

**Interagency Questions and Answers Regarding
Corrective Action Time Periods Under the Truth in Lending Act Policy Guide
(January 1998)**

1. *What is the effective date of the new policy change regarding the time period for corrective action?*

The policy change regarding the corrective action time period is effective immediately. The agencies will apply the new policy when determining the corrective action time period for pending and future restitution situations.

If the policy change affects the corrective action time period previously given to an institution in a pending restitution situation, the institution will be notified of the change. The new policy does not, however, affect future obligations arising in connection with closed restitution cases.

2. *Can an institution terminate the remainder of its restitution obligation to a borrower in light of this change in policy?*

No. The policy change announced by the agencies applies to future and pending cases. There will be no change in future obligations arising in connection with closed restitution cases. The policy guide provides institutions with two restitution methods, and they select the method that best satisfies their particular circumstances. Once the institution makes its decision about the restitution method it will pursue, it is expected to complete its obligations to affected borrowers.

For example, under the "Lump Sum/Payment Reduction" method of reimbursement, an institution remits to the borrower a lump sum covering excess money paid to the point that restitution is made, and then reduces future payments to cover the remaining restitution obligation. Under the new policy, the agencies will not permit the institution to terminate its remaining restitution obligation by increasing the borrower's payments to the level they were prior to the restitution action.

3. *Do the agencies interpret the phrase "immediately preceding examination" to mean an examination of any type, including types of examinations where a review for Truth in Lending compliance would not be part of the examination scope?*

Yes. The agencies now interpret the phrase "immediately preceding examination" to mean an examination of any type conducted for any purpose by a federal regulatory agency with designated administrative enforcement responsibility under the Truth in Lending Act (TILA). However, supervisory visitations, inspections, or other field reviews that are not considered examinations by the agencies are not considered examinations for purposes of applying the policy change. An examination of an affiliated entity, such as an operating subsidiary or an institution's holding company, is not considered when determining the corrective action time period.

4. *How will the agencies apply the policy change where "concurrent" examinations are being conducted at a financial institution?*

When concurrent examinations are employed, sometimes several different types of examinations begin on the same day, sometimes they begin in succession, and sometimes they begin several weeks or months apart but within the same examination cycle, based on factors such as the availability of working space for the examination teams, or the expressed preferences of management.

For purposes of applying the policy change regarding the corrective action time period, the agencies consider a concurrent examination to be one event. Assume, for example, the situation where a safety and soundness examination begins on Monday, a trust examination begins on Tuesday, and the compliance examination starts on Wednesday. Assume further that the compliance team identifies a pattern or practice of violations triggering the restitution provisions of the TILA. The agencies will consider the immediately preceding examination to be the last completed examination, not the trust examination that began on Tuesday, or the safety and soundness examination that began on Monday.

Similarly, assume an example where an institution's management asks for "concurrent" examinations to be conducted in succession, meaning that the compliance examination should begin after the safety and soundness and/or trust examination field work is completed, or wrapping up, which could be several months after the start date. The agencies will consider those concurrent examinations to be part of the same examination cycle and will not limit the corrective action time period in such circumstances to the starting date of the safety and soundness or trust examination.

5. *Does the policy change affect or limit the corrective action time period where a practice identified at a prior examination is not corrected by the date of the current examination?*

No. The policy guide and statute provide that if a practice is identified during a current examination and the examiner determines that the same practice was identified during a prior examination but is not corrected by the date of the current examination, the corrective action time period is retroactive to the date of that prior examination, even if there have been intervening examinations that did not review for compliance with the Truth in Lending Act and Regulation Z.

6. *Are there any differences in application of the policy change when restitution situations involve open-end credit rather than closed-end credit?*

Yes. The agencies interpret the administrative enforcement provisions of the TILA to provide different corrective action time periods for open-end and closed-end credit. The policy change applies to restitution situations involving closed-end credit. The corrective action time period for open-end credit covers the 24-month period preceding the date of the current examination, regardless of whether an immediately preceding examination intervenes during that period.