

**12.01.09 – Rules Pursuant to the Idaho Credit Code
Docket No. 12-0109-1801**

INCORPORATION BY REFERENCE SYNOPSIS

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the materials of the differences between the materials previously incorporated by reference in statute that are currently in full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here:

IDAPA 12 – DEPARTMENT OF FINANCE

12.01.09 - RULES PURSUANT TO THE IDAHO CREDIT CODE

The Idaho Credit Code (ICC), Idaho Code § 28-41-101, *et seq.*, incorporates the provisions of the federal Consumer Credit Protection Act (FCCPA), codified in 15 U.S.C. Chapter 41. Furthermore, Idaho Code § 28-41-302 defines the FCCPA, as amended to and including January 1, 2005, or subsequent date if so defined by administrative rule. Section 28-41-302 further includes within the definition of the FCCPA regulations issued pursuant to the act, as amended to and including January 1, 2005, or subsequent date if so defined by administrative rule.

The definition of the FCCPA has not been updated since 2005 to reflect subsequent amendments to the law or its implementing regulations. Therefore, the Idaho Department of Finance is incorporating by rule the definition of the FCCPA and its implementing regulations, as amended to and including January 1, 2019, to ensure that state law and rules are consistent with federal law and regulation.

The following summarizes changes to the FCCPA and its implementing regulations since January 1, 2005:

- **The Truth in Lending Act** – 15 U.S.C. 1601, *et seq.*
 - Public Law 115-174, May 24, 2018 – Amended through the “Economic Growth, Regulatory Relief, and Consumer Protection Act” to exempt certain rural transactions from appraisal requirements; to exclude manufactured home retailers from the definition of mortgage originators; to reduce requirements on certain smaller financial institutions relative to loan origination, loan servicing, and the escrow of funds for certain purposes; and to reduce restrictions on consummating transactions where a creditor offers lower annual percentage rate loan options.
 - Public Law 114-94, December 4, 2015 – Amended to expand lending practices in rural areas.

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provisions of the regulation. This summary does not include the date of each of those annual adjustments.

- January 1, 2019 – Effective date of annually adjusted thresholds for transactions subject to appraisal requirements, pursuant to Regulation Z.
- June 1, 2018 – Effective date of amendments related to when a creditor may compare charges paid by or imposed on the consumer to amounts disclosed on a Closing Disclosure, instead of a Loan Estimate, to determine if an estimated closing cost was disclosed in good faith.
- April 1, 2018 – Effective date of amendments related to prepaid accounts that adopted provisions specific to such accounts, and generally expanded Regulation Z's coverage to overdraft credit features that may be offered in conjunction with prepaid accounts.
- April 19, 2018 – Effective date of amendments to certain mortgage servicing rules relating to the timing for servicers to transition to providing modified or unmodified periodic statements and coupon books in connection with a consumer's bankruptcy case.
- October 19, 2017 – Effective date of amendments correcting typographical errors and official commentary regarding servicers' ability to remove certain language in periodic statement sample forms; correcting sample periodic statement forms that servicers may use for certain consumers in bankruptcy; and providing official commentary relating to the bankruptcy periodic statement exemptions and modified statements.
- October 10, 2017 – Effective date of amendments adopting informal guidance and making additional clarifications and technical amendments. Additionally, creates tolerances for certain estimates, adjusts a partial exemption mainly affecting housing finance agencies and nonprofits, extends coverage of the TILA-RESPA integrated disclosure requirements to all cooperative units, and provides guidance on sharing the integrated disclosures with various parties involved in the mortgage origination process.
- April 28, 2016 – Adopts as final, Regulation Z as issued pursuant to Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act.
- March 31, 2016 – Effective date of amendments relating to the eligibility of certain small creditors, operating in rural or underserved areas, to originate balloon-payment qualified mortgages and balloon-payment high cost mortgages; and, provide an exemption from the requirement to establish an escrow account for higher-priced mortgage loans and the determination of whether an area is rural.
- February 2, 2016 – Effective date of technical corrections to rules related to the “Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act

- Require that creditors determine a consumer will have the ability to repay a loan (ATR requirements);
 - Provide an exemption from ATR requirements for certain creditors and for certain loan products;
 - Define a qualified mortgage, distinguishing certain loans made and held in portfolio by small creditors, and to provide a definition of a qualified mortgage for loans with balloon features;
 - Modify requirements regarding the inclusion of loan originator compensation in the points and fees calculation.

- 2012 – 2013 – Regulation Z was amended by rulemakings during this period to provide for integrated disclosures in mortgage lending transactions, establishing definitions for qualified mortgage loans, establishing standards for determining a consumer’s ability to repay, and providing various servicing standards in relation to mortgage lending. Several of these provisions were subsequently modified or corrected through rulemakings that took effect, as noted above, on January 10, 2014.

- December 30, 2011 – Adopted Regulation Z as a rule issued by the Bureau of Consumer Financial Protection, re-codified as 12 CFR 1026.

- 2005 – 2011 – Prior to December 2011, Regulation Z, as it pertains to non-depository financial institutions, was implemented by the Federal Reserve Board (Board). During the period between 2005 and 2011, the Board made several amendments to Regulation Z, to include:
 - Amendments to prohibit payments to loan originators, based on the terms or conditions of the transaction other than the amount of credit extended; to prohibit any person other than the consumer from paying compensation to a loan originator in a transaction where the consumer pays the loan originator directly; and, to prohibit loan originators from steering consumers to consummate a loan not in their interest based on the fact that the loan originator will receive greater compensation for such loan;
 - Amendments to require a purchaser or assignee of a mortgage loan account to provide certain disclosures to borrowers;
 - Amendments to implement provisions related to appraisal independence in transactions involving a consumer’s principal dwelling;
 - Amendments to require creditors extending consumer credit secured by real property or a dwelling to disclose certain summary information about interest rates and payment changes, in a tabular format, as well as a statement that consumers are not guaranteed to be able to refinance their transactions in the future;
 - Amendments to rules related to disclosures required during the life-cycle of an open-end (non-mortgage) credit account;
 - Clarifying amendments to rules effective as of December 10, 2007;
 - Eliminating certain non-mandatory rules related to the electronic delivery of disclosures.

- Public Law 110-161, December 26, 2007 – Amended to provide for the reporting of information, by a consumer reporting agency, relative to the issuance of government-sponsored charge cards.
- Public Law 109-351, October 13, 2006 – Amended to provide for the reporting of information, by a consumer reporting agency, to the Federal Deposit Insurance Corporation and National Credit Union Administration in the exercise of their duties.
- Public Law 109-177 & Public Law 109-178, March 9, 2006 – Amended through USA Patriot Act Reauthorizing Amendments to exclude from consumer reports, certain information regarding persons who have been the subject of investigation by the Federal Bureau of Investigations and other government agencies.

➤ **Regulation V** – 12 CFR 1022, *et seq.*

- September 21, 2018 – Adopted as interim rules, model forms for the Summary of Consumer Identity Theft Rights and the Summary of Consumer Rights as required by a new provision of the Fair Credit Reporting Act, added by the Economic Growth, Regulatory Relief, and Consumer Protection Act.
- April 28, 2016 – Adopted as final, Regulation V as issued pursuant to the Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act.
- December 30, 2011 – Adopted Regulation V as a rule issued by the Bureau of Consumer Financial Protection, re-codified as 12 CFR 1022.
- 2005 – 2011 – Prior to December 2011, Regulation V, as it pertains to non-depository financial institutions, was implemented by the Federal Reserve Board (Board). During the period between 2005 and 2011, the Board made several amendments to Regulation V, to include:
 - Adopting rules to implement the Fair and Accurate Credit Transactions Act of 2003;
 - Adopting rules requiring financial institutions to develop written identity theft prevention programs;
 - Adopting rules regarding risk-based pricing notices to consumers when the creditor uses a consumer report to grant or extend credit to the consumer on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that creditor.

➤ **Equal Credit Opportunity Act** – 15 U.S.C. 1691, *et seq.*

- Public Law 111-203, July 21, 2010 – Amended to include a definition for the Bureau of Consumer Financial Protection (Bureau); to designate the authority of

the Bureau; to provide for reporting with respect to administration of the Act by the Bureau; and to designate the authority of the Federal Trade Commission.

- Public Law 109-351, October 13, 2006 – Amended to provide for certain notice requirements; to distinguish legal pleadings from initial communications regarding a debt; to provide an exception from the Act for certain bad check enforcement programs operated by private entities.

➤ **Electronic Funds Transfer Act.** As set forth in 15 U.S.C. 1693, *et seq.*

- Public Law 111-203, July 21, 2010 – Amended to include a definition for the Bureau of Consumer Financial Protection (Bureau); to designate the authority of the Bureau; to include remittance transfers under the coverage of the Act and establish requirements regarding remittance transfers; and to designate the authority of other agencies or instrumentalities of the United States.
- Public Law 112-216, December 20, 2012 – Amended to limit the fee disclosure requirement for an automated teller machine to the screen of that machine.

➤ **Regulation E.** As set forth in 12 CFR 1005, *et seq.*

- April 1, 2018 – Effective date of amendments to provide for certain estimates in disclosures related to remittances when a transfer provider cannot determine the exact amount required to be disclosed.
- April 28, 2016 – Adopts as final, Regulation E issued pursuant to the Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act.
- October 28, 2013 – Effective date of amendments to make optional, in certain circumstances, the requirement to disclose fees imposed by a designated recipient's institution; to make optional the requirement to disclose taxes collected by a person other than the remittance transfer provider and to provide notice the recipient may receive less than the disclosed total due to the fees and taxes for which disclosure is now optional; to revise the error resolution provisions that apply when a remittance transfer is not delivered to a designated recipient because the sender provided incorrect or insufficient information.
- March 26, 2013 – Effective date of amendments to implement Public Law 112-216 regarding disclosures required for automated teller machines.
- February 7, 2013 - Issuance of official interpretations; amended to enhance consumer protections, through disclosure requirements, error resolution practices, and cancellation rights, to consumers who send remittance transfers to other consumers or businesses in a foreign country; adopted a safe harbor with respect to the phrase “normal course of business” in the definition of “remittance transfer provider,” which determines whether a person is covered by the rule; revises rules