

§ 37.7

12 CFR Ch. I (1–13 Edition)

(i) A plain-language heading to call attention to the disclosures;

(ii) A typeface and type size that are easy to read;

(iii) Wide margins and ample line spacing;

(iv) Boldface or italics for key words; and

(v) Distinctive type style, and graphic devices, such as shading or sidebars, when the disclosures are combined with other information.

(e) *Advertisements and other promotional material for debt cancellation contracts and debt suspension agreements.* The short form disclosures are required in advertisements and promotional material for contracts unless the advertisements and promotional materials are of a general nature describing or listing the services or products offered by the bank.

§ 37.7 Affirmative election to purchase and acknowledgment of receipt of disclosures required.

(a) *Affirmative election and acknowledgment of receipt of disclosures.* Before entering into a contract the bank must obtain a customer's written affirmative election to purchase a contract and written acknowledgment of receipt of the disclosures required by § 37.6(d). The election and acknowledgment information must be conspicuous, simple, direct, readily understandable, and designed to call attention to their significance. The election and acknowledgment satisfy these standards if they conform with the requirements in § 37.6(b) of this part.

(b) *Special rule for telephone solicitations.* If the sale of a contract occurs by telephone, the customer's affirmative election to purchase may be made orally, provided the bank:

(1) Maintains sufficient documentation to show that the customer received the short form disclosures and then affirmatively elected to purchase the contract;

(2) Mails the affirmative written election and written acknowledgment, together with the long form disclosures required by § 37.6 of this part, to the customer within 3 business days after the telephone solicitation, and maintains sufficient documentation to show

it made reasonable efforts to obtain the documents from the customer; and

(3) Permits the customer to cancel the purchase of the contract without penalty within 30 days after the bank has mailed the long form disclosures to the customer.

(c) *Special rule for solicitations using written mail inserts or "take one" applications.* If the contract is solicited through written materials such as mail inserts or "take one" applications and the bank provides only the short form disclosures in the written materials, then the bank shall mail the acknowledgment of receipt of disclosures, together with the long form disclosures required by § 37.6 of this part, to the customer within 3 business days, beginning on the first business day after the customer contacts the bank or otherwise responds to the solicitation. The bank may not obligate the customer to pay for the contract until after the bank has received the customer's written acknowledgment of receipt of disclosures unless the bank:

(1) Maintains sufficient documentation to show that the bank provided the acknowledgment of receipt of disclosures to the customer as required by this section;

(2) Maintains sufficient documentation to show that the bank made reasonable efforts to obtain from the customer a written acknowledgment of receipt of the long form disclosures; and

(3) Permits the customer to cancel the purchase of the contract without penalty within 30 days after the bank has mailed the long form disclosures to the customer.

(d) *Special rule for electronic election.* The affirmative election and acknowledgment may be made electronically in a manner consistent with the requirements of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 *et seq.*

[67 FR 58976, Sept. 19, 2002, as amended at 73 FR 22252, Apr. 24, 2008]

§ 37.8 Safety and soundness requirements.

A national bank must manage the risks associated with debt cancellation contracts and debt suspension agreements in accordance with safe and sound banking principles. Accordingly,

a national bank must establish and maintain effective risk management and control processes over its debt cancellation contracts and debt suspension agreements. Such processes include appropriate recognition and financial reporting of income, expenses, assets and liabilities, and appropriate treatment of all expected and unexpected losses associated with the products. A bank also should assess the adequacy of its internal control and risk mitigation activities in view of the nature and scope of its debt cancellation contract and debt suspension agreement programs.

APPENDIX A TO PART 37—SHORT FORM DISCLOSURES

- This product is optional
Your purchase of [PRODUCT NAME] is optional. Whether or not you purchase [PRODUCT NAME] will not affect your application for credit or the terms of any existing credit agreement you have with the bank.
- Lump sum payment of fee
[Applicable if a bank offers the option to pay the fee in a single payment]
[Prohibited where the debt subject to the contract is a residential mortgage loan]
You may choose to pay the fee in a single lump sum or in [monthly/quarterly] payments. Adding the lump sum of the fee to the amount you borrow will increase the cost of [PRODUCT NAME].
- Lump sum payment of fee with no refund
[Applicable if a bank offers the option to pay the fee in a single payment for a no-refund DCC]
[Prohibited where the debt subject to the contract is a residential mortgage loan]
You may choose [PRODUCT NAME] with a refund provision or without a refund provision. Prices of refund and no-refund products are likely to differ.
- Refund of fee paid in lump sum
[Applicable where the customer pays the fee in a single payment and the fee is added to the amount borrowed]
[Prohibited where the debt subject to the contract is a residential mortgage loan]
[Either:] (1) You may cancel [PRODUCT NAME] at any time and receive a refund; or (2) You may cancel [PRODUCT NAME] within ___ days and receive a full refund; or (3) If you cancel [PRODUCT NAME] you will not receive a refund.
- Additional disclosures
We will give you additional information before you are required to pay for [PRODUCT NAME]. [If applicable]: This informa-

tion will include a copy of the contract containing the terms of [PRODUCT NAME].

- Eligibility requirements, conditions, and exclusions
There are eligibility requirements, conditions, and exclusions that could prevent you from receiving benefits under [PRODUCT NAME].
[Either:] You should carefully read our additional information for a full explanation of the terms of [PRODUCT NAME] or You should carefully read the contract for a full explanation of the terms of [PRODUCT NAME].

APPENDIX B TO PART 37—LONG FORM DISCLOSURES

- This product is optional
Your purchase of [PRODUCT NAME] is optional. Whether or not you purchase [PRODUCT NAME] will not affect your application for credit or the terms of any existing credit agreement you have with the bank.
- Explanation of debt suspension agreement [Applicable if the contract has a debt suspension feature]
If [PRODUCT NAME] is activated, your duty to pay the loan principal and interest to the bank is only suspended. You must fully repay the loan after the period of suspension has expired. [If applicable]: This includes interest accumulated during the period of suspension.
- Amount of fee
[For closed-end credit]: The total fee for [PRODUCT NAME] is _____.
[For open-end credit, either:] (1) The monthly fee for [PRODUCT NAME] is based on your account balance each month multiplied by the unit-cost, which is _____. or (2) The formula used to compute the fee is _____.
- Lump sum payment of fee
[Applicable if a bank offers the option to pay the fee in a single payment]
[Prohibited where the debt subject to the contract is a residential mortgage loan]
You may choose to pay the fee in a single lump sum or in [monthly/quarterly] payments. Adding the lump sum of the fee to the amount you borrow will increase the cost of [PRODUCT NAME].
- Lump sum payment of fee with no refund
[Applicable if a bank offers the option to pay the fee in a single payment for a no-refund DCC]
[Prohibited where the debt subject to the contract is a residential mortgage loan]
You have the option to purchase [PRODUCT NAME] that includes a refund of the unearned portion of the fee if you terminate the contract or prepay the loan in full prior