Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R–0927]

Truth in Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is publishing for comment proposed revisions to Regulation Z (Truth in Lending). The revisions would implement the Truth in Lending Act Amendments of 1995 (1995 Amendments), which establish new creditor-liability rules for closed-end loans secured by real property or dwellings consummated on or after September 30, 1995. The 1995 Amendments create several tolerances for accuracy in disclosing the amount of the finance charge, and creditors have no civil or administrative liability if the finance charge or affected disclosures are within the applicable tolerances. The amendments also clarify how lenders must disclose certain fees connected with mortgage loans. In addition, the Board is proposing a new rule regarding the treatment of fees charged in connection with debt cancellation agreements, which would be similar to the existing rule regarding credit insurance premiums, and provide for more uniform treatment of these fees.

DATES: Comments must be received on or before June 24, 1996.

ADDRESSES: Comments should refer to Docket No. R–0927, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551. Comments also may be delivered to Room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, N.W. (between Constitution Avenue and C Street) at any time. Comments may be inspected in Room MP–500 of the Martin Building between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding the availability of information.

FOR FURTHER INFORMATION CONTACT: James A. Michaels, Senior Attorney, or Natalie E. Taylor or Michael L. Hentrel, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or 452–2412; for users of Telecommunications Device for the Deaf (TDD) only, please contact Dorothea Thompson at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of the Truth in Lending Act (TILA) (15 U.S.C. 1601 *et seq.*) is to promote the informed use of consumer credit by requiring disclosures about its terms and cost. The act requires creditors to disclose credit terms and the cost of credit as a dollar amount (the finance charge) and as an annual percentage rate (the APR). The TILA requires additional disclosures for loans secured by a consumer's home and permits consumers to rescind certain transactions that involve their principal dwelling. The act is implemented by the Board's Regulation Z (12 CFR Part 226).

II. Proposed Regulatory Provisions

On September 30, 1995, the Congress enacted the Truth in Lending Act Amendments of 1995 (1995 Amendments), Public Law 104–29, 109 Stat. 271. The 1995 Amendments address the concerns of mortgage lenders stemming from a 1994 court decision, *Rodash* v. *AIB Mortgage Co.*, 16 F.3d 1142 (11th Cir. 1994). In that case, the U.S. Court of Appeals affirmed a district court opinion that allowed a consumer to rescind a mortgage loan and recover all fees and finance charges that had been paid, based in part on errors in the creditor's TILA disclosures. Subsequently, a number of class action lawsuits were filed, involving thousands of mortgage loans, alleging similar violations and seeking the remedy of rescission.

In May 1995, in response to mortgage lenders' concerns about their potential liability for finance charge violations that they viewed as minor, the Congress enacted a temporary moratorium on such litigation. The moratorium expired on October 1, 1995, and has been replaced by the 1995 Amendments, which establish new liability rules for loans consummated both before and after September 30. The Board is proposing regulations only regarding loans made after September 30, 1995.

Remarks by the Congressional sponsors, made after enactment of the amendments, reflect their intent to apply the new rules only to closed-end loans secured by real property or dwellings (including manufactured or mobile homes). 141 Cong. Rec. E1918 (daily ed. Oct. 11, 1995) (Statement of Rep. McCollum and Rep. Gonzalez). The 1995 Amendments contain several provisions, however, stating that they apply to any consumer credit transaction.

Sections 2 and 3 of the 1995 Amendments amend section 106 of the TILA, concerning the determination of the finance charge to clarify how creditors must disclose certain fees connected with mortgage loans. The proposed regulation would incorporate the statutory amendments without substantive change. For the most part, the treatment of these fees under the revised regulation is consistent with existing Board interpretations. The only significant departure from current law concerns mortgage broker fees. Under the revised regulation—as mandated by the statutory amendments—all fees charged by a mortgage broker would be included in the finance charge unless it is the type of fee that would be excluded when it is charged by the creditor. Presently, fees charged by a mortgage broker are only included if the creditor requires the use of the broker or retains any part of the fee.

Section 3 of the 1995 Amendments provides that disclosures regarding per diem interest charges will be considered accurate so long as they are based on information known to the creditor when the disclosures are prepared, even if the actual charges differ by the time disclosures are provided to the consumer. This provision would be incorporated in the regulation without change.

The 1995 Amendments also establish several tolerances for accuracy in disclosing the finance charge in connection with closed-end loans secured by real property or dwellings. Previously, the TILA contained no tolerance for finance charge errors, although Regulation Z contains a de

minimis $10 tolerance that will continue to apply to non-mortgage loans. For mortgage loans, the proposed regulation contains a general $100 tolerance for finance charge disclosures. Three separate finance charge tolerances would apply in determining whether a consumer may rescind a mortgage loan on the grounds that the creditor failed to provide accurate disclosures; the tolerance varies depending on the type of loan, amount of credit extended and whether foreclosure proceedings have been initiated.

Sections 5 and 8 of the 1995 Amendments revise section 125 of the TILA, which allows consumers to rescind certain mortgage loans and requires that they receive notice of their rescission rights. Section 5 clarifies that a creditor will not be liable for the form of notice given to the consumer if the creditor has used the appropriate form published by the Board or a comparable notice. Section 8 establishes special rules that apply when the consumer seeks to rescind the loan after foreclosure proceedings have been initiated. The proposed regulation would incorporate these provisions.

While the 1995 Amendments do not explicitly amend the existing tolerance for the annual percentage rate (APR) disclosures, the proposed regulation would establish additional APR tolerances in mortgage transactions where the disclosed APR results from a finance charge that is understated or overstated but within the tolerance established under the amendments. Accordingly, the APR would be considered accurate if it results from a finance charge that would also be considered accurate, even if the disclosed APR falls outside of the existing TILA tolerance of one-fourth or one-eighth of one percent.

The proposed regulation would also provide an additional tolerance for mortgage transactions, to avoid creditor liability for a disclosed APR that is incorrect but is closer to the actual APR than the APR that would be considered accurate under the new statutory tolerance. The purpose of this tolerance is to reduce or eliminate litigation over disclosure errors that are less serious than the errors allowed under the new finance charge tolerance.

The Board is also proposing amendments to Regulation Z regarding the treatment of fees charged in connection with debt cancellation agreements, which provide similar benefits to credit insurance. Public comment was solicited last fall regarding the treatment of these fees under the existing rules, in connection with proposed changes to the Official Staff Commentary (60 FR 62764, December 7, 1995). The comments, mostly from creditors or their trade associations, expressed concern about the need under the current rule to determine, on a state-by-state basis, whether debt cancellation fees should be treated as insurance premiums. In response to the commenters' concerns, the proposed interpretation was withdrawn based on the belief that the issues raised by the commenters would be better addressed in the context of a regulatory amendment (61 FR 14952, April 4, 1996). The proposed revisions to Regulation Z would provide uniform treatment for the disclosure of debt cancellation fees under the TILA, consistent with the existing rule for credit life, health, and accident insurance.

Finally, the Board is proposing a technical amendment to the definition of ''business day.'' The revision clarifies that for purposes of the Board's rules implementing the Home Ownership and Equity Protection Act of 1994 in Subpart E of Regulation Z, the term ''business day'' has the same meaning as in the rules regarding rescission.

The Board expects to adopt a final rule in September 1996. Under the 1995 Amendments, the new rule regarding the treatment of mortgage broker fees will become effective on September 30, 1996, or 60 days after the Board issues a final regulation, whichever is earlier. The other provisions of the 1995 Amendments became effective upon their enactment on September 30, 1995, and the Board believes that its proposed changes to Regulation Z do not impose any additional disclosure requirements beyond those already required under the statute. Accordingly, the Board expects the proposed revisions to Regulation Z (other than the provision regarding the treatment of mortgage broker fees) to become effective 30 days after the final regulation is issued.

III. Section-by-Section Analysis

Subpart A—General

Section 226.2—Definitions and Rules of Construction

2(a) Definitions

2(a)(6)

The definition of the term ''business day'' in paragraph 2(a)(6) would be revised to clarify that for purposes of the rules implementing the Home Ownership and Equity Protection Act of 1994 in Subpart E of Regulation Z, the term ''business day'' has the same meaning as in the rescission rules in sections 226.15 and 226.23. The proposed revision also updates the list of legal public holidays to include the Birthday of Martin Luther King, Jr.

Section 226.4—Finance Charge

4(a)(1) Charges by Third Parties

Proposed paragraph 4(a)(1) reflects the general rule for third party charges currently contained in comment 4(a)–3 of the Official Staff Commentary.

4(a)(2) Special Rule; Closing Agent Charges

Proposed paragraph 4(a)(2) incorporates the substance of section 2(a) of the 1995 Amendments, which excludes from the finance charge, any fees charged by third-party closing agents provided that the creditor does not require the imposition of the charge or provision of the services, and does not retain any portion of the charge. The amendment is consistent with the existing interpretation in comment 4(a)–4 of the Official Staff Commentary.

4(a)(3) Special Rule; Mortgage Broker Fees

Proposed paragraph 4(a)(3) contains a new rule regarding the treatment of mortgage broker fees, to implement section 106(a)(6) of the TILA (15 U.S.C. § 1605(a)(6)). The rule requires that *all* fees charged by a mortgage broker and paid by the consumer be included in the finance charge, without regard to whether the fee is paid to the broker or to the lender for delivery to the broker. A fee charged by a mortgage broker will be excluded from the finance charge only if it is the type of fee that would also be excluded when it is charged by the creditor. Fees paid by the funding party to a broker as a ''yield spread premium,'' that are already included in the finance charge, either as interest or as points, should not be double counted.

4(b) Example of Finance Charge

4(b)(10) Debt Cancellation Fees

Proposed paragraph 4(b)(10) clarifies that fees charged by creditors in connection with debt cancellation agreements are considered finance charges. The conditions under which voluntary debt cancellation fees may be excluded from the finance charge are set forth in proposed paragraph 4(d)(3).

4(c) Charges Excluded From the Finance Charge

4(c)(7) Real-Estate Related Fees

4(c)(7)(ii)

Paragraph 4(c)(7)(ii) would be revised to implement the amendment to section 106(e)(2) of the TILA (15 U.S.C. 1605(e)(2)). Formerly, the TILA excluded fees for preparation of a ''deed, settlement statement, or other

documents'' from the finance charge, and the existing regulation clarified that the exclusion applied only to the preparation of ''similar documents.'' The regulation would be revised to reflect the new statutory language, which further clarifies that the documents must be ''loan-related.'' The Board believes that the amendment does not represent a substantive change from the current rule.

4(c)(7)(iii)

Paragraph 4(c)(7)(iii) would be revised by deleting the reference to appraisal fees, which would be addressed separately in revised paragraph 4(c)(7)(iv).

4(c)(7)(iv)

Paragraph 4(c)(7)(iv) would be redesignated as 4(c)(7)(v). Paragraph 4(c)(7)(iv) would be revised consistent with section 106(e)(5) of the TILA (15 U.S.C. 1605(e)(5)), which clarifies that fees related to property inspections conducted prior to closing, in order to check for pest infestation or flood hazards, may be excluded from the finance charge. The proposed revision is consistent with comment 4(c)(7)–3 of the Official Staff Commentary, which states that excluded fees are those charged solely in connection with the initial decision to extend credit. The exclusion does not apply to fees for services to be performed periodically during the term of the loan.

4(d) Insurance and Debt Cancellation Agreements

The Board proposes to amend Regulation Z by adding a provision regarding the requirements for disclosing the cost of debt cancellation agreements, which provide consumers with benefits similar to credit insurance. Under these agreements, generally in return for a fee, the creditor agrees to cancel all or part of any remaining debt in the event of a certain occurrence, such as the death, disability or unemployment of the consumer or the destruction or theft of goods securing the loan. The creditor may or may not purchase insurance to cover this risk.

During the past year, the Board received a significant number of inquiries concerning the proper treatment of fees paid for a form of debt cancellation agreement known as guaranteed automobile protection or ''GAP,'' which is sold in connection with motor vehicle loans. GAP agreements cancel the remaining debt when the vehicle securing the loan is stolen or destroyed and the settlement payment made by the consumer's primary automobile insurance is insufficient to pay the loan balance.

Debt cancellation fees are not specifically addressed in the existing regulation; however, under the current rules they would not receive uniform treatment in Truth in Lending disclosures. For example, in some states, charges for debt cancellation agreements may be considered credit insurance premiums. Regulation Z currently allows such fees to be excluded from the finance charge only if the agreement insures against the death, disability or loss of income of the borrower and certain disclosures are provided. On the other hand, fees for GAP coverage offered by a creditor, which does not protect against the types of risk covered in sections 226.4(d) (1) and (2), are always included in the finance charge, as are other types of debt cancellation fees in states where the agreements are not considered to be insurance.

Pursuant to its authority under section 105 of the TILA, the Board is proposing a rule that would specifically address debt cancellation fees and provide uniform treatment for their disclosure. The proposed rule would exclude debt cancellation fees from the finance charge if the consumer's purchase of the product is voluntary, the extension of credit is not conditioned on the purchase, and specified disclosures are provided to the consumer. This is consistent with the existing rule for credit life, health, and accident insurance.

4(d)(1) Voluntary Credit Insurance Premiums

Paragraph 4(d)(1)(i) would be modified consistent with existing comment 4(d)–1 of the Official Staff Commentary, to clarify that a disclosure that insurance coverage is not required by the creditor must be in writing.

4(d)(3) Debt cancellation fees

Proposed paragraph 4(d)(3) addresses the treatment of fees paid for GAP coverage and other debt cancellation agreements. The new provision closely follows the existing rule pertaining to credit insurance in section 226.4(d)(1), and would exclude fees for debt cancellation from the finance charge if the specified conditions are met. The provision would apply without regard to whether the debt cancellation agreement is considered to be insurance under state law.

Fees for GAP coverage must be disclosed according to this rule rather than the provisions in paragraph 4(d)(2). Even though GAP coverage is triggered by the loss of or damage to property, GAP agreements do not insure against such loss or damage. Instead they insure against the credit risk that remains if there is a balance due on the obligation after traditional property insurance benefits are exhausted.

4(e) Certain Security-interest Charges

4(e)(3) Taxes on Security Instruments

Proposed paragraph 4(e)(3) would be added consistent with section 106(d)(3) of the TILA (15 U.S.C. § 1605(d)(3)). The new provision would provide that taxes levied on security instruments or on documents evidencing indebtedness (''intangible property taxes''), that must be paid in order to record the security instrument, are excluded from the finance charge. The 1995 Amendments and proposed rule are consistent with existing comment 4(e)–1(i) of the Official Staff Commentary.

Subpart C—Closed-End Credit

Section 226.17—General Disclosure Requirements

17(a) Form of Disclosures

17(a)(1)

Footnote 38 in paragraph 17(a)(1) would be revised to include the disclosures relating to debt cancellation agreements among those that may be made together with or separately from the other required disclosures.

17(c) Basis of Disclosures and Use of Estimates

17(c)(2)

Paragraph 17(c)(2) would be redesignated as 17(c)(2)(i) and modified slightly to reflect the general rule that disclosures must be based on the best information reasonably available to the creditor at the time the disclosures are provided to the consumer. This is consistent with existing comment 17(c)(2)–1 of the Official Staff Commentary, which would be redesignated as comment 17(c)(2)(i)–1.

17(c)(2)(ii)

Proposed paragraph 17(c)(2)(ii) reflects the 1995 amendment to section 121(c) of the TILA (15 U.S.C. 1631(c)), which deals with the disclosure of per diem interest charges collected upon loan consummation.

Per diem interest, also known as ''odd-days interest,'' is the interest that will accrue between consummation and the first regularly-scheduled payment. Previously, the general requirement that TILA disclosures must be accurate at the time the disclosures are provided to consumers applied to the disclosure of per diem interest. Under the 1995 Amendments, a disclosure with respect

to the amount of per diem interest to be collected at consummation will be considered accurate if the disclosure is based on the information actually known to the creditor at the time the disclosure is prepared, even if the actual charges differ by the time disclosures are provided to the borrower. Creditors should exercise reasonable diligence in ascertaining the necessary information when preparing disclosures. This change is intended to eliminate the need to revise the TILA disclosures if a change in the closing date also changes the amount of the per diem interest that is paid at closing.

The 1995 Amendments state that this provision applies to ''any consumer credit transaction,'' although remarks by the Congressional sponsors suggest that it may have been intended to apply only to closed-end mortgage loans. The Board proposes to limit the provision to closed-end loans; the provision does not appear relevant to open-end lines of credit. Accordingly, the amended regulation would apply the new rule to any closed-end loan involving per diem interest charges. Comment is solicited on whether the statutory provision would have any applicability in open-end credit transactions.

17(f) Early Disclosures

Paragraph 17(f) would be revised for clarification and divided into paragraphs 17(f) (1) and (2). As revised, the rule more clearly reflects the interpretation presently contained in comment 17(f)–1 of the Official Staff Commentary. The revisions also clarify that the creditor's duty to provide new disclosures is determined by comparing the APR disclosed under section 226.18(e) with the APR disclosed in the consummated transaction, even though the actual APR determined in accordance with Regulation Z may differ.

Also, a new footnote 41 has been added to cross reference and distinguish this rule from the rule on redisclosures contained in section 226.19(a)(2). Section 226.19(a)(2), which only applies to certain residential mortgage transactions, provides additional leeway by allowing a creditor to make the new disclosures prior to consummation or settlement, whichever occurs later.

Section 226.18—Content of Disclosures

18(d) Finance Charge

Section 106(f) of the TILA (15 U.S.C. § 1605(f)) establishes a new tolerance for accuracy in disclosing the finance charge for closed-end loans secured by real property or dwellings. Section 226.18(d) has been revised and reorganized to incorporate this change.

18(d)(1) Mortgage Loans

Proposed paragraph 18(d)(1) provides a new finance charge tolerance applicable to mortgage loans consummated on or after September 30, 1995. For covered transactions, the disclosed finance charge will be considered accurate if it is understated by $100 or less or if the finance charge is overstated. The new tolerance applies to the disclosed finance charge as well as any disclosure affected by the finance charge, including the annual percentage rate (APR). The effect of the new finance charge tolerance on the disclosed APR is explained in more detail in connection with the proposed revisions to section 226.22(a).

18(d)(2) Other Credit

The existing tolerance for finance charge disclosures, currently in footnote 41, continues to apply to all other closed-end loans consummated on or after September 30, 1995, and has been moved into proposed paragraph 18(d)(2).

18(n) Insurance and Debt Cancellation Agreements

Paragraph 18(n) would be revised to include disclosures made in connection with debt cancellation agreements.

Section 226.19—Certain Residential Mortgage and Variable Rate Transactions

19(a)(2) Redisclosure Required

Paragraph 19(a)(2) would be revised to make it consistent with the revision made to section 226.17(f)(2). The change clarifies that a creditor's duty to provide new disclosures is determined by comparing the APR that was disclosed under section 226.18(e) with the APR disclosed in the consummated transaction.

Section 226.22—Determination of Annual Percentage Rate

22(a) Accuracy of Annual Percentage Rate

Paragraph 22(a) would be revised to add new paragraphs (a)(4) and (a)(5). The TILA contains tolerances for the APR, which are either one-quarter or one-eighth of one percent, depending on the type of transaction. These existing statutory APR tolerances are not altered by the 1995 Amendments, although the amendments create a tolerance for the finance charge disclosed for mortgage loans as well as ''*any disclosure affected by the finance charge.*'' Although this language could be viewed as applying only to numerical amounts for which there is no statutory tolerance (such as the amount financed) the Board is of the view that the 1995 Amendments should be interpreted broadly to include the APR as one of the ''affected disclosures.'' Otherwise, transactions in which the disclosed finance charge is misstated but considered accurate under the new tolerance might be subject to legal challenge based on the disclosed APR, which seems inconsistent with the legislative intent. For closed-end loans secured by real property or dwellings, the proposed revisions would establish two additional tolerances for accuracy in disclosing the APR when the disclosed finance charge is within the tolerances established by the 1995 Amendments.

22(a)(4) Mortgage Loans

Proposed paragraph 22(a)(4) provides an additional tolerance for APR disclosures in transactions where the finance charge is understated or overstated but is considered accurate under the 1995 Amendments. For example, in a secured home-improvement loan, if a creditor improperly omits a $100 fee from the finance charge, the understated finance charge would now be considered accurate under section 226.18(d)(1). Under paragraph 22(a)(4), the APR resulting from the understated finance charge would also be considered accurate, even if the disclosed APR falls outside of the existing tolerance of one-eighth of one percent provided under section 107(c) of the TILA. For purposes of determining a borrower's right to rescind a mortgage loan, an APR resulting from a finance charge that is considered accurate in accordance with the applicable rule in section 226.23(g) or (h)(2), would also be considered accurate.

22(a)(5) Additional Tolerance for Mortgage Loans

In light of the new APR tolerance established under the 1995 Amendments, the Board proposes to adopt an additional APR tolerance (not required by the statute), in section 226.22(a)(5). The purpose would be to avoid the anomalous result of imposing liability on a creditor for a disclosed APR that is incorrect but is *closer* to the actual APR than the APR that would be considered accurate under the statutory tolerance in paragraph 22(a)(4).

For instance, if the omission of a $100 fee from the finance charge would result in understatement of the finance charge and a disclosed APR that is understated by one-half of one percent, that APR would be considered accurate under

paragraph 22(a)(4), even though it is outside of the existing APR tolerance of one-eighth of one percent. Under proposed paragraph 22(a)(5), the disclosed APR would also be considered accurate if it is understated by *less* than one-half of one percent. Thus, if the actual APR in this example was 9.00 percent and the $100 omission would result in an APR of 8.50 that would be considered accurate under paragraph 22(a)(4), a disclosed APR of 8.75 percent would be within the tolerance in paragraph 22(a)(5). Similarly, if an overstated finance charge results in an overstated APR, the creditor would not be liable for an overstatement that is closer to the actual APR.

Under section 105 of the TILA, the Board is authorized to adopt exceptions to the TILA that will facilitate compliance. Proposed paragraph 22(a)(5) would treat as accurate, a disclosed APR that is more accurate than the one resulting from a misstated finance charge that is considered accurate under the 1995 Amendments. The Board believes that this rule will facilitate compliance with the TILA, and prevent disputes over errors that have no greater effect on consumers beyond the effects already contemplated by the statutory tolerances. The Board recognizes that this rule might allow a creditor to disclose an inaccurate APR that is not derived from either the actual or the disclosed finance charge. Presumably, this situation would not be common. On balance, however, the Board believes the proposed rule is consistent with the intent of the 1995 Amendments.

Section 226.23—Right of Rescission

23(b) Notice of Right To Rescind

Proposed paragraph 23(b)(2) implements amendments to TILA section 125 (15 U.S.C. 1635). Under the 1995 amendments, creditors will not be liable for the form of rescission notice they give to the consumer if the creditor uses the appropriate form published by the Board or a comparable notice. Proposed paragraph 23(b)(2) requires proper use of the model form approved by the Board or a comparable form. Creditors properly completing the appropriate form in Appendix H would be deemed in compliance with the regulation for those disclosures. The model form in Appendix H–9 has been revised slightly to ease compliance and clarify that it may be used in loan refinancings with the original creditor, without regard to whether the creditor is the holder of the note at the time of refinancing.

23(g) Tolerances for Accuracy

Proposed paragraph 23(g) would implement section 106(f)(2) of the TILA (15 U.S.C. § 1605(f)(2)), which creates separate finance charge tolerances that apply in determining whether a consumer may rescind a loan based on inaccurate TILA disclosures. These tolerances are intended to limit rescission as a remedy available to consumers for TILA disclosure violations. Under the rescission tolerances, the finance charge and other disclosures affected by the finance charge are deemed accurate if they do not vary from the actual finance charge by more than a certain amount; either one-half of one percent of the total amount of credit extended, or one percent of the total amount of credit extended, depending on the type of transaction.

The Board proposes to apply the rescission in section 106(f)(2) in addition to, rather than in lieu of, the general tolerances in section 106(f)(1). The Board believes that it is unlikely that the Congress intended to allow the rescission remedy to be invoked when the disclosures would otherwise be considered accurate under the general tolerance rules. As a result, when the rescission tolerance based on a percentage of the amount of credit extended is less than $100, the general $100 tolerance in section 106(f)(1) would apply. For example, in the case of a small home improvement loan, the one-half of one percent rescission tolerance would be less than $100 for loans under $20,000. In such cases, the $100 tolerance would apply in determining the borrower's right to rescind the transaction. The Board also proposes to apply the general rule in section 106(f)(1)(B), that overstated finance charges of any amount shall be treated as accurate, as the applicable rule in determining whether a consumer may rescind a loan.

The Board also proposes in paragraph (g), to interpret the statutory phrase ''total amount of credit extended'' to be the ''face amount of the note'' for purposes of calculating the rescission tolerances. For purposes of paragraph (g)(2), the Board interprets the statutory language ''no new consolidation'' to mean that this tolerance applies where the transaction does not involve the consolidation of an existing loan. The Board believes that this promotes ease of compliance and consistency.

23(h) Special Rules for Foreclosures

Proposed paragraph 23(h) implements section 125(i)(2) of the TILA (15 U.S.C. § 1635(i)(2)), which provides special rescission rules after a foreclosure action has been initiated. The Board interprets this provision in its context to apply only to closed-end credit; there does not appear to be any basis for applying it to open-end lines of credit. For example, the 1995 Amendments allow a consumer to rescind a loan in foreclosure if a mortgage broker fee was not properly disclosed; broker fees, however, are not generally associated with open-end lines of credit.

The special tolerances applicable to foreclosures are intended to provide additional consumer protection in light of the new finance charge tolerance that generally limits the consumer's right to rescind a closed-end mortgage loan. Once foreclosure is initiated, the consumer may rescind the loan if the finance charge is understated by more than $35, even though a larger tolerance would apply before foreclosure. Because open-end home equity loans currently have no tolerance for finance charge errors, applying the $35 foreclosure tolerance to open-end loans would result in less protection for consumers. The Board believes this result would be inconsistent with the intent of the special foreclosure rules.

Subpart E—Special Rules for Certain Mortgage Transactions

Section 226.31—General Rules

31(d) Basis of Disclosures and Use of Estimates

Paragraph 31(d) would be revised and reorganized, consistent with the revisions made to section 226.17(c).

31(d)(3)

Proposed paragraph 31(d)(3) would incorporate the new rule regarding the disclosure of per diem interest charges, consistent with the proposed amendment in section 226.17(c)(2)(ii). Under the 1995 Amendments, a disclosure with respect to per diem interest charges collected upon loan consummation will be considered accurate if the disclosure is based on the information actually known to the creditor at the time the disclosure is prepared. In preparing disclosures, creditors are expected to exercise reasonable diligence in ascertaining the necessary information. Proposed paragraph 31(d)(3) would clarify that the same rule applies to a disclosure made pursuant to Subpart E (such as the APR) that would be affected by the per diem interest charge.

31(g) Accuracy of Annual Percentage Rate

Paragraph 31(g) would be revised to clarify that a creditor may rely on the

APR tolerances provided in section 226.22 for purposes of determining whether a transaction is covered under section 226.32(a) and making the disclosures required by section 226.32(c).

Appendix H to Part 226—Closed-end Model Forms and Clauses

H–9 Rescission Model Form

The 1995 Amendments clarify that creditors will not be liable for the form of rescission notice they give to the consumer if the creditor uses the appropriate form published by the Board or a comparable notice. In order to ease compliance, model form H–9 has been revised slightly to clarify that it may be used in loan refinancings with the original creditor, without regard to whether the original creditor is the holder of the note at the time of refinancing. Creditors may, however, continue to use the original forms H–8 and H–9 as appropriate.

Supplement I—Official Staff Interpretations

The proposed revisions would conform the Official Staff Commentary consistent with the proposed amendments to Regulation Z.

IV. Form of Comment Letters

Comment letters should refer to Docket No. R–0927 and, when possible, should use a standard Courier typeface with a type size of 10 or 12 characters per inch. This will enable the Board to convert the text to machine-readable form through electronic scanning, and will facilitate automated retrieval of comments for review. Also, if accompanied by an original document in paper form, comments may be submitted on 3½ inch or 5¼ inch computer diskettes in any IBM-compatible DOS-based format.

The comment period ends on June 24, 1996. Normally, the Board provides a 60-day comment period, in keeping with the Board's policy statement on rulemaking (44 FR 3957, January 19, 1979). The proposed regulatory revisions implement changes in the law made by the 1995 Amendments and with the exception of one provision related to mortgage broker fees, the statutory amendments are already in effect. The amendments regarding the disclosure of mortgage broker fees will become effective on or before September 30, 1996. The Board believes that an abbreviated comment period is desirable to ensure that a final rule is in place as soon as possible to provide guidance to creditors affected by the new rules.

V. Regulatory Flexibility Analysis

In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C. § 603), the Board's Office of the Secretary has reviewed the proposed amendments to Regulation Z. Overall, the amendments are not expected to have any significant impact on small entities. The proposed regulatory revisions required to implement the 1995 Amendments clarify the existing disclosure requirements and ease compliance by providing new tolerances. Under the existing rules, fees charged in connection with debt cancellation agreements are generally treated as finance charges; the proposed rule allows creditors to exclude these fees from the finance charge if additional disclosures are provided to the consumer. A final regulatory flexibility analysis will be conducted after consideration of comments received during the public comment period.

VI. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. § 3501 *et seq.*), the Board has reviewed the proposed amendments under the authority delegated to the Board by the Office of Management and Budget. 5 CFR 1320 Appendix A.1. Comments on the collection or disclosure of information associated with this regulation should be sent to the Office of Management and Budget, Paperwork Reduction Project (7100–0199), Washington, DC 20503, with copies of such comments to be sent to Mary M. McLaughlin, Federal Reserve Board Clearance Officer, Division of Research and Statistics, Mail Stop 97, Board of Governors of the Federal Reserve System, Washington, DC 20551.

The respondents are individuals or businesses that regularly offer or extend consumer credit. The purpose of the TILA and Regulation Z is to promote the informed use of consumer credit by requiring creditors to disclose its terms and cost. Records must be retained by creditors for 24 months. The revisions to the requirements in this proposed regulation are found in 12 CFR 226.2, 226.4, 226.17, 226.18, 226.19, 226.22, 226.23, and 226.31.

The Board's Regulation Z applies to all types of creditors, not just state member banks. Under the Paperwork Reduction Act, however, the Federal Reserve accounts for the paperwork burden associated with Regulation Z only for state member banks. Any estimates of paperwork burden for institutions other than state member banks that would be affected by the proposed amendments would be provided by the federal agency or agencies that supervise those lenders.

The proposed changes are not expected to increase the ongoing annual burden of Regulation Z. There are 1,042 state member banks with an average frequency of 136,294 responses per bank each year. The current estimated burden for Regulation Z ranges from 5 seconds per response (for disclosures prior to opening a credit card account) to 30 minutes per response (for inclusion of information in an advertisement). The combined annual burden for all state member banks under Regulation Z is estimated to be 1,975,600 hours; based on an hourly cost of $20, the combined annual cost is estimated to be $39.5 million (an average of $37,920 per state member bank). Using the same hourly cost, the Federal Reserve estimates that there would be associated start up cost in the amount of $160 per respondent for changing disclosures (or disclosure-producing software) to include disclosures relating to voluntary debt cancellation agreements.

The disclosures made by creditors to consumers under Regulation Z are mandatory. Since the Federal Reserve does not collect any information, no issue of confidentiality arises. Disclosures relating to specific transactions or accounts are not publicly available.

Comments are invited on: (a) whether the proposed revision to Regulation Z is necessary for the proper performance of the Federal Reserve's functions; including whether the disclosed information has practical utility; (b) the accuracy of the Federal Reserve's estimate of the burden of the proposed disclosures, including the cost of compliance; (c) ways to enhance the quality, utility, and clarity of the information disclosures; and (d) ways to minimize the burden of information disclosures on respondents, including through the use of automated techniques or other forms of information technology.

An agency may not collect or sponsor the collection or disclosure of information, and an organization is not required to collect or disclose information unless a currently valid OMB control number is displayed. The OMB control number for Regulation Z is 7100–0199

List of Subjects in 12 CFR Part 226

Advertising, Banks, banking, Consumer protection, Credit, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Truth in lending.

Text of Proposed Revisions

Certain conventions have been used to highlight the proposed revisions to the regulation. New language is shown inside bold-faced arrows, while language that would be deleted is set off with bold-faced brackets.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR Part 226 as follows:

PART 226—TRUTH IN LENDING (REGULATION Z)

1. The authority citation for part 226 continues to read as follows:

Authority: 12 U.S.C. 3806; 15 U.S.C. 1604 and 1637(c)(5).

2. Section 226.2 would be amended by revising paragraph (a)(6) to read as follows:

§ 226.2 Definitions and rules of construction.

(a) *Definitions.* * * *

* * * * *

(6) *Business day* means a day on which the creditor's offices are open to the public for carrying on substantially all of its business functions. However, for purposes of rescission under §§ 226.15 and 226.23, fl and for purposes of § 226.31, fi the term means all calendar days except Sundays and the legal public holidays specified in 5 USC 6103(a), such as New Year's Day, fl the Birthday of Martin Luther King, Jr., fi Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.

* * * * *

3. Section 226.4 would be amended as follows:

a. Paragraph (a) would be revised;

b. New paragraph (b)(10) would be added;

c. A heading would be added to paragraph (c)(7), paragraph (c)(7) introductory text would be republished, paragraphs (c)(7)(ii) and (c)(7)(iii) would be revised, paragraph (c)(7)(iv) would be redesignated as paragraph (c)(7)(v) and republished, and a new paragraph (c)(7)(iv) would be added;

d. Paragraph (d) heading would be revised, paragraph (d)(1) heading and introductory text and paragraph (d)(1)(i) would be revised, and a new paragraph (d)(3) would be added.

e. A new paragraph (e)(3) would be added.

The revisions and additions would read as follows:

§ 226.4 Finance charge.

(a) *Definition.* The finance charge is the cost of consumer credit as a dollar amount. It includes any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or a condition of the extension of credit. It does not include any charge of a type payable in a comparable cash transaction.

fl (1) *Charges by third parties.* The finance charge includes fees and amounts charged by someone other than the creditor (unless otherwise excluded under this section) if the creditor requires the use of the third party as a condition of or incident to the extension of credit (even if the consumer can choose the third party) or retains the charge.

(2) *Special rule; closing agent charges.* Fees charged by a third-party closing agent are finance charges only if the creditor requires the particular services for which the consumer is charged or requires the imposition of the charge, or retains any portion of the charge.

(3) *Special rule; mortgage broker fees.* Fees charged by a mortgage broker (including fees paid directly to the broker or paid to the creditor for delivery to the broker) are finance charges even if the creditor does not require the consumer to use a mortgage broker and the creditor does not retain any portion of the charge. fi

(b) *Example of finance charge* * * *

* * * * *

fl (10) *Debt cancellation fees.* Premiums or other charges paid in connection with a debt cancellation agreement, without regard to whether the agreement is insurance under applicable law. fi

(c) *Charges excluded from the finance charge.* * * *

* * * * *

(7) fl *Real-estate related fees.* fi The following fees in a transaction secured by real property or in a residential mortgage transaction, if the fees are bona fide and reasonable in amount:

* * * * *

(ii) Fees for preparing fl loan-related documents, such as fi deeds, mortgages, and reconveyance**[**,**]** fl or fi settlement **[**, and similar**]** documents.

(iii) Notary **[**, appraisal,**]** and credit report fees.

(iv) fl Property appraisal fees, including fees related to any pest infestation or flood hazard inspections conducted prior to closing. fi

fl (v) fi Amounts required to be paid into escrow or trustee accounts if the amounts would not otherwise be included in the finance charge.

* * * * *

(d) *Insurance* fl *and debt cancellation agreements* fi. (1) fl *Voluntary credit insurance premiums.* fi Premiums for credit life, accident, health or loss of income insurance may be excluded from the finance charge if the following conditions are met:

(i) The insurance coverage is not required by the creditor, and this fact is disclosed fl in writing fi.

* * * * *

fl (3) *Debt cancellation fees.* Charges or premiums paid in connection with an agreement that provides for cancellation of all or part of the debtor's liability for amounts exceeding the value of the collateral securing the debtor's obligation, or in connection with any other debt cancellation agreement, may be excluded from the finance charge, without regard to whether the agreement is insurance, if the following conditions are met:

(i) The agreement or coverage is not required by the creditor, and this fact is disclosed in writing.

(ii) The fee or premium for the initial term of coverage is disclosed. If the term of coverage is less than the term of the credit transaction, the term of coverage also shall be disclosed. The fee or premium may be disclosed on a unit-cost basis only in open-end credit transactions, closed-end credit transactions by mail or telephone under 226.17(g), and certain closed-end credit transactions involving an insurance plan that limits the total amount of indebtedness subject to coverage.

(iii) The consumer signs or initials an affirmative written request for the coverage after receiving the disclosures specified in this paragraph. Any consumer in the transaction may sign or initial the request. fi

(e) *Certain security interest charges.* * * *

* * * * *

fl (3) *Taxes on security instruments.* Any tax levied on security instruments or on documents evidencing indebtedness if the payment of such taxes is a precondition for recording the instrument securing the evidence of indebtedness. fi

* * * * *

4. Section 226.17 would be amended as follows:

a. In paragraph (a)(1), footnote 38 would be revised;

b. Paragraph (c)(2) would be redesignated as paragraph (c)(2)(i) and revised, and paragraph (c)(2)(ii) would be added;

c. Paragraph (f) would be revised.

The revisions and additions would read as follows:

§ 226.17 General disclosure requirements.

(a) *Form of disclosures.* (1)
* * * [38] * * *
* * * * *

(c) *Basis of disclosures and use of estimates.* * * *

(2) fl (i) fi If any information necessary for an accurate disclosure is unknown to the creditor, it shall make the disclosure based on the best information reasonably available fl at the time the disclosure is provided to the consumer, fi and shall state that the disclosure is an estimate.

fl (ii) For a transaction in which a portion of the interest is determined on a per diem basis and collected upon consummation, any disclosure with respect to the per diem interest shall be deemed to be accurate if the disclosure is based on information actually known to the creditor at the time that the disclosure documents are prepared for consummation of the transaction. fi
* * * * *

(f) *Early disclosures.* If disclosures are given before the date of consummation of a transaction and a subsequent event makes them inaccurate, fl before consummation [39] fi the creditor shall disclose [the changed terms before consummation]

fl (1) any changed term that was not based on an estimate in accordance with § 226.17(c)(2) and labelled as such;

(2) all changed terms, fi if the annual percentage rate fl disclosed fi in the consummated transaction varies from the annual percentage rate disclosed under § 226.18(e) by more than ⅛ of 1 percentage point in a regular transaction, or more than ¼ of 1 percentage point in an irregular transaction, as defined in § 226.22(a).
* * * * *

5. Section 226.18 would be amended as follows:

a. Footnote 41 in paragraph (d) would be removed and paragraph (d) introductory text would be republished;

b. New paragraphs (d)(1) and (d)(2) would be added;

c. Footnotes 39 and 40 in paragraph (c) would be redesignated as footnotes 40 and 41 respectively; and

d. Paragraph (n) would be revised.

The revisions and additions would read as follows:

§ 226.18 Content of disclosures.
* * * * *

(d) *Finance charge.* The *finance charge,* using that term, and a brief description such as ''the dollar amount the credit will cost you.'' [41]

fl (1) *Mortgage loans.* In a transaction secured by real property or a dwelling, the disclosed finance charge and other disclosures affected by the disclosed finance charge (such as the amount financed and the annual percentage rate) shall be treated as accurate if the amount disclosed as the finance charge:

(i) is greater than the amount required to be disclosed; or

(ii) is understated by no more than $100.

(2) *Other credit.* In any other transaction, the amount disclosed as the finance charge shall be treated as accurate if it is not more than $5 above or below the amount required to be disclosed in a transaction involving an amount financed of $1,000 or less, or not more than $10 above or below the amount required to be disclosed in a transaction involving an amount financed of more than $1,000. fi
* * * * *

(n) *Insurance* fl and debt cancellation agreements fi . The items required by § 226.4(d) in order to exclude certain insurance premiums fl and debt cancellation fees fi from the finance charge.
* * * * *

6. Section 226.19 would be amended by revising paragraph (a)(2) to read as follows:

§ 226.19 Certain residential mortgage and variable-rate transactions.

(a) * * *

(2) *Redisclosure required.* If the annual percentage rate fl disclosed fi in the consummated transaction varies from the annual percentage rate disclosed under § 226.18(e) by more than ⅛ of 1 percentage point in a regular transaction or more than ¼ of 1 percentage point in an irregular transaction, as defined in § 226.22, the creditor shall disclose the changed terms no later than consummation or settlement.
* * * * *

7. Section 226.22 would be amended by adding new paragraphs (a)(4) and (a)(5) to read as follows:

§ 226.22 Determination of annual percentage rate.

(a) *Accuracy of annual percentage rate.* * * *
* * * * *

fl (4) *Mortgage loans.* If the annual percentage rate disclosed in a transaction secured by real property or a dwelling varies from the actual rate determined in accordance with paragraph (a)(1) of this section, the disclosed annual percentage rate shall be considered accurate if:

(i) It is the rate resulting from the disclosed finance charge; and

(ii) The disclosed finance charge would be considered accurate under § 226.18(d)(1) or § 226.23 (g) or (h).

(5) *Additional tolerance for mortgage loans.* In a transaction secured by real property or a dwelling, if the disclosed finance charge is calculated incorrectly but considered accurate under § 226.18(d)(1) or § 226.23 (g) or (h), the disclosed annual percentage rate shall be considered accurate:

(i) If the disclosed finance charge is understated, and the disclosed annual percentage rate is also understated but is closer to the actual annual percentage rate than the rate that would be considered accurate under paragraph (a)(4) of this section;

(ii) If the disclosed finance charge is overstated, and the disclosed annual percentage rate is also overstated but is closer to the actual annual percentage rate than the rate that would be considered accurate under paragraph (a)(4) of this section. fi
* * * * *

8. Section 226.23 would be amended as follows:

a. Paragraphs (b)(1) through (b)(5) would be redesignated as paragraphs (b)(1)(i) through (b)(1)(v);

b. Paragraph (b) would be redesignated as paragraph (b)(1) and republished;

c. A new paragraph (b)(2) would be added; and

d. New paragraphs (g) and (h) would be added.

The revisions and additions would read as follows:

§ 226.23 Right of rescission.
* * * * *

(b) fl (1) fi *Notice of right to rescind.* In a transaction subject to rescission, a creditor shall deliver two copies of the notice of the right to rescind to each consumer entitled to rescind. The notice shall be on a separate document that identifies the transaction and shall clearly and conspicuously disclose the following:

---

[38] The following disclosures may be made together fl with fi or separately from other required disclosures: the creditor's identity under § 226.18(a), the variable rate example under § 226.18(f)(4), insurance fl or debt cancellation agreements fi under § 226.18(n), and certain security interest charges under § 226.18(o).

fl [39] For certain residential mortgage transactions, § 226.19(a)(2) permits redisclosure no later than consummation or settlement, whichever is later. fi

[41] The finance charge shall be considered accurate if it is not more than $5 above or below the exact finance charge in a transaction involving an amount financed of $1,000 or less, or not more than $10 above or below the exact finance charge in a transaction involving an amount financed of more than $1,000.]

[(1)] fl (i) fi The retention or acquisition of a security interest in the consumer's principal dwelling.

[(2)] fl (ii) fi The consumer's right to rescind the transaction.

[(3)] fl (iii) fi How to exercise the right to rescind, with a form for that purpose, designating the address of the creditor's place of business.

[(4)] fl (iv) fi The effects of rescission, as described in paragraph (d) of this section.

[(5)] fl (v) fi The date the rescission period expires.

fl (2) *Proper form of notice.* To satisfy the disclosure requirements of paragraph (b)(1) of this section, the creditor shall provide a notice that conforms with the model forms in Appendix H of this part, as appropriate, or a notice that is substantially similar. fi

* * * * *

fl (g) *Tolerances for accuracy.* (1) Except as provided in paragraphs (g)(2) and (h)(2) of this section, the finance charge and other disclosures affected by the finance charge (such as the amount financed and the annual percentage rate) shall be considered accurate for purposes of this section if the disclosed finance charge is:

(i) Greater than the amount required to be disclosed; or

(ii) Understated by no more than ½ of one percent of the face amount of the note or $100, whichever is greater.

(2) In a refinancing of a residential mortgage transaction (other than a transaction covered by § 226.32) with a creditor where no new money is advanced and there is no consolidation of an existing loan, the finance charge and other disclosures affected by the finance charge (such as the amount financed and the annual percentage rate) shall be considered accurate for purposes of this section if the disclosed finance charge is:

(i) Greater than the amount required to be disclosed; or

(ii) Understated by no more than one percent of the face amount of the note or $100, whichever is greater.

(h) *Special rules for foreclosures*—(1) *Right to rescind.* After the initiation of a foreclosure on the consumer's principal dwelling which secures the credit obligation, the consumer shall have the right to rescind the transaction if:

(i) A mortgage broker fee was not included in the finance charge, if required by the laws and regulations in effect at the time of consummation; or

(ii) The creditor did not provide the appropriate form of notice, in accordance with Appendix H of this part, or a substantially similar notice.

(2) *Tolerance for disclosures.* After the initiation of foreclosure, the finance charge and other disclosures affected by the finance charge (such as the amount financed and the annual percentage rate) shall be considered accurate for purposes of this section if the disclosed finance charge is:

(i) Greater than the amount required to be disclosed; or

(ii) Understated by no more than $35. fi

9. Section 226.31 would be amended by revising paragraphs (d) and (g) as follows:

§ 226.31 General rules.

* * * * *

(d) *Basis of disclosures and use of estimates.* fl (1) fi Disclosures shall reflect the terms of the legal obligation between the parties.

fl (2) fi If any information necessary for accurate disclosure is unknown to the creditor, the creditor shall make the disclosure based on the best information reasonably available at fl the time the disclosures are provided fi and shall state clearly that the disclosure is an estimate.

fl (3) For a transaction in which a portion of the interest is determined on a per diem basis and collected upon consummation, any disclosure with respect to the per diem interest shall be deemed to be accurate if the disclosure is based on the information actually known to the creditor at the time that the disclosure documents are prepared for consummation of the transaction. fi

* * * * *

(g) *Accuracy of annual percentage rate.* For purposes of § 226.32, the annual percentage rate shall be considered accurate fl , and may be used in determining whether a transaction is covered by § 226.32, fi if it is accurate according to the requirements and within the tolerances set forth in § 226.22.

10. In Part 226, Appendix H is amended by revising the entry for H–9 Rescission Model Form in the contents listing at the beginning of the appendix and the H–9 Rescission Model Form to read as follows:

Appendix H to Part 226—Closed-end Model Forms and Clauses

* * * * *

H–9—Rescission Model Form (Refinancing[)] fl with Original Creditor) fi (§ 226.23)

* * * * *

H–9—Rescission Model Form (Refinancing[)] fl with Original Creditor) fi

Notice of Right To Cancel

Your Right To Cancel

You are entering into a new transaction to increase the amount of credit provided to you. [We acquired a [mortgage/lien/security interest] [on/in] your home under the original transaction and will retain that [mortgage/lien/security interest] in the new transaction.] fl Your home is the security for this new transaction. fi You have a legal right under federal law to cancel the new transaction, without cost, within three business days from whichever of the following events occurs last:

(1) The date of the new transaction, which is _____; or

(2) The date you received your new Truth in Lending disclosures; or

(3) The date you received this notice of your right to cancel.

If you cancel the new transaction, your cancellation will apply only to the increase in the amount of credit. It will not affect the amount that you presently owe or the [mortgage/lien/security interest] we already have [on/in] your home. If you cancel, the [mortgage/lien/security interest] as it applies to the increased amount is also cancelled. Within 20 calendar days after we receive your notice of cancellation of the new transaction, we must take the steps necessary to reflect the fact that our [mortgage/lien/security interest] [on/in] your home no longer applies to the increase of credit. We must also return any money you have given to us or anyone else in connection with the new transaction.

You may keep any money we have given you in the new transaction until we have done the things mentioned above, but you must then offer to return the money at the address below. If we do not take possession of the money within 20 calendar days of your offer, you may keep it without further obligation.

How To Cancel

If you decide to cancel the new transaction, you may do so by notifying us in writing, at (creditor's name and business address).

You may use any written statement that is signed and dated by you and states your intention to cancel, or you may use this notice by dating and signing below. Keep one copy of this notice because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice no later than midnight of _____ (date) (or midnight of the third business day following the latest of the three events listed above).

If you send or deliver your written notice to cancel some other way, it must be

delivered to the above address no later than that time.

I Wish to Cancel

_____

Consumer's Signature

_____

Date

Supplement I—[Amended]

11. In Supplement I to Part 226, under *Section 226.4—Finance Charge*, under *4(a) Definition*, paragraph 3. ii. would be removed.

12. In Supplement I to Part 226, under *Section 226.17—General Disclosure Requirements*, under *17(c) Basis of disclosures and use of estimates*, *Paragraph 17(c)(2)* would be redesignated as *Paragraph 17(c)(2)(i):*

Supplement I—Official Staff Interpretations

* * * * *

Section 226.17—General Disclosure Requirements

* * * * *

17(c) Basis of Disclosures and Use of Estimates

* * * * *

Paragraph 17(c)(2) fl *(i).* fi

* * * * *

13. In Supplement I to Part 226, under *Section 226.18—Content of Disclosures*, under *18(d) Finance charge*, paragraph 2 would be removed.

14. In Supplement I to Part 226, under *Section 226.23—Right of Rescission*, under *23(b) Notice of right to rescind*, the first sentence of paragraph 3 would be revised to read as follows:

* * * * *

Section 226.23—right of rescission

* * * * *

23(b) Notice of right to rescind.

* * * * *

3. *Content.* The notice must include all of the information outlined in Section 226.23(b)(1) fl (i) through (v) fi ❚through 5❚. * * *

* * * * *

By order of the Board of Governors of the Federal Reserve System, May 15, 1996.

William W. Wiles,

Secretary of the Board

[FR Doc. 96–12685 Filed 5–23–96; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 344

RIN 3064–AB74

Recordkeeping and Confirmation Requirements for Securities Transactions

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is considering whether and how to amend its regulations governing recordkeeping and confirmation requirements for securities transactions by state nonmember banks. The agency's present regulation was adopted in 1979 and has remained essentially unchanged since that time. The FDIC is undertaking a review of this regulation with the goal of modernizing its requirements to, among other things, reflect the supervisory role played by other Federal agencies charged with supervision of securities transactions. The agency is soliciting comment on a number of issues that have been identified. The responses will be used to aid the FDIC in developing a proposed amendment for public comment.

DATES: Comments must be received by June 24, 1996.

ADDRESSES: Comments should be directed to Jerry L. Langley, Executive Secretary, Attention: Room F–402, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. Comments may be delivered to room F–402, 1776 F Street, NW, Washington, DC 20429, on business days between 8:30 am and 5:00 pm or sent by facsimile transmission to FAX number 202/898–3838. Internet: Comments@FDIC.gov. Comments will be available for inspection and photocopying in the FDIC Public Information Center, room 100, 801 17th Street, NW, Washington, DC 20429, between 9:00 am and 5:00 pm on business days.

FOR FURTHER INFORMATION CONTACT: Curtis Vaughn, Examination Specialist, Division of Supervision, (202) 898–6759; John Harvey, Review Examiner (Trust), Division of Supervision (202) 898–6762; Patrick J. McCarty, Counsel, Legal Division (202) 898–8708; or Gerald Gervino, Senior Attorney, Legal Division (202) 898–3723. Federal Deposit Insurance Corporation, 550 17th St., N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

Background

Section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI Act)

The FDIC is conducting a systematic review of its regulations and written policies. Section 303(a) of the CDRI Act (12 U.S.C. 4803(a)) requires that each Federal banking agency review its regulations to streamline them to improve efficiency, reduce unnecessary costs and eliminate unwarranted constraints on credit availability. Section 303(a) also requires the Federal banking agencies to work jointly to make uniform all regulations and guidelines implementing common statutory or supervisory policies. As part of the section 303 process, the FDIC published in December of 1995 a notice in the Federal Register describing the section 303 requirements and inviting the general public and interested parties to comment on FDIC regulations and policy statements. 60 FR 62345 (December 6, 1995).

On July 24, 1979 the FDIC and the other Federal banking agencies promulgated regulations addressing recordkeeping and confirmation requirements for securities transactions effected by banks. See 44 FR 43261 (July 24, 1979) (FDIC), 44 FR 43252 (July 24, 1979 (OCC) and 44 FR 43258 (July 24, 1979) (FRB). These regulations were, and are, virtually identical. With the exception of two amendments, the FDIC's part 344 has remained unchanged since it was promulgated in 1979. See 45 FR 12777 (February 27, 1980), 60 FR 7111 (February 7, 1995).

The FDIC wishes to review its recordkeeping and confirmation requirements for securities transactions in part 344 with the purposes of section 303 of the CDRI in mind. The Office of the Comptroller of the Currency (OCC) and the Board of Governors of the Federal Reserve System (FRB) have already proposed amendments to their regulations concerning recordkeeping and confirmation requirements for securities transactions by national and state member banks, respectively. See 60 FR 66517 (December 22, 1995) and 60 FR 66759 (December 26, 1995). Before drafting and publishing a proposed regulation, the FDIC wishes to receive public comment on several basic issues underlying the purposes of part 344. The FDIC requests comments at this stage of regulatory review to assist development of a specific proposal.