

§ 561.11 Closing date.

The term *closing date* means any annual or semiannual closing date.

§ 561.12 Consumer credit.

The term *consumer credit* means credit extended to a natural person for personal, family, or household purposes, including loans secured by liens on real estate and chattel liens secured by mobile homes and leases of personal property to consumers that may be considered the functional equivalent of loans on personal security: *Provided*, the savings association relies substantially upon other factors, such as the general credit standing of the borrower, guaranties, or security other than the real estate or mobile home, as the primary security for the loan. Appropriate evidence to demonstrate justification for such reliance should be retained in a savings association's files. Among the types of credit included within this term are consumer loans; educational loans; unsecured loans for real property alteration, repair or improvement, or for the equipping of real property;

loans in the nature of overdraft protection; and credit extended in connection with credit cards.

§ 561.13 Consumer credit classified as a loss.

The term *consumer credit classified as a loss* means closed-end consumer credit delinquent 120 days or more (5 monthly payments or more) and open-end consumer credit delinquent 180 days or more (7 zero billing cycles or more). For the purposes of computing delinquency, a payment of 90 percent or more of the contractual payment will be considered as a full payment. If a savings association can clearly demonstrate that repayment would occur regardless of delinquency status—for example, the loan is well-secured by collateral and is in the process of collection; the loan is supported by a valid guarantee or insurance; or it is a loan where claims have been filed against a solvent estate—then such loan need not be classified as a loss. The following table illustrates the delinquency computation:

CLOSED-END CONSUMER CREDIT

| Due date | Period | Delinquency status | Classification |
|------------|-----------------|------------------------------|----------------|
| 3/10 | 3/10–4/09 | Not delinquent. | |
| 6/10 | 6/10–7/09 | 90 days or 4 payments | Slow. |
| 7/10 | 7/10–8/09 | 120 days or 5 payments | Loss. |
| 8/10 | 8/10–9/09 | 150 days or 6 payments | Loss. |

OPEN-END CONSUMER CREDIT

| Statement | Zero billing | | Days | | Class |
|-----------|--------------|-------|------------------|------------|-------|
| | Day | Cycle | Payment record | Delinquent | |
| 1 | 1 | | | 0 | |
| 7 | 180 | 6 | No payment | 150 | Slow. |
| 8 | 210 | 7 | No payment | 180 | Loss. |
| 9 | 240 | 8 | No payment | 210 | Loss. |

[54 FR 49545, Nov. 30, 1989, as amended at 61 FR 65179, Dec. 11, 1996]

§ 561.14 Controlling person.

The term *controlling person* of a savings association means any person or entity which, either directly or indirectly, or acting in concert with one or more other persons or entities, owns, controls, or holds with power to vote, or holds proxies representing, ten percent or more of the voting shares or

rights of such savings association; or controls in any manner the election or appointment of a majority of the directors of such savings association. However, a director of a savings association will not be deemed to be a controlling person of such savings association based upon his or her voting, or acting in concert with other directors in voting, proxies:

- (a) Obtained in connection with an annual solicitation of proxies, or