

union's option). The notice must identify the account involved (if applicable) and the address of the Internet web site or other location where the disclosure is available; and

(ii) Make the disclosure available for at least 90 days from the date the disclosure first becomes available or from the date of the notice alerting the member of the disclosure, whichever comes later.

(3) Exceptions. A credit union need not comply with paragraph (d)(2)(ii) of this section for disclosures required under § 707.4(a)(2), and need not comply with paragraphs (d)(2)(i) and (ii) of this section for disclosures required under § 707.8.

(e) *Redelivery.* When a disclosure provided by electronic communication is returned to a credit union undelivered, the credit union must take reasonable steps to attempt redelivery using information in its files.

(f) *Entities other than a credit union.* A person other than a credit union that is required to comply with this part may use electronic communication in accordance with the requirements of this section, as applicable.

[66 FR 33163, June 21, 2001]

§ 707.11 Additional disclosure requirements for credit unions advertising the payment of overdrafts.

(a) *Periodic statement disclosures—(1) Disclosure of Total Fees.* (i) Except as provided in paragraph (a)(2) of this section, if a credit union promotes the payment of overdrafts in an advertisement, the credit union must separately disclose on each periodic statement:

(A) The total dollar amount for all fees or charges imposed on the account for paying checks or other items when there are insufficient funds and the account becomes overdrawn; and

(B) The total dollar amount for all fees imposed on the account for returning items unpaid.

(ii) The disclosures required by this paragraph must be provided for the statement period and for the calendar year to date, for any account to which the advertisement applies.

(2) *Communications not triggering disclosure of total fees.* The following communications by a credit union do not

trigger the disclosures required by paragraph (a)(1) of this section:

(i) Promoting in an advertisement a service for paying overdrafts where the credit union's payment of overdrafts will be agreed upon in writing and subject to part 226 of this title (Regulation Z);

(ii) Communicating, whether by telephone, electronically, or otherwise, about the payment of overdrafts in response to a member-initiated inquiry about share accounts or overdrafts. Providing information about the payment of overdrafts in response to a balance inquiry made through an automated system, such as a telephone response machine, an automated teller machine (ATM), or a credit union's Internet site, is not a response to a member-initiated inquiry for purposes of this paragraph;

(iii) Engaging in an in-person discussion with a member;

(iv) Making disclosures that are required by Federal or other applicable law;

(v) Providing a notice or including information on a periodic statement informing a member about a specific overdrawn item or the amount the account is overdrawn;

(vi) Including in a share account agreement a discussion of the credit union's right to pay overdrafts;

(vii) Providing a notice to a member, such as at an ATM, that completing a requested transaction may trigger a fee for overdrawing an account, or providing a general notice that items overdrawing an account may trigger a fee; or

(viii) Providing informational or educational materials concerning the payment of overdrafts if the materials do not specifically describe the credit union's overdraft service.

(3) *Time period covered by disclosures.* A credit union must make the disclosures required by paragraph (a)(1) of this section for the first statement period that begins after a credit union advertises the payment of overdrafts. A credit union may disclose total fees imposed for the calendar year by aggregating fees imposed since the beginning of the calendar year, or since the beginning of the first statement period

that year for which such disclosures are required.

(4) *Termination of promotions.* Paragraph (a)(1) of this section becomes inapplicable with respect to a share account two years after the date of a credit union's last advertisement promoting the payment of overdrafts related to that account.

(5) *Acquired accounts.* A credit union that acquires an account must thereafter provide the disclosures required by paragraph (a)(1) of this section for the first statement period that begins after the credit union promotes the payment of overdrafts in an advertisement that applies to the acquired account. If disclosures under paragraph (a)(1) of this section are required for the acquired account, the credit union may, but is not required to, include fees imposed before acquisition of the account.

(b) *Advertising disclosures for overdraft services—(1) Disclosures.* Except as provided in paragraphs (b)(2), (b)(3), and (b)(4) of this section, any advertisement promoting the payment of overdrafts must disclose in a clear and conspicuous manner:

- (i) The fee or fees for the payment of each overdraft;
- (ii) The categories of transactions for which a fee for paying an overdraft may be imposed;
- (iii) The time period by which the member must repay or cover any overdraft; and
- (iv) The circumstances under which the credit union will not pay an overdraft.

(2) *Communications about the payment of overdrafts not subject to additional advertising disclosures.* Paragraph (b)(1) of this section does not apply to:

- (i) An advertisement promoting a service where the credit union's payment of overdrafts will be agreed upon in writing and subject to part 226 of this title (Regulation Z);
- (ii) A communication by a credit union about the payment of overdrafts in response to a member-initiated inquiry about share accounts or overdrafts. Providing information about the payment of overdrafts in response to a balance inquiry made through an automated system, such as a telephone response machine, ATM, or a credit

union's Internet site, is not a response to a member-initiated inquiry for purposes of this paragraph;

- (iii) An advertisement made through broadcast or electronic media, such as television or radio;
- (iv) An advertisement made on outdoor media, such as billboards;
- (v) An ATM receipt;
- (vi) An in-person discussion with a member;
- (vii) Disclosures required by Federal or other applicable law;
- (viii) Information included on a periodic statement or a notice informing a member about a specific overdrawn item or the amount the account is overdrawn;
- (ix) A term in a share account agreement discussing the credit union's right to pay overdrafts;
- (x) A notice provided to a member, such as at an ATM, that completing a requested transaction may trigger a fee for overdrawing an account, or a general notice that items overdrawing an account may trigger a fee; or
- (xi) Informational or educational materials concerning the payment of overdrafts if the materials do not specifically describe the credit union's overdraft service.

(3) *Exception for ATM screens and telephone response machines.* The disclosures described in paragraphs (b)(1)(ii) and (b)(1)(iv) of this section are not required in connection with any advertisement made on an ATM screen or using a telephone response machine.

(4) *Exception for indoor signs.* Paragraph (b)(1) of this section does not apply to advertisements for the payment of overdrafts on indoor signs as described by §707.8(e)(2) of this part, provided that the sign contains a clear and conspicuous statement that fees may apply and that members should contact an employee for further information about applicable fees and terms. For purposes of this paragraph (b)(4), an indoor sign does not include an ATM screen.

[70 FR 72898, Dec. 8, 2005]

APPENDIX A TO PART 707—ANNUAL PERCENTAGE YIELD CALCULATION

The annual percentage yield (APY) measures the total amount of dividends a credit