

APPENDIX B

Truth in Lending Act Regulation Z

12 C.F.R. Part 226, which implements the Truth in Lending Act (TILA), follows the passage of the Higher Education Opportunity Act (HEOA). Title X of the HEOA amended TILA by adding, in addition to other requirements, disclosure and timing requirements that apply to creditors making private education loans, which are defined as loans made for postsecondary educational purposes. Compliance with the final rule is mandatory.

Although HHS may be able to provide general information about this regulation, the responsibility for compliance with the regulation rests with your institution, and it is recommended that institutions consult with their legal counsel for specific guidance on its applicability.

The Federal Reserve's August 14, 2009 final rule government under Title IV of the Higher Education Act of 1965 are specifically exempt from the TILA and the and 12 C.F.R. § 226.46(b) (5).

Accordingly, whether the TILA requirements for creditors making private education loans apply to institutions that "creditor" provided by Regulation Z. A "creditor" is defined under Regulation Z as "a person (A) who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than 4 installments (including a down payment), and (B) to whom the obligation is initially payable, either on the face of the instrument or under a written agreement." A person "regularly extends" credit if the person extends credit during the preceding calendar year. See 12 C.F.R. § 226.2(a) (17) (i).

Among other requirements, the amendments to TILA, as implemented by Regulation Z, require that creditors making private education loans:

times in the loan origination process:

• Disclose the student's right to cancel the loan at any time within thirty days of receiving the annual disclosures;

• Obtain a signed "self-certification form" from the student borrower before consummating the loan.

More detailed information about the new requirements can be found in the final rule available at