

# **COST OF BORROWING DISCLOSURE**

**Draft Regulations under:**

**Credit Unions and Caisses Populaires Act  
Insurance Act  
Mortgage Brokers Act**

*Proposed by the  
Ministry of Finance*

This Consultation Draft is intended to facilitate constructive dialogue concerning its contents. Note that it will only become law if the Lieutenant Governor proclaims legislative changes and promulgates the regulations.

*July, 2005*

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Dear Stakeholder:

I am pleased to provide you with a copy of three draft regulations dealing with disclosure of the cost of borrowing for the purpose of consultation. Draft regulations are being issued for consideration under the *Credit Unions and Caisses Populaires Act, 1994*, the *Insurance Act*, and the *Mortgage Brokers Act*.

The draft regulations propose mandatory disclosure requirements for consumer loans and other disclosure requirements relating to statements and advertisements. The draft regulations also describe how the cost of borrowing under a loan is to be calculated.

These regulations are intended to harmonize Ontario's cost of borrowing disclosure provisions with those of other jurisdictions across Canada. They reflect the federal-provincial-territorial harmonization agreement that was created through a process of public consultation and intergovernmental negotiation. If implemented, businesses will be able to use the same procedures, credit advertisements and disclosure statements in all parts of the country. Compliance costs will be reduced and uniform consumer protection will be provided across Canada.

Ontario is considering how to handle two issues on which the federal government has varied its approach from that of the harmonization agreement. For provincially regulated lenders, often the single most important sector of comparison is the federally regulated banks. Therefore, your input on these issues is specifically sought.

Under the *Bank Act's* Cost of Borrowing Regulations, the federal government has already adopted the harmonization agreement. However, these regulations deviate from the harmonization agreement on whether open credit, such as a line of credit, should disclose the annual percentage rate (a rate that includes non-interest charges), and on whether a borrower must receive independent legal advice before being able to waive the two-day cooling-off period for mortgage loans.

To ensure that provincial financial institutions are able to compete on a level playing field with their federally-regulated counterparts, we propose harmonizing Ontario's draft regulations under the *Credit Unions and Caisses Populaires Act, 1994*, *Insurance Act*, and *Mortgage Brokers Act* with the *Bank Act* approach on these two issues.

Your views are important and will assist in finalizing the regulations in this area. We welcome the input of consumers, the affected financial services sectors and others in this process.

The enclosure contains information on how you can submit comments on these proposed regulations.

Thank you for taking the time to consider these draft regulations. I very much appreciate your input into this important review.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Philip Howell'. The signature is fluid and cursive, with a large initial 'P' and 'H'.

Philip Howell  
Assistant Deputy Minister and Chief Economist  
Ministry of Finance

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## I. Introduction

The Ministry of Finance is pleased to invite public comment on our draft cost of borrowing regulations. Draft regulations for the *Credit Unions and Caisses Populaires Act, 1994*, the *Insurance Act*, and the *Mortgage Brokers Act* are being issued for consideration.

The proposed regulations should be reviewed in the context of the cost of borrowing provisions in sections 197.1 to 197.10 of the *Credit Unions and Caisses Populaires Act, 1994*, sections 437.1 to 437.11 of the *Insurance Act*, and sections 7.1 to 7.8 of the *Mortgage Brokers Act*. These Acts are available on the e-Laws web site [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca). Copies are also available from the Ontario Government Bookstore, which may be contacted toll free in Ontario at 1-800-668-9938.

You may wish to limit your review to any one of the regulations, but you are welcome to review and comment on all three financial services sector regulations. For your information, the Ministry of Government Services, (formerly the Ministry of Consumer and Business Services), announced that regulations made under the *Consumer Protection Act, 2002*, which include cost of borrowing regulations that will apply to all other lenders, including payday lenders, will come into force on July 30, 2005.

The content, structure, and form of the enclosed draft regulations are subject to change as a result of the consultation process. The draft regulations will become law only if the Lieutenant Governor in Council proclaims the cost of borrowing disclosure provisions in the Acts and promulgates the draft regulations.

Interested parties are asked to provide their written submissions on the draft regulations by **September 9, 2005**.

You may send comments by mail, fax or e-mail to:

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A copy of this consultation paper can be reviewed online at [www.gov.on.ca/FIN](http://www.gov.on.ca/FIN)

Please note that this is a public consultation. All comments received will be considered public and may be used by the ministry to help evaluate and revise

the proposed draft legislation and regulations. This may involve disclosing some or all comments or materials, or summaries of them, to other interested parties during and after the consultation.

Any personal information in submissions, such as names and contact details (i.e. home addresses and phone numbers, personal email addresses, etc.) – in addition to any other information that could be used to identify an individual – will not be disclosed without prior consent. However, records created by individuals acting in a professional capacity (i.e. on behalf of a group, association, business, commercial enterprise, etc.) may be disclosed, unless your covering letter states that such disclosure would be harmful and/or prejudicial.

Therefore, if for any reason you feel your comments should not be shared with other parties, please indicate this in your covering letter.

If you have any questions about this consultation or how any element of your submission may be used or disclosed, please contact:

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## II. Explanatory Notes

### *Overview*

The draft regulations describe how the cost of borrowing for consumer loans is to be calculated. They also propose mandatory disclosure requirements and rules about advertisements. These provisions are discussed more fully below.

### *Application*

The draft regulations will apply to any kind of loan, line of credit, or credit card agreement provided to an individual by credit unions and caisses populaires, insurers and mortgage brokers. They will not apply to credit agreements for business purposes or loans made to businesses.

### *Calculating the Cost of Borrowing*

A key feature of the new provisions is calculating an annual percentage rate (APR). Unlike an annual interest rate (AIR), which is the interest rate before other fees and charges are taken into account, the APR also includes non-interest charges a lender could levy. Examples of non-interest charges include administrative charges, insurance charges, and charges for appraisals and inspections. The APR figure will make it easier for consumers to evaluate the true cost of a loan and to compare the true cost of borrowing among various lenders.

The provisions set out detailed rules about what is included in calculating the APR and what is not included (examples of excluded charges are penalties for an overdraft, charges for prepaying a loan, or default charges).

### *Disclosure to Borrowers*

The draft regulations set out that the required information is to be provided to the consumer in a written disclosure statement, which must be in plain language, that is, concise and logical. The actual form of the statement is not mandated. If the borrower consents in writing, the disclosure statement may be provided electronically. The regulations also dictate the timing of the disclosure statement. The initial disclosure must be made two business days before the borrower and lender enter into an agreement for a mortgage loan. The two days are not required if the borrower consents to being given verbal disclosure on the day a loan is agreed upon. For non-mortgage loans, the initial disclosure can be made when the consumer and lender sign the credit agreement.

The information included in the disclosure statement will differ depending on the nature of the credit agreement. The regulations specify the different

disclosure requirements for different loans, including: fixed-interest loans for a fixed amount, variable-interest loans for a fixed amount, lines of credit, credit card applications, and renewals of mortgages.

If a lender offers to waive a payment on a fixed loan but will continue to charge interest during the payment period, then this must be prominently disclosed to the consumer.

The draft regulations also give consumers specific rights concerning the cancellation of optional services, prepayment of loans for fixed amounts (except mortgage loans), and default charges. For example, the regulations would allow a consumer to cancel an optional service, including an insurance service, upon appropriate notification to the lender. In such circumstances the lender must refund or credit the proportional amount of the service that is unused as of the cancellation date.

### *Payments and Charges*

The draft regulations give consumers the right to prepay fixed loans except for mortgages, at any time and without charges or penalties. If a borrower prepays an outstanding balance, the lender must refund a proportionate amount of any charges other than interest and disbursement charges.

Additionally, the draft regulations provide that default charges can be imposed only when they are intended to recover costs reasonably incurred for legal services, seizing property on default, or expenses related to dishonoured payments.

### *Advertising*

The draft regulations also contain provisions on advertising that are intended to ensure lenders provide complete disclosure in advertisements, and do not mislead consumers as to the true cost of credit. For example, if a lender advertises a loan where no interest is payable during a period, the advertisement must also disclose if interest accrues during that period.

### *Insurance*

The draft regulations provide that if borrowers are required to purchase insurance, they can purchase the insurance from an agent or insurer of their choice. However, the lender has the right to disapprove, on reasonable grounds, an insurer selected by the borrower.

### *Harmonization*

These draft regulations are intended to harmonize Ontario's cost of credit disclosure provisions with those of other jurisdictions across Canada. They reflect the federal-provincial-territorial harmonization agreement that was created through a process of public consultation and intergovernmental negotiation.

Ontario is strongly committed to giving both consumers and businesses the benefits of harmonized rules. Under harmonized rules, a consumer can compare disclosure information from companies whether they are federally or provincially regulated. Harmonization also benefits businesses by streamlining and simplifying requirements across the country.

Ontario is considering how to handle two issues on which the federal government has varied its approach from that of the harmonization agreement. For provincially regulated lenders, often the single most important sector of comparison is the federally regulated banks. Therefore, your input on these issues is specifically sought.

Under the *Bank Act's* Cost of Borrowing Regulations, the federal government has already adopted the harmonization agreement. However, these regulations deviate from the harmonization agreement on whether open credit, such as a line of credit, should disclose the APR, and on whether a borrower must receive independent legal advice before being able to waive the two-day cooling-off period for mortgage loans.

The harmonization agreement provides that an APR should be disclosed on open credit except for credit cards (e.g., on lines of credit). The *Bank Act* Regulations do not require the disclosure of APR on open credit of any kind because the APR could only be calculated by making assumptions on how much consumers will borrow and how fast they will repay a loan. These assumptions may be quite different from a consumer's actual borrowing patterns. Instead, the *Bank Act* requires disclosure of the annual interest rate and the amount of non-interest fees in advertisements and disclosure documents.

With respect to mortgage disclosure, the harmonization agreement only allows for the stipulated two-day cooling-off period for mortgages to be waived if the borrower receives independent legal advice. The *Bank Act* Regulations approach is to permit waiver on the borrower's consent.

To ensure that provincial financial institutions are able to compete on a level playing field with their federally-regulated counterparts, we propose harmonizing Ontario's draft regulations under the *Credit Unions and Caisses Populaires Act, 1994*, *Insurance Act*, and *Mortgage Brokers Act* with the *Bank Act* approach on these two issues.



*Draft regulation under the Credit Unions and Caisses Populaires Act, 1994;  
for consultation purposes only.*

## **COST OF BORROWING AND DISCLOSURE TO BORROWERS**

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## APPLICATION AND INTERPRETATION

### Application

1. (1) This Regulation applies to every credit agreement entered into by a credit union, other than a credit agreement entered into for the business purposes of a borrower or a credit agreement entered into with a borrower who is not a natural person.

(2) This Regulation applies to the renewal or on-going administration of a credit agreement entered into before this Regulation comes into force.

### Definitions

2. In this Regulation

“APR” means the cost of borrowing for a loan under a credit agreement expressed as an annual rate on the principal referred to in subsection 3 (1);

“borrower” includes a person to whom a loan is proposed to be made and a holder, or an applicant to become a holder, of a credit card;

“credit agreement” includes an agreement for a line of credit, a credit card or any kind of loan;

“disbursement charge” means a charge, other than one referred to in subsection 5 (1), to recover an expense incurred by a credit union to arrange, document, insure or secure a credit agreement, and includes a charge referred to in clauses 5 (2) (c) and (f) to (h);

“principal” means the amount borrowed under a credit agreement but does not include any cost of borrowing;

“public index” means an interest rate, or a variable base rate for an interest rate, that is published at least weekly in a newspaper or magazine of general circulation, or in some media of general circulation or distribution, in areas where borrowers whose credit agreements are governed by that interest rate reside.

## COST OF BORROWING

### Calculation of the APR

3. (1) The cost of borrowing for a loan under a credit agreement, other than a loan obtained through the use of a credit card or line of credit, is the annual rate on the principal as calculated using the formula,

$$APR = \frac{C}{T \times P} \times 100$$

in which,

“APR” is the annual percentage rate cost of borrowing,

“C” is the cost of borrowing within the meaning of section 5 over the term of the loan,

“P” is the average of the principal of the loan outstanding at the end of each period for the calculation of interest under the credit agreement, before subtracting any payment that is due at that time, and

“T” is the term of the loan in years, expressed to at least two decimal points of significance.

(2) For the purposes of subsection (1),

- (a) the APR may be rounded off to the nearest eighth of a per cent;
- (b) each instalment payment made on a loan must be applied first to the accumulated cost of borrowing and then to the outstanding principal;
- (c) a period of,
  - (i) one month is  $1/12$  of a year,
  - (ii) one week is  $1/52$  of a year, and
  - (iii) one day is  $1/365$  of a year;
- (d) if the annual interest rate underlying the calculation is variable over the period of the loan, it must be set as the annual interest rate that applies on the day that the calculation is made;
- (e) if there are no instalment payments under a credit agreement, then the APR must be calculated on the basis that the outstanding principal is to be repaid in one lump sum at the end of the term of the loan; and
- (f) a credit agreement for an amount that comprises, in whole or in part, an outstanding balance from a prior credit agreement is a new credit agreement for the purpose of the calculation.

(3) The cost of borrowing for a loan obtained under a credit card agreement or line of credit is,

- (a) if the loan has a fixed annual interest rate, that annual interest rate; or
- (b) if the loan has a variable interest rate, the annual interest rate that applies on the date of the disclosure.

### **Annual interest rate as APR**

4. The APR for a credit agreement is the annual interest rate if there is no cost of borrowing other than interest.

### **Included and excluded charges**

5. (1) Subject to subsection (2), the cost of borrowing for a loan under a credit agreement, other than an agreement for a credit card or line of credit, consists of all the costs of borrowing

under the loan over its term, in particular the interest or discount that applies to the loan and includes the following charges:

1. Administrative charges, including charges for services, transactions or any other activity in relation to the loan.
2. Charges for the services, or disbursements, of a lawyer or notary that a credit union required the borrower to retain.
3. Insurance charges other than those excluded under clauses (2) (a), (f) and (h).
4. Charges for a broker, if the broker's charges are included in the amount borrowed and are paid directly by the credit union to the broker.
5. Charges for appraisal, inspection or surveying services, other than those mentioned in paragraph (2) (g), related to property that is security for a loan, if those services are required by the credit union.

(2) The cost of borrowing for a loan does not include,

- (a) charges for insurance on the loan,
  - (i) if the insurance is optional, or
  - (ii) if the borrower is its beneficiary and the amount insured reflects the value of an asset that is security for the loan;
- (b) charges for an overdraft;
- (c) charges paid to register documents or obtain information from a public registry about security interests related to property given as security;
- (d) penalty charges for the prepayment of a loan;
- (e) charges for the services, or disbursements, of a lawyer or notary, other than those mentioned in paragraph 2 of subsection (1);
- (f) charges for insurance against defects in title to real or immovable property, if the insurance is paid for directly by the borrower;
- (g) charges for appraisal, inspection or surveying services provided directly to the borrower in relation to property that is security for a loan;
- (h) charges for insurance against default on a high-ratio mortgage;
- (i) charges to maintain an account that are required for a high-ratio mortgage or that are optional;

- (j) any charge to discharge a security interest; or
- (k) default charges.

## **DISCLOSURE TO BORROWERS**

### **Manner of making disclosures**

6. (1) A credit union that grants credit must give the borrower a written disclosure statement that provides the information required by this Regulation.

(2) A disclosure statement may be a separate document or may be part of a credit agreement or an application for a credit agreement.

(3) Information disclosed in a disclosure statement may be based on an assumption or an estimate if the assumption or estimate is reasonable and if the information,

- (a) cannot be known by the credit union when it makes the statement; and
- (b) is identified to the borrower as an assumption or estimate.

(4) A disclosure statement, or a consent in relation to a disclosure statement, must be written in plain language that is clear and concise and it must be presented in a manner that is logical and likely to bring to the borrower's attention the information that is required to be disclosed.

(5) If the borrower consents in writing, the disclosure statement may be provided by electronic means in an electronic form that the borrower can retrieve and retain.

### **Timing of initial disclosure**

7. (1) A credit union that proposes to enter into a credit agreement with a borrower must give the initial disclosure statement required by this Regulation to the borrower on or before the day that is the earlier of the day on which the borrower makes the first payment, other than a disbursement charge, in relation to the credit agreement and,

- (a) two clear business days before the borrower and the credit union enter into the credit agreement, in the case of a credit agreement for a mortgage; or
- (b) the day on which the borrower and the credit union enter into the credit agreement, in any other case.

(2) Clause (1) (a) does not apply if the borrower consents in writing to being given the initial disclosure for the credit agreement on the day on which the borrower and the credit union enter into the credit agreement.

### **Disclosure - fixed interest loans for a fixed amount**

8. (1) A credit union that enters into a credit agreement for a loan for a fixed interest rate for a fixed amount, to be repaid on a fixed future date or by instalment payments, must give the borrower an initial disclosure statement that includes the following information:

1. The principal amount of the loan.
2. The amount of each advance of the principal and when each advance is to be made.
3. The total amount of all payments.
4. The cost of borrowing over the term of the loan, expressed in dollars and cents.
5. The term of the loan, and the period of amortization if it is different from the term.
6. The annual interest rate and the circumstances, if any, under which interest is compounded.
7. The APR, if it differs from the annual interest rate.
8. The date on and after which interest is charged and information concerning any period during which interest does not accrue.
9. The amount of each payment and when it is due.
10. The fact that each payment made on a loan must be applied first to pay the accumulated cost of borrowing and then to pay the outstanding principal.
11. Information about any optional service in relation to the credit agreement that the borrower accepts, the charges for each optional service and the conditions under which the borrower may cancel the service, if that information is not disclosed in a separate statement before the optional service is provided.
12. The information required by section 197.4 of the Act, including default charges that may be imposed under sections 17 and 18 of this Regulation.
13. The property, if any, in which the credit union takes a security interest under the credit agreement.
14. Any charge paid for a broker, if the broker's charges are included in the amount borrowed and are paid directly by the credit union to the broker.
15. The fact that there is a charge to discharge a security interest and the amount of the charge on the day that the statement was provided.
16. The nature and amount of any charge other than an interest charge.

(2) If the outstanding balance of the loan is increased because the borrower has missed a scheduled instalment payment or because a default charge is levied on the borrower for missing a scheduled instalment payment, the credit union must give the borrower an additional disclosure statement within 30 days after the payment is missed or the default charge is levied and the disclosure statement must describe what occurred and the consequences.

### **Disclosure - variable interest loans for a fixed amount**

9. (1) A credit union that enters into a credit agreement for a loan with a variable interest rate for a fixed amount, to be repaid on a fixed future date or by instalment payments, must give the borrower an initial disclosure statement that includes the following information:

1. The information required by paragraphs 1, 2, 5, 8 and 10 to 16 of section 8.
2. The annual rate of interest that applies on the date of the disclosure statement.
3. The method for determining the annual interest rate that applies after the date of the disclosure statement and when that determination is made.
4. The amount of each payment based on the annual interest rate that applies on the date of the disclosure statement and the dates when those payments are due.
5. The total amount of all payments and of the cost of borrowing based on the annual interest rate that applies on the date of the disclosure statement.
6. If the loan is to be paid by instalment payments and the amount to be paid is not adjusted automatically to reflect changes in the annual interest rate that applies to each instalment payment,
  - i. the annual interest rate above which the amount of a scheduled instalment payment on the initial principal does not cover the interest due on the instalment payment, and
  - ii. the fact that negative amortization is possible.
7. If the loan does not have regularly-scheduled payments,
  - i. the conditions that must occur for the entire outstanding balance, or part of it, to become due, or
  - ii. the provisions of the credit agreement that set out those conditions.

(2) If the variable interest rate for the loan is determined by adding or subtracting a fixed percentage rate of interest to or from a public index that is a variable rate, the credit union must give the borrower an additional disclosure statement at least once every 12 months that contains the following information:

1. The annual interest rate at the beginning and end of the period covered by the disclosure statement.
2. The outstanding balance at the beginning and end of the period covered by the disclosure statement.
3. The amount of each instalment payment due under a payment schedule and the time when each payment is due, based on the annual interest rate that applies at the end of the period covered by the disclosure statement.

(3) If the variable interest rate for the loan is determined by a method other than that referred to in subsection (2), the credit union must give the borrower an additional disclosure statement no more than 30 days after increasing the annual interest rate by more than 1 per cent above the most recently disclosed rate and the disclosure statement must contain the following information:

1. The new annual interest rate and the date on which it takes effect.
2. The amount of each instalment payment and the time when each payment is due, for payments that are affected by the new annual interest rate.

### **Disclosure - lines of credit**

10. (1) A credit union that enters into a credit agreement for a line of credit must give the borrower an initial disclosure statement that includes the following information:

1. The initial credit limit, if it is known at the time the disclosure is made.
2. The annual interest rate, or the method for determining it if it is variable.
3. The nature and amounts of any non-interest charges.
4. The minimum payment during each payment period or the method for determining it.
5. Each period for which a statement of account is to be provided.
6. The date on and after which interest accrues and information concerning any grace period that applies.
7. The particulars of the charges or penalties, including default charges that may be imposed under section 18.
8. The property, if any, in which the credit union takes a security interest under the credit agreement.
9. Information about any optional service in relation to the credit agreement that the borrower accepts, the charges for each optional service and the conditions under which the borrower may cancel the service, if that information is not disclosed in a separate statement before the optional service is provided.
10. A local or toll-free telephone number, or a telephone number with a prominent indication that collect calls are accepted, that the borrower may use to get information about the account during the credit union's regular business hours.
11. Any charge paid for a broker, if the broker's charges are included in the amount borrowed and are paid directly by the credit union to the broker.

(2) If the initial credit limit is not known when the initial disclosure statement is made, the credit union must disclose it,

- (a) in the first statement of account provided to the borrower; or
- (b) in a separate statement that the borrower receives on or before the date on which the borrower receives that first statement of account.

(3) Subject to subsection (4), the credit union must give the borrower an additional disclosure statement at least once a month that contains the following information:

1. The period covered by the disclosure statement and the opening and closing balances in the period.
2. An itemized statement of account that discloses each amount credited or charged, including interest, and the dates when those amounts were posted to the account.
3. The sum for payments and the sum for credit advances and interest and other charges.
4. The annual interest rate that applied on each day in the period and the total of interest charged at those rates in the period.
5. The credit limit and the amount of credit available at the end of the period.
6. The minimum payment and its due date.
7. The borrower's rights and obligations regarding any billing error that may appear in the statement of account.
8. A local or toll-free telephone number, or a telephone number with a prominent indication that collect calls are accepted, that the borrower may use to get information about the account during the credit union's regular business hours.

(4) The additional disclosure statements described in subsection (3) are not required for a period during which there are no advances or payments and,

- (a) there is no outstanding balance at the end of the period; or
- (b) the borrower has notice that the credit agreement has been suspended or cancelled due to default and the credit union has demanded payment of the outstanding balance.

### **Disclosure - credit card applications**

11. (1) A credit union that issues credit cards and that distributes an application form for credit cards must specify the following information in the form or in a document accompanying it, including the date on which each of the matters mentioned takes effect:

1. The annual interest rate for a credit card with a fixed rate of interest.

2. If the credit card does not have a fixed rate of interest, the fact that the variable interest rate is determined by adding or subtracting a fixed percentage rate of interest to or from a public index, the public index and the fixed percentage rate to be added or subtracted from it.
3. The day on and after which interest accrues and information concerning any grace period that applies.
4. The amount of any charges other than interest charges.

(2) Subsection (1) does not apply if, on the application form or in a document accompanying it, the credit union prominently discloses,

- (a) a local or toll-free telephone number, or a telephone number with a prominent indication that collect calls are accepted, that the borrower may use to get information required by subsection (1) during the credit union's regular business hours; and
- (b) the fact that the applicant may obtain the information otherwise required by subsection (1) at that telephone number.

(3) If an individual applies for a credit card by telephone or any electronic means, the credit union must give the applicant the information required by paragraphs 1 and 4 of subsection (1) when the application is made.

(4) If a credit union that issues credit cards solicits applications for them in person, by mail, by telephone or by any electronic means, the information required by paragraphs 1 and 4 of subsection (1) must be disclosed at the time of the solicitation.

### **Disclosure - credit cards**

12. (1) A credit union that enters into a credit agreement for a credit card must give the borrower an initial disclosure statement that includes the following information:

1. The information described in paragraphs 1 and 3 to 11 of subsection 10 (1).
2. The manner in which interest is calculated and the information required by paragraph 1 or 2, as the case may be, of subsection 11 (1).
3. If the credit agreement requires the borrower to pay the outstanding balance in full on receiving a statement of account,
  - i. mention of that requirement,
  - ii. the grace period by the end of which the borrower must have paid that balance, and
  - iii. the annual interest rate charged on any outstanding balance not paid when due.

4. If a lost or stolen credit card is used in an unauthorized manner, the fact that the maximum liability of the borrower is the lesser of \$50 and the maximum set by the credit agreement.
5. If a transaction is entered into at an automated teller machine by using the borrower's personal identification number, the fact that the liability incurred by the transaction is the borrower's maximum liability, despite paragraph 4.
6. If the credit union has received a report from the borrower, whether written or verbal, of a lost or stolen credit card, the fact that the borrower is not liable for any transaction entered into through the use of the card after the credit union receives the report.

(2) If the initial credit limit is not known when the initial disclosure statement is made, the credit union must disclose it,

- (a) in the first statement of account provided to the borrower; or
- (b) in a separate statement that the borrower receives on or before the date on which the borrower receives that first statement of account.

(3) Despite section 13, if a credit agreement for a credit card is amended, the credit union must give the borrower a written statement at least 30 days before the amendment takes effect, and the statement must set out the changes to the information that was required to be given to the borrower in the initial disclosure statement, excluding information about the following changes:

1. Any change in the credit limit.
2. Any extension to the grace period.
3. Any decrease in charges other than interest charges and default charges referred to in paragraphs 3 and 7 of subsection 10 (l).
4. Any change concerning information about any optional service in relation to the credit agreement that is referred to in paragraph 9 of subsection 10 (1).
5. Any change in a variable interest rate referred to in paragraph 2 of subsection 11 (1) as a result of a change in the public index referred to in that paragraph.

(4) A change described in paragraphs 1 to 4 of subsection (3) must be disclosed in the first periodic disclosure statement that is given to the borrower after the amendment to the credit agreement is made.

(5) A credit union that issues credit cards must give each borrower additional disclosure statements on a regular periodic basis, at least once a month that contain the following information:

1. The information described in subsections 10 (3) and (4), other than paragraphs 2 and 3 of subsection 10 (3).
2. An itemized statement of account that describes each transaction and discloses each amount credited or charged, including interest, and the dates when those amounts were posted to the account.
3. The amount that the borrower must pay, on or before a specified due date, in order to have the benefit of a grace period.
4. The sum for payments and the sum for purchases, credit advances and interest and other charges.

(6) For the purpose of paragraph 2 of subsection (5), an itemized statement of account is adequate if it permits the borrower to verify each transaction described by linking it with a transaction record provided to the borrower.

### **Disclosure after amendment to a credit agreement**

13. (1) Subject to subsection (2), if a credit agreement is amended by a subsequent agreement, the credit union must give the borrower a written statement within 30 days after the subsequent agreement is entered into, and the statement must describe the changes to the information in the initial disclosure statement for the credit agreement.

(2) If a credit agreement for a fixed amount has a schedule for instalment payments and the schedule is amended by a subsequent agreement, the credit union must give the borrower a written statement within 30 days after the subsequent agreement is entered into, and the statement must set out the new payment schedule and any increase in the total amount to be paid or the cost of borrowing.

### **Disclosure - renewal of a mortgage**

14. (1) If a credit agreement for a loan secured by a mortgage is to be renewed on a specified date, the credit union must give the borrower an additional disclosure statement at least 21 days before the specified renewal date and the statement must contain the information required by,

- (a) section 8, if the credit agreement is for a fixed interest rate; or
- (b) section 9, if the credit agreement is for a variable interest rate.

(2) The additional disclosure statement must specify that,

- (a) the cost of borrowing will not be increased after the disclosure statement is given to the borrower and before the credit agreement is renewed; and
- (b) the borrower's rights under the credit agreement continue, and the renewal does not take effect, until the day that is the later of the specified renewal date and the day that is 21 days after the borrower receives the statement.

(3) A credit union that does not intend to renew a credit agreement for a loan secured by a mortgage after its term ends shall notify the borrower of its intention at least 21 days before the end of the term.

### **Disclosure - offer to waive payment**

15. (1) If, under a credit agreement for a loan for a fixed amount, a credit union offers to waive a payment without waiving the accrual of interest during the period covered by the payment, the credit union must disclose to the borrower in a prominent manner in the offer that interest will continue to accrue during that period if the borrower accepts the offer.

(2) If a credit union offers to waive a payment under a credit agreement for a line of credit or a credit card, the credit union must disclose to the borrower in a prominent manner in the offer whether interest will continue to accrue during any period covered by the offer if the borrower accepts the offer.

### **Disclosure - cancellation of optional services**

16. (1) A disclosure statement made in relation to a credit agreement under which optional services, including insurance services, are provided on an on-going basis must specify that,

- (a) the borrower may cancel the optional service by notifying the credit union that the service is to be cancelled effective on the earlier of,
  - (i) one month after the day that the credit union gave the borrower the disclosure statement, and
  - (ii) the last day of the notice period, if any, provided for in the credit agreement; and
- (b) the credit union shall, without delay, refund or credit the borrower with the proportional amount, calculated in accordance with the formula set out in subsection (2), of any charges for the service paid for by the borrower or added to the balance of the loan, but unused as of the cancellation date described in clause (a).

(2) The proportion of charges to be refunded or credited to a borrower are calculated using the formula,

$$R = A \times \frac{n - m}{n}$$

in which,

“R” is the amount to be refunded or credited,

“A” is the amount of the charges,

“n” is the period between the imposition of the charge and the time when the services were, before the cancellation, scheduled to end, and

“m” is the period between the imposition of the charge and the cancellation.

## PAYMENTS AND CHARGES

### Prepayment of loans

17. (1) This section applies to loans for fixed amounts of credit, except mortgage loans.

(2) A borrower may prepay the outstanding balance under a credit agreement, at any time, without incurring any charge or penalty for making the prepayment.

(3) If the borrower prepays the outstanding balance, the credit union must refund to the borrower or credit the borrower with the proportional amount of any charges, other than interest charges and disbursement charges, paid by the borrower or added to the balance, calculated in accordance with the formula set out in subsection (6).

(4) A borrower may prepay part of the outstanding balance under a credit agreement,

- (a) on the date of any scheduled payment, if payments are scheduled once a month or more often; and
- (b) at any time but only once a month, in any other case.

(5) A borrower who prepays part of the outstanding balance is not entitled to a refund or to a credit for charges other than interest charges.

(6) The proportion of the charges to be refunded or credited to a borrower under this section is determined using the formula,

$$R = A \times \frac{n - m}{n}$$

in which,

“R” is the amount to be refunded or credited,

“A” is the amount of the charges other than interest charges,

“n” is the period between the imposition of the charge and the scheduled end of the term of the loan, and

“m” is the period between the imposition of the charge and the prepayment.

### Default charges

18. If a borrower under a credit agreement fails to make a payment when it becomes due or fails to comply with an obligation in the agreement, in addition to interest, the credit union may impose charges for the sole purpose of recovering the costs reasonably incurred,

- (a) for legal services required to collect or attempt to collect the payment;
- (b) for expenses incurred to realize on a security interest taken under the credit agreement or to protect such a security interest, including the cost of legal services required for that purpose; or

- (c) for expenses incurred to process a cheque or other payment instrument that the borrower used to make a payment under the loan but that was dishonoured.

## ADVERTISING

### Advertising - loan for a fixed amount

19. (1) If a credit union advertises a loan involving a fixed amount of credit and if the advertisement includes a representation about the interest rate or the amount of any payment or of any charge other than interest, the advertisement must also include the APR and the term of the loan, and the APR must be provided at least as prominently as the representation and in the same manner as the representation is made, whether visually or aurally or both.

(2) If the APR or the term of the loan is not the same for all loans to which the advertisement relates, the disclosure must be based on an example of a loan that fairly depicts those loans and is identified as a representative example of them.

### Advertising - line of credit

20. If a credit union advertises a loan involving a line of credit and if the advertisement includes a representation about the annual interest rate or the amount of any payment or of any charge other than interest, the advertisement must also include the annual rate of interest on the date of the advertisement and any initial or periodic charges other than interest and that information must be provided at least as prominently as the representation and in the same manner as the representation is made, whether visually or aurally or both.

### Advertising - credit card

21. If a credit union advertises a credit card and if the advertisement includes a representation about the annual interest rate or the amount of any payment or of any charge other than interest, the advertisement must include the annual rate of interest on the date of the advertisement and any initial or periodic charges other than interest and that information must be provided at least as prominently as the representation and in the same manner as the representation is made, whether visually or aurally or both.

### Advertising - interest-free periods

22. (1) If a credit union advertises that it will finance a transaction and if the advertisement includes a representation, express or implied, that a period of the loan is free of any interest charges, the advertisement must indicate whether interest accrues during the period and is payable after the period and that information must be provided at least as prominently as the representation, if it was express, or in a prominent manner, if it was implied.

(2) If interest does not accrue during the period, the advertisement must also disclose any conditions that apply to the forgiving of the accrued interest and the APR, or the annual interest rate in the case of credit cards or lines of credit, for a period when those conditions are not met.

## PURCHASING INSURANCE

### Insurance

23. (1) A borrower who is required by a credit union to purchase any insurance may purchase it from any insurer who may lawfully provide that type of insurance, except that the credit union may reserve the right to disapprove, on reasonable grounds, an insurer selected by the borrower.

(2) A credit union who offers to provide or to arrange insurance referred to in subsection (1) must at the same time clearly disclose to the borrower in writing that the borrower may purchase the required insurance through an agent and from an insurer of the borrower's choice.

## COMMENCEMENT

### Commencement

24. This Regulation comes into force on [insert date].

Draft regulation under the *Insurance Act*,  
for consultation purposes only

## COST OF BORROWING AND DISCLOSURE TO BORROWERS

### Application and Interpretation

1. Application
2. Definitions

### Cost of Borrowing

3. Calculation of the APR
4. Annual interest rate as APR
5. Included and excluded charges

### Disclosure to Borrowers

6. Manner of making disclosures
7. Timing of initial disclosure
8. Disclosure - fixed interest loans for a fixed amount
9. Disclosure - variable interest loans for a fixed amount
10. Disclosure - lines of credit
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12. Disclosure - credit cards
13. Disclosure after amendment to a credit agreement
14. Disclosure - renewal of a mortgage
15. Disclosure - offer to waive payment
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### Payments and Charges

17. Prepayment of loans
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### Advertising

19. Advertising - loan for a fixed amount
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### Purchasing Insurance

23. Insurance re loan

### Commencement

24. Commencement

## APPLICATION AND INTERPRETATION

1. (1) This Regulation applies to every credit agreement entered into by an insurer, other than a credit agreement entered into for the business purposes of a borrower or a credit agreement entered into with a borrower who is not a natural person.

(2) This Regulation applies to the renewal or on-going administration of a credit agreement entered into before this Regulation comes into force.

### Definitions

2. In this Regulation

“APR” means the cost of borrowing for a loan under a credit agreement expressed as an annual rate on the principal referred to in subsection 3 (1);

“borrower” includes a person to whom a loan is proposed to be made, and a holder, or an applicant to become a holder, of a credit card;

“credit agreement” includes an agreement for a line of credit, a credit card or any kind of loan or advance;

“disbursement charge” means a charge, other than one referred to in subsection 5 (1), to recover an expense incurred by an insurer to arrange, document, insure or secure a credit agreement, and includes a charge referred to in clauses 5 (2) (c) and (f) to (h);

“principal” means the amount borrowed under a credit agreement but does not include any cost of borrowing;

“public index” means an interest rate, or a variable base rate for an interest rate, that is published at least weekly in a newspaper or magazine of general circulation, or in some media of general circulation or distribution, in areas where borrowers whose credit agreements are governed by that interest rate reside.

## COST OF BORROWING

### Calculation of the APR

3. (1) The cost of borrowing for a loan under a credit agreement, other than a loan obtained through the use of a credit card or a line of credit, is the annual rate on the principal as calculated using the formula,

$$APR = \frac{C}{T \times P} \times 100$$

in which,

“APR” is the annual percentage rate cost of borrowing,

“C” is the cost of borrowing within the meaning of section 5 over the term of the loan,

“P” is the average of the principal of the loan outstanding at the end of each period for the calculation of interest under the credit agreement, before subtracting any payment that is due at that time, and

“T” is the term of the loan in years, expressed to at least two decimal points of significance.

(2) For the purposes of subsection (1),

- (a) the APR may be rounded off to the nearest eighth of a per cent;
- (b) each instalment payment made on a loan must be applied first to the accumulated cost of borrowing and then to the outstanding principal;
- (c) a period of,
  - (i) one month is  $1/12$  of a year,
  - (ii) one week is  $1/52$  of a year, and
  - (iii) one day is  $1/365$  of a year;
- (d) if the annual interest rate underlying the calculation is variable over the period of the loan, it must be set as the annual interest rate that applies on the day that the calculation is made;
- (e) if there are no instalment payments under a credit agreement, then the APR must be calculated on the basis that the outstanding principal is to be repaid in one lump sum at the end of the term of the loan; and
- (f) a credit agreement for an amount that comprises, in whole or in part, an outstanding balance from a prior credit agreement is a new credit agreement for the purpose of the calculation.

(3) The cost of borrowing for a loan obtained under a credit card agreement or a line of credit is,

- (a) if the loan has a fixed annual interest rate, that annual interest rate; or
- (b) if the loan has a variable interest rate, the annual interest rate that applies on the date of the disclosure.

### **Annual interest rate as APR**

4. The APR for a credit agreement is the annual interest rate if there is no cost of borrowing other than interest.

### **Included and excluded charges**

5. (1) Subject to subsection (2), the cost of borrowing for a loan under a credit agreement, other than an agreement for a credit card or line of credit, consists of all the costs of borrowing

under the loan over its term, in particular the interest or discount that applies to the loan and includes the following charges:

1. Administrative charges, including charges for services, transactions or any other activity in relation to the loan.
2. Charges for the services, or disbursements, of a lawyer or notary that an insurer required the borrower to retain.
3. Insurance charges other than those excluded under clauses (2) (a), (f) and (h).
4. Charges for a broker, if the broker's charges are included in the amount borrowed and are paid directly by the insurer to the broker.
5. Charges for appraisal, inspection or surveying services, other than those mentioned in paragraph (2) (g), related to property that is security for a loan, if those services are required by the insurer.

(2) The cost of borrowing for a loan does not include,

- (a) charges for insurance on the loan,
  - (i) if the insurance is optional, or
  - (ii) if the borrower is its beneficiary and the amount insured reflects the value of an asset that is security for the loan;
- (b) charges for an overdraft;
- (c) charges paid to register documents or obtain information from a public registry about security interests related to property given as security;
- (d) penalty charges for the prepayment of a loan;
- (e) charges for the services, or disbursements, of a lawyer or notary, other than those mentioned in paragraph 2 of subsection (1);
- (f) charges for insurance against defects in title to real or immovable property, if the insurance is paid for directly by the borrower;
- (g) charges for appraisal, inspection or surveying services provided directly to the borrower in relation to property that is security for a loan;
- (h) charges for insurance against default on a high-ratio mortgage;
- (i) charges to maintain an account that are required for a high-ratio mortgage or that are optional;

- (j) any charge to discharge a security interest; or
- (k) default charges.

## **DISCLOSURE TO BORROWERS**

### **Manner of making disclosures**

6. (1) An insurer that grants credit must give the borrower a written disclosure statement that provides the information required by this Regulation.

(2) A disclosure statement may be a separate document or may be part of a credit agreement or an application for a credit agreement.

(3) Information disclosed in a disclosure statement may be based on an assumption or an estimate if the assumption or estimate is reasonable and if the information,

- (a) cannot be known by the insurer when it makes the statement; and
- (b) is identified to the borrower as an assumption or estimate.

(4) A disclosure statement, or a consent in relation to a disclosure statement, must be written in plain language that is clear and concise and it must be presented in a manner that is logical and likely to bring to the borrower's attention the information that is required to be disclosed.

(5) If the borrower consents in writing, the disclosure statement may be provided by electronic means in an electronic form that the borrower can retrieve and retain.

### **Timing of initial disclosure**

7. (1) An insurer that proposes to enter into a credit agreement with a borrower must give the initial disclosure statement required by this Regulation to the borrower on or before the day that is the earlier of the day on which the borrower makes the first payment, other than a disbursement charge, in relation to the credit agreement and,

- (a) two clear business days before the borrower and the insurer enter into the credit agreement, in the case of a credit agreement for a mortgage; or
- (b) the day on which the borrower and the insurer enter into the credit agreement, in any other case.

(2) Clause (1) (a) does not apply if the borrower consents in writing to being given the initial disclosure for the credit agreement on the day on which the borrower and the insurer enter into the credit agreement.

### **Disclosure - fixed interest loans for a fixed amount**

8. (1) An insurer that enters into a credit agreement for a loan for a fixed interest rate for a fixed amount, to be repaid on a fixed future date or by instalment payments, must give the borrower an initial disclosure statement that includes the following information:

1. The principal amount of the loan.
2. The amount of each advance of the principal and when each advance is to be made.
3. The total amount of all payments.
4. The cost of borrowing over the term of the loan, expressed in dollars and cents.
5. The term of the loan, and the period of amortization if it is different from the term.
6. The annual interest rate and the circumstances, if any, under which interest is compounded.
7. The APR, if it differs from the annual interest rate.
8. The date on and after which interest is charged and information concerning any period during which interest does not accrue.
9. The amount of each payment and when it is due.
10. The fact that each payment made on a loan must be applied first to pay the accumulated cost of borrowing and then to pay the outstanding principal.
11. Information about any optional service in relation to the credit agreement that the borrower accepts, the charges for each optional service and the conditions under which the borrower may cancel the service, if that information is not disclosed in a separate statement before the optional service is provided.
12. The information required by section 437.4 of the Act (additional disclosure - term loans) including default charges that may be imposed under sections 17 and 18 of this Regulation.
13. The property, if any, in which the insurer takes a security interest under the credit agreement.
14. Any charge paid for a broker, if the broker's charges are included in the amount borrowed and are paid directly by the insurer to the broker.
15. The fact that there is a charge to discharge a security interest and the amount of the charge on the day that the statement was provided.
16. The nature and amount of any charge other than an interest charge, or the formula if the amount cannot be determined at the time of disclosure.

(2) If the outstanding balance of the loan is increased because the borrower has missed a scheduled instalment payment or because a default charge is levied on the borrower for missing a scheduled instalment payment, the insurer must give the borrower an additional disclosure statement within 30 days after the payment is missed or the default charge is levied and the disclosure statement must describe what occurred and the consequences.

### **Disclosure - variable interest loans for a fixed amount**

9. (1) An insurer that enters into a credit agreement for a loan with a variable interest rate for a fixed amount, to be repaid on a fixed future date or by instalment payments, must give the borrower an initial disclosure statement that includes the following information:

1. The information required by paragraphs 1, 2, 5, 7, 8 and 10 to 16 of subsection 8(1).
2. The annual rate of interest that applies on the date of the disclosure statement.
3. The method for determining the annual interest rate that applies after the date of the disclosure statement and when that determination is made.
4. The amount of each payment based on the annual interest rate that applies on the date of the disclosure statement and the dates when those payments are due.
5. The total amount of all payments and of the cost of borrowing based on the annual interest rate that applies on the date of the disclosure statement.
6. If the loan is to be paid by instalment payments and the amount to be paid is not adjusted automatically to reflect changes in the annual interest rate that applies to each instalment payment,
  - i. the annual interest rate above which the amount of a scheduled instalment payment on the initial principal does not cover the interest due on the instalment payment, and
  - ii. the fact that negative amortization is possible.
7. If the loan does not have regularly-scheduled payments,
  - i. the conditions that must occur for the entire outstanding balance, or part of it, to become due, or
  - ii. the provisions of the credit agreement that set out those conditions.

(2) If the variable interest rate for the loan is determined by adding or subtracting a fixed percentage rate of interest to or from a public index that is a variable rate, the insurer must give the borrower an additional disclosure statement at least once every 12 months that contains the following information:

1. The annual interest rate at the beginning and end of the period covered by the disclosure statement.
2. The outstanding balance at the beginning and end of the period covered by the disclosure statement.

3. The amount of each instalment payment due under a payment schedule and the time when each payment is due, based on the annual interest rate that applies at the end of the period covered by the disclosure statement.

(3) If the variable interest rate for the loan is determined by a method other than that referred to in subsection (2), the insurer must give the borrower an additional disclosure statement no more than 30 days after increasing the annual interest rate by more than 1 per cent above the most recently disclosed rate and the disclosure statement must contain the following information:

1. The new annual interest rate and the date on which it takes effect.
2. The amount of each instalment payment and the time when each payment is due, for payments that are affected by the new annual interest rate.

### **Disclosure - lines of credit**

10. (1) An insurer that enters into a credit agreement for a line of credit must give the borrower an initial disclosure statement that includes the following information:

1. The initial credit limit, if it is known at the time the disclosure is made.
2. The annual interest rate, or the method for determining it if it is variable.
3. The nature and amounts of any non-interest charges.
4. The minimum payment during each payment period or the method for determining it.
5. Each period for which a statement of account is to be provided.
6. The date on and after which interest accrues and information concerning any grace period that applies.
7. The particulars of the charges or penalties, including default charges that may be imposed under section 18.
8. The property, if any, in which the insurer takes a security interest under the credit agreement.
9. Information about any optional service in relation to the credit agreement that the borrower accepts, the charges for each optional service and the conditions under which the borrower may cancel the service, if that information is not disclosed in a separate statement before the optional service is provided.
10. A local or toll-free telephone number, or a telephone number with a prominent indication that collect calls are accepted, that the borrower may use to get information about the account during the insurer's regular business hours.

11. Any charge paid for a broker, if the broker's charges are included in the amount borrowed and are paid directly by the insurer to the broker.

(2) If the initial credit limit is not known when the initial disclosure statement is made, the insurer must disclose it,

- (a) in the first statement of account provided to the borrower; or
- (b) in a separate statement that the borrower receives on or before the date on which the borrower receives that first statement of account.

(3) Subject to subsection (4), the insurer must give the borrower an additional disclosure statement at least once a month that contains the following information:

1. The period covered by the disclosure statement and the opening and closing balances in the period.
2. An itemized statement of account that discloses each amount credited or charged, including interest, and the dates when those amounts were posted to the account.
3. The sum for payments and the sum for credit advances and interest and other charges.
4. The annual interest rate that applied on each day in the period and the total of interest charged at those rates in the period.
5. The credit limit and the amount of credit available at the end of the period.
6. The minimum payment and its due date.
7. The borrower's rights and obligations regarding any billing error that may appear in the statement of account.
8. A local or toll-free telephone number, or a telephone number with a prominent indication that collect calls are accepted, that the borrower may use to get information about the account during the insurer's regular business hours.

(4) The additional disclosure statements described in subsection (3) are not required for a period during which there are no advances or payments and,

- (a) there is no outstanding balance at the end of the period; or
- (b) the borrower has notice that the credit agreement has been suspended or cancelled due to default and the insurer has demanded payment of the outstanding balance.

### **Disclosure - credit card applications**

11. (1) An insurer that issues credit cards and that distributes an application form for credit cards must specify the following information in the form or in a document accompanying it, including the date on which each of the matters mentioned takes effect:

1. The annual interest rate for a credit card with a fixed rate of interest.
2. If the credit card does not have a fixed rate of interest, the fact that the variable interest rate is determined by adding or subtracting a fixed percentage rate of interest to or from a public index, the public index and the fixed percentage rate to be added or subtracted from it.
3. The day on and after which interest accrues and information concerning any grace period that applies.
4. The amount of any charges other than interest charges.

(2) Subsection (1) does not apply if, on the application form or in a document accompanying it, the insurer prominently discloses,

- (a) a local or toll-free telephone number, or a telephone number with a prominent indication that collect calls are accepted, that the borrower may use to get information required by subsection (1) during the insurer's regular business hours; and
- (b) the fact that the applicant may obtain the information otherwise required by subsection (1) at that telephone number.

(3) If an individual applies for a credit card by telephone or any electronic means, the insurer must give the applicant the information required by paragraphs 1 and 4 of subsection (1) when the application is made.

(4) If an insurer that issues credit cards solicits applications for them in person, by mail, by telephone or by any electronic means, the information required by paragraphs 1 and 4 of subsection (1) must be disclosed at the time of the solicitation.

### **Disclosure - credit cards**

12. (1) An insurer that enters into a credit agreement for a credit card must give the borrower an initial disclosure statement that includes the following information:

1. The information described in paragraphs 1 and 3 to 11 of subsection 10 (1).
2. The manner in which interest is calculated and the information required by paragraph 1 or 2, as the case may be, of subsection 11 (1).
3. If the credit agreement requires the borrower to pay the outstanding balance in full on receiving a statement of account,

- i. mention of that requirement,
  - ii. the grace period by the end of which the borrower must have paid that balance, and
  - iii. the annual interest rate charged on any outstanding balance not paid when due.
4. If a lost or stolen credit card is used in an unauthorized manner, the fact that the maximum liability of the borrower is the lesser of \$50 and the maximum set by the credit agreement.
  5. If a transaction is entered into at an automated teller machine by using the borrower's personal identification number, the fact that the liability incurred by the transaction is the borrower's maximum liability, despite paragraph 4.
  6. If the insurer has received a report from the borrower, whether written or verbal, of a lost or stolen credit card, the fact that the borrower is not liable for any transaction entered into through the use of the card after the insurer receives the report.

(2) If the initial credit limit is not known when the initial disclosure statement is made, the insurer must disclose it,

- (a) in the first statement of account provided to the borrower; or
- (b) in a separate statement that the borrower receives on or before the date on which the borrower receives that first statement of account.

(3) Despite section 13, if a credit agreement for a credit card is amended, the insurer must give the borrower a written statement at least 30 days before the amendment takes effect, and the statement must set out the changes to the information that was required to be given to the borrower in the initial disclosure statement, excluding information about the following changes:

1. Any change in the credit limit.
2. Any extension to the grace period.
3. Any decrease in charges other than interest charges and default charges referred to in paragraphs 3 and 7 of subsection 10 (1).
4. Any change concerning information about any optional service in relation to the credit agreement that is referred to in paragraph 9 of subsection 10 (1).
5. Any change in a variable interest rate referred to in paragraph 2 of subsection 11 (1) as a result of a change in the public index referred to in that paragraph.

(4) A change described in paragraphs 1 to 4 of subsection (3) must be disclosed in the first periodic disclosure statement that is given to the borrower after the amendment to the credit agreement is made.

(5) An insurer that issues credit cards must give each borrower additional disclosure statements on a regular periodic basis, at least once a month that contain the following information:

1. The information described in subsections 10 (3) and (4), other than paragraphs 2 and 3 of subsection 10 (3).
2. An itemized statement of account that describes each transaction and discloses each amount credited or charged, including interest, and the dates when those amounts were posted to the account.
3. The amount that the borrower must pay, on or before a specified due date, in order to have the benefit of a grace period.
4. The sum for payments and the sum for purchases, credit advances and interest and other charges.

(6) For the purpose of paragraph 2 of subsection (5), an itemized statement of account is adequate if it permits the borrower to verify each transaction described by linking it with a transaction record provided to the borrower.

### **Disclosure after amendment to a credit agreement**

13. (1) Subject to subsection (2), if a credit agreement is amended by a subsequent agreement, the insurer must give the borrower a written statement within 30 days after the subsequent agreement is entered into, and the statement must describe the changes to the information in the initial disclosure statement for the credit agreement.

(2) If a credit agreement for a fixed amount has a schedule for instalment payments and the schedule is amended by a subsequent agreement, the insurer must give the borrower a written statement within 30 days after the subsequent agreement is entered into, and the statement must set out the new payment schedule and any increase in the total amount to be paid or the cost of borrowing.

### **Disclosure - renewal of a mortgage**

14. (1) If a credit agreement for a loan secured by a mortgage is to be renewed on a specified date, the insurer must give the borrower an additional disclosure statement at least 21 days before the specified renewal date and the statement must contain the information required by,

- (a) section 8, if the credit agreement is for a fixed interest rate; or
- (b) section 9, if the credit agreement is for a variable interest rate.

(2) The additional disclosure statement must specify that,

- (a) the cost of borrowing will not be increased after the disclosure statement is given to the borrower and before the credit agreement is renewed; and

- (b) the borrower's rights under the credit agreement continue, and the renewal does not take effect, until the day that is the later of the specified renewal date and the day that is 21 days after the borrower receives the statement.

(3) An insurer that does not intend to renew a credit agreement for a loan secured by a mortgage after its term ends shall notify the borrower of its intention at least 21 days before the end of the term.

### **Disclosure - offer to waive payment**

15. (1) If, under a credit agreement for a loan for a fixed amount, an insurer offers to waive a payment without waiving the accrual of interest during the period covered by the payment, the insurer must disclose to the borrower in a prominent manner in the offer that interest will continue to accrue during that period if the borrower accepts the offer.

(2) If an insurer offers to waive a payment under a credit agreement for a line of credit or a credit card, the insurer must disclose to the borrower in a prominent manner in the offer whether interest will continue to accrue during any period covered by the offer if the borrower accepts the offer.

### **Disclosure - cancellation of optional services**

16. (1) A disclosure statement made in relation to a credit agreement under which optional services, including insurance services, are provided on an on-going basis must specify that,

- (a) the borrower may cancel the optional service by notifying the insurer that the service is to be cancelled effective on the earlier of,
- (i) one month after the day that the insurer gave the borrower the disclosure statement, and
  - (ii) the last day of the notice period, if any, provided for in the credit agreement; and
- (b) the insurer shall, without delay, refund or credit the borrower with the proportional amount, calculated in accordance with the formula set out in subsection (2), of any charges for the service paid for by the borrower or added to the balance of the loan, but unused as of the cancellation date described in clause (a).

(2) The proportion of charges to be refunded or credited to a borrower are calculated using the formula,

$$R = A \times \frac{n - m}{n}$$

in which,

“R” is the amount to be refunded or credited,

“A” is the amount of the charges,

“n” is the period between the imposition of the charge and the time when the services were, before the cancellation, scheduled to end, and

“m” is the period between the imposition of the charge and the cancellation.

## PAYMENTS AND CHARGES

### Prepayment of loans

17. (1) This section applies to loans for fixed amounts of credit.

(2) A borrower may prepay the outstanding balance under a credit agreement, at any time, without incurring any charge or penalty for making the prepayment.

(3) If the borrower prepays the outstanding balance, the insurer must refund to the borrower or credit the borrower with the proportional amount of any charges, other than interest charges and disbursement charges, paid by the borrower or added to the balance, calculated in accordance with the formula set out in subsection (6).

(4) A borrower may prepay part of the outstanding balance under a credit agreement,

- (a) on the date of any scheduled payment, if payments are scheduled once a month or more often; and
- (b) at any time but only once a month, in any other case.

(5) A borrower who prepays part of the outstanding balance is not entitled to a refund or to a credit for charges other than interest charges.

(6) The proportion of the charges to be refunded or credited to a borrower under this section is determined using the formula,

$$R = A \times \frac{n - m}{n}$$

in which,

“R” is the amount to be refunded or credited,

“A” is the amount of the charges other than interest charges,

“n” is the period between the imposition of the charge and the scheduled end of the term of the loan, and

“m” is the period between the imposition of the charge and the prepayment.

### Default charges

18. If a borrower under a credit agreement fails to make a payment when it becomes due or fails to comply with an obligation in the agreement, in addition to interest, the insurer may impose charges for the sole purpose of recovering the costs reasonably incurred,

- (a) for legal services required to collect or attempt to collect the payment;

- (b) for expenses incurred to realize on a security interest taken under the credit agreement or to protect such a security interest, including the cost of legal services required for that purpose; or
- (c) for expenses incurred to process a cheque or other payment instrument that the borrower used to make a payment under the loan but that was dishonoured.

## ADVERTISING

### Advertising - loan for a fixed amount

19. (1) If an insurer advertises a loan involving a fixed amount of credit and if the advertisement includes a representation about the interest rate or the amount of any payment or of any charge other than interest, the advertisement must also include the APR and the term of the loan, and the APR must be provided at least as prominently as the representation and in the same manner as the representation is made, whether visually or aurally or both.

(2) If the APR or the term of the loan is not the same for all loans to which the advertisement relates, the disclosure must be based on an example of a loan that fairly depicts those loans and is identified as a representative example of them.

### Advertising - line of credit

20. If an insurer advertises a loan involving a line of credit and if the advertisement includes a representation about the annual interest rate or the amount of any payment or of any charge other than interest, the advertisement must also include the annual rate of interest on the date of the advertisement and any initial or periodic charges other than interest and that information must be provided at least as prominently as the representation and in the same manner as the representation is made, whether visually or aurally or both.

### Advertising - credit card

21. If an insurer advertises a credit card and if the advertisement includes a representation about the annual interest rate or the amount of any payment or of any charge other than interest, the advertisement must include the annual rate of interest on the date of the advertisement and any initial or periodic charges other than interest and that information must be provided at least as prominently as the representation and in the same manner as the representation is made, whether visually or aurally or both.

### Advertising - interest-free periods

22. (1) If an insurer advertises that it will finance a transaction and if the advertisement includes a representation, express or implied, that a period of the loan is free of any interest charges, the advertisement must indicate whether interest accrues during the period and is payable after the period and that information must be provided at least as prominently as the representation, if it was express, or in a prominent manner, if it was implied.

(2) If interest does not accrue during the period, the advertisement must also disclose any conditions that apply to the forgiving of the accrued interest and the APR, or the annual interest rate in the case of credit cards or lines of credit, for a period when those conditions are not met.

## PURCHASING INSURANCE

### Insurance re loan

23. A borrower who is required by an insurer (if the insurer is providing a loan) to purchase any insurance may purchase it from any insurer who may lawfully provide that type of insurance, except that the insurer who is providing the loan may reserve the right to disapprove, on reasonably grounds, another insurer selected by the borrower.

(2) An insurer (if the insurer is providing a loan) who offers to provide or to arrange insurance referred to in subsection (1) must at the same time clearly disclose to the borrower in writing that the borrower may purchase the required insurance through an agent and from another insurer of the borrower's choice.

## COMMENCEMENT

### Commencement

24. This Regulation comes into force on [insert date].

Draft regulation under the *Mortgage Brokers Act*,  
for consultation purposes only

## **COST OF BORROWING AND DISCLOSURE TO BORROWERS**

### **Application and Interpretation**

1. Application
2. Definitions

### **Cost of Borrowing**

3. Calculation of the APR
4. Annual interest rate as APR
5. Included and excluded charges

### **Disclosure to Borrowers**

6. Manner of making disclosures
7. Timing of initial disclosure
8. Disclosure – fixed interest mortgage for a fixed amount
9. Disclosure – variable interest mortgage for a fixed amount
10. Disclosure – line of credit
11. Disclosure after amendment to a mortgage
12. Disclosure – renewal of a mortgage
13. Disclosure – offer to waive payment

### **Default Charges**

14. Default charges

### **Advertising**

15. Advertising – mortgage for a fixed amount
16. Advertising – line of credit
17. Advertising – interest-free periods

### **Purchasing Insurance**

18. Insurance

### **Commencement**

19. Commencement

## APPLICATION AND INTERPRETATION

### Application

1. This Regulation applies to every mortgage other than a mortgage entered into with a borrower who is not a natural person, or a mortgage that a borrower enters into for business purposes.

### Definitions

2. In this Regulation,

“APR” means the cost of borrowing expressed as an annual rate on the principal referred to in subsection 3 (1);

“disbursement charge” means a charge, other than one referred to in subsection 5 (1), to recover an expense incurred to arrange, document, insure or secure a mortgage and includes a charge referred to in clause 5 (2) (c);

“principal” means the amount borrowed under a mortgage but does not include any cost of borrowing.

## COST OF BORROWING

### Calculation of the APR

3. (1) For the purpose of section 7.2 of the Act, the cost of borrowing for a mortgage is the annual rate on the principal as calculated using the formula,

$$APR = \frac{C}{T \times P} \times 100$$

in which,

“APR” is the annual percentage rate cost of borrowing,

“C” is the cost of borrowing within the meaning of section 5 over the term of the mortgage,

“P” is the average of the principal of the mortgage outstanding at the end of each period for the calculation of interest under the mortgage, before subtracting any payment that is due at that time, and

“T” is the term of the mortgage in years, expressed to at least two decimal points of significance.

(2) For the purpose of subsection (1),

- (a) the APR may be rounded off to the nearest eighth of a per cent;
- (b) each instalment payment made on the mortgage must be applied first to the accumulated cost of borrowing and then to the outstanding principal;

- (c) a period of,
    - (i) one month is 1/12 of a year,
    - (ii) one week is 1/52 of a year, and
    - (iii) one day is 1/365 of a year;
  - (d) if the annual interest rate underlying the calculation is variable over the period of the mortgage, it must be set as the annual interest rate that applies on the day that the calculation is made;
  - (e) if there are no instalment payments under the mortgage, then the APR must be calculated on the basis that the outstanding principal is to be repaid in one lump sum at the end of the term of the mortgage; and
  - (f) a mortgage for an amount that comprises, in whole or in part, an outstanding balance from a prior mortgage is a new mortgage for the purpose of the calculation.
- (3) The cost of borrowing for a line of credit or credit card secured under a mortgage is,
- (a) if the mortgage has a fixed annual interest rate, that annual interest rate; or
  - (b) if the mortgage has a variable annual interest rate, the annual interest rate that applies on the date of the disclosure.

### **Annual interest rate as APR**

4. The APR for a mortgage is the annual interest rate if there is no cost of borrowing other than interest.

### **Included and excluded charges**

5. (1) Subject to subsection (2), the cost of borrowing for a mortgage, other than one that secures a line of credit, consists of all the costs of borrowing under the mortgage over its term and includes the following charges:

1. Administrative charges, including charges for services, transactions or any other activity in relation to the mortgage.
2. Charges for the services, or disbursements, of a lawyer or notary that the lender required the borrower to retain.
3. Insurance charges other than those excluded under clauses (2) (a) and (f).
4. The mortgage broker's charges, if they are included in the amount borrowed.
5. Charges for appraisal, inspection or surveying services provided directly to the borrower in relation to the property that is security for a loan.

- (2) The cost of borrowing for a mortgage does not include,
- (a) charges for insurance on the mortgage,
    - (i) if the insurance is optional, or
    - (ii) if the borrower is its beneficiary and the amount insured reflects the value of an asset that is security under the mortgage;
  - (b) charges for an overdraft;
  - (c) charges paid to register documents or obtain information from a public registry about security interests related to property given as security;
  - (d) penalty charges for the prepayment of the mortgage;
  - (e) charges for the services, or disbursements, of a lawyer or notary, other than those mentioned in paragraph 2 of subsection (1);
  - (f) charges for insurance against defects in title to real property, if the insurance is paid for directly by the borrower;
  - (g) charges to maintain an account that are required for a high-ratio mortgage or that are optional;
  - (h) any charges to discharge a security interest; or
  - (i) default charges.

## DISCLOSURE TO BORROWERS

### Manner of making disclosures

6. (1) A mortgage broker must give the borrower a written disclosure statement that provides the information required by this Regulation.

(2) Information disclosed in a disclosure statement may be based on an assumption or estimate if the assumption or estimate is reasonable and if the information,

- (a) cannot be known by the mortgage broker when he, she or it makes the statement; and
- (b) is identified to the borrower as an assumption or estimate.

(3) A disclosure statement, or a consent in relation to a disclosure statement, must be written in plain language that is clear and concise and it must be presented in a manner that is logical and likely to bring to the borrower's attention the information that is required to be disclosed.

(4) If the borrower consents in writing, the disclosure statement may be provided by electronic means in an electronic form that the borrower can retrieve and retain.

### **Timing of initial disclosure**

7. (1) A mortgage broker that proposes to enter into or arrange a mortgage with a borrower must give the initial disclosure statement required by this Regulation to the borrower on or before the earlier of,

- (a) the day on which the borrower makes the first payment, other than a disbursement charge, in relation to the mortgage; and
- (b) two clear business days before the borrower enters into the mortgage agreement.

(2) Clause (1) (b) does not apply if the borrower consents, in writing, to being given the initial disclosure on the day he or she enters into the mortgage agreement.

### **Disclosure – fixed interest mortgage for a fixed amount**

8. (1) A mortgage broker that enters into or arranges a mortgage for a fixed interest rate for a fixed amount, to be repaid on a fixed future date or by instalment payments, must give the borrower an initial disclosure statement that includes the following information:

1. The principal amount of the mortgage.
2. The amount of each advance of the principal and when each advance is to be made.
3. The total amount of all payments.
4. The cost of borrowing over the term of the mortgage, expressed in dollars and cents.
5. The term of the mortgage, and the period of amortization if it is different from the term.
6. The annual interest rate and the circumstances, if any, under which it is compounded.
7. The APR, if it differs from the annual interest rate.
8. The date on and after which interest is charged and information concerning any period during which interest does not accrue.
9. The amount of each payment and when it is due.
10. The fact that each payment made on the mortgage must be applied first to the accumulated cost of borrowing and then to the outstanding principal.
11. Information about any optional service in relation to the mortgage that the borrower accepts, the charges for each optional service and the conditions under which the

borrower may cancel the service, if that information is not disclosed in a separate statement before the optional service is provided.

12. The information required by section 7.3 of the Act, including default charges that may be imposed under section 14 of this Regulation.
13. The property in which the lender takes a security interest under the mortgage.
14. Any charge paid for any other mortgage broker involved in the transaction, if the other broker's charges are included in the amount borrowed and are paid directly to the other broker.
15. The fact that there is a charge to discharge a security interest and the amount of the charge on the day that the statement was provided.
16. The nature and amount of any charge other than an interest charge, or the formula if the amount cannot be determined at the time of disclosure.

(2) If the outstanding balance of the mortgage is increased because the borrower has missed a scheduled instalment payment or because a default charge is levied on the borrower for missing a scheduled instalment payment, the mortgage broker (if the mortgage broker is a lender in the transaction or administers the mortgage) must give the borrower a subsequent disclosure statement not more than 30 days after the missed payment or the imposition of the default charge that describes the situation and its consequences.

### **Disclosure – variable interest mortgage for a fixed amount**

9. (1) A mortgage broker that enters into or arranges a mortgage with a variable interest rate for a fixed amount, to be repaid on a fixed future date or by instalment payments, must give the borrower an initial disclosure statement that includes the following information:

1. The information described in paragraphs 1, 2, 5, 7, 8 and 10 to 16 of subsection 8(1).
2. The annual rate of interest that applies on the date of the disclosure statement.
3. The method for determining the annual interest rate that applies after the date of the disclosure statement and when that determination is made.
4. The amount of each payment based on the annual interest rate that applies on the date of the disclosure statement and the dates when those payments are due.
5. The total amount of all payments and of the cost of borrowing based on the annual interest rate that applies on the date of the disclosure statement.
6. If the loan is to be paid by instalment payments and the amount to be paid is not adjusted automatically to reflect changes in the annual interest rate that applies to each instalment payment,

- i. the annual interest rate above which the amount of a scheduled instalment payment on the initial principal does not cover the interest due on the instalment payment, and
  - ii. the fact that negative amortization is possible.
7. If the loan does not have regularly-scheduled payments,
- i. the conditions that must occur for the entire outstanding balance, or part of it, to become due, or
  - ii. the provisions of the mortgage that set out those conditions.

(2) If the variable interest rate for the loan is determined by adding or subtracting a fixed percentage rate of interest to or from a public index that is a variable rate, the mortgage broker must give the borrower an additional disclosure statement at least once every 12 months that contains the following information:

1. The annual interest rate at the beginning and end of the period covered by the disclosure statement.
2. The outstanding balance at the beginning and end of the period covered by the disclosure statement.
3. The amount of each instalment payment due under a payment schedule and the time when each payment is due, based on the annual interest rate that applies at the end of the period covered by the disclosure statement.

(3) If the variable interest rate for the mortgage is determined by a method other than that referred to in subsection (2), the mortgage broker (if the mortgage broker is a lender in the transaction or administers the mortgage) must give the borrower an additional disclosure statement no more than 30 days after increasing the annual interest rate by more than 1 per cent above the most recently disclosed rate and the disclosure statement must contain the following information:

1. The new annual interest rate and the date on which it takes effect.
2. The amount of each instalment payment and the time when each payment is due, for payments that are affected by the new annual interest rate.

(4) In this section,

“public index” means an interest rate, or a variable base rate for an interest rate, that is published at least weekly in a newspaper or magazine of general circulation, or in some media of general circulation or distribution, in areas where borrowers whose mortgages are governed by that interest rate reside.

**Disclosure – line of credit**

10. (1) A mortgage broker that arranges a mortgage securing a line of credit must give the borrower an initial disclosure statement that includes the following information:

1. The initial credit limit, if it is known at the time the disclosure is made.
2. The annual interest rate, or the method for determining it if it is variable.
3. The nature and amounts of any non-interest charges.
4. The minimum payment during each payment period or the method for determining it.
5. Each period for which a statement of account is to be provided.
6. The date on and after which interest accrues and information concerning any grace period that applies.
7. The particulars of the charges or penalties referred to in paragraph 5 of section 7.3 of the Act, including default charges that may be imposed under section 14 of this Regulation.
8. The property in which the lender takes a security interest under the mortgage.
9. Information about any optional service in relation to the mortgage that the borrower accepts, the charges for each optional service and the conditions under which the borrower may cancel the service, if that information is not disclosed in a separate statement before the optional service is provided.
10. A local or toll-free telephone number, or a telephone number with a prominent indication that collect calls are accepted, that the borrower may use to get information about the account during the lender's regular business hours.
11. Any charge for any other mortgage broker involved in the transaction, if the other broker's charges are included in the amount borrowed and are paid directly to the other broker by the lender.

(2) If the initial credit limit is not known when the initial disclosure statement is made, the mortgage broker (if the mortgage broker is a lender in the transaction or administers the mortgage) must disclose it,

- (a) in the first statement of account provided to the borrower; or
- (b) in a separate statement that the borrower receives on or before the date on which the borrower receives that first statement of account.

(3) Subject to subsection (4), the mortgage broker (if the mortgage broker is a lender in the transaction or administers the mortgage) must give the borrower an additional disclosure statement at least once a month that contains the following information:

1. The period covered by the disclosure statement and the opening and closing balances in the period.
2. An itemized statement of account that discloses each amount credited or charged, including interest, and the dates when those amounts were posted to the account.
3. The sum for payments and the sum for credit advances and interest and other charges.
4. The annual interest rate that applied on each day in the period and the total of interest charged at those rates in the period.
5. The credit limit and the amount of credit available at the end of the period.
6. The minimum payment and its due date.
7. The borrower's rights and obligations regarding any billing error that may appear in the statement of account.
8. A local or toll-free telephone number, or a telephone number with a prominent indication that collect calls are accepted, that the borrower may use to get information about the account during the mortgage broker's regular business hours.

(4) The additional disclosure statements described in subsection (3) are not required for a period during which there are no advances or payments and,

- (a) there is no outstanding balance at the end of the period; or
- (b) the borrower has notice that the mortgage has been suspended or cancelled due to default and the lender has demanded payment of the outstanding balance.

### **Disclosure after amendment to a mortgage**

11. (1) This section applies to a mortgage broker who is a lender in the transaction or who administers the mortgage.

(2) Subject to subsection (3), if a mortgage is amended by a subsequent agreement, the mortgage broker must give the borrower a written statement within 30 days after the borrower enters into the subsequent agreement, and the statement must describe the changes to the information required to be disclosed in the initial disclosure statement for the mortgage.

(3) If a mortgage for a fixed amount has a schedule for instalment payments and the schedule is amended by a subsequent agreement, the lender must give the borrower a written statement within 30 days after entering into the subsequent agreement, and the statement must

set out the new payment schedule and any increase in the total amount to be paid or the cost of borrowing.

### **Disclosure – renewal of a mortgage**

12. (1) This section applies to a mortgage broker who is a lender in the transaction or who administers the mortgage.

(2) If a mortgage is to be renewed on a specified date, the mortgage broker must give the borrower an additional disclosure statement at least 21 days before the specified renewal date, and the statement must contain the information required by,

- (a) section 8, if the mortgage is for a fixed interest rate; or
- (b) section 9, if the mortgage is for a variable interest rate.

(3) The additional disclosure statement must specify that,

- (a) the cost of borrowing will not be increased after the disclosure statement is given to the borrower and before the mortgage is renewed; and
- (b) the borrower's rights under the mortgage continue, and the renewal does not take effect, until the day that is the later of the specified renewal date and the day that is 21 days after the borrower receives the statement.

(4) If a lender does not intend to renew a mortgage after its term ends, the mortgage broker shall notify the borrower of the lender's intention at least 21 days before the end of the term.

### **Disclosure – offer to waive payment**

13. (1) This section applies to a mortgage broker who is a lender in the transaction or who administers the mortgage.

(2) If, under a mortgage for a fixed amount, a lender offers to waive a payment without waiving the accrual of interest during the period covered by the payment, the mortgage broker must disclose to the borrower in a prominent manner in the offer that interest will continue to accrue during that period if the borrower accepts the offer.

(3) If a lender offers to waive a payment under a mortgage that secures a line of credit, the mortgage broker must disclose to the borrower in a prominent manner in the offer whether interest will continue to accrue during any period covered by the offer if the borrower accepts the offer.

## **DEFAULT CHARGES**

### **Default charges**

14. If a borrower fails to make a payment when it becomes due or fails to comply with an obligation under a mortgage, in addition to interest, the mortgage broker may impose charges for the sole purpose of recovering the costs reasonably incurred,

- (a) for legal services required to collect or attempt to collect the payment;
- (b) for expenses incurred to realize on a security interest taken under the mortgage or to protect such a security interest, including the cost of legal services required for that purpose; or
- (c) for expenses incurred to process a cheque or other payment instrument that the borrower used to make a payment under the mortgage but that was dishonoured.

## **ADVERTISING**

### **Advertising – mortgage for a fixed amount**

15. (1) If a mortgage broker advertises a mortgage for a fixed amount and if the advertisement includes a representation about the interest rate or the amount of any payment or of any charge other than interest, the advertisement must also include the APR and the term of the mortgage and the APR must be provided at least as prominently as the representation and in the same manner as the representation is made, whether visually or aurally or both.

(2) If the APR or the term of the mortgage is not the same for all mortgages to which the advertisement relates, the disclosure must be based on an example of a mortgage that fairly depicts all those mortgages and is identified as a representative example of them.

### **Advertising – line of credit**

16. If a mortgage broker advertises a mortgage that secures a line of credit and if the advertisement includes a representation about the annual interest rate or the amount of any payment or of any charge other than interest, the advertisement must also include the annual rate of interest on the date of the advertisement and any initial or periodic charges other than interest and that information must be provided at least as prominently as the representation and in the same manner as the representation is made, whether visually or aurally, or both.

### **Advertising – interest-free periods**

17. (1) If a mortgage broker advertises that the mortgage broker will finance a mortgage and if the advertisement includes a representation, express or implied, that a period of the mortgage is free of any interest charges, the advertisement must indicate whether interest accrues during the period and is payable after the period and that information must be provided at least as prominently as the representation, if it was express, or in a prominent manner, if it was implied.

(2) If interest does not accrue during the period, the advertisement must also disclose any conditions that apply to the forgiving of the accrued interest and the APR, or the annual interest rate in the case of a mortgage that secures a credit card or line of credit, for a period when those conditions are not met.

## **PURCHASING INSURANCE**

### **Insurance**

18. (1) A borrower who is required by a mortgage broker (if the mortgage broker is a lender in the transaction or administers the mortgage) to purchase any insurance may purchase it from any insurer who may lawfully provide that type of insurance, except that the mortgage broker

may reserve the right to disapprove, on reasonable grounds, an insurer selected by the borrower.

(2) A mortgage broker who offers to provide or to arrange insurance referred to in subsection (1) must at the same time clearly disclose to the borrower in writing that the borrower may purchase the required insurance through an agent and from an insurer of the borrower's choice.

## COMMENCEMENT

### Commencement

19. This Regulation comes into force on [insert date].