

October 12, 2010

Linda Jones-Neely, Senior Vice President  
Specialty Products Division  
SWBC  
9311 San Pedro, Suite 600  
San Antonio, TX 78216

Re: Disclosing Credit Life Insurance Conversion to Debt Cancellation Coverage.

Dear Ms. Jones-Neely:

You have asked whether a federal credit union (FCU) must provide a member with a disclosure that provides either an opt-out or an opt-in election when the FCU offers to replace a credit life insurance (CLI) policy with a debt cancellation agreement (DCA). We note your request is a follow-up to the letter, dated January 8, 2008, we provided to you. Yes, Regulation Z now requires an FCU to provide an opt-in election to a CLI insured member before the FCU replaces the CLI policy with a voluntary DCA. 12 CFR §226.4(d). To the extent that an opt-in election is now required, our January 8, 2008 letter is superseded.

In adopting amendments to Regulation Z in 2009, the Federal Reserve Board specifically addressed a commenter who suggested a creditor's conversion of a CLI policy to a DCA should be covered under 12 CFR §226.9(f), the provision governing disclosures for the change in credit card account insurance providers. See 74 Fed. Reg. 5244, 5350 (January 20, 2009). By providing notification of the change in issuer under Section 226.9(f), the creditor would not be required to provide an opt-in election for DCA coverage under Section 226.4(d)(3). The commenter posited that "credit insurance and debt cancellation coverage are essentially functionally equivalent from the consumer's perspective, and that if an affirmative written request from the consumer were required, many consumers might unintentionally lose coverage because they might neglect to sign and return the request form." Id. at 5350.

The Federal Reserve Board rejected the suggestion to amend Section 226.9(f) and treat the conversion of a CLI policy to a DCA in the same manner as a change in CLI issuers.

The Board believes that the current rule provides better consumer protection than would be afforded under the approach suggested by the commenter, in that consumers are given an opportunity to decide whether they wish to have credit insurance converted to debt cancellation or debt suspension coverage, rather than having

the conversion occur automatically unless the consumer takes affirmative action to reject it.

Id. The Board noted, however, that a creditor has two options under the regulation for purchases of voluntary DCAs for open-end (not home-secured) plans. The creditor must obtain an affirmative written request from the consumer under Section 226.4(d)(3)<sup>1</sup> to convert a CLI policy to a DCA or, alternatively, may comply with Section 226.4(d)(4) and “obtain an affirmative oral request by telephone,” provided the creditor mailed disclosures to the consumer within three business days. Id.

As such, an FCU must comply with Regulation Z’s Section 226.4(d) when replacing a CLI policy for an open-end credit plan (not home-secured) with voluntary debt cancellation coverage. These disclosure and consent requirements apply when voluntary debt cancellation coverage is “written in connection” with the credit transaction. The Federal Reserve Board’s Regulation Z Comment 4(b)(10)-2, states “[c]overage sold before or after an open-end (not home-secured) plan is opened is considered ‘written in connection with a credit transaction.’” 12 CFR Part 226 (Supp I). See also 74 Fed. Reg. 5265 and 5460.

Sincerely,

/S/

Hattie M. Ulan  
Associate General Counsel

GC/CJL:bhs  
10-0984

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<sup>1</sup> In the January 2009 final rulemaking, the provision for affirmative written request for voluntary DCA coverage was found in 12 C.F.R. §226.4(d)(3)(iii). The subsection was later renumbered to 12 C.F.R. §226.4(d)(3)(iv) in 75 Fed. Reg. 7658, 7796 (February 22, 2010).