

covered transaction, or any other person acting on behalf of such creditor, servicer, or assignee.

(B) *Qualifying change* means an agreement that meets the following conditions:

(1) The agreement is entered into during or after a temporary payment accommodation in connection with a disaster or pandemic-related national emergency as defined in paragraph (e)(7)(iv)(D) of this section and ends any pre-existing delinquency on the loan obligation upon taking effect;

(2) The amount of interest charged over the full term of the loan does not increase as a result of the agreement;

(3) The servicer does not charge any fee in connection with the agreement; and

(4) Promptly upon the consumer's acceptance of the agreement, the servicer waives all late charges, penalties, stop payment fees, or similar charges incurred during a temporary payment accommodation in connection with a disaster or pandemic-related national emergency, as well as all late charges, penalties, stop payment fees, or similar charges incurred during the delinquency that led to a temporary payment accommodation in connection with a disaster or pandemic-related national emergency.

(C) *Seasoning period* means a period of 36 months beginning on the date on which the first periodic payment is due after consummation of the covered transaction, except that:

(1) Notwithstanding any other provision of this section, if there is a delinquency of 30 days or more at the end of the 36th month of the seasoning period, the seasoning period does not end until there is no delinquency; and

(2) The seasoning period does not include any period during which the consumer is in a temporary payment accommodation extended in connection with a disaster or pandemic-related national emergency, provided that during or at the end of the temporary payment accommodation there is a qualifying change as defined in paragraph (e)(7)(iv)(B) of this section or the consumer cures the loan's delinquency under its original terms. If during or at the end of the temporary payment accommodation in connection with a disaster or pandemic-related national emergency there is a qualifying change or the consumer cures the loan's delinquency under its original terms, the seasoning period consists of the period from the date on which the first periodic payment was due after consummation of the covered transaction to the beginning of the temporary payment accommodation and an additional period immediately after the temporary payment accommodation ends, which together must equal at least 36 months.

(D) *Temporary payment accommodation in connection with a disaster or pandemic-related national emergency* means temporary pay-

ment relief granted to a consumer due to financial hardship caused directly or indirectly by a presidentially declared emergency or major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) or a presidentially declared pandemic-related national emergency under the National Emergencies Act (50 U.S.C. 1601 *et seq.*).

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§§ 1026.44–1026.45 [Reserved]

Subpart F—Special Rules for Private Education Loans

§ 1026.46 Special disclosure requirements for private education loans.

(a) *Coverage.* The requirements of this subpart apply to private education loans as defined in §1026.46(b)(5). A creditor may, at its option, comply with the requirements of this subpart for an extension of credit subject to §§1026.17 and 1026.18 that is extended to a consumer for expenses incurred after graduation from a law, medical, dental, veterinary, or other graduate school and related to relocation, study for a bar or other examination, participation in an internship or residency program, or similar purposes.

(1) *Relation to other subparts in this part.* Except as otherwise specifically provided, the requirements and limitations of this subpart are in addition to and not in lieu of those contained in other subparts of this part.

(2) [Reserved]

(b) *Definitions.* For purposes of this subpart, the following definitions apply:

(1) *Covered educational institution* means:

(i) An educational institution that meets the definition of an institution of higher education, as defined in paragraph (b)(2) of this section, without regard to the institution's accreditation status; and

(ii) Includes an agent, officer, or employee of the institution of higher education. An agent means an institution-affiliated organization as defined by section 151 of the Higher Education Act of 1965 (20 U.S.C. 1019) or an officer or employee of an institution-affiliated organization.

(2) *Institution of higher education* has the same meaning as in sections 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001–1002) and the implementing regulations published by the U.S. Department of Education.

(3) *Postsecondary educational expenses* means any of the expenses that are listed as part of the cost of attendance, as defined under section 472 of the Higher Education Act of 1965 (20 U.S.C. 108711), of a student at a covered educational institution. These expenses include tuition and fees, books, supplies, miscellaneous personal expenses, room and board, and an allowance for any loan fee, origination fee, or insurance premium charged to a student or parent for a loan incurred to cover the cost of the student's attendance.

(4) *Preferred lender arrangement* has the same meaning as in section 151 of the Higher Education Act of 1965 (20 U.S.C. 1019).

(5) *Private education loan* means an extension of credit that:

(i) Is not made, insured, or guaranteed under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 *et seq.*);

(ii) Is extended to a consumer expressly, in whole or in part, for postsecondary educational expenses, regardless of whether the loan is provided by the educational institution that the student attends;

(iii) Does not include open-end credit or any loan that is secured by real property or a dwelling; and

(iv) Does not include an extension of credit in which the covered educational institution is the creditor if:

(A) The term of the extension of credit is 90 days or less; or

(B) an interest rate will not be applied to the credit balance and the term of the extension of credit is one year or less, even if the credit is payable in more than four installments.

(c) *Form of disclosures*—(1) *Clear and conspicuous*. The disclosures required by this subpart shall be made clearly and conspicuously.

(2) *Transaction disclosures*. (i) The disclosures required under §§1026.47(b) and (c) shall be made in writing, in a form that the consumer may keep. The disclosures shall be grouped together, shall be segregated from everything

else, and shall not contain any information not directly related to the disclosures required under §§1026.47(b) and (c), which include the disclosures required under §1026.18.

(ii) The disclosures may include an acknowledgement of receipt, the date of the transaction, and the consumer's name, address, and account number. The following disclosures may be made together with or separately from other required disclosures: the creditor's identity under §1026.18(a), insurance or debt cancellation under §1026.18(n), and certain security interest charges under §1026.18(o).

(iii) The term “finance charge” and corresponding amount, when required to be disclosed under §1026.18(d), and the interest rate required to be disclosed under §§1026.47(b)(1)(i) and (c)(1), shall be more conspicuous than any other disclosure, except the creditor's identity under §1026.18(a).

(3) *Electronic disclosures*. The disclosures required under §§1026.47(b) and (c) may be provided to the consumer in electronic form, subject to compliance with 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.*). The disclosures required by §1026.47(a) may be provided to the consumer in electronic form on or with an application or solicitation that is accessed by the consumer in electronic form without regard to the consumer consent or other provisions of the E-Sign Act. The form required to be received under §1026.48(e) may be accepted by the creditor in electronic form as provided for in that section.

(d) *Timing of disclosures*—(1) *Application or solicitation disclosures*. (i) The disclosures required by §1026.47(a) shall be provided on or with any application or solicitation. For purposes of this subpart, the term solicitation means an offer of credit that does not require the consumer to complete an application. A “firm offer of credit” as defined in section 603(1) of the Fair Credit Reporting Act (15 U.S.C. 1681a(1)) is a solicitation for purposes of this section.

(ii) The creditor may, at its option, disclose orally the information in §1026.47(a) in a telephone application or

solicitation. Alternatively, if the creditor does not disclose orally the information in §1026.47(a), the creditor must provide the disclosures or place them in the mail no later than three business days after the consumer has applied for the credit, except that, if the creditor either denies the consumer's application or provides or places in the mail the disclosures in §1026.47(b) no later than three business days after the consumer requests the credit, the creditor need not also provide the §1026.47(a) disclosures.

(iii) Notwithstanding paragraph (d)(1)(i) of this section, for a loan that the consumer may use for multiple purposes including, but not limited to, postsecondary educational expenses, the creditor need not provide the disclosures required by §1026.47(a).

(2) *Approval disclosures.* The creditor shall provide the disclosures required by §1026.47(b) before consummation on or with any notice of approval provided to the consumer. If the creditor mails notice of approval, the disclosures must be mailed with the notice. If the creditor communicates notice of approval by telephone, the creditor must mail the disclosures within three business days of providing the notice of approval. If the creditor communicates notice of approval electronically, the creditor may provide the disclosures in electronic form in accordance with §1026.46(d)(3); otherwise the creditor must mail the disclosures within three business days of communicating the notice of approval. If the creditor communicates approval in person, the creditor must provide the disclosures to the consumer at that time.

(3) *Final disclosures.* The disclosures required by §1026.47(c) shall be provided after the consumer accepts the loan in accordance with §1026.48(c)(1).

(4) *Receipt of mailed disclosures.* If the disclosures under paragraphs (d)(1), (d)(2) or (d)(3) of this section are mailed to the consumer, the consumer is considered to have received them three business days after they are mailed.

(e) *Basis of disclosures and use of estimates—(1) Legal obligation.* Disclosures shall reflect the terms of the legal obligation between the parties.

(2) *Estimates.* If any information necessary for an accurate disclosure is un-

known to the creditor, the creditor shall make the disclosure based on the best information reasonably available at the time the disclosure is provided, and shall state clearly that the disclosure is an estimate.

(f) *Multiple creditors; multiple consumers.* If a transaction involves more than one creditor, only one set of disclosures shall be given and the creditors shall agree among themselves which creditor will comply with the requirements that this part imposes on any or all of them. If there is more than one consumer, the disclosures may be made to any consumer who is primarily liable on the obligation.

(g) *Effect of subsequent events—(1) Approval disclosures.* If a disclosure under §1026.47(b) becomes inaccurate because of an event that occurs after the creditor delivers the required disclosures, the inaccuracy is not a violation of Regulation Z (12 CFR part 1026), although new disclosures may be required under §1026.48(c).

(2) *Final disclosures.* If a disclosure under §1026.47(c) becomes inaccurate because of an event that occurs after the creditor delivers the required disclosures, the inaccuracy is not a violation of Regulation Z (12 CFR part 1026).

§ 1026.47 Content of disclosures.

(a) *Application or solicitation disclosures.* A creditor shall provide the disclosures required under paragraph (a) of this section on or with a solicitation or an application for a private education loan.

(1) *Interest Rates.* (i) The interest rate or range of interest rates applicable to the loan and actually offered by the creditor at the time of application or solicitation. If the rate will depend, in part, on a later determination of the consumer's creditworthiness or other factors, a statement that the rate for which the consumer may qualify will depend on the consumer's creditworthiness and other factors, if applicable.

(ii) Whether the interest rates applicable to the loan are fixed or variable.

(iii) If the interest rate may increase after consummation of the transaction, any limitations on the interest rate adjustments, or lack thereof; a statement that the consumer's actual rate could