FEDERAL RESERVE BANK OF NEW YORK

[Circular No. **9971**
December 18, 1985]

REGULATIONS E AND Z

Request for Comment on Proposed Changes in the Official Staff Commentaries

To All Depository Institutions, and Others Concerned, in the Second Federal Reserve District:

The following statement has been issued by the Board of Governors of the Federal Reserve System:

The Federal Reserve Board has issued for public comment proposed changes to the official staff commentary to Regulation E (Electronic Fund Transfers) and Regulation Z (Truth in Lending).

These proposed revisions address questions that have arisen about the regulations. Comment is requested by February 7, 1986.

Printed below is the text of the proposals, which have been reprinted from the *Federal Registers* of December 11 and 12, 1985. Comments thereon should be submitted by February 7, 1986, and may be sent to our Regulations Division.

E. GERALD CORRIGAN,
President.

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; EFT-2]

Electronic Fund Transfers; Proposed Update to Official Staff Commentary

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed official staff interpretation.

SUMMARY: The Board is publishing for comment proposed changes to the official staff commentary to Regulation E (Electronic Fund Transfers). The commentary applies and interprets the requirements of Regulation E and is a substitute for individual staff interpretations of the regulation. The proposed revisions address questions that have arisen about the regulation.

DATE: Comments must be received on or before February 7, 1986.

ADDRESS: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, or delivered to Room B-2223, 20th and C Streets NW., Washington, DC between 8:45 a.m. and 5:15 p.m. weekdays. Comments should include a reference to EFT-2. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Gerald P. Hurst or John C. Wood, Senior Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3667 or (202) 452-2412, or Joy W. O'Connell, Telecommunications Device for the Deaf (TDD) at (202) 452-3224.

SUPPLEMENTARY INFORMATION: (1) *General.* The Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq.*) governs any transfer of funds that is electronically initiated and that debits or credits a consumer's account. This statute is implemented by the Board's Regulation E (12 CFR Part 205). Effective September

24, 1981, an official staff commentary (EFT–2, Supp. II to 12 CFR Part 205) was published to interpret the regulation. The commentary is designed to provide guidance to financial institutions in applying the regulation to specific situations. The commentary is updated periodically to address significant questions that arise. There have been three updates so far; these were published on April 6, 1983 (48 FR 14880), October 18, 1984 (49 FR 40794), and April 3, 1985 (50 FR 13180). This notice contains the proposed fourth update. It is expected that it will be adopted in final form in March 1986.

(2) *Proposed revisions.* Proposed question 3–7.5 responds to several inquiries as to whether requiring payment by preauthorized electronic fund transfers (EFTs) as part of a biweekly mortgage program would violate the compulsory use prohibition in section 913 of the Electronic Fund Transfer Act (15 U.S.C. 1693k(1)). Question 3–7.5 would make clear that such a program does not violate the compulsory use prohibition when the program is not the only credit option offered by the creditor and the program provides a cost-related incentive for repayment by EFTs.

Proposed question 10–18.75 responds to numerous requests that the staff further clarify the statutory and regulatory provisions requiring preauthorized EFTs to be "authorized by the consumer only in writing." (15 U.S.C. 1693e(a) and 12 CFR 205.10(b)). Specifically, the staff has been asked whether the requirement is met by a payee signing a written authorization as the consumer's agent, based on the consumer's oral authorization of the preauthorized EFTs during a taped telephone conversation. Although the staff believes that existing question 10–18.5 can be viewed as addressing this situation, question 10–18.75 would be added to make clear that this procedure does not comply with the requirement that preauthorized EFTs be authorized in writing by the consumer.

List of Subjects in 12 CFR Part 205

Banks, Banking, Consumer protection, Electronic fund transfers, Federal Reserve System, Penalties.

(3) *Text of revisions.* The proposed revisions to the Official Staff Commentary on Regulation E (EFT–2, Supp. II to 12 CFR Part 205) read as follows:

Section 205.3—Exemptions

Q 3–7.5: *Compulsory use—biweekly loan programs.* A lender offers consumers the option of a mortgage loan involving biweekly payments, which results in the repayment of the loan in a shorter time and in a lower total finance charge that a loan involving monthly payments. An integral part of this option is a requirement that consumers make the biweekly payments by preauthorized electronic fund transfers. Does this automatic transfer requirement violate the act's prohibition against compulsory use of electronic fund transfers?

A: No, it does not, given that the lower finance charge provides a cost-related incentive to consumers. (Section 205.3(d)(3), section 913)

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Section 205.10—Preauthorized Transfers

Q 10–18.75: *Preauthorized debits—authorization by agent.* A telemarketing company (directly or through an agent) asks consumers to make the monthly payments for their purchases by preauthorized electronic fund transfers. If a consumer agrees, the company obtains the consumer's bank account number and completes a written authorization based on the telephone conversation (which the company records). The company signs the authorization as the consumer's agent, sends the authorization to the consumer's account-holding financial institution, and sends the consumer a written confirmation of the transaction. Does this procedure satisfy the requirement of the act and regulation that preauthorized EFTs may be authorized by the consumer only in writing?

A: No. The requirement that preauthorized EFTs may be authorized by the consumer only in writing cannot be met by a payee signing a written authorization on the consumer's behalf, with only an oral authorization from the consumer. (Nor does the tape recording of the telephone conversation constitute an authorization by the consumer "in writing" for purposes of the requirement.) To allow a payee to complete a written authorization for preauthorized EFTs as the consumer's agent based on a telephone authorization would render the statutory and regulatory requirement meaningless. (Section 202.10(b))

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Board of Governors of the Federal Reserve System, December 5, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85–29302 Filed 12–10–85; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; TIL–1]

Truth in Lending; Proposed Update to Official Staff Commentary

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed official staff interpretation.

SUMMARY: The Board is publishing for comment proposed changes to the official staff commentary to Regulation Z (Truth in Lending). The commentary applies and interprets the requirements of Regulation Z and is a substitute for individual staff interpretations of the regulation. The proposed revisions address a variety of questions that have arisen about the regulation, and include new material and changes in existing material.

DATE: Comments must be received on or before February 7, 1986.

ADDRESS: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, or delivered to Room B–2223, 20th and C Streets, NW., Washington, DC between 8:45 a.m. and 5:15 p.m. weekdays. Comments should include a reference to TIL–1. Comments may be inspected in Room B–1122 between 8:45 and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION: Contact the following attorneys in the Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452–3667 or (202) 452–3867:

Subpart A—Adrienne Hurt

Subpart B—Gerald Hurst, Susan Kraeger

Subpart C—Michael Bylsma, Leonard Chanin, Adrienne Hurt

or Joy W. O'Connell, Telecommunication Device for the Deaf (TDD) at (202) 452–3244.

SUPPLEMENTARY INFORMATION: (1) *General.* The Truth in Lending Act (15

U.S.C. 1601 *et seq.*) governs consumer credit transactions and is implemented by the Board's Regulation Z (12 CFR Part 226). Effective October 13, 1981, an official staff commentary (TIL–1, Supp. I to 12 CFR Part 226) was published to interpret the regulation. The commentary is designed to provide guidance to creditors in applying the regulation to specific transactions. The commentary is updated periodically to address significant questions that arise. There have been four general updates so far—the first in September 1982 (47 FR 41338), the second in April 1983 (48 FR 14882), the third in April 1984 (49 FR 13482), and the fourth in April 1985 (50 FR 13181). There was also a limited update concerning fees for the use of automated teller machines, which was adopted in October 1984 (49 FR 40560). This notice contains the proposed fifth general update. It is expected that it will be adopted in final form in March 1986 with optional compliance until the uniform effective date of October 1 for mandatory compliance.

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

(2) *Proposed revisions.* Following is a brief description of the proposed revisions to the commentary:

Subpart A—General

Section 226.4—Finance charge

4(b) Examples of Finance Charges

Paragraph 4(b)(5). Comment 4(b)(5)–2 would be added to explain the situations in which premiums or other charges for residual value insurance obtained by a creditor or consumer are includable in the finance charge. In certain credit transactions, most notably automobile balloon payment financing, such insurance guarantees the estimated residual value of the property purchased based on the term of the agreement; that estimated value usually is equivalent to the final balloon payment due.

Subpart B—Open-End Credit

Section 226.7—Periodic statement

7(c) Credits

Comment 7(c)–4 would be added to make clear that, where the creditor provides the dates and amounts of any credits made to the account during the billing cycle, the regulation does not require that the creditor also disclose a total for each particular type of credit made to the account (for example, payments); nor does the regulation require that the creditor provide a total figure for all credits made to the account during the billing cycle.

Section 226.8—Identification of transactions

In comment 8–5 certain material would be deleted; the deleted material would be incorporated in new comment 8–8. Comment 8–8 would be added to clarify the identification of transaction requirements for transaction in which a creditor and a seller have a corporate connection. Comment 8–8 would make clear that in certain instances creditors may describe transactions involving sellers with whom they have a corporate connection using the identification requirements for unrelated creditors and sellers (§ 226.8(a)(3)), instead of the identification requirements for related creditors and sellers (§ 226.8(a)(2)). Creditors may use the rules in § 226.8(a)(3) when (1) the transactions occur under a credit plan that was established primarily for use with sellers that do not have a corporate connection with the creditor, or (2) the transactions involve a seller whose connection with the creditor would not be known to the consumer (for example, where the creditor's and seller's names are not similar, and the periodic statements are issued only in the creditor's name). The second situation is currently addressed by comment 8–5; as indicated above, that material has been deleted from comment 8–5 and incorporated in new comment 8–8. Staff believes that, in the circumstances described in comment 8–8, the information provided to consumers under § 226.8(a)(3) would be at least as useful as that provided under § 226.8(a)(2).

Section 226.12—Special credit card provisions

12(d) Offsets by Card Issuer Prohibited

Paragraph 12(d)(2). Comment 12(d)(2)–1 would be revised to clarify the security interest exception to the prohibition on a credit card issuer's offsetting a cardholder's indebtedness against funds of the cardholder that are on deposit with the card issuer. The comment would make clear that the exception does not include any security interest that may result from a card issuer's routinely including language in its credit card agreements with consumers providing for such security interests. Comment 12(d)(2)–2 would be deleted since it would be inconsistent with the requirements of comment 12(d)(2)–1 as revised. Comment 12(d)(2)–3 would be redesignated comment 12(d)(2)–2.

Section 226.16—Advertising

16(b) Advertisement of Terms That Require Additional Disclosures

A new comment 16(b)–1 would be added to indicate that, in an advertisement, the disclosures required by § 226.16(b)(1)–(3) need be made only when the advertisement reflects one or more of the disclosure terms contained in § 226.6(a) or 226.6(b). In light of this new comment, comment 16(b)–2 would be redesignated comment 16(b)–3 and would be revised to delete the example indicating that the implicit disclosure of a security interest requires that the additional advertising disclosures of § 226.16(b)(1)–(3) be made. Present comment 16(b)–1 would be redesignated comment 16(b)–2, and comments 16(b)–3 through 16(b)–7 would be redesignated comments 16(b)–4 through 16(b)–8.

Subpart C—Closed-End Credit

Section 226.17—General disclosure requirements

17(a) Form of Disclosures

Paragraph 17(a)(1). Comment 17(a)(1)–4 would be revised to clarify the disclosure of certain security interest charges under sections §§ 226.4(e) and 226.18(o). Footnote 38 gives creditors the option of making this disclosure either with the segregated disclosures or elsewhere. The revised comment would make clear that if a creditor chooses to list security interest charges in the itemization of the amount financed, no further disclosure of those charges would be necessary.

Comment 17(a)(1)–7 would be added to clarify the disclosure of balloon payment financing, having some characteristics of both a lease

transaction subject to Regulation M and a credit transaction subject to Regulation Z. Such hybrid types of financing are increasingly being offered, particularly in the area of automobile financing. In these transactions where ownership rights to the property subject to the transaction vest in the consumer upon consummation, creditors must comply with the disclosure requirements of this regulation. Therefore, additional information, such as options that a borrower may choose in lieu of making a large final payment, should not be included in the segregated Truth in Lending disclosures.

Paragraph 17(c)(2). Comment 17(c)(2)–3 would be added to clarify the use of estimated disclosures in simple-interest transactions. Creditors should not label disclosures as estimates if the only reason for the designation is the fact that consumers may make payments on other than scheduled due dates. Creditors should assume that all payments will be timely in making their disclosure calculations.

Section 226.18—Content of disclosures

18(f) Variable Rate

Comment 18(f)–2 would be revised to address the basis for final disclosures in transactions for which creditors must give early disclosures three days after application under § 226.19. If creditors choose to redisclose at settlement, rather than at consummation, disclosures may be based on the terms in effect at settlement, rather than at consummation.

Comment 18(f)–6 would be expanded to cover mortgages containing an option permitting consumers to convert an adjustable-rate mortgage to a fixed-rate mortgage. This type of option is a variable-rate feature that must be disclosed. Creditors must disclose the limits on an increase upon conversion and the effects of an increase. However, no example of payment terms that could result once a consumer exercises the option would be required.

18(k) Prepayment

Paragraph 18(k)(1). Comment 18(k)(1)–1 would be revised to clarify that prepayment penalties include interest charges assessed for any period of time after the date prepayment in full is made. Such charges are assessed strictly because prepayment in full has been made at a date earlier than maturity. For example, under regulations of the Department of Housing and Urban Development (24 CFR Parts 203, 213, 222 and 234), a lender who accepts prepayment in full on a date other than the installment due date may assess a charge for interest to the end of the month. The revision would make clear that the interest charge assessed from the date of prepayment in full until the end of the month is a prepayment penalty.

18(m) Security Interest

Comments 18(m)–1 and 18(m)–3 would be amended to clarify acceptable descriptions of security interests for transactions in which the proceeds, or a portion of the proceeds, are used to purchase the collateral. The revision would make clear that creditors may identify the collateral generally as "the property purchased" or, instead, may identify the collateral by item or type, in accordance with § 226.18(m)(2).

Section 226.23—Right of rescission

23(f) Exempt Transactions

Comment 23(f)–8 would be revised to clarify the application of the right of rescission to an account that converts from an open-end to a closed-end transaction. In some cases, creditors delay closed-end disclosures until conversion of an account even if consummation of the closed-end transaction occurs when the account is opened, as permitted by comment 17(b)–2. Comment 23(f)–8 would be amended to provide that no new right of rescission arises at conversion, regardless of a creditor's compliance with rescission provisions at the opening of an account.

Section 226.24—Advertising

Comments 24(b)–1 and 24(c)(2)–3 would be amended to permit the abbreviation "APR" to be used instead of the term "annual percentage rate" in advertisements. This change would make more consistent the advertising of annual percentage rates for open-end and closed-end credit.

List of Subjects in 12 CFR Part 226

Advertising, Banks, Banking, Consumer protection, Credit, Federal Reserve System, Finance, Penalties, Truth in lending.

PART 226—[AMENDED]

(3) *Text of Revisions.* The proposed revisions to the commentary (TIL–1, Supplement 1 to 12 CFR Part 226) read as follows. Arrows indicate new language; brackets indicate language to be removed.

SUPPLEMENT I—OFFICIAL STAFF COMMENTARY—TIL–1

Subpart A—General

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Section 226.4—Finance charge

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4(b) Examples of Finance Charges.

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Paragraph 4(b)(5).

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►2. *Residual value insurance.* Where a creditor requires a consumer to maintain residual value insurance or where a creditor is a beneficiary of such insurance, the premiums must be included in the finance charge for the period that the insurance is to be maintained.◄

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Subpart B—Open-End Credit

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Section 226.7—Periodic statement

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7(c) Credits.

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►4. *Totals.* Where the creditor provides the dates and amounts of credits made to the account during the billing cycle, the creditor need not disclose total figures for the amounts credited.◄

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Section 226.8—Identification of transactions

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5. *Same or related persons.* ►*For purposes of identifying transactions, the*◄ [The] term "same or related persons" refers to, for example:

- Franchised or licensed sellers of a creditor's product or service
- Sellers who assign or sell open-end sales accounts to a creditor or arrange for such credit under a plan that allows the consumer to use the credit only in transactions with the seller

[A person is not related to the creditor merely because, for example:

- The person and the creditor have an agreement by which the person is authorized to honor the creditor's credit card under the terms specified in the agreement
- The person and the creditor have a corporate connection, such as subsidiary-parent, if that connection is not obvious from

the names they use. For example, if XYZ card issuer owns the ABC hotel, the card issuer and the hotel are not "related."]

►A seller is not related to the creditor when the only connection between the seller and the creditor is an agreement by which the seller is authorized to honor the creditor's credit card under the terms specified in the agreement.◄

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►8. *Transactions involving creditors and sellers with corporate connections.* In a credit card plan established for use primarily with sellers that have no corporation connection with the creditor, the creditor may describe all transactions under the plan using the rules in § 226.8(a)(3)—creditor and seller not same or related persons—including transactions involving a seller that has a corporate connection with the creditor. In other credit card plans, the creditor may describe transactions involving a seller that has a corporate connection with the creditor, such as subsidiary-parent, using the rules in § 226.8(a)(3) if the circumstances are such that it is unlikely that the consumer would know of the corporate connection between the creditor and the seller—for example, where the names of the creditor and the seller are not similar, and the periodic statement is issued in the name of the creditor only.◄

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Section 226.12—Special credit card provisions.

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12(d) Offsets by Card Issuer Prohibited.

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Paragraph 12(d)(2).

1. *Security interest—limitations.* In order to qualify for the exception stated in § 226.12(d)(2), a security interest must be affirmatively agreed to by the consumer ►(for example, by signing a separate security agreement)◄, must be disclosed in the issuer's initial disclosures under section 226.6, ►must be specific in amount,◄ and must be obtained and enforced only through procedures equally available to other creditors. ►An example of a permissible security interest in deposit account funds would be one in which◄ [For example,] the consumer [may offer] ►offers◄ a savings account (as an alternative to other personal property, such as an automobile) as security [for credit card indebtedness.] ►in order to qualify for a credit card line.◄ Another example of a permissible security interest in deposit account funds would be one granted by the consumer in return for an incentive offered by the issuer (for example, lower rates on the credit card account). ►Routinely including in agreements contract language that indicates that consumers are giving a security interest in any deposit accounts held by the issuer does not come within the security interest exception of § 226.12(d)(2).◄

[2. *Security interest—after-acquired property.* As used in § 226.12(d), the term "security interest" does not exclude (as it does for other Regulation Z purposes) interests in after-acquired property. Thus, a consensual security interest in deposit-account funds, including funds deposited after the granting of the security interest, would constitute a permissible exception to the prohibition on offsets.]

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Comment 12(d)(2)–3 is redesignated 12(d)(2)–2.

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Section 226.16—Advertising

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16(b) Advertisement of Terms That Require Additional Disclosures.

►1. *Terms requiring additional disclosures.* In § 226.16(b) the phrase "the terms required to be disclosed under § 226.6" refers to the terms in § 226.6(a) and (b).◄

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Comments 16(b)–1 redesignated comment 16(b)–2.

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[2.] ►3.◄ *Implicit terms.* Section 226.16(b) applies even if the triggering term is not stated explicitly, but may be readily determined from the advertisement. [For example, a statement that "the equity in your home becomes spendable with an XYZ line of credit" implicitly states that the creditor will take a security interest in the consumer's home.]

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Comments 16(b)–3 through 16(b)–7 are redesignated comments 16(b)–4 through 16(b)–8.

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Subpart C—Closed-End Credit

Section 226.17—General disclosure requirements.

17(a) Form of Disclosures.

Paragraph 17(a)(1).

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4. *Content of segregated disclosures.* Footnotes 37 and 38 contain exceptions to the requirement that the disclosures under § 226.18 be segregated from material that is not directly related to those disclosures. Footnote 37 lists the items that may be added to the segregated disclosures, even though not directly related to those disclosures. Footnote 38 lists the items required under § 226.18 that may be deleted from the segregated disclosures and appear elsewhere. Any one or more of these additions or deletions may be combined and appear either together with or separate from the segregated disclosures. The itemization of the amount financed under § 226.18(c), however, must be separate from the other segregated disclosures under § 226.18. ►If a creditor chooses to include in the amount financed itemization the security interest charges required to be itemized under §§ 226.4(e) and 226.18(o), the creditor need not list these charges elsewhere.◄

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►7. *Balloon payment financing with leasing characteristics.* In certain credit sale or loan transactions, a consumer may reduce the dollar amount of the payments to be made during the course of the transaction by agreeing to make a large final payment based upon the residual value of the property purchased at end of the loan term. The consumer may have a number of options with respect to the final payment, including, among other things, retaining the property and making the final payment, refinancing that payment, or transferring the property to the creditor in lieu of the final payment. Such transactions may have some of the characteristics of lease transactions subject to Regulation M, but are considered credit transactions where title to the property vests in the consumer upon consummation. These transactions are governed by the disclosure requirements of this regulation instead of Regulation M. Therefore, creditors should not include in the segregated Truth in Lending disclosures additional information. Disclosures should show the large final payment in the payment schedule without mentioning, for example, other options available to a borrower at maturity.◄

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17(c) Basis of Disclosures and Use of Estimates.

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Paragraph 17(c)(2).

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►3. *Simple-interest transactions.* If consumers do not make timely payments in a simple-interst transaction, some of the amounts calculated for the disclosures will differ from amounts that consumers will actually pay over the term of the transaction. Creditors should not label disclosures as estimates in these transactions if the only reason for uncertainty about the amounts disclosed is the fact that payments may be late. For example, although the finance charge and total of payments may be larger than disclosed if consumers habiturally make late payments, creditors should not label these amounts as estimates. All disclosures should be based on the assumption that payments will be made on time.◄

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Section 226.18—Content of disclosures

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19(f) Variable Rate.

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2. *Basis for disclosures.* For transactions subject to the requirements of § 226.18(f), the disclosures must be given for the full term of the transaction and must be based on the terms in effect at the time of consummation. However, [in]

►• In◄ a variable-rate transactions with either a seller buydown that is reflected in the credit contract or a consumer buydown, disclosures should not be based solely on the initial terms. In those transactions, the disclosed annual percentage rate should be composite rate based on the lower rate for the buydown period and the rate that is the basis of the variable rate feature for the remainder of the term. (See the commentary to § 226.17(c) for a discussion of buydown transactions.)

►• In a variable-rate transaction in which a creditor rediscloses after giving disclosures three days after application, as required by section 226.19, the final disclosures need not be based on the terms if effect at the time of consummation. If, as permitted by § 226.19(b), creditors delay redisclosure until settlement, creditors may base their disclosures on the terms in effect at settlement, rather than those in effect at consummation.◄

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6. *Examples of variable-rate transactions.* The following transactions constitute variable rate transactions: * * *

►• Variable-rate transactions with an option permitting consumers to convert at a later time to a fixed-rade loan. The conversion option is a variable-rate feature that should be disclosed. Creditors should disclose any limitations on a rate increase resulting from conversion, along with the effects of an increase. An example of an increase resulting from a consumer's exercising the conversion feature need not be included.◄

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18(k) Prepayment.

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Paragraph 18(k)(1).

1. *Penalty.* this applies only to those transactions in which the interest calculation takes account of all scheduled reductions in principal, as well as transactions in which interest calculations are made daily. The term "penalty" as used here encompasses only those charges that are assessed strictly because of the prepayment in full of a simple-interest obligation, as an addition to all other amounts. [Items which are not penalties include for example:

• Loan guarantee fees.

• Interim interest on a student loan.

However, minimum finance charge is a penalty in a simple-interest transaction. (See the commentary to § 226.17(a)(1) regarding the disclosure of minimum finance charge as directly related information.)]

►§ Items which are penalties include, for example:

• Interest charges for any period after prepayment in full is made.

• A minimum finance charge in a simple-interest transaction (See the commentary to § 226.17(a)(1) regarding the disclosure of a minimum finance charge as directly related information.)

Items which are not penalties include, for example:

• Loan guarantee fees.

• Interim interest on a student loan.◄

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18(m) Security Interest.

1. *Purchase money transactions.* When the collateral is the item purchased as part of, or with the proceeds of, the credit transaction, § 226.18(m) requires only a general identification such as "the property purchased in this transaction." [The] ►However, the◄ creditor may [give a more specific indentification of the collateral, although only the abbreviated disclosure is necessary.] ►identify the property by item or type consistent with § 226.18(m)(2), instead of identifying it as "the property purchased in this transaction."◄ Any transaction in which the credit is being used to purchase the collateral is considered a purchase money transaction and the abbreviated property identification may be used, whether the obligation is treated as a loan or credit sale.

3. *Mixed collateral.* In some transactions in which the credit is used to purchase the collateral, the creditor may also take other property of the consumer as security. In those cases, a combined disclosure must be provided, consisting of the abbreviated property identification ►or an identification consistent with § 226.18(m)(2)◄ for the purchase money collateral [(although more detail may be given, at the creditor's option)] and a [more] specific identification of the other collateral.

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Section 226.23—Right of rescission

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23(f) Exempt Transactions.

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8. *Converting open-end to closed-end credit.* Under certain state laws, consummation of a closed-end credit transaction may occur at the time a consumer enters into the initial open-end credit agreement. As provided in the commentary to § 226.17(b), closed-end credit disclosures may be delayed under these circumstances until the conversion of the open-end account to a closed-end transaction. In accounts secured by the consumer's principal dwelling, no new right of rescission arises at the time of conversion►.◄ [, assuming that the right of rescission was previously provided on the open-end account pursuant to § 226.15.]

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Section 226.24—Advertising

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24(b) Advertisement of Rate of Finance Charge.

1. *Annual percentage rate.* Advertised rates must be stated in terms of an "annual percentage rate," as defined in § 226.22. Even though state or local law permits the use of add-on, discount, time-price differential, or other methods of stating rates, advertisements must state them as annual percentage rates. Unlike the transactional disclosure of an annual percentage rate under § 226.18(e), the advertised annual percentage rate need not include a descriptive explaination of the term[.] ►and may be expressed using the abbreviation "APR."◄ The advertisement must state that the rate is subject to increase after consummation if that is the case, but the advertisement need not describe the rate increase, its limits, or how it would affect the payment schedule. As under § 226.18(f), relating to disclosure of a variable rate, the rate increase disclosure requirement in this provision does not apply to any rate increase due to delinquency (including late payment), default, acceleration, assumption, or transfer of collateral.

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24(c) Advertisement of Terms That Require Additional Disclosures.

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Paragraph 24(c)(2).

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3. *Annual percentage rate.* ►The advertised annual percent rate may be expressed using the abbreviation "APR."◄

The advertisement must also state, if applicable, that the annual percentage rate is subject to increase after consummation.

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Board of Governors of the Federal Reserve System, December 5, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-29301 Filed 12-11-85; 8:45 am]

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