

Content

Title : Regulations Governing the Cash Card Business of Financial Institutions Ch

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Legislative : 1. Per order of Financial Supervisory Commission No. Jin-Kuan-Yin (4)-Zi-No. 0944000230 dated 04/29/2005
2. Amended by Order Jin-Kuan-Yin-(4)-Zi-09640002910 dated May 22, 2007

Content : 1. The term “cash card business” mentioned in the Regulations herein refers to an unsecured loan business of banks and credit cooperatives (collectively termed “financial institutions” hereunder) where lines of credit of certain amount are offered to cardholders and a cardholder can use the card issued by the financial institution to obtain a cash loan via an automated teller machine (ATM) or other manners on a revolving basis within the approved line of credit.

If a financial institution issues a combo card, it shall, pursuant to this Regulations, handle the cash-card functions.

2. The competent authority of this Regulations shall be the competent authority of the Banking Act of the Republic of China.

When a cash card issued by the financial institution is used in overseas, the part which involves foreign exchange shall be handled pursuant to the relevant provisions of the Central Bank of the Republic of China (Taiwan).

3. A financial institution engaging in cash card business shall periodically file relevant data on its cash card business with the competent authority and an agency designated by the competent authority, and disclose relevant material information on its website pursuant to the established rules.

The agency designated by the competent authority which was referred to in the preceding Paragraph shall draft the scope of cash card business data to be filed and rules for the filing operation, and submit the draft to the competent authority for reference.

The data filed or disclosed on the website by a financial institution in compliance with Paragraph 1 herein shall be free of false representation to ensure accuracy.

4. A financial institution shall establish an internal control and internal audit system for its cash card business; and if its cash card business is outsourced, the business shall be handled pursuant to the relevant provisions of the ‘Regulations Governing Internal Operating Systems and Procedures for the Outsourcing of Financial Institution Operation.’

5. A financial institution that engages in cash card business shall establish a credit review process to approve a line of credit in a prudent manner shall be handled pursuant to the following provisions:

(1) An applicant shall be at least twenty years old. At the time of the

application, the applicant shall submit his/her identification documents and the information of his/her income or financial capability.

(2) The financial institution shall verify the veracity of a card applicant's identity, that the applicant has independent and stable financial sources and the ability to pay off debt, and it shall understand the applicant's debt situation before issuing the cash card.

(3) The line granted to an applicant shall be comparable to applicant's ability to pay at the time of application, and the overall balance (including credit cards) after unsecured debt counted in the personal property of a borrower at all financial institutions with the approved available line of credit should not exceed the average monthly income of the most recent year by twenty-two times. When a financial institution raises the line of credit of a cardholder, it shall still comply with this Paragraph.

(4) The financial institution shall formulate the management regulation on approval of the overall balance of an applicant's cash card account and the multiple of the average monthly income of the most recent year, and submit the regulation to the board of directors for approval and then for enforcement - when the regulation is amended, it shall also be submitted to the board of directors for approval and then for enforcement. The authorizing personnel of the headquarters of a foreign bank branch in Taiwan shall be responsible for the obligations that the board of directors of a foreign bank branch in Taiwan is to perform.

(5) As regards the circumstance that within a short period of time, the financial institution conducts a dense investigation on an applicant's credit data recorded in the Joint Credit Information Center, such a financial institution shall list the circumstance as the item for credit review.

(6) If the Joint Credit Information Center holds 'the note that the applicant's relative(s) paid off the loan for the applicant', the financial institution shall not raise the line of credit or issue a new card separately, when it cannot verify the applicant's repayment ability.

(7) A financial institution shall not use the credit information recorded in the Joint Credit Information Center as the only basis for cash card issuing, and cannot notify the applicant, the cardholder or the third party of the credit information recorded in the Joint Credit Information Center by other financial institutions.

6. When a financial institution handles a student's application for a cash card, it shall process it pursuant to the following provisions:

(1) A full-time student can hold no more than two cash cards with the initial line of credit not exceeding NT\$10,000 from each card issuer. The initial line of credit can be raised up to NT\$20,000 with the consent of the applicant's parent. A financial institution shall not engage in marketing campaign targeting students.

(2) If a cash card applicant indicates that he/she is a student on the application form, the financial institution shall notify the applicant's parent of the card issuance, asking the parent to pay attention to the use of the cash card by cardholder.

(3) If a financial institution finds that an applicant is a student who

holds more than two cash cards which are issued by different financial institutions and are with the line of credit for each card exceeding NT\$20,000, the financial institution shall immediately notify the cardholder of the suspension of service.

(4) The items on notification mentioned in the preceding two paragraphs shall be specified in the contract which is to be entered by the applicant and the financial institution.

7. A financial institution shall not issue a cash card before receiving the written application or an electronic application document, and completing the credit review process.

The practice of the 'electronic application document' mentioned in the preceding Paragraph shall conform to the provisions of the 'Electronic Signatures Act.'

8. Before a financial institution issues a cash card, it shall read out and notify the applicant of the important items of a declaration letter and the applicant and the personnel of the financial institution (including the staff of the entrusted institution) shall all sign on the same declaration letter. The competent authority shall determine the content of the declaration letter.

9. When a financial institution engages in cash card business, it cannot calculate the interest by including each expense in the loan principal and it also cannot calculate the interest through a compound interest method. A financial institution shall formulate credit risk of different levels on the basis of the credit situations of cardholders and pursuant to the provision of the competent authority, adopt tiered interest rates and periodically re-examine and adjust the rates.

10. When a financial institution markets cash cards, it shall not appeal to the public using the marketing tactics of 'fast card approval', 'get a card by another card', 'get a card with a name card' or other similar tactics that will give the impression that no credit review will be conducted in card approval process. The financial institution is prohibited from peddling the marketing in the streets (including in arcade areas). When a cash card is applied, reviewed and activated, and the credit is drawn via the cash card, the financial institution cannot offer gifts or prizes to the cardholder.

11. A financial institution shall include easy-to-understand warnings in its printed advertising and its dynamic advertising, a card activation document and a card application, such as 'If you don't pay back what you borrowed, it will be difficult for you to borrow money again', or 'You might suffer all your life if you pay back debt with debt.' Among these advertisements, a printed advertisement shall be published through occupying one eighth of the entire printed page and the interest rate range and all charges shall be provided in detail in the advertisement - the size of the font shall be conspicuous and cannot be smaller than the size, #14. When it runs a dynamic advertisement, it shall handle it pursuant to

the following items:

- (1) It shall use the phrase, 'Please use your cash card with prudence' , as the theme of appeal. The aforesaid warning shall occupy one eighth of the screen space and be run throughout the advertisement. The financial institution cannot take as the appeal uses of the medium- and long-term capital turnover for the start of an enterprise or an investment.
- (2) The interest rate range and all charges involved shall be shown for at least four seconds and take at least one quarter of the screen space, in which the interest rate range shall take no less than one twelfth of the whole screen space.
- (3) At the end of the run, at least one eighth of the entire play time (at least five seconds) shall be dedicated to playing the voice message of 'Please use your cash card with prudence' in the same volume and the following text messages shall be run on the full screen: 1. Make sure that you check the content of the contract; 2. Make sure that you manage and balance your income and expenditure; and 3. Make a reasonable repayment plan.'

12. A financial institution shall fully disclose the following items in the application form and contract in conspicuous font:

- (1) Loan rates, repayment method, mailing of statements, contract termination procedure, charges, late payment interest rates and calculation of penalty, and default handling procedure. The financial institution shall also use easy-to-understand language to give an example of the methods, the start and end period and the rates for calculating interest, overdue interest, penalty and exchange rates.
- (2) The disclosure of loan rates and related expenses shall be handled pursuant to the provisions of the competent authority.
- (3) The methods of handling the loss, a theft or a destruction of a cash card.
- (4) Other items regulated by the competent authority.

The applicant shall be given a reasonable period of time to review the contract before he/she enters into the contract with the financial institution.

The size of the font in the standard contract on cash card provided by a financial institution cannot be smaller than the size #14 and the content of the contract shall be drafted pursuant to the provisions of the 'Items that Shall be Recorded in Standard Contracts of Cash Card and Items that Shall not be Recorded in Such Contracts' promulgated by the competent authority. The standard of protecting rights and benefits of consumers also cannot be lower than the standard provided in the content of the 'Samples of Standard Contracts of Cash Card' promulgated by the competent authority.

13. A financial institution shall specify detailed fee standards and terms and conditions for the application of rates and the collection of each charge in the application form and ask the applicant to sign the application for verification purpose. It shall also disclose the above-mentioned data on its website to make it easier for the public to look up and make comparison.

To remind the public to value their own credit, a financial institution shall note the wording 'Your late payment record will be posted with the Joint Credit Information Center and adversely affect your rights to obtain other loans at a later date' beneath the applicant signature line of the application form in a conspicuous manner.

14. A financial institutions shall put a clause in the contract agreeing that, if it has any of the following circumstances, it will forward a written notification in a conspicuous manner to the cardholder or by electronic mail as prior agreed upon at least sixty (60) days in advance, and explain the reasons for such an increase or a change, and that the cardholder may terminate the contract if he or she objects to the change:

- (1) Increase any of the fee charged from the cardholder;
- (2) Increase interest rates;
- (3) A financial institution which adopts floating interest rates changes the benchmark rates originally chosen by the cardholder;
- (4) Change methods for interest calculation;
- (5) Other items regulated by the competent authority.

When a financial institution which adopts floating interest rates for loan rates adjusts benchmark rates, it not only announces such an adjustment in its business place and on its website, but it also shall inform the adjustment to the cardholder in writing or in the method which was priorly agreed upon between the cardholder and it. When the benchmark rates are raised, the provision on the sixty-day notification mentioned in the preceding Paragraph may not apply to the financial institution.

15. To protect the interest of the cash cardholders, a financial institution shall draw up a complaint handling procedure and set up a complaint hotline; it shall also notify the cardholders of such information in writing and post the same on its website.

16. After a financial institution issues a cash card, it shall provide information on the credit line, interest rate, loan balance and available credit on the withdrawal receipt or monthly statement of the cardholder. In principle, the monthly statement mentioned in the preceding Paragraph shall be in writing, and provided to the customer in other methods which were agreed between the customer and it. However, the financial institution may not reject a cardholder's request for a written statement.

17. Cash cards which have been issued by a financial institution shall be periodically re-examined at least every six months.

If a financial institution needs to lower the credit line of a cardholder in order to control the credit situation of the cardholder and ensure the amount of the debts, it shall specify terms and conditions on the said adjustment in the contract, and perform the obligation, notifying cardholder of such a reduction of the credit line.

If a financial institution plans to raise the contractually agreed line of credit or available line for a cash cardholder, it shall obtain the written consent of such a cardholder prior to the raise, and if applicable, notify the guarantor and obtain his/her written consent in advance.

The methods of obtaining a cardholder's or guarantor's written consent mentioned in the preceding Paragraph can also be via digital signature, ATM or automated loan machine. However, the financial institution shall step up the verification of a cardholder's identity and the contract concluded for issuance of cash card shall specify that the financial institution will be held responsible for the loss of the cardholder resulting from its failure to perform identity verification vigorously.

18. When a financial institution engages in collecting cash card receivables, it shall handle the collection pursuant to the following provisions:

- (1) The financial institution cannot violate public interests or encroach on rights of others, and shall execute its rights pursuant to the principle of honesty and credit.
- (2) A financial institution can collect payment from the debtor and his/her guarantor only, and shall not bother or demand payment from the third party unrelated to the debt of the cardholder.
- (3) A personnel of a financial institution that collects debt by phone shall identify the name of his/her financial institution and install a recording system - it shall retain related information for at least six months for audit or investigation purpose in the case of a dispute.
- (4) A financial institution that engages in cash card business shall not use violence, coercion, intimidation, verbal abuse, harassment, or false, deceptive or misleading representation, or engage in other illicit debt collection practices that invade the privacy of the debtor.
- (5) When the personnel of the financial institution visits the debtor for debt collection purpose, he/she shall identify him-/herself and the name of the financial institution, and show the letter of authorization to the debtor or a related third party.

19. Before a financial institution sells its non-performing loans of cash cards to an asset management company, it shall handle the sales pursuant to the following provisions:

- (1) The financial institution shall look into and prove that the collection standards of the asset management company are consistent with those of it.
- (2) When non-performing loans of cash cards are publicly tendered, such a public tender shall be handled pursuant to the operational procedures regulated by the competent authority.
- (3) After the sale, the financial institution shall notify the cardholders of the sale in writing, informing the cardholders of the name of the asset management company, the amount of debt to be collected, as well as the complaint hotline.
- (4) If a financial institution learns through customer complaints or other channels that the asset management company resorts to illegal acts, violence, coercion, intimidation, verbal abuse, harassment, or false, deceptive or misleading representation, and finds the evidence of the act in question to be true, it shall forward relevant information to the law enforcement agency for investigation, and file the same information with the Joint Credit Information Service. In addition, no financial institutions shall sell their non-performing loans to such an asset

management company.

(5) Other items regulated by the competent authority.

20. In order to ensure the protection of rights and benefits of customers, a financial institution shall specify at least the following items in the agreement concerning its sales of non-performing loans of cash cards to an asset management company, which is to be entered into between the asset management company and it:

(1) The asset management company cannot resell the non-performing loans to the third party and shall commission the original financial institution which sold these loans to the company or a debt collection institution designated or approved by the said financial institution to proceed in the collection of debt.

(2) Both the asset management company and the financial institution shall conform to the Banking Act of the Republic of China, Money Laundering Control Act, Computer Processing Personal Data Protection Act, Consumer Protection Act, Fair Trade Law and other laws and regulations that shall be conformed to by a financial institution.

(3) The collection standards of the asset management company shall be consistent with those of the financial institution which sell the non-performing loans to the company and the company shall truly conform to each Paragraph of Point 18.

(4) The asset management company shall establish an internal control system and conduct periodical assessments and nonscheduled assessments.

21. If a financial institution is involved in the leak of personal information in the marketing of its cash card business or involved in any of the illegal acts, violence, coercion, intimidation, verbal abuse, harassment, or false, deceptive or misleading representation, and the act is found true by the competent authority, the competent authority will, pursuant to relevant provisions, impose disposition against the financial institution depending on the severity of the offense, and if deemed necessary, suspend or terminate the cash card business of the financial institution.

If the act of the financial institution involves improper advertising or marketing activities, the competent authority will invite relevant agencies, scholars and experts to determine the nature of the act.

22. If the cash card payment of the lowest current amount is six months in arrears, the financial institution that engages in the cash card business shall write off the overall balance of the debts and made it as bad debt in the next three months.

23. Where the non-performing loan ratio of the cash card business of a financial institution exceeds the limit prescribed by the competent authority, the competent authority will demand rectification or improvement actions within a prescribed period of time from the financial institution or suspend the cash card business of the financial institution.

24. A financial institution that engages in cash card business shall truly

observe common business rules and self-regulatory rules for cash card business set forth by the Bankers Association of the Republic of China.

25. The competent authority will, pursuant to the Banking Act of the Republic of China and relevant laws and regulations and in view of the severity of the situation, impose punishment against a financial institution which violates the Regulations herein.

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System