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March 5, 2024

**!** This document reflects the final rule as issued on March 5, 2024.

The document has not been updated to reflect any effects of ongoing litigation involving the credit card penalty fees final rule. As a result of that ongoing litigation, the credit card penalty fees final rule is stayed.

# Credit Card Penalty Fees Final Rule: Key Changes Chart

These charts depict key changes to Regulation Z’s text and commentary as a result of the credit card penalty fees final rule. They are not substitutes for reviewing the final rule. Additional implementation resources are available at <https://consumerfinance.gov/compliance/compliance-resources/consumer-cards-resources/credit-card-penalty-fees/>.

## Key changes to existing regulatory text

Section	Current Regulation Z Text and Commentary	Final Rule Changes to Current Regulation Z (italicized and underlined)
12 CFR 1026.52(b)(1)(ii)	Safe harbors. A card issuer may impose a fee for violating the terms or other requirements of an account if the dollar amount of the fee does not exceed, as applicable:	Safe harbors. <u><i>Except as provided in paragraph (b)(1)(ii)(E) of this section, a card issuer may impose a fee for a late payment on an account if the dollar amount of the fee does not exceed \$8.</i></u> A card issuer may impose a fee for <i>other types of</i>

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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/policy-compliance/rulemaking/final-rules/policy-statement-compliance-aids/>, that explains the Bureau’s approach to Compliance Aids.

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	<p>(A) \$30;</p> <p>(B) \$41 if the card issuer previously imposed a fee pursuant to paragraph (b)(1)(ii)(A) of this section for a violation of the same type that occurred during the same billing cycle or one of the next six billing cycles; or</p> <p>(C) Three percent of the delinquent balance on a charge card account that requires payment of outstanding balances in full at the end of each billing cycle if the card issuer has not received the required payment for two or more consecutive billing cycles.</p> <p>(D) The amounts in paragraphs (b)(1)(ii)(A) and (b)(1)(ii)(B) of this section will be adjusted annually by the Bureau to reflect changes in the Consumer Price Index.</p>	<p><i>violations of the terms or other requirements of an account if the dollar amount of the fee does not exceed, as applicable:</i></p> <p>(A) <u>\$32</u>;</p> <p>(B) <u>\$43</u> if the card issuer previously imposed a fee pursuant to paragraph (b)(1)(ii)(A) of this section for a violation of the same type that occurred during the same billing cycle or one of the next six billing cycles; or</p> <p>(C) Three percent of the delinquent balance on a charge card account that requires payment of outstanding balances in full at the end of each billing cycle if the card issuer has not received the required payment for two or more consecutive billing cycles, <u><i>notwithstanding the limitation on the amount of a late payment fee in paragraph (b)(1)(ii) of this section.</i></u></p> <p>(D) The amounts in paragraphs (b)(1)(ii)(A) and (B) of this section will be adjusted annually by the Bureau to reflect changes in the Consumer Price Index.</p>
Comment 52(b)(1)(i)-2.i	Amounts excluded from cost analysis. The following amounts are	Amounts excluded from cost analysis. The following amounts

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	<p>not costs incurred by a card issuer as a result of violations of the terms or other requirements of an account for purposes of § 1026.52(b)(1)(i):</p> <p>i. Losses and associated costs (including the cost of holding reserves against potential losses and the cost of funding delinquent accounts).</p>	<p>are not costs incurred by a card issuer as a result of violations of the terms or other requirements of an account for purposes of § 1026.52(b)(1)(i):</p> <p>i. Losses and associated costs (including the cost of holding reserves against potential losses, the cost of funding delinquent accounts, <u>and any collection costs that are incurred after an account is charged off in accordance with loan-loss provisions</u>).</p>
<p>Comment 52(b)(1)(ii)-1.i</p>	<p>Same billing cycle or next six billing cycles. A card issuer cannot impose a fee for a violation pursuant to § 1026.52(b)(1)(ii)(B) unless a fee has previously been imposed for the same type of violation pursuant to § 1026.52(b)(1)(ii)(A). Once a fee has been imposed for a violation pursuant to § 1026.52(b)(1)(ii)(A), the card issuer may impose a fee pursuant to § 1026.52(b)(1)(ii)(B) for any subsequent violation of the same type until that type of violation has not occurred for a period of six consecutive complete billing cycles. A fee has been imposed for purposes of § 1026.52(b)(1)(ii) even</p>	<p>Same billing cycle or next six billing cycles. <u>A card issuer other than a smaller card issuer as defined in § 1026.52(b)(3) cannot impose a late fee in excess of \$8 pursuant to § 1026.52(b)(1)(ii), regardless of whether the card issuer has imposed a late fee within the six previous billing cycles. For all other penalty fees</u>, a card issuer cannot impose a fee for a violation pursuant to § 1026.52(b)(1)(ii)(B) unless a fee has previously been imposed for the same type of violation pursuant to § 1026.52(b)(1)(ii)(A). Once a fee has been imposed for a violation pursuant to § 1026.52(b)(1)(ii)(A), the card issuer may impose a fee</p>

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	if the card issuer waives or rebates all or part of the fee.	pursuant to § 1026.52(b)(1)(ii)(B) for any subsequent violation of the same type until that type of violation has not occurred for a period of six consecutive complete billing cycles. A fee has been imposed for purposes of § 1026.52(b)(1)(ii) even if the card issuer waives or rebates all or part of the fee.

## New regulatory provisions as a result of the final rule

Section	New Regulation Z Text and Commentary
12 CFR 1026.52(b)(1)(ii)(E)	A smaller card issuer, as defined in paragraph (b)(3) of this section, may impose a fee for a late payment on an account if the dollar amount of the fee does not exceed the amount in paragraph (b)(1)(ii)(A) or (b)(1)(ii)(B) of this section, as applicable, notwithstanding the limitation on the amount of a late payment fee in paragraph (b)(1)(ii) of this section.
12 CFR 1026.52(b)(3)	<p>Smaller card issuer –</p> <p>(i) Except as provided in paragraph b(3)(ii) of this section, a card issuer is a smaller card issuer for purposes of paragraph (b)(1)(ii)(E) of this section if the card issuer together with its affiliates had fewer than one million open credit card accounts, as defined in § 1026.58(b)(6), for the entire preceding calendar year. For purposes of this definition, affiliate means any company that controls, is controlled by, or is under common control with another company, as set forth in the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.).</p> <p>(ii) If a card issuer together with its affiliates had fewer than one million open credit card accounts for the entire preceding calendar year but meets or</p>

Section	New Regulation Z Text and Commentary
	<p>exceeds that number of open credit card accounts in the current calendar year, the card issuer will no longer be a smaller card issuer for purposes of paragraph (b)(1)(ii)(E) of this section as of 60 days after meeting or exceeding that number of open credit card accounts.</p>
<p>Comment 52(b)(1)(ii)-2.i.J</p>	<p>Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed \$30 under § 1026.52(b)(1)(ii)(A) and \$41 under § 1026.52(b)(1)(ii)(B), through [insert date 59 days after date of publication in the federal register].</p>
<p>Comment 52(b)(1)(ii)-4</p>	<p>Smaller card issuers. Section 1026.52(b)(1)(ii)(E) provides that a card issuer meeting the definition of smaller card issuer in § 1026.52(b)(3) may impose a fee for a late payment on an account if the dollar amount of the fee does not exceed the amount in § 1026.52(b)(1)(ii)(A) or (b)(1)(ii)(B), as applicable, notwithstanding the \$8 limit on the amount of a late fee in § 1026.52(b)(1)(ii). Thus, assuming that the original historical safe harbor threshold amounts apply, a smaller card issuer may impose a late fee of \$25 for a first late payment violation and a late fee of \$35 for a late payment violation that occurs during the same billing cycle or one of the next six billing cycles, provided that those amounts are consistent with § 1026.52(b)(2).</p>
<p>Comment 52(b)(3)(i)-1</p>	<p>Entire calendar year. To meet the definition of smaller card issuer, a card issuer together with its affiliates must have fewer than one million open credit accounts for the entire preceding calendar year. Thus, for example, if a card issuer together with its affiliates had more than one million open credit card accounts from January through October of the preceding calendar year but had fewer than that threshold number in November and December, the card issuer is not a smaller card issuer in the next calendar year. Further, the card issuer is not a smaller card issuer until such time that the card issuer's number of open credit card accounts, together with those of its affiliates, remains below one million for an entire preceding calendar year.</p>
<p>Comment 52(b)(3)(ii)-1</p>	<p>Meeting or exceeding threshold in current calendar year. If a card issuer together with its affiliates had fewer than one million open credit card accounts for the entire preceding calendar year but meets or exceeds that</p>

**Section****New Regulation Z Text and Commentary**

number of open credit card accounts in the current calendar year, then the card issuer will no longer meet the definition of smaller card issuer and therefore may not impose a late fee pursuant to § 1026.52(b)(ii)(E) as of 60 days after meeting or exceeding the threshold number of open credit card accounts. For purposes of imposing a late fee pursuant to the safe harbor provisions, the card issuer may impose a late fee of no more than \$8 pursuant to § 1026.52(b)(1)(ii) as of the 60th day.