

**Subject:** Regulation AA

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**Proposal:** Regulation AA - Unfair or Deceptive Acts or Practices

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**Name:** Department of Regulatory Agencies

**Affiliation:** Colorado Department of Regulatory Agencies (DORA)

**Category of Affiliation:** Government

**Address:** 1560 Broadway, Suite 1550

**City:** Denver

**State:** CO

**Country:** UNITED STATES

**Zip:** 80202

**PostalCode**

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**Comments:**

Regulation AA - Unfair or Deceptive Acts or Practices. Docket No. R-1314 Detailed comments regarding proposed rule on behalf of the Colorado Department of Regulatory Agencies Proposed rule provisions with no comments are not listed. §227.23 Unfair acts or practices regarding allocation of payments. (a) Where this paragraph states "Except as provided in paragraph (b) of this section, when different annual percentage rates apply to different balances on a consumer credit card account, the bank must allocate any amount paid by the consumer in excess of the required minimum periodic payment among the balances in a manner that is no less beneficial to the consumer than one of the following methods:" Comment: We recommend that this paragraph be revised so that the consumer would be provided with the options and opportunity to select the

allocation of payment best suited to the needs of the consumer. (b)(ii): This paragraph details an exception for deferred interest balances, such that “Notwithstanding paragraph (b)(1)(i) of this section, the bank may allocate the entire amount paid by the consumer in excess of the required minimum periodic payment to a balance on which interest is deferred during the two billing cycles immediately preceding expiration of the period during which interest is deferred.” Comment: We recommend that the bank not be given an option on this allocation and recommend that “the bank may” be revised to “the bank shall” in order to best serve the consumer. §227.24 Unfair acts or practices regarding application of increased annual percentage rates to outstanding balances. (b)(1) This first exception (b)(1) to the general rule (a) notes that the section does not apply where the annual percentage rate is increased due to “the operation of an index that is not under the bank’s control and is available to the general public;” Comment: We recommend the details of this exception be specific and described in language that consumers will understand. (c)(1) This subparagraph states that “When a bank increases the annual percentage rate applicable to a category of transactions on a consumer credit card account and the bank is prohibited by this section from applying the increased rate to outstanding balances in that category, the bank must provide the consumer with a method of paying that outstanding balance that is no less beneficial to the consumer than one of the following methods:” Comment: We recommend that the bank must provide the consumer with the options of payment methods for the outstanding balance that is no less beneficial to the consumer than the detailed methods that follow in (c)(1)(i), (c)(1)(ii) & (c)(1)(iii). §227.25 & §227.26 We support these proposed rules. §227.27 Unfair acts or practices regarding security deposits and fees for the issuance or availability of credit. (a) The annual rule states that “During the period beginning with the date on which a consumer credit card account is opened and ending twelve months from that date, a bank must not charge to the account security deposits or fees for the issuance or availability of credit if the total amount of such security deposits and fees constitutes a majority of the initial credit limit for the account.” Comment: We recommend that the rule be

expanded to include that any security deposit or fees for the issuance or availability of credit shall not be subject to interest charges if the security deposit or fees are charged to the credit account balance. §227.28

Deceptive acts or practices regarding firm offers of credit. (a) Details the rule on disclosure of criteria bearing on creditworthiness. Comment: As this rule only describes the best case scenario, we recommend that it be revised to include more detail such as a range of annual percentage rates by scale, schedule and examples to clarify expectations of criteria for those with lower or varying credit levels. §227.32

Unfair acts or practices regarding overdraft services. (a) Opt-out requirement general rule Comment: We recommend that this rule be clarified further, as the impact on the consumer is unclear. The rule should detail the ramifications of opting-in versus opting out, including types and structure of fees assessed for each option. It should also include any potential opt-out consequences such as denial of transaction at the point of sale. (a)

Debit holds Comment: We recommend that this rule clarify the burden of responsibility for finding discrepancies. We recommend that the bank be held responsible to track instances when an overdraft fee was incorrectly charged based on a hold.