



CARD Act

The New Financing Frontier

By Andrea McCullion

By the time you read this article, most of the provisions of the Credit Card Accountability Responsibility and Disclosure (CARD)

Act of 2009 will have gone into effect. The CARD Act was signed into law in May 2009, with some provisions regarding the timing of billing statements and account change notices implemented as of August 2009.

But the majority of the provisions that will directly affect water dealers were required to be in place by Feb. 22, 2010, meaning the industry has just entered a new financing frontier. Understanding this new frontier will give water dealers the best chance of financing success in 2010 and beyond.

Background

The intention of the CARD Act is to protect consumers from “abusive” practices by credit card issuers. These include things like arbitrary interest rate hikes, “double-cycle” billing and excessive fees. But the scope of the Act does not just affect Chase or Bank of America or other large card-issuing national banks—it affects anyone offering “open-end” or “revolving credit” loans. This includes many of the lenders water dealers are using today. The provisions of the CARD Act do not affect installment or “closed-end” loans.

As most dealers know, the consumer financing landscape has changed drastically over the past 12 to 18 months. Some lenders have exited altogether, while others have tightened up lending standards or eliminated certain

promotions. Credit has not yet started freely flowing in the marketplace, and with the implementation of the CARD Act, it may take longer yet for this to happen. Without the ability to easily increase fees or rates to customers, lenders need to be cautious in extending credit on the front end—and fees to dealers may increase as well.

Major Provisions

There are several provisions in the CARD Act that will directly affect water treatment dealers who use revolving credit programs.

Promotional Programs. The provisions on credit promotions mean that some previously popular programs will be virtually eliminated. The CARD Act specifically prohibits deferred interest or similar promotions of less than six months, meaning plans like “90 days same-as-cash” are no longer allowed on revolving credit. Promotions of six months or longer are still allowed, but the required disclosures have changed. Many lenders are now in the process of sending out updated forms and disclosures to their dealer networks. Water dealers should

carefully review these forms and be sure they understand how to complete them to avoid a rejected finance contract.

Additionally, promotions offering “no payments” or “deferred payments” will disappear because the Office of Thrift Supervision and the Office of the Comptroller of Currency have issued guidance that consumers should be required to make minimum monthly payments on revolving accounts. And plans with low initial interest rates that later increase will simply be too risky for most lenders to offer; compliance with the CARD Act for those promotions would be difficult.

Disclosure of Repayment Terms. Many water dealers prefer revolving credit because there are fewer disclosures required for the customer than with closed-end credit. Dealers do not have to show customers the total interest they will pay and the time to repay the loan for revolving credit. Under the new CARD Act requirements, lenders must now put this information on billing statements each month. The lender must show the customer how long it will take to pay the loan off making only the minimum payments (along with the total repaid by the customer including interest). They must also show the monthly payment the customer could make to repay the loan in three years (including the amount the customer would save in interest versus making only the minimum payments). So, while dealers may still be free from making these disclosures in a sales presentation, they must understand that

*The financing landscape
in 2010 and beyond*

the customers will now get repayment details from lenders on their monthly billing statements. Water dealers must be sure their sales presentations do not mislead customers about repayment times for revolving credit loans.

Advertising. In addition to the CARD Act changes, changes to Regulation Z (the Truth in Lending Act) require specific disclosures to be made in advertisements for both closed-end and revolving credit. Dealers who use any form of advertising should consult with a qualified attorney to determine if their advertising is in compliance with current requirements and upcoming changes.

Navigating the New Frontier

Even though the financing landscape has changed drastically over the past 18 months, it is still a valuable tool for water dealers to attract customers and close sales. So, how can a water dealer have the best chance for success in this new frontier?

Be Prepared. Dealers should be prepared with a variety of options to help close a sale. They no longer can rely on “we’ve always sold three months with no payments”—they must adapt their sales pitches to the programs that are now allowed. Dealers also should make sure their advertising is in compliance with the Truth in Lending requirements by consulting with a qualified attorney.

Be Flexible. Dealers who have always used revolving credit may want to explore using closed-end credit for some deals or promotions. Dealers also should be prepared to provide corroborating application information (like proof of income). Since lenders cannot easily increase fees or rates on customers later, they must be more diligent about who they accept on the front end. It is in the best interest of both the dealer and lender to build a quality book of business so the lender will be able to provide a consistent source of financing for the dealer.

Be Patient. Lenders are required to comply with these new revolving credit provisions; it may take time to work through the challenges they present. The timing of the CARD Act combined with the still-fragile economy puts lenders in a position where they may have to be even more conservative in their lending standards. Lenders will be tasked with managing their risk in this new environment while still providing attractive programs for dealers.

2010 and Beyond

This year will present new challenges to water dealers: access to credit is still tight, and now long-standing promotions will be eliminated from

the sales arsenal. The dealers who will be most successful in this new financing frontier will be those who know the importance of financing but who recognize that we are all in a new world. By being prepared, flexible and patient, dealers will give themselves the best chance to get customers financed in 2010 and beyond. *wqp*

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