credit drawn from a covered separate credit feature using a hybrid prepaid-credit card to purchase goods or services at the point of sale when the consumer has insufficient or unavailable funds in the prepaid account as described in comment 60(b)(4)–3.ii. The card issuer assesses a \$25 fee for credit drawn from a covered separate credit feature using a hybrid prepaid-credit card for a cash advance at an ATM when the consumer has insufficient or unavailable funds in the prepaid account. In this instance, the card issuer must disclose separately a purchase transaction charge of \$15 and a cash advance fee of \$25.

B. A card issuer assesses a \$15 fee for credit drawn from a covered separate credit feature using a hybrid prepaid-credit card to purchase goods or services at the point of sale when the consumer has insufficient or unavailable funds in the prepaid account as discussed in comment 60(b)(4)–3.ii. The card issuer assesses a \$15 fee for credit drawn from a covered separate credit feature using a hybrid prepaid-credit card for providing cash at an ATM when the consumer has insufficient or unavailable funds in the prepaid account. In this instance, the card issuer may disclose the \$15 fee under a heading that indicates the fee applies to both purchase transactions and ATM cash advances. Alternatively, the card issuer may disclose the \$15 fee on two separate rows, one row indicating that a \$15 fee applies to purchase transactions, and a second row indicating that a \$15 fee applies to ATM cash advances.

C. A card issuer assesses a \$15 fee for credit drawn from a covered separate credit feature using a hybrid prepaid-credit card for providing cash at an ATM when the consumer has insufficient or unavailable funds in the prepaid account. The card issuer also assesses a fee of \$1.50 for out-of-network ATM cash withdrawals and \$1.00 for in-network ATM cash withdrawals. The card issuer must disclose the cash advance fee as \$16.50 for out-of-network ATM cash withdrawals, indicating that \$1.50 is for the out-of-network ATM withdrawal fee, such as “\$16.50 (including a \$1.50 out-of-network ATM withdrawal fee).” The card issuer also must disclose the cash advance fee as \$16.00 for in-network ATM cash withdrawals, indicating that \$1.00 is for the in-network ATM withdrawal fee, such as “\$16 (including a \$1.00 in-network ATM cash withdrawal fee).”

* * * * *

Section 1026.61—Hybrid Prepaid-Credit Cards

61(a) Hybrid Prepaid-Credit Card

1. *Scope of § 1026.61.* Section 1026.61 sets forth the definition of hybrid prepaid-credit card, and several requirements that only apply to covered separate credit features accessible by hybrid prepaid-credit cards as defined in § 1026.61(a)(2)(i). Hybrid prepaid-credit cards and covered separate credit features accessible by hybrid prepaid-credit cards are also subject to other rules in this regulation, and some of those rules and related commentary contain specific

guidance related to hybrid prepaid-credit cards and covered separate credit features accessible by hybrid prepaid-credit cards. For example, as discussed in §§ 1026.2(a)(15)(i) and 1026.61(a), a hybrid prepaid-credit card is a credit card for purposes of this regulation with respect to a covered separate credit feature. A covered separate credit feature accessible by a hybrid prepaid-credit card also will be a credit card account under an open-end (not home-secured) consumer credit plan as defined in § 1026.2(a)(15)(ii) if the covered separate credit feature is an open-end credit plan. Thus, the provisions in this regulation that apply to credit cards and credit card accounts under an open-end (not home-secured) consumer credit plan generally will apply to hybrid prepaid-credit cards and covered separate credit features accessible by hybrid prepaid-credit cards as applicable (*see generally* subparts B and G). Some of those rules and related commentary contain specific guidance with respect to hybrid prepaid-credit cards and covered separate credit features accessible by hybrid prepaid-credit cards. *See, e.g.,* §§ 1026.2(a)(15)(i) and (ii), 1026.4(b)(11), (c)(3) and (4), 1026.6(b)(3)(iii)(D) and (E), 1026.7(b)(11)(ii)(A), 1026.12(d)(3)(ii), 1026.13(i)(2), 1026.60(a)(5)(iv) and (b), and related commentary to these and other rules in the regulation.

61(a)(1) In General

1. *Credit.* Under § 1026.61(a)(1), except as provided in § 1026.61(a)(4), a prepaid card is a hybrid prepaid-credit card if the prepaid card can access credit from a covered separate credit feature as described in § 1026.61(a)(2)(i) or if it can access credit extended through a negative balance on the asset feature of the prepaid account as described in § 1026.61(a)(3). When § 1026.61 references credit that can be accessed from a separate credit feature or credit that can be extended through a negative balance on the asset feature, it means credit that can be accessed or can be extended even if, for example:

- i. The person that can extend the credit does not agree in writing to extend the credit;
- ii. The person retains discretion not to extend the credit, or
- iii. The person does not extend the credit once the consumer has exceeded a certain amount of credit.

2. *Prepaid card that is solely an account number.* A prepaid card that is solely an account number is a hybrid prepaid-credit card if it meets the conditions set forth in § 1026.61(a).

3. *Usable from time to time.* In order for a prepaid card to be a hybrid prepaid-credit card under § 1026.61(a), the prepaid card must be capable of being used from time to time to access credit as described in § 1026.61(a). Since this involves the possibility of repeated use of a single device, checks and similar instruments that can be used only once to obtain a single credit extension are not hybrid prepaid-credit cards. With respect to a preauthorized check that is issued on a prepaid account for which credit is extended through a negative balance on the asset feature of the prepaid account, or credit is drawn, transferred or authorized to be drawn or transferred from a separate credit feature, the credit is obtained using the prepaid account number and not the check at the time of preauthorization using the prepaid account number. The prepaid account number is a hybrid prepaid-credit card if the account number meets the conditions set forth in § 1026.61(a). *See comment 61(a)(1)–2.*

4. *Prepaid account that is a digital wallet.* i. A digital wallet that is capable of being loaded with funds is a prepaid account under Regulation E, 12 CFR 1005.2(b)(3). See Regulation E, 12 CFR 1005.2(b)(3) and comment 2(b)(3)(i)–6. A prepaid account number that can access such a digital wallet would be a hybrid prepaid-credit card if it meets the conditions set forth in § 1026.61(a). To illustrate:

A. A prepaid account number that can access such a digital wallet is a hybrid prepaid-credit card where it can be used from time to time to access a covered separate credit feature offered by the prepaid account issuer, its affiliate, or its business partner in the course of authorizing, settling, or otherwise completing a transaction conducted with the prepaid account number to obtain goods or services, obtain cash, or conduct person-to-person transfers as described in § 1026.61(a)(2)(i).

B. A prepaid account number that can access such a digital wallet also is a hybrid prepaid-credit card where it can be used from time to time to access the stored credentials for a covered separate credit feature offered by the prepaid account issuer, its affiliate, or its business partner in the course of authorizing, settling, or otherwise completing a transaction conducted with the prepaid account number to obtain goods or services, obtain cash, or conduct person-to-person transfers as described in § 1026.61(a)(2)(i).

C. A prepaid account number that can access such a digital wallet is not a hybrid prepaid-credit card with respect to credentials stored in the prepaid account that can access a non-covered separate credit feature as described in § 1026.61(a)(2)(ii) that is not offered by the prepaid account issuer, its affiliate, or its business partner, even if the prepaid account number can access those credentials in the course of authorizing, settling, or otherwise completing a transaction conducted with the prepaid account number to obtain goods or services, obtain cash, or conduct person-to-person transfers.

D. A prepaid account number that can access such a digital wallet is not a hybrid prepaid-credit card with respect to credentials stored in the prepaid account that can access a non-covered separate credit feature as described in § 1026.61(a)(2)(ii) where the prepaid account number cannot access those credentials in the course of authorizing, settling, or otherwise completing a transaction conducted with the prepaid account number to obtain goods or services, obtain cash, or conduct person-to-person transfers, even if such credit feature is offered by the prepaid account issuer, its affiliate, or its business partner.

ii. A digital wallet is not a prepaid account under Regulation E, 12 CFR 1005.2(b)(3), if the digital wallet can never be loaded with funds, such as a digital wallet that only stores payment credentials for other accounts. See Regulation E, 12 CFR 1005.2(b)(3) and comment 2(b)(3)(i)–6. An account number that can access such a digital wallet would not be a hybrid prepaid-credit card under § 1026.61(a), even if it stores a credential for a separate credit feature that is offered by the digital wallet provider, its affiliate, or its business partner and can be used in the course of a transaction involving the digital wallet.

5. *Prepaid account that can be used for bill payment services.* Where a prepaid account can be used for online bill payment services offered by the prepaid account issuer, the prepaid card (including a prepaid account number) that can access that prepaid account is a hybrid

prepaid-credit card if it meets the requirements set forth in § 1026.61(a). For example, if a prepaid account number can be used from time to time to initiate a transaction using the online bill payment service offered by the prepaid account issuer to pay a bill, and credit can be drawn, transferred, or authorized to be drawn or transferred, to the prepaid account from a covered separate credit feature offered by the prepaid account issuer, its affiliate, or its business partner in the course of authorizing, settling, or otherwise completing that transaction as described in § 1026.61(a)(2)(i), the prepaid account number would be a hybrid prepaid-credit card under § 1026.61(a). In this case, the prepaid account number can be used to draw or transfer credit, or authorize the draw or transfer of credit, from a covered separate credit feature offered by the prepaid account issuer, its affiliate, or its business partner in the course of completing a transaction to pay for goods or services through the online bill payment service.

61(a)(2) Prepaid Card Can Access Credit From a Covered Separate Credit Feature

1. *Draws or transfers of credit.* i. For a prepaid card to be a hybrid prepaid-credit card under § 1026.61(a)(2)(i) with respect to a separate credit feature, the prepaid account must be structured such that the draw or transfer of credit, or authorizations of either, from a separate credit feature offered by the prepaid account issuer, its affiliate, or its business partner is capable of occurring in the course of authorizing, settling, or otherwise completing transactions conducted with the prepaid card to obtain goods or services, obtain cash, or conduct person-to-person transfers. See comment 61(a)(2)–2 for guidance on when draws or transfers of credit can occur in the course of authorizing, settling, or otherwise completing a transaction described in § 1026.61(a)(2)(i). In this case, the separate credit feature is a covered separate credit feature accessible by a hybrid prepaid-credit card under § 1026.61(a)(2)(i).

ii. A prepaid card is a hybrid prepaid-credit card with respect to a covered separate credit feature regardless of whether:

A. The credit is pushed from the covered separate credit feature to the asset feature of the prepaid account in the course of authorizing, settling, or otherwise completing transactions conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers; or

B. The credit is pulled from the covered separate credit feature to the asset feature of the prepaid account in the course of authorizing, settling, or otherwise completing transactions conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers.

iii. A prepaid card is a hybrid prepaid-credit card with respect to a covered separate credit feature regardless of whether the covered separate credit feature can only be used as an overdraft credit feature, solely accessible by the hybrid prepaid-credit card, or whether it is a general line of credit that can be accessed in other ways.

2. *Credit that can be accessed from a separate credit feature in the course of authorizing, settling, or otherwise completing a transaction.* i. Under § 1026.61(a)(2)(i), a prepaid card is a hybrid prepaid-credit card when the card can be used from time to time to access a separate credit feature that is offered by the prepaid account issuer, its affiliate, or its business partner and

can be used to access credit in the course of authorizing, settling, or otherwise completing transactions conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers. A draw, transfer, or authorization of a draw or transfer from a separate credit feature is deemed to be in the “course of authorizing, settling, or otherwise completing” a transaction if it occurs during the authorization phase of the transaction as discussed in comment 61(a)(2)–2.ii or in later periods up to the settlement of the transaction, as discussed in comment 61(a)(2)–2.iii.

ii. The following examples illustrate transactions where credit can be drawn, transferred, or authorized to be drawn or transferred from a separate credit feature in the course of authorizing a transaction.

A. A transaction initiated using a prepaid card when there are insufficient or unavailable funds in the asset feature of the prepaid account at the time the transaction is initiated and credit is transferred from the credit feature to the asset feature at the time the transaction is authorized to complete the transaction.

B. A transaction initiated using a prepaid card when there are insufficient or unavailable funds in the asset feature of the prepaid account at the time the transaction is initiated and credit is directly drawn from the credit feature to complete the transaction, without transferring funds into the prepaid account.

iii. The following examples illustrate transactions where credit can be drawn, transferred, or authorized to be drawn or transferred, in the course of settling a transaction.

A. A transaction initiated using a prepaid card when there are sufficient or available funds in the asset feature of the prepaid account at the time of authorization to cover the amount of the transaction but where the consumer does not have sufficient or available funds in the asset feature to cover the transaction at the time of settlement. Credit automatically is drawn, transferred, or authorized to be drawn or transferred from the credit feature at settlement to pay the transaction.

B. A transaction that was not authorized in advance where the consumer does not have sufficient or available funds in the asset feature to cover the transaction at the time of settlement. Credit automatically is drawn, transferred, or authorized to be drawn or transferred from the credit feature at settlement to pay the transaction.

3. *Accessing credit when the asset feature has sufficient funds.* Section 1026.61(a)(2)(i) applies where the prepaid card can be used from time to time to draw funds from a covered separate credit feature that is offered by a prepaid account issuer, its affiliate, or its business partner in the course of authorizing, settling, or otherwise completing transactions conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers, even if there are sufficient or available funds in the asset feature of the prepaid account to complete the transaction. For example, the following separate credit feature would meet the conditions of § 1026.61(a)(2)(i).

i. The prepaid card can be used from time to time both to access the asset feature of a prepaid account and to draw on the covered separate credit feature in the course of a transaction

independent of whether there are sufficient or available funds in the asset feature to complete the transaction. For example, assume that a consumer has \$50 available funds in her prepaid account. The consumer initiates a \$25 transaction with the card to purchase goods and services. If the consumer chooses at the time the transaction is initiated to use the card to access the prepaid account, the card will draw on the funds in the asset feature of the prepaid account to complete the transaction. If the consumer chooses at the time the transaction is initiated to use the card to access the credit feature, the card will draw on credit from the credit feature to complete the transaction, regardless of the fact that there were sufficient or available funds the prepaid account to complete the transaction.

4. *Covered separate credit features.* i. Under § 1026.61(a)(2)(i), a separate credit feature that meets the conditions of § 1026.61(a)(2)(i) is defined as a covered separate credit feature. In this case, the hybrid prepaid-credit card can access both the covered separate credit feature and the asset feature of the prepaid account. Section 1026.61 and other provisions in the regulation and commentary related to hybrid prepaid-credit cards refer to this credit feature either as a covered separate credit feature or a covered separate credit feature accessible by a hybrid prepaid-credit card. *See, e.g.,* §§ 1026.4(c)(4), 1026.7(b)(11)(ii)(A), 1026.12(d)(3)(ii), and 1026.60(a)(5)(iv) and (b). In addition, several provisions in the regulation and commentary also describe this arrangement as one where a covered separate credit feature and an asset feature on a prepaid account are both accessible by a hybrid prepaid-credit card as defined in § 1026.61. *See, e.g.,* §§ 1026.4(b)(11), 1026.6(b)(3)(iii)(D), and 1026.13(i)(2).

ii. If a prepaid card is capable of drawing or transferring credit, or authorizing either, from a separate credit feature offered by the prepaid account issuer, its affiliate, or its business partner in the course of authorizing, settling, or otherwise completing transactions conducted with the prepaid card to obtain goods or services, obtain cash, or conduct a person-to-person transfer, the credit feature is a covered separate credit feature accessible by a hybrid prepaid-credit card, even with respect to credit that is drawn or transferred, or authorized to be drawn or transferred, from the credit feature outside the course of a transaction conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers. For example, with respect to a covered separate credit feature, a consumer may use the prepaid card at the prepaid account issuer's Web site to load funds from the covered separate credit feature outside the course of a transaction conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers. This credit transaction is considered a credit transaction on a covered separate credit feature accessible by a hybrid prepaid-credit card, even though the load or transfer of funds occurred outside the course of a transaction conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers.

5. *Non-covered separate credit features.* A separate credit feature that does not meet the conditions set forth in § 1026.61(a)(2)(i) is defined as a non-covered separate credit feature as described in § 1026.61(a)(2)(ii). A prepaid card is not a hybrid prepaid-credit card with respect to a non-covered separate credit feature. To illustrate:

i. A prepaid card is not a hybrid prepaid-credit card under § 1026.61(a)(2)(i) with respect to a separate credit feature if the credit feature is not offered by the prepaid account issuer, its affiliate, or its business partner. This is true even if the draw or transfer of credit, or authorization of either, occurs during the course of authorizing, settling, or otherwise completing

transactions to obtain goods or services, obtain cash, or conduct person-to-person transfers. For example, assume a consumer links her prepaid account to a credit card issued by a card issuer that is not the prepaid account issuer, its affiliate, or its business partner so that credit is drawn automatically into the asset feature of the prepaid account in the course of authorizing, settling, or otherwise completing transactions conducted with the prepaid card for which there are insufficient funds in the asset feature. In this case, the separate credit feature is a non-covered separate credit feature under § 1026.61(a)(2)(ii). In this situation, the prepaid card is not a hybrid prepaid-credit card with respect to the separate credit feature offered by the unrelated third-party card issuer.

ii. Even if a separate credit feature is offered by the prepaid account issuer, its affiliate, or its business partner, a prepaid card is not a hybrid prepaid-credit card under § 1026.61(a)(2)(i) with respect to that separate credit feature if the separate credit feature cannot be accessed within the course of authorizing, settling, or otherwise completing transactions to obtain goods or services, obtain cash, or conduct person-to-person transfers. For example, assume that a consumer can only conduct a draw or transfer of credit, or authorization of either, from a separate credit feature to a prepaid account at the prepaid account issuer's Web site, and these draws, transfers, or authorizations of either, cannot occur in the course of authorizing, settling, or otherwise completing transactions at the Web site to obtain goods or services, obtain cash, or conduct person-to-person transfers. In this case, the separate credit feature is a non-covered separate credit feature under § 1026.61(a)(2)(ii). In this situation, the prepaid card is not a hybrid prepaid-credit card with respect to this non-covered separate credit feature.

iii. The person offering the non-covered separate credit feature does not become a card issuer under § 1026.2(a)(7) and thus does not become a creditor under § 1026.2(a)(17)(iii) or (iv) because the prepaid card can be used to access credit from the non-covered separate credit feature. The person offering the non-covered separate credit feature, however, may already have obligations under this regulation with respect to that separate credit feature. For example, if the non-covered separate credit feature is an open-end credit card account offered by an unrelated third-party creditor that is not an affiliate or business partner of the prepaid account issuer, the person already will be a card issuer under § 1026.2(a)(7) and a creditor under § 1026.2(a)(17)(iii). Nonetheless, in that case, the person does not need to comply with the provisions in the regulation applicable to hybrid prepaid-credit cards even though the prepaid card can access credit from the non-covered separate credit feature. The obligations under this regulation that apply to a non-covered separate credit feature are not affected by the fact that the prepaid card can access credit from the non-covered separate credit feature. See § 1026.6(b)(3)(iii)(E) and comments 4(b)(11)–1.ii, 6(b)(2)–2, 6(b)(3)(iii)(E)–1, 12(d)(3)–2.iii, 52(a)(2)–3, 52(b)–4, 55(a)–4, and 60(b)–4.

6. *Prepaid card that can access multiple separate credit features.* i. Even if a prepaid card is a hybrid prepaid-credit card with respect to a covered separate credit feature, it is not a hybrid prepaid-credit card with respect to any non-covered separate credit features.

ii. For example, assume that a prepaid card can access “Separate Credit Feature A” where the card can be used from time to time to access credit from a separate credit feature that is offered by the prepaid account issuer, its affiliate, or its business partner in the course of authorizing, settling, or otherwise completing transactions conducted with the card to obtain

goods or services, obtain cash, or conduct person-to-person transfers. In addition, assume that the prepaid card can also access “Separate Credit Feature B” but that credit feature is being offered by an unrelated third-party creditor that is not the prepaid account issuer, its affiliate, or its business partner. The prepaid card is a hybrid prepaid-credit card with respect to Separate Credit Feature A because it is a covered separate credit feature. The prepaid card, however, is not a hybrid prepaid-credit card with respect to Separate Credit Feature B because it is a non-covered separate credit feature.

61(a)(3) Prepaid Card Can Access Credit Extended Through a Negative Balance on the Asset Feature

61(a)(3)(i) In General

1. *Credit accessed on an asset feature of a prepaid account.* i. See comment 2(a)(14)–3 for examples of when transactions authorized or paid on the asset feature of a prepaid account meet the definition of credit under § 1026.2(a)(14).

ii. Except as provided in § 1026.61(a)(4), a prepaid card would trigger coverage as a hybrid prepaid-credit card if it is a single device that can be used from time to time to access credit that can be extended through a negative balance on the asset feature of the prepaid account. (However, unless the ~~only~~ credit ~~offered~~ extended through a negative balance on the asset feature of the prepaid account meets the requirements of § 1026.61(a)(4), such a product structure would violate the rules under § 1026.61(b).) A credit extension through a negative balance on the asset feature of a prepaid account can occur during the authorization phase of the transaction as discussed in comment 61(a)(3)(i)–1.iii or in later periods up to the settlement of the transaction, as discussed in comment 61(a)(~~23~~)(i)–1.iv.

iii. The following example illustrates transactions where a credit extension occurs during the course of authorizing a transaction.

A. A transaction initiated using a prepaid card when there are insufficient or unavailable funds in the asset feature of the prepaid account at the time the transaction is initiated and credit is extended through a negative balance on the asset feature of the prepaid account when the transaction is authorized.

iv. The following examples illustrate transactions where a credit extension occurs at settlement.

A. Transactions that occur when there are sufficient or available funds in the asset feature of the prepaid account at the time of authorization to cover the amount of the transaction but where the consumer does not have sufficient or available funds in the asset feature to cover the transaction at the time of settlement. Credit is extended through a negative balance on the asset feature at settlement to pay those transactions.

B. Transactions that settle even though they were not authorized in advance where credit is extended through a negative balance on the asset feature at settlement to pay those transactions.

61(a)(3)(ii) Negative Asset Balances

1. *Credit extended on the asset feature of the prepaid account.* Section 1026.61(a)(3)(i) determines whether a prepaid card triggers coverage as a hybrid prepaid-credit card under § 1026.61(a), and thus, whether a prepaid account issuer is a card issuer under § 1026.2(a)(7) subject to this regulation, including § 1026.61(b). However, § 1026.61(b) requires that any credit feature accessible by a hybrid prepaid-credit card must be structured as a separate credit feature using either a credit subaccount of the prepaid account or a separate credit account. ~~In that case~~ Unless § 1026.61(a)(4) applies, a card issuer would violate § 1026.61(b) if it structures ~~thea~~ credit feature as a negative balance on the asset feature of the prepaid account, ~~unless the only credit offered in connection with the prepaid account satisfies § 1026.61(a)(4).~~ A prepaid account issuer can use a negative asset balance structure to extend credit on a prepaid account if the prepaid card is not a hybrid prepaid-credit card with respect to that credit as described in § 1026.61(a)(4).

61(a)(4) Exception for Credit Extended Through a Negative Balance

1. *Prepaid card that is not a hybrid prepaid-credit card.* i. A prepaid card that is not a hybrid prepaid-credit card as described in § 1026.61(a)(4) with respect to credit extended through a negative balance on the asset feature of the prepaid account is not a credit card under this regulation with respect to that credit. A prepaid card is not a hybrid prepaid-credit card with respect to credit extended through a negative balance on the asset feature of the prepaid account if:

A. The card cannot access credit from a covered separate credit feature under § 1026.61(a)(2)(i) that is offered by the prepaid account issuer or its affiliate, though it is permissible for it to access credit from a covered separate credit feature offered by a business partner or from a non-covered separate credit feature as described under § 1026.61(a)(2)(ii); and

~~B. The card can only access credit extended through a negative balance on the asset feature of the prepaid account in accordance with both the conditions set forth in § 1026.61(a)(4)(ii)(A) and (B).~~

~~ii. Below is an example of when a prepaid card is not a hybrid prepaid-credit card because the conditions set forth in § 1026.61(a)(4) have been met.~~

~~A.B. The prepaid card can only access credit extended through a negative balance on the asset feature of the prepaid account in accordance with both the conditions set forth in § 1026.61(a)(4)(ii)(A) and (B). The card can access credit from a non-covered separate credit feature as defined in § 1026.61(a)(2)(ii), but cannot access credit for a covered separate credit feature as defined in § 1026.61(a)(2)(i).~~

ii. If the conditions of § 1026.61(a)(4) are met and the prepaid card can access credit from a covered separate credit feature as defined in § 1026.61(a)(2)(i) that is offered by a business partner, the prepaid card is a hybrid prepaid-credit card with respect to the covered separate credit feature pursuant to § 1026.61(a)(2)(i) but is not a hybrid prepaid-credit card with respect to credit extended by a prepaid account issuer through a negative balance on the asset feature of the prepaid account that meets the conditions of § 1026.61(a)(4) or with respect to any

non-covered separate credit feature pursuant to § 1026.61(a)(2)(ii). If the conditions of § 1026.61(a)(4) are met and the prepaid card cannot access credit from any covered separate credit feature as defined in § 1026.61(a)(2)(i), the prepaid card is not a hybrid prepaid-credit card with respect to credit extended by a prepaid account issuer through a negative balance on the asset feature of the prepaid account that meets the conditions of § 1026.61(a)(4) or with respect to any non-covered separate credit feature pursuant to § 1026.61(a)(2)(ii).

iii. Below is an example of when a prepaid card is not a hybrid prepaid-credit card with respect to credit extended through a negative balance on the asset feature of the prepaid account because the conditions set forth in § 1026.61(a)(4) have been met.

A. The prepaid card can only access credit extended through a negative balance on the asset feature of the prepaid account in accordance with both the conditions set forth in § 1026.61(a)(4)(ii)(A) and (B). The card can access credit from a non-covered separate credit feature as defined in § 1026.61(a)(2)(ii) and from a covered separate credit feature as defined in § 1026.61(a)(2)(i) offered by a business partner, but cannot access credit for a covered separate credit feature that is offered by a prepaid account issuer or its affiliate.

iiiiv. Below is an example of when a prepaid card is a hybrid prepaid-credit card with respect to credit extended through a negative balance on the asset feature of the prepaid account because the conditions set forth in § 1026.61(a)(4) have not been met.

A. When there ~~isare~~ insufficient or unavailable funds in the asset feature of the prepaid account at the time a transaction is initiated, the card can be used to draw, transfer, or authorize the draw or transfer of credit from a covered separate credit feature offered by the prepaid account issuer, or its affiliate, ~~or its business partner~~ during the authorization phase to complete the transaction so that credit is not extended on the asset feature of the prepaid account. The exception in § 1026.61(a)(4) does not apply because the prepaid card can be used to draw, transfer, or authorize the draw or transfer of credit from a covered separate credit feature defined in § 1026.61(a)(2)(i) that is offered by the prepaid account issuer or its affiliate. The card is a hybrid prepaid-credit card with respect to credit extended through a negative balance on the asset feature of the prepaid account pursuant to § 1026.61(a)(3) and with respect to the covered separate credit feature pursuant to § 1026.61(a)(2)(i). In that case, a card issuer has violated § 1026.61(b) because it has structured the credit feature as a negative balance on the asset feature of the prepaid account. See § 1026.61(a)(3)(ii) and (b). The card is a hybrid prepaid-credit card because it can be used to draw, transfer, or authorize the draw or transfer of credit from a separate credit feature in the circumstances set forth in § 1026.61(a)(2)(i).

~~iv. In the case where a prepaid card is not a hybrid prepaid-credit card because the only credit it can access meets the conditions set forth in § 1026.61(a)(4):~~

v. In the case where a prepaid card is not a hybrid prepaid-credit card with respect to credit extended through a negative balance on the asset feature of the prepaid account because the conditions set forth in § 1026.61(a)(4) are met:

A. The prepaid account issuer is not a card issuer under § 1026.2(a)(7) with respect to the prepaid card when it accesses credit extended through the negative balance on the

asset feature of the prepaid account. The prepaid account issuer also is not a creditor under § 1026.2(a)(17)(iii) or (iv) because it is not a card issuer under § 1026.2(a)(7) with respect to the prepaid card when it accesses credit extended through the negative balance on the asset feature of the prepaid account. The prepaid account issuer also is not a creditor under § 1026.2(a)(17)(i) with respect to credit extended through the negative balance on the asset feature of the prepaid account as a result of imposing fees on the prepaid account because those fees are not finance charges with respect to that credit. See comment 4(b)(11)–1.iii.

Paragraph 61(a)(4)(ii)

Paragraph 61(a)(4)(ii)(A)

1. *Authorization not required for every transaction.* The prepaid account issuer is not required to receive an authorization request for each transaction to comply with § 1026.61(a)(4)(ii)(A). Nonetheless, the prepaid account issuer generally must establish an authorization policy as described in § 1026.61(a)(4)(ii)(A) and have reasonable practices in place to comply with its established policy with respect to the authorization requests it receives. In that case, a prepaid account issuer is deemed to satisfy § 1026.61(a)(4)(ii)(A) even if a negative balance results on the prepaid account when a transaction is settled.

2. *Provisional credit.* A prepaid account issuer may still satisfy the requirements set forth in § 1026.61(a)(4)(ii)(A) even if a negative balance results on the asset feature of the prepaid account because the prepaid account issuer debits the amount of any provisional credit that was previously granted on the prepaid account as specified in Regulation E, 12 CFR 1005.11, so long as the prepaid account issuer otherwise complies with the conditions set forth in § 1026.61(a)(4). For example, under § 1026.61(a)(4), a prepaid account issuer may not impose a fee or charge enumerated under § 1026.61(a)(4)(ii)(B) with respect to this negative balance.

3. *Delayed load cushion.* i. *Incoming fund transfers.* For purposes of § 1026.61(a)(4)(ii)(A)(2), cases where the prepaid account issuer has received an instruction or confirmation for an incoming electronic fund transfer originated from a separate asset account to load funds to the prepaid account include a direct deposit of salary from an employer and a direct deposit of government benefits.

ii. *Consumer requests.* For purposes of § 1026.61(a)(4)(ii)(A)(2), cases where the prepaid account issuer has received a request from the consumer to load funds to the prepaid account from a separate asset account include where the consumer, in the course of a transaction, requests a load from a deposit account or uses a debit card to cover the amount of the transaction if there are insufficient funds in the asset feature of the prepaid account to pay for the transaction.

4. *Permitted authorization circumstances are not mutually exclusive.* The two circumstances set forth in § 1026.61(a)(4)(ii)(A)(1) and (2) are not mutually exclusive. For example, assume a prepaid account issuer has adopted the \$10 cushion described in § 1026.61(a)(4)(ii)(A)(1), and the delayed load cushion described in § 1026.61(a)(4)(ii)(A)(2). Also, assume the prepaid account issuer has received an instruction or confirmation for an incoming electronic fund transfer originated from a separate asset account to load funds to the prepaid account but the prepaid account issuer has not received the funds from the separate asset

account. In this case, a prepaid account issuer satisfies § 1026.61(a)(4)(ii)(A) if the amount of a transaction at authorization will not cause the prepaid account balance to become negative at the time of the authorization by more than the requested load amount plus the \$10 cushion.

Paragraph 61(a)(4)(ii)(B)

1. *Different terms on different prepaid account programs.* Section 1026.61(a)(4)(ii)(B) does not prohibit a prepaid account issuer from charging different terms on different prepaid account programs. For example, the terms may differ between a prepaid account program where a covered separate credit feature accessible by a hybrid prepaid-credit card is not offered in connection with any prepaid accounts within the prepaid account program, and a prepaid account program where a covered separate credit feature accessible by a hybrid prepaid-credit card may be offered to some consumers in connection with their prepaid accounts.

Paragraph 61(a)(4)(ii)(B)(1)

1. *Fees or charges covered by § 1026.61(a)(4)(ii)(B)(1).* To qualify for the exception in § 1026.61(a)(4)(ii)(B), the prepaid account issuer may not impose any fees or charges for opening, issuing, or holding a negative balance on the asset feature, or for the availability of credit, whether imposed on a one-time or periodic basis. Section 1026.61(a)(4)(ii)(B)(1) does not include fees or charges to open, issue, or hold the prepaid account where the amount of the fee or charge imposed on the asset feature is not higher based on whether credit might be offered or has been accepted, whether or how much credit the consumer has accessed, or the amount of credit available.

i. The types of fees or charges prohibited by § 1026.61(a)(4)(ii)(B)(1) include:

A. A daily, weekly, monthly, or other periodic fee assessed each period a prepaid account has a negative balance or is in “overdraft” status; and

B. A daily, weekly, monthly or other periodic fee to hold the prepaid account where the amount of the fee that applies each period is higher if the consumer is enrolled in a purchase cushion as described in § 1026.61(a)(4)(ii)(A)(1) or a delayed load cushion as described in § 1026.61(a)(4)(~~A~~)(ii)(~~A~~)(2) during that period. For example, assume that a consumer will pay a fee to hold the prepaid account of \$10 if the consumer is not enrolled in a purchase cushion as described in § 1026.61(a)(4)(ii)(A)(1) or a delayed load cushion as described in § 1026.61(a)(4)(~~A~~)(ii)(~~A~~)(2) during that month, and will pay a fee to hold the prepaid account of \$15 if the consumer is enrolled in a purchase cushion or delayed load cushion that period. The \$15 charge is a charge described in § 1026.61(a)(4)(ii)(B)(1) because the amount of the fee to hold the prepaid account is higher based on whether the consumer is participating in the payment cushion or delayed load cushion during that period.

ii. Fees or charges described in § 1026.61(a)(4)(ii)(B) do not include:

A. A daily, weekly, monthly, or other periodic fee to hold the prepaid account where the amount of the fee is not higher based on whether the consumer is enrolled in a purchase cushion as described in § 1026.61(a)(4)(ii)(A)(1) or a delayed load cushion as

described in § 1026.61(a)(4)(~~A~~)(ii)(~~A~~)(2) during that period, whether or how much credit has been extended during that period, or the amount of credit that is available during that period.

Paragraph 61(a)(4)(ii)(B)(2)

1. *Fees or charges covered by § 1026.61(a)(4)(ii)(B)(2).* To qualify for the exception in § 1026.61(a)(4)(ii)(B), the prepaid account issuer may not impose any fees or charges on the asset feature of the prepaid account that will be imposed only when credit is extended on the asset feature or when there is a negative balance on the asset feature.

i. These types of fees or charges include:

A. A fee imposed because the balance on the prepaid account becomes negative;

B. Interest charges attributable to a periodic rate that applies to the negative balance;

C. Any fees for delinquency, default, or a similar occurrences that result from the prepaid account having a negative balance or being in “overdraft” status, except that the actual costs to collect the credit may be imposed if otherwise permitted by law; and

D. Late payment fees.

ii. Fees or charges described in § 1026.61(a)(4)(ii)(B) do not include:

A. Fees for actual collection costs, including attorney’s fees, to collect any credit extended on the prepaid account if otherwise permitted by law. Late payment fees are not considered fees imposed for actual collection costs. *See comment 61(a)(4)(ii)(B)(2)–1.i.D.*

Paragraph 61(a)(4)(ii)(B)(3)

1. *Fees or charges covered by § 1026.61(a)(4)(ii)(B)(3).* i. To qualify for the exception in § 1026.61(a)(4)(ii)(B), the prepaid account issuer may not impose any fees or charges on the asset feature of the prepaid account that are higher when credit is extended on the asset feature or when there is a negative balance on the asset feature. These types of fees or charges include:

A. Transaction fees where the amount of the fee is higher based on whether the transaction accesses only asset funds in the asset feature or accesses credit. For example, a \$15 transaction charge is imposed on the asset feature each time a transaction is authorized or paid when there are insufficient or unavailable funds in the asset feature at the time of the authorization or settlement. A \$1.50 fee is imposed each time a transaction only accesses funds in the asset feature. The \$15 charge is a charge described in § 1026.61(a)(4)(ii)(B)(3) because the amount of the transaction fee is higher when the transaction accesses credit than the amount of the fee that applies when the transaction accesses only asset funds in the asset feature; and

B. A fee for a service on the prepaid account where the amount of the fee is higher based on whether the service is requested when the asset feature has a negative balance. For example, if a prepaid account issuer charges a higher fee for an ATM balance inquiry

requested on the prepaid account if the balance inquiry is requested when there is a negative balance on the asset feature than the amount of fee imposed when there is a positive balance on the asset feature, the balance inquiry fee is a fee described in § 1026.61(a)(4)(ii)(B)(3) because the amount of the fee is higher based on whether it is imposed when there is a negative balance on the asset feature.

ii. Fees or charges described in § 1026.61(a)(4)(ii)(B) do not include:

A. Transaction fees on the prepaid account where the amount of the fee imposed when the transaction accesses credit does not exceed the amount of the fee imposed when the transaction only accesses asset funds in the prepaid account. For example, assume a \$1.50 transaction charge is imposed on the prepaid account for each paid transaction that is made with the prepaid card, including transactions that only access asset funds, transactions that take the account balance negative, and transactions that occur when the account balance is already negative. The \$1.50 transaction charge imposed on the prepaid account is not a fee described in § 1026.61(a)(4)(ii)(B); and

B. A fee for a service on the prepaid account where the amount of the fee is not higher based on whether the service is requested when the asset feature has a negative balance. For example, if a prepaid account issuer charges the same amount of fee for an ATM balance inquiry regardless of whether there is a positive or negative balance on the asset feature, the balance inquiry fee is not a fee described in § 1026.61(a)(4)(ii)(B).

Paragraph 61(a)(4)(ii)(C)

1. *Fees or charges not covered by § 1026.61(a)(4)(ii)(B).* Under § 1026.61(a)(4)(ii)(C), a prepaid account issuer may still satisfy the exception in § 1026.61(a)(4) even if it debits fees or charges from the prepaid account when there are insufficient or unavailable funds in the asset feature of the prepaid account to cover those fees or charges at the time they are imposed, so long as those fees or charges are not the type of fees or charges enumerated in § 1026.61(a)(4)(ii)(B). A fee or charge not otherwise covered by § 1026.61(a)(4)(ii)(B) does not become covered by that provision simply because there are insufficient or unavailable funds in the asset feature of the prepaid account to pay the fee when it is imposed. For example, assume that a prepaid account issuer imposes a fee for an ATM balance inquiry and the amount of the fee is not higher based on whether credit is extended or whether there is a negative balance on the prepaid account. Also assume that when the fee is imposed, there are insufficient or unavailable funds in the asset feature of the prepaid account to pay the fee. The ATM balance inquiry fee does not become a fee covered by § 1026.61(a)(4)(ii)(B) because the fee is debited from the prepaid account balance when there are insufficient or unavailable funds in the asset feature of the prepaid account to cover the fee at the time it is imposed.

61(a)(5) Definitions

Paragraph 61(a)(5)(iii)

1. Card network or payment network agreements. A draw, transfer, or authorization of the draw or transfer from a credit feature may be effectuated through a card network or a payment network. However, for purposes of § 1026.61(a)(5)(iii), agreements to participate in a

card network or payment network themselves do not constitute an “agreement” or a “business, marketing, or promotional agreement or other arrangement” described in § 1026.61(a)(5)(iii)(B) or (C), respectively.

~~1. Arrangement. A person (other than the prepaid account issuer or its affiliates) that can extend credit through a separate credit feature is a business partner of a prepaid account issuer where the person that can extend credit or its affiliate has an arrangement with a prepaid account issuer or its affiliate. A person (other than the prepaid account issuer or its affiliates) that can extend credit through a separate credit feature or the person’s affiliate has an arrangement with a prepaid account issuer or its affiliate for purposes of § 1026.61(a)(5)(iii) if the circumstances in either paragraph i or ii are met:~~

~~i. A person that can extend credit or its affiliate has an arrangement with a prepaid account issuer or its affiliate if the prepaid account issuer or its affiliate has an agreement with the person that can extend credit or its affiliate that allows a prepaid card from time to time to draw, transfer, or authorize a draw or transfer of credit from a credit feature offered by the person that can extend credit in the course of authorizing, settling, or otherwise completing transactions conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers. However, the parties are not considered to have such an agreement merely because the parties participate in a card network or payment network.~~

~~ii. A person that can extend credit or its affiliate has an arrangement with a prepaid account issuer or its affiliate if the prepaid account issuer or its affiliate:~~

~~A. Has a business, marketing, or promotional agreement or other arrangement with the person that can extend credit or its affiliate where the agreement or arrangement provides that:~~

~~1. Prepaid accounts offered by the prepaid account issuer will be marketed to the customers of the person that can extend credit; or~~

~~2. The credit feature will be marketed to the holders of prepaid accounts offered by the prepaid account issuer (including any marketing to customers to link the separate credit feature to the prepaid account to be used as an overdraft credit feature); and~~

~~B. At the time of the marketing agreement or arrangement described in comment 61(a)(5)(iii) 1.ii.A, or at any time afterwards, the prepaid card from time to time can draw, transfer, or authorize the draw or transfer of credit from the credit feature in the course of transactions conducted with the card to obtain goods or services, obtain cash, or conduct person-to-person transfers. This requirement is satisfied even if there is no specific agreement, as described in comment 61(a)(5)(iii) 1.i, between the parties that the card can access the credit feature. For example, this requirement is satisfied even if the draw, transfer, or authorization of the draw or transfer from the credit feature is effectuated through a card network or payment network.~~

2. Relationship to prepaid account issuer. A person (other than a prepaid account issuer or its affiliates) that can extend credit through a separate credit feature will be deemed to have an arrangement with the prepaid account issuer if the person that can extend credit, its service

provider, or the person's affiliate has an arrangement with the prepaid account issuer, its service provider such as a program manager, or the issuer's affiliate. In that case, the person that can extend credit will be a business partner of the prepaid account issuer. For example, if the affiliate of the person that can extend credit has an arrangement with the prepaid account issuer's affiliate, the person that can extend credit will be the business partner of the prepaid account issuer.

61(a)(5)(iii)(D) Exception for Certain Credit Card Account Arrangements

1. When the exception applies. If the exception in § 1026.61(a)(5)(iii)(D) applies, a person that can extend credit through the credit card account is not a business partner of a prepaid account issuer with which it has an arrangement as defined in § 1026.61(a)(5)(iii)(A) through (C). Accordingly, where a consumer has authorized his or her prepaid card in accordance with § 1026.61(a)(5)(iii)(D) to be linked to the credit card account in such a way as to allow the prepaid card to access the credit card account as described in § 1026.61(a)(5)(iii)(D)(2), the linked prepaid card is not a hybrid prepaid-credit card with respect to the linked credit card account. Rather, the linked credit card account is a non-covered separate credit feature as discussed in § 1026.61(a)(2)(ii). See comment 61(a)(2)–5. In this case, by definition, the linked credit card account will be subject to the credit card rules in this regulation in its own right because it is a credit card account under an open-end (not home-secured) consumer credit plan, pursuant to the condition set forth in § 1026.61(a)(5)(iii)(D)(1).

Paragraph 61(a)(5)(iii)(D)(1)

1. Traditional credit card. For purposes of § 1026.61(a)(5)(iii)(D), “traditional credit card” means a credit card that is not a hybrid prepaid-credit card. Thus, the condition in § 1026.61(a)(5)(iii)(D)(1) is not satisfied if the only credit card that a consumer can use to access the credit card account under an open-end (not home-secured) consumer credit plan is a hybrid prepaid-credit card.

Paragraph 61(a)(5)(iii)(D)(2)

1. Written request. Under § 1026.61(a)(5)(iii)(D)(2), any accountholder on either the prepaid account or the credit card account may make the written request.

Paragraph 61(a)(5)(iii)(D)(4)

1. Account terms, conditions, or features. Account terms, conditions, and features subject to § 1026.61(a)(5)(iii)(D)(4) include, but are not limited to:

- i. Interest paid on funds deposited into the prepaid account, if any;
- ii. Fees or charges imposed on the prepaid account (see comment 61(a)(5)(iii)(D)(4)–3 for additional guidance on this element with regard to load fees);
- iii. The type of access device provided to the consumer;
- iv. Minimum balance requirements on the prepaid account; or

v. Account features offered in connection with the prepaid account, such as online bill payment services.

2. The same terms, conditions, and features apply to the consumer's prepaid account. For the exception in § 1026.61(a)(5)(iii)(D) to apply, under § 1026.61(a)(5)(iii)(D)(4), the prepaid account issuer must not vary the terms, conditions, and features on the consumer's prepaid account depending on whether the consumer has authorized linking the prepaid card to the credit card account as described in § 1026.61(a)(5)(iii)(D)(2). For example, a prepaid account issuer would not satisfy this condition of § 1026.61(a)(5)(iii)(D)(4) if it provides on a consumer's prepaid account rewards points or cash back on purchases with the prepaid card where the consumer has authorized a link to the credit card account as discussed above while not providing such rewards points or cash back on the consumer's account if the consumer has not authorized such a linkage.

3. Example of impermissible variations in load fees. For the exception in § 1026.61(a)(5)(iii)(D) to apply, under § 1026.61(a)(5)(iii)(D)(4), the prepaid account issuer must apply the same fees to load funds from the credit card account that is linked to the prepaid account as described in § 1026.61(a)(5)(iii)(D)(2) as it charges for a comparable load on the consumer's prepaid account to access a credit feature offered by a person that is not the prepaid account issuer, its affiliates, or a person with which the prepaid account issuer has an arrangement as described in § 1026.61(a)(5)(iii)(A) through (C). For example, a prepaid account issuer would not satisfy this condition of § 1026.61(a)(5)(iii)(D)(4) if it charges on the consumer's prepaid account \$0.50 to load funds in the course of a transaction from a credit card account offered by a card issuer with which the prepaid account issuer has an arrangement, but \$1.00 to load funds in the course of a transaction from a credit card account offered by a card issuer with which it does not have an arrangement.

Paragraph 61(a)(5)(iii)(D)(5)

1. Specified terms and conditions. For purposes of § 1026.61(a)(5)(iii)(D), "specified terms and conditions" on a credit card account means:

i. The terms and conditions required to be disclosed under § 1026.6(b), which include pricing terms, such as periodic rates, annual percentage rates, and fees and charges imposed on the credit card account; any security interests acquired under the credit account; claims and defenses rights under § 1026.12(c); and error resolution rights under § 1026.13;

ii. Any repayment terms and conditions, including the length of the billing cycle, the payment due date, any grace period on the transactions on the account, the minimum payment formula, and the required or permitted methods for making conforming payments on the credit feature; and

iii. The limits on liability for unauthorized credit transactions.

2. Same specified terms and conditions regardless of whether the credit card account is linked to the prepaid account. For the exception in § 1026.61(a)(5)(iii)(D) to apply, under § 1026.61(a)(5)(iii)(D)(5), the card issuer must not vary the specified terms and conditions on the consumer's credit card account depending on whether the consumer has authorized linking the

prepaid card to the credit card account as described in § 1026.61(a)(5)(iii)(D)(2). The following are examples of circumstances in which a card issuer would not meet the condition described above:

i. The card issuer structures the credit card account as a “charge card account” (where no periodic rate is used to compute a finance charge on the credit card account) if the credit feature is linked to the prepaid card as described in § 1026.61(a)(5)(iii)(D)(2), but applies a periodic rate to compute a finance charge on the consumer’s account (and thus does not use a charge card account structure) if there is no such link. See § 1026.2(a)(15)(iii) for the definition of “charge card.”

ii. The card issuer imposes a \$50 annual fee on a consumer’s credit card account if the credit feature is linked to the prepaid card as described in § 1026.61(a)(5)(iii)(D)(2), but does not impose an annual fee on the consumer’s credit card account if there is no such link.

3. Same specified terms and conditions regardless of whether credit is accessed by the prepaid card or the traditional credit card. To satisfy the condition of § 1026.61(a)(5)(iii)(D)(1), the credit card account must be a credit card account under an open-end (not home-secured) consumer credit plan that a consumer can access through a traditional credit card. As explained in comment 61(a)(5)(iii)(D)(1)–1, for purposes of § 1026.61(a)(5)(iii)(D), “traditional credit card” means a credit card that is not a hybrid prepaid-credit card. For the exception in § 1026.61(a)(5)(iii)(D) to apply, under § 1026.61(a)(5)(iii)(D)(5), a card issuer must not vary the specified terms and conditions on the credit card account when a consumer authorizes linking the account with the prepaid card as described in § 1026.61(a)(5)(iii)(D)(2) depending on whether a particular credit extension from the credit card account is accessed by the prepaid card or by the traditional credit card.

i. The following examples are circumstances in which a card issuer would not meet the condition of § 1026.61(a)(5)(iii)(D)(5) described above:

A. The card issuer considers transactions using the traditional credit card to obtain goods or services from an unaffiliated merchant of the card issuer as purchase transactions with certain annual percentage rates (APRs), fees, and a grace period that applies to those purchase transactions, but treats credit extensions as cash advances that are subject to different APRs, fees, grace periods, and other specified terms and conditions where the prepaid card is used to draw, transfer, or authorize the draw or transfer of credit from the linked credit card account in the course of authorizing, settling, or otherwise completing transactions conducted with the prepaid card to obtain goods or services from an unaffiliated merchant of the card issuer.

B. The card issuer generally treats one-time transfers of credit using the credit card account number to asset accounts as cash advance transactions with certain APRs and fees, but treats one-time transfers of credit using the prepaid card to the prepaid account as purchase transactions that are subject to different APRs and fees.

ii. To apply the same rights under § 1026.12(c) regarding claims and defenses applicable to use of a credit card to purchase property or services, the card issuer must treat an extension of credit as a credit card transaction to purchase property or services where a prepaid

card is used to draw, transfer, or authorize the draw or transfer of credit from the linked credit card account in the course of authorizing, settling, or otherwise completing transactions conducted with the prepaid card to purchase property or services and provide the same rights under § 1026.12(c) as it applies to property or services purchased with the traditional credit card. This includes situations where a consumer uses a prepaid card to make a purchase to obtain property or services from a merchant and credit is transferred from the linked credit card account in the course of authorizing, settling, or otherwise completing the prepaid transaction to make the purchase. For a transaction where a prepaid card is used to obtain property or services from a merchant and the transaction is partially paid with funds from the asset feature of the prepaid account, and partially paid with credit from the linked credit card account, the amount of the purchase transaction that is funded by credit would be subject to this guidance. A card issuer is not required to provide the rights under § 1026.12(c) with respect to the amount of the transaction funded from the prepaid account.

iii. To apply the same limits on liability for unauthorized extensions of credit from the credit card account using the prepaid card as it applies to unauthorized extensions of credit from the credit card account using the traditional credit card, the card issuer must treat an extension of credit accessed by the prepaid card as a credit card transaction for purposes of the limits on liability for unauthorized extensions of credit set forth in § 1026.12(b) and impose the same liability under § 1026.12(b) to this credit extension as it applies to unauthorized transactions using the traditional credit card.

Paragraph 61(a)(5)(iv)

1. *Applicability of credit feature definition.* The definition of credit feature set forth in § 1026.61(a)(5)(iv) only defines that term for purposes of this regulation in relation to credit in connection with a prepaid account or prepaid card. This definition does not impact when an account, subaccount or negative balance is a credit feature under the regulation with respect to credit in relation to a checking account or other transaction account that is not a prepaid account, or a debit card. *See, e.g.,* comments 2(a)(15)–2.ii.A and 4(b)(2)–1 for where the term credit feature is used in relation to a debit card or asset account other than a prepaid account.

2. *Asset account other than a prepaid account.* A credit feature for purposes of § 1026.61(a)(5)(iv) does not include an asset account other than a prepaid account that has an attached overdraft feature. For example, assume that funds are loaded or transferred to a prepaid account from an asset account (other than a prepaid account) on which an overdraft feature is attached. The asset account is not a credit feature under § 1026.61(a)(5)(iv) even if the load or transfer of funds to the prepaid account triggers the overdraft feature that is attached to the asset account.

Paragraph 61(a)(5)(vii)

1. *Definition of prepaid card.* The term “prepaid card” in § 1026.61(a)(5)(vii) includes any card, code, or other device that can be used to access a prepaid account, including a prepaid account number or other code.

61(b) Structure of Credit Features Accessible by Hybrid Prepaid-Credit Cards

1. *Credit subaccount on a prepaid account.* If a credit feature that is accessible by a hybrid prepaid-credit card is structured as a subaccount of the prepaid account, the credit feature must be set up as a separate balance on the prepaid account such that there are at least two balances on the prepaid account—the asset account balance and the credit account balance.

2. *Credit extended on a credit subaccount or a separate credit account.* Under § 1026.61(b), with respect to a credit feature that is accessed by a hybrid prepaid-credit card, a card issuer at its option may structure the credit feature as a separate credit feature, either as a subaccount on the prepaid account that is separate from the asset feature or as a separate credit account. The separate credit feature would be a covered separate credit feature accessible by a hybrid prepaid-credit card under § 1026.61(a)(2)(i). Regardless of whether the card issuer is structuring its covered separate credit feature as a subaccount of the prepaid account or as a separate credit account:

i. If at the time a prepaid card transaction is initiated there are insufficient or unavailable funds in the asset feature of the prepaid account to complete the transaction, credit must be drawn, transferred or authorized to be drawn or transferred, from the covered separate credit feature at the time the transaction is authorized. The card issuer may not allow the asset feature on the prepaid account to become negative and draw or transfer the credit from the covered separate credit feature at a later time, such as at the end of the day. The card issuer must comply with the applicable provisions of this regulation with respect to the credit extension from the time the prepaid card transaction is authorized.

ii. For transactions where there are insufficient or unavailable funds in the asset feature of the prepaid account to cover that transaction at the time it settles and the prepaid transaction either was not authorized in advance or the transaction was authorized and there were sufficient or available funds in the prepaid account at the time of authorization to cover the transaction, credit must be drawn from the covered separate credit feature to settle these transactions. The card issuer may not allow the asset feature on the prepaid account to become negative. The card issuer must comply with the applicable provisions of this regulation from the time the transaction is settled.

iii. If a negative balance would result on the asset feature in circumstances other than those described in comment 61(b)–2.i and ii, credit must be drawn from the covered separate credit feature to avoid the negative balance. The card issuer may not allow the asset feature on the prepaid account to become negative. The card issuer must comply with the applicable provisions in this regulation from the time credit is drawn from the covered separate credit feature. For example, assume that a fee for an ATM balance inquiry is imposed on the prepaid account when there are insufficient or unavailable funds to cover the amount of the fee when it is imposed. Credit must be drawn from the covered separate credit feature to avoid a negative balance.

61(c) Timing Requirement for Solicitation or Application With Respect to Hybrid Prepaid-Credit Cards

1. *Meaning of registration of a prepaid card or prepaid account.* A prepaid card or prepaid account is registered, such that the 30-day timing requirement required by § 1026.61(c) begins, when the prepaid account issuer successfully completes its collection of consumer identifying information and identity verification in accordance with the requirements of applicable Federal and state law. The beginning of the required 30-day timing requirement is triggered by successful completion of collection of consumer identifying information and identity verification, not by the consumer's mere purchase or obtaining of the card. With respect to a prepaid account for which customer identification and verification are completed before the account is opened, the 30-day timing requirement begins on the day the prepaid account is opened.

2. *Unsolicited issuance of credit cards and disclosures related to applications or solicitations for credit or charge card accounts.* See § 1026.12(a)(1) and comment 12(a)(1)–7.ii for additional rules that apply to the addition of a credit card or charge card account to a previously-issued prepaid account. See also § 1026.60 and related commentary for disclosures that generally must be provided on or with applications or solicitations to open a credit or charge card account.

3. *Replacement or substitute cards.* A card issuer is not required to comply with § 1026.61(c) when a hybrid prepaid-credit card is permitted to be replaced, or substituted, for another hybrid prepaid-credit card without a request or application under § 1026.12(a)(2) and related commentary. For example, § 1026.61(c) does not apply to situations where a prepaid account or credit feature that is accessible by a hybrid prepaid-credit card is replaced because of security concerns and a new hybrid prepaid-credit card is issued to access the new prepaid account or covered separate credit feature without a request or application under § 1026.12(a)(2).

* * * * *