

(c) *Cash in lieu of donated foods.* In accordance with the Richard B. Russell National School Lunch Act, and with 7 CFR part 226, the State administering agency must determine whether child care and adult care institutions participating in CACFP wish to receive donated foods or cash in lieu of donated foods, and ensure that they receive the preferred form of assistance. The State administering agency must inform the distributing agency (if a different agency) which institutions wish to receive donated foods and must ensure that such foods are provided to them. However, if the State administering agency, in consultation with the distributing agency, determines that distribution of such foods would not be cost-effective, it may, with the concurrence of FNS, provide cash payments to the applicable institutions instead.

(d) *Use of donated foods in a contract with a food service management company.* A child care or adult care institution may use donated foods in a contract with a food service management company to conduct its food service. The contract must meet the requirements in Subpart D of this part with respect to donated foods, and must also meet requirements in 7 CFR part 226 and 7 CFR parts 3016 or 3019, as applicable, with respect to the procurement of such contracts.

(e) *Applicability of other requirements in this subpart to CACFP.* The requirements in this subpart relating to the ordering, storage and inventory management, and use of donated foods in NSLP, also apply to CACFP. However, in accordance with 7 CFR part 226, a child care or adult care institution that uses donated foods to prepare and provide meals to other such institutions is considered a food service management company.

#### **§ 250.62 Summer Food Service Program (SFSP).**

(a) *Distribution of donated foods in SFSP.* The Department provides donated foods in SFSP to distributing agencies, which provide them to eligible service institutions participating in SFSP for use in serving nutritious meals to needy children primarily in the summer months, in their nonprofit food service programs. Distributing agencies and service institutions in SFSP must also adhere to Federal regulations in 7 CFR part 225, as applicable.

(b) *Types and quantities of donated foods distributed.* The distributing agency receives donated foods available under Section 6 and Section 14 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755 and 1762),

and may also receive donated foods under Section 32 (7 U.S.C. 612c), Section 416 (7 U.S.C. 1431), or Section 709(7 U.S.C. 1446a-1), as available, for distribution to eligible service institutions participating in SFSP. Section 6 donated foods are provided to distributing agencies in accordance with the number of meals served in the State in the previous school year that are eligible for donated food support, in accordance with 7 CFR part 225.

(c) *Distribution of donated foods to service institutions in SFSP.* The distributing agency provides donated food assistance to eligible service institutions participating in SFSP based on the number of meals served that are eligible for donated food support, in accordance with 7 CFR part 225.

(d) *Use of donated foods in a contract with a food service management company.* A service institution may use donated foods in a contract with a food service management company to conduct the food service. The contract must meet the requirements in Subpart D of this part with respect to donated foods, and must also meet requirements in 7 CFR part 225 and 7 CFR parts 3016 or 3019, as applicable, with respect to the procurement of such contracts.

(e) *Applicability of other requirements in this subpart to SFSP.* The requirements in this subpart relating to the ordering, storage and inventory management, and use of donated foods in NSLP, also apply to SFSP.

Dated: July 31, 2008.

**Nancy Montanez Johnner,**

*Under Secretary, Food, Nutrition, and Consumer Services.*

[FR Doc. E8-18230 Filed 8-7-08; 8:45 am]

**BILLING CODE 3410-30-P**

## **FEDERAL RESERVE SYSTEM**

### **12 CFR Part 226**

**[Regulation Z; Docket No. R-1320]**

#### **Truth in Lending**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule; staff commentary.

**SUMMARY:** The Board is publishing a final rule amending the staff commentary that interprets the requirements of Regulation Z (Truth in Lending). The Board is required to adjust annually the dollar amount that triggers requirements for certain home mortgage loans bearing fees above a certain amount. The Home Ownership and Equity Protection Act of 1994 (HOEPA) sets forth rules for home-

secured loans in which the total points and fees payable by the consumer at or before loan consummation exceed the greater of \$400 or 8 percent of the total loan amount. In keeping with the statute, the Board has annually adjusted the \$400 amount based on the annual percentage change reflected in the Consumer Price Index that is in effect on June 1. The adjusted dollar amount for 2009 is \$583. This adjustment does not affect the new rules for “higher-priced mortgage loans” adopted by the Board in July 2008.

**EFFECTIVE DATE:** January 1, 2009.

#### **FOR FURTHER INFORMATION CONTACT:**

Dana Miller, Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452-3667. For the users of Telecommunications Device for the Deaf (“TDD”) only, contact (202) 263-4869.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

The Truth in Lending Act (TILA; 15 U.S.C. 1601-1666j) requires creditors to disclose credit terms and the cost of consumer credit as an annual percentage rate. The act requires additional disclosures for loans secured by a consumer's home, and permits consumers to cancel certain transactions that involve their principal dwelling. TILA is implemented by the Board's Regulation Z (12 CFR part 226). The Board's official staff commentary (12 CFR part 226 (Supp. I)) interprets the regulation, and provides guidance to creditors in applying the regulation to specific transactions.

HOEPA was contained in the Riegle Community Development and Regulatory Improvement Act of 1994 and was enacted as an amendment to TILA. Public Law 103-325, 108 Stat. 2160 (60 FR 15463). In 1995, the Board amended Regulation Z to implement HOEPA. These amendments, contained in §§ 226.32 and 226.34 of the regulation, impose substantive limitations and additional disclosure requirements on certain closed-end home mortgage loans bearing rates or fees above a certain percentage or amount. As enacted, the statute requires creditors to comply with HOEPA's requirements if the total points and fees payable by the consumer at or before loan consummation exceed the greater of \$400 or 8 percent of the total loan amount. The statute requires the Board to adjust the \$400 figure annually on January 1 based on the annual percentage change in the Consumer Price Index (CPI) that was reported on the preceding June 1. 15 U.S.C.

1602(aa)(3) and 12 CFR 226.32(a)(1)(ii). The Board adjusted the \$400 amount to \$561 for the year 2008.

The Bureau of Labor Statistics publishes consumer-based indices monthly, but does not report a CPI change on June 1; adjustments are reported in the middle of each month. The Board uses the CPI-U index, which is based on all urban consumers and represents approximately 87 percent of the U.S. population, as the index for adjusting the \$400 dollar figure. The adjustment to the CPI-U index reported by the Bureau of Labor Statistics on May 14, 2008, was the CPI-U index in effect on June 1, and reflects the percentage increase from April 2007 to April 2008. The adjustment to the \$400 figure below reflects a 3.94 percent increase in the CPI-U index for this period and is rounded to whole dollars for ease of compliance.

## II. Adjustment and Commentary Revision

Effective January 1, 2009, for purposes of determining whether a home mortgage transaction is covered by 12 CFR 226.32 (based on the total points and fees payable by the consumer at or before loan consummation), a loan is covered if the points and fees exceed the greater of \$583 or 8 percent of the total loan amount. Comment 32(a)(1)(ii)-2, which lists the adjustments for each year, is amended to reflect the dollar adjustment for 2009. Because the timing and method of the adjustment is set by statute, the Board finds that notice and public comment on the change are unnecessary.

This adjustment is being made pursuant to TILA section 103(aa)(3). In July 2008, the Board used its authority in TILA section 129(l)(2) to amend Regulation Z to prohibit certain acts and practices in connection with "higher-priced mortgage loans." These additional protections and the definition of "higher-priced mortgage loans" are contained in section 226.35 of Regulation Z. The adjustment being published today pursuant to section 103(aa) does not affect the new rules for "higher-priced mortgage loans" adopted by the Board in section 226.35.

## III. Regulatory Flexibility Analysis

The Board certifies that this amendment will not have a substantial effect on regulated entities because the only change is to raise the threshold for transactions requiring HOEPA disclosures.

## List of Subjects in 12 CFR Part 226

Advertising, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Truth in lending.

■ For the reasons set forth in the preamble, the Board amends Regulation Z, 12 CFR part 226, as set forth below:

## 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. In Supplement I to part 226, under *Section 226.32—Requirements for Certain Closed-End Home Mortgages*, under Paragraph 32(a)(1)(ii), paragraph 2.xiv. is added to read as follows:

### Supplement I to Part 226—Official Staff Interpretations

\* \* \* \* \*

### Subpart E—Special Rules for Certain Home Mortgage Transactions

\* \* \* \* \*

#### *Section 226.32—Requirements for Certain Closed-End Home Mortgages*

##### *32(a) Coverage*

\* \* \* \* \*

##### *Paragraph 32(a)(1)(ii)*

\* \* \* \* \*

##### *2. Annual adjustment of \$400 amount.*

\* \* \* \* \*

xiv. For 2009, \$583, reflecting a 3.94 percent increase in the CPI-U from June 2007 to June 2008, rounded to the nearest whole dollar.

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division of Consumer and Community Affairs under delegated authority.

Dated: August 5, 2008.

**Jennifer J. Johnson,**

*Secretary of the Board.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

[USCG-2008-0785]

### Drawbridge Operation Regulations; Shrewsbury River, Route 36 Bridge, Highlands, NJ, Schedule Change

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations; request for comments.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Route 36 Bridge, across the Shrewsbury River, mile 1.8, at Highlands, New Jersey. This deviation will test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed. This deviation will allow the bridge to open on signal for all marine traffic once an hour on the hour between 4 p.m. and 7 p.m. on weekends and holidays.

**DATES:** This deviation is effective from 4 p.m. on August 2, 2008, through 7 p.m. on September 1, 2008. Comments must reach the Coast Guard on or before November 1, 2008.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG-2008-0785 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online:* <http://www.regulations.gov>.

(2) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building ground floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(3) *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366-9329.

(4) *Fax:* (202) 493-2251.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary Kassof, Project Officer, First Coast Guard District, (212) 668-7165.

If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

**SUPPLEMENTARY INFORMATION:**