



1700 G Street NW, Washington, D.C. 20552

May 13, 2020

## **Open-End (not Home-Secured) Rules FAQs related to the COVID-19 Pandemic**

This is a Compliance Aid issued by the Consumer Financial Protection Bureau. The Bureau published a Policy Statement on Compliance Aids, available at <https://www.consumerfinance.gov/policycompliance/rulemaking/final-rules/policy-statement-compliance-aids/>, that explains the Bureau's approach to Compliance Aids.

**QUESTION 1:** Can a creditor that extends open-end (not home-secured) credit, such as a credit card issuer, change account terms for a consumer due to the pandemic?

**ANSWER** (UPDATED 5/13/20)

**Yes, a creditor may change account terms, although most significant changes in terms require advance notice. This advance notice requirement does not apply to specific circumstances that may help consumers in need.** In general, a creditor must provide the consumer with written notice at least 45 days prior to a significant change in terms.<sup>1</sup> However, there is no advance notice requirement should a creditor choose to extend an account's grace

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<sup>1</sup> [12 CFR 1026.9\(c\)\(2\)\(i\)\(A\)](https://www.consumerfinance.gov/policycompliance/rulemaking/final-rules/policy-statement-compliance-aids/#rulemaking).

period.<sup>2</sup> Likewise, there is no advance notice requirement should a creditor choose to reduce any component of a finance or other charge, which might provide immediate relief for consumers.<sup>3</sup> Further, if a creditor indicates at the outset of a temporary hardship arrangement that it is temporarily reducing a consumer's APR for the duration of the hardship arrangement, the creditor would not need to notify the consumer prior to making this reduction.<sup>4</sup>

**QUESTION 2:** If a creditor that extends open-end (not home-secured) credit, such as a credit card issuer, arranges hardship relief, must the creditor give advance written notice of any increase in charges or payments that will follow completion of, or failure to complete, the arrangement?

**ANSWER** (UPDATED 5/13/20):

**No, so long as the creditor complies with certain requirements.** A creditor that enters into a temporary hardship arrangement with a consumer by telephone can put the relief in place after providing the consumer with an oral disclosure of the terms of the arrangement including those that will apply at the end of the arrangement,<sup>5</sup> so long as the creditor mails or delivers a written disclosure of those terms to the consumer as soon as reasonably practicable after the oral disclosure is provided.<sup>6</sup> In order for a creditor to take advantage of this flexibility to avoid advance written notice, the terms that begin to apply at the end of the hardship arrangement must be as favorable to the consumer as the terms that applied prior to the beginning of the hardship arrangement.<sup>7</sup> While not required, creditors may remind consumers as the forbearance period nears its end, so consumers may prepare for the resumption of prior terms, or if necessary, contact the creditor. Such reminders may help reduce consumer confusion and complaints.

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<sup>2</sup> [12 CFR 1026.9\(c\)\(2\)\(v\)\(A\)](#).

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> 12 CFR 1026.9(c)(2)(v)(D)

<sup>6</sup> 12 CFR 1026.9(c)(2)(v)(D)(2)

<sup>7</sup> 12 CFR 1026.9(c)(2)(v)(D)(1)

## **QUESTION 3: How else can creditors engage with consumers to assist them during the COVID-19 pandemic?**

**ANSWER** (UPDATED 5/13/20):

**Open end non-home secured creditors may communicate proactively with consumers to provide helpful information and resources.** As in-person interaction continues to pose challenges, telephone and consumer response resources may be strained for some creditors. Communicating in advance with consumers, before they may encounter unexpected problems, may help educate them with respect to common problems and potential resources to help solve such problems. These communications might also highlight how consumers may use online resources or email to communicate with the creditor. Creditors might consider adding additional communications or materials when sending existing periodic statements. Creditors could also make their customers aware of the Bureau's resources, including the Bureau's [COVID-19 resources for consumers](#) and general [consumer tools](#).

Creditors may also be able to expedite communication with consumers by using electronic means to deliver required disclosures. Disclosures may be provided in electronic form, subject to compliance with consumer consent and other applicable provisions of the E-SIGN Act.<sup>8</sup> The E-Sign Act does not permit a consumer to consent orally to electronic provision of written disclosures.<sup>9</sup> However, creditors could obtain a consumer's email address over the phone and contact the consumer through the provided email address to obtain consent by, for example, providing a hyperlink through which a consumer might agree to electronic disclosure.

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<sup>8</sup> 15 U.S.C. 7001 *et seq.* See 15 U.S.C. 7001(c)(1); [12 CFR 1026.5\(a\)\(1\)\(iii\)](#).

<sup>9</sup> 15 U.S.C. 7001(c)(6).