FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. **10275**
December 19, 1988]

CONSUMER CREDIT PROTECTION REGULATIONS

Proposed Changes in Official Staff Commentaries on Regulations E and Z Comment Invited by February 3, 1989

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

Following is the text of a statement issued by the Board of Governors of the Federal Reserve System:

> The Federal Reserve Board has issued for public comment proposed revisions to the official staff commentary for two of its consumer credit protection regulations — Regulation E (Electronic Fund Transfers) and Regulation Z (Truth in Lending).
>
> The proposed revisions to the staff commentary for Regulation E clarify the disclosure requirements applicable when consumers pre-authorize direct deposit of social security benefits.
>
> Proposed revisions to the Regulation Z staff commentary address disclosure questions raised by the emergence of reverse mortgages and questions concerning when a third party fee may be a finance charge in a credit transaction. Additional proposed commentary is included which interprets the Board's uniform rule for disclosures about adjustable-rate mortgages.

Printed on the following pages is the text of the Board's notice, which has been reprinted from the *Federal Register* of December 5. Comments thereon may be sent to the Board of Governors, as specified in the notice, or to our Compliance Examinations Department, by February 3, 1989.

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 revision addresses questions that have arisen about the disclosure requirements of the regulation.

DATES: Comments must be received on or before February 3, 1989.

ADDRESSES: Comments should refer to Docket No. EFT–2 and be sent to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551. They may be delivered to Room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays or delivered to the guard station in the Eccles Building Courtyard on 20th Street, NW. (between Constitution Avenue and C Street, NW.) any time. All comments received at the above address will be available for inspection and copying by any member of the public in the Freedom of Information Office, Room B–1122 of the Eccles Building between 9:00 a.m. and 5:00 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Sharon Bowman or Kathleen S. Brueger, Staff Attorneys, Division of Consumer Affairs, at (202) 452–3667 or (202) 452–2412. For the hearing-impaired *only,* Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452–3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

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).

The Board has published an official staff commentary (Supp. II to 12 CFR Part 205) to interpret the regulation. The commentary is designed to provide guidance to financial institutions and others in applying the regulation to specific situations. The commentary is updated periodically to address significant questions that arise. This notice contains the proposed seventh update, which the Board expects to adopt in final form in March 1989.

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

Section 205.7—Initial Disclosure of Terms and Conditions

Question 7–1

Question 7–1 addresses the situation where a financial institution provides EFT disclosures when a consumer opens an account. The question is revised to clarify that the regulation does not impose a time limit by which a consumer must sign up for an EFT service with a third party in order for the disclosures originally provided by the account holding institution to satisfy the regulation's requirements.

Question 7–2

Question 7–2 is revised to clarify that, in cases where a financial institution does not receive notice that a consumer has signed up for direct deposit of Social Security payments (because there has been no prenotification and no Form 1199A has been completed by the consumer and the financial institution), the financial institution must provide the necessary disclosures as soon as possible after the first electronic fund transfer has been made. In cases where the financial institution does receive prior notice of the consumer's enrollment in the direct deposit program, the financial institution must provide disclosures before the first EFT occurs. The institution has the option, of course, of providing disclosures to customers when an account is opened, as described in Question 7–1.

List of Subjects in 12 CFR Part 205

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

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

(3) *Text of proposed revisions.* Pursuant to authority granted in section 904 of the Electronic Fund Transfer Act, 15 U.S.C. 1693b, the Board proposes to amend the official staff commentary to Regulation E (12 CFR Part 205, Supp. II) as follows:

1. The authority citation for Part 205 continues to read:

Authority: Pub. L. 95–630, 92 Stat. 3730 (15 U.S.C. 1693b).

2. The official staff commentary on Regulation E, Supp. II to 12 CFR Part 205, is amended by revising Q and A 7–1 and 7–2 for § 205.7 to read as follows:

Supplement II—Official Staff Interpretations

* * * * *

Section 205.7—Initial disclosure of terms and conditions.

Q 7–1: *Timing of disclosures—early disclosure.* An institution is required to give initial disclosures either (1) when the consumer contracts for an EFT service or (2) before the first electronic fund transfer to or from the consumer's account. If an institution provides initial disclosures when a consumer opens a checking account and the consumer does not sign up for an EFT service until [11 months later,] ►a later time,◄ has the institution satisfied the disclosure requirements?

A: Yes, if the EFT contract is between the consumer and a third party for preauthorized electronic transfers to be initiated by the third party to or from the consumer's account. In this case, the financial institution need not repeat disclosures previously given unless the terms and conditions required to be disclosed are different from those that were given.

If, on the other hand, the EFT contract is directly between the consumer and the financial institution—for the issuance of an access device, or for a telephone bill-payment plan, for example,—the institution should provide the disclosures at the time of contracting. Disclosures given before the time of contracting will satisfy the regulation only if they occurred in close proximity thereto. (§ 205.7(a)).

Q 7–2: *Timing of disclosures—Social Security direct deposits.* In the case of Social Security direct deposits, [the financial institution receives no prenotification. How] ►how◄ can the ►financial◄ institution comply with the disclosure requirements ►, absent prenotification, in cases where a Form 1199A is no longer used by the Social Security Administration◄?

A: Before direct deposit of Social Security payments ►takes place, usually◄ [can occur, both] the consumer and the institution ►both◄ must complete a Form 1199 [. The] ►A, and the◄ institution can make disclosures at that time. ►However, if a Form 1199A is not used and there is no prenotification, the institution should provide the required disclosures as soon as possible after the first direct deposit is received (unless the institution has previously given the disclosures; see question 7–1).◄ (§ 205.7(a))

* * * * *

Board of Governors of the Federal Reserve System, November 29, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88–27857 Filed 12–2–88; 8:45 am]

BILLING CODE 6210–01–M

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 revisions 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. The proposed comments address, for example, disclosure questions raised by the emergence of reverse mortgage products, questions concerning the amendments to Regulation Z affecting disclosures for adjustable-rate mortgages, and questions concerning when a third party fee may be a finance charge in a credit transaction.

DATES: Comments must be received on or before February 3, 1989.

ADDRESSES: Comments should refer to Docket No. TIL-1 and be sent to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551. They may be delivered to Room B-2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays or delivered to the guard station in the Eccles Building Courtyard on 20th Street, NW. (between Constitution Avenue and C Street, NW.) any time. All comments received at the above address will be available for inspection and copying by any member of the public in the Freedom of Information Office, Room B-1122 of the Eccles Building between 9:00 a.m. and 5:00 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: The following attorneys in the Division of Consumer and Community Affairs, at (202) 452-3667 or (202) 452-2412: Sharon Bowman, Michael Bylsma, Leonard Chanin, Adrienne Hurt, Thomas Noto, or Linda Vespereny.

For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Earnestine Hill or Dorothea Thompson, at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

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 and is updated periodically to address significant questions that arise. There have been seven general updates and one limited update so far. This notice contains the proposed eighth general update. It is expected that it will be adopted in final form in March 1989 with optional compliance until the uniform effective date of October 1 for mandatory compliance.

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

Subpart A—General

Section 226.4—Finance Charge

4(a) Definition

Comment 4(a)-3 would be revised to clarify that charges imposed on the consumer by someone other than the creditor are finance charges if the creditor requires the services of the third party. For example, if a consumer cannot obtain the same credit terms from the creditor without using a loan broker, any fee imposed by the broker is a finance charge.

4(b) Examples of Finance Charges

Paragraphs 4(b) (7) and (8)

Comment 4(b) (7) and (8)-2 would be revised to clarify that insurance "written in connection with a credit transaction" includes insurance sold to a consumer at any time during an open-end credit plan. Thus, premiums for property insurance or credit life insurance sold to a consumer in an open-end credit plan would be finance charges unless excluded under § 226.4(d).

Subpart C—Closed-End Credit

Section 226.17—General Disclosure Requirements

17(a) Form of Disclosures

Paragraph 17(a)(1). Comment 17(a)(1)-5 would be revised to provide that creditors with variable-rate transaction subject to § 226.18(f)(2) may also provide the information set forth in § 226.18(f)(1) as information directly related to the required disclosures.

17(c) Basis of Disclosures and Use of Estimates

Paragraph 17(c)(1). Comment 17(c)(1)-8 would be revised to clarify the basis of disclosures for variable-rate transactions with no initial discounted or premium rate. The comment explains that creditors should base their disclosures only on the initial rate and not on any potential rate increases.

Comments 17(c)(1)-14 and 17(c)(1)-15 would be renumbered as 17(c)(1)-15 and 17(c)(1)-16, respectively. New comment 17(c)(1)-14 would be added to clarify how lenders should provide disclosures for reverse mortgages. These mortgages, also known as reverse annuity or home equity conversion mortgages, typically involve the disbursement of monthly or other periodic advances to the consumer for a fixed period or until the occurrence of an event such as the sale of the house by the consumer. Repayment of the loan may be required at the end of the disbursement period or at a later time; both accrued interest and principal are often payable in one payment.

Some reverse "term" mortgages have a fixed term for the disbursement of funds to the consumer, but provide that the consumer does not have to repay the loan until a later time, such as when the consumer sells the house. The proposed comment provides that the creditor should assume repayment is required on the date that disbursements to the consumer are scheduled to end even if repayment is due upon the occurrence of a future event that might follow the final disbursement.

The new comment would also provide guidance on how creditors should make disclosures when both the period for advances and the date for repayment are determined solely by a future event, such as when the consumer moves out of the house. In such cases, the creditor would be required to base all of the disclosures on the assumption that both the advances will end and repayment will be required at the time of the event most likely to occur first. For example, if disbursements cease and repayment is required either upon the sale of the house or the death of the consumer, all disclosures would be based on the event the creditor estimates is most likely to occur first. Alternatively, if the creditor is unable to estimate which event is most likely to occur first, it may base the disclosures on the consumer's life expectancy (such as by using actuarial tables).

The proposed comment also addresses the disclosure of shared-appreciation features associated with reverse mortgages. The commentary provides that the appreciation feature should be disclosed in accordance with

either § 226.18(f)(1) or § 226.19(b), as appropriate.

Section 226.18—Content of Disclosures

18(f) Variable Rate

Paragraph 18(f)(2). Comment 18(f)(2)–1 would be revised by adding a cross-reference to the commentary to § 226.17(a)(1) regarding the disclosure of additional variable-rate information as directly related information.

Section 226.19—Certain Residential Mortgage Transactions

19(b) Certain Variable-Rate Transactions

Comment 19(b)–1 would be revised to clarify the disclosure of construction loans that may be permanently financed. Under the current rules in § 226.17(c)(6), a creditor may disclose the construction and permanent financing arrangements, under § 226.18, as a single transaction or as separate transactions. Under the proposed revision to comment 19(b)–1, a creditor would be permitted to apply a similar analysis in determining the applicability of § 226.19(b). Under the proposed revision, the creditor could treat the construction phase as a separate transaction and, if the term is one year or less, disclosures under § 226.19(b) would not be required for the construction phase. Furthermore, the revised comment would make clear that a creditor could treat the construction and permanent phases as distinct transactions for purposes of determining coverage under § 226.19(b), yet still provide a single § 226.18 disclosure in accordance with the rules in § 226.17(c)(6).

Comment 19(b)–1 also would be amended to address the disclosure requirements for non-creditor holders who permit new consumers to assume variable-rate transactions secured by the consumer's principal dwelling with a term longer than one year. The comment explains that such holders, like creditors in assumptions, should provide disclosures under §§ 226.18(f)(2)(i) and 226.20(c), but need not provide disclosures under §§ 226.18(f)(2)(ii) or 226.19(b).

Paragraph 19(b)(2). Comment 19(b)(2)–1 would be revised to clarify the timing requirements for disclosures provided in response to a subsequent expression of interest by the consumer. The comment would also make clear that if the consumer and creditor agree on a program different than that set forth in the disclosures that were already provided, disclosures for the new program must be provided.

Paragraph 19(b)(2)(iii). Comment 19(b)(2)(iii)–1 would be revised to clarify that, in loans that call for a final balloon payment of the outstanding balance, the creditor must disclose that fact, but need not reflect the balloon payment in the historical example or in the disclosure of the initial and maximum rates and payments.

Paragraph 19(b)(2)(v). Comment 19(b)(2)(v)–1 would be revised to clarify that consumer buydowns and third-party buydowns that are reflected in the legal obligation should be disclosed in accordance with the rules for discounted variable-rate transactions. The revised comment would also make clear that no additional disclosures relating to the buydown need be provided on the program disclosure.

Paragraph 19(b)(2)(viii). Comment 19(b)(2)(viii)–1 would be amended to clarify that, in transactions that end before the last year in the historical example, the example must illustrate all significant loan program terms such as rate limitations that would have affected the interest rate for the remaining years shown in the example.

Paragraph 19(b)(2)(ix). Comment 19(b)(2)(ix)–1 would be revised to clarify that, in transactions where the latest payment shown in the historical example is not for the latest year of index values shown, a creditor may base the disclosure of how to calculate the consumer's actual payments on the initial or maximum payment disclosed under § 226.19(b)(2)(x).

Section 226.20—Subsequent Disclosure Requirements

20(b) Assumptions

Comment 20(b)–6 would be amended to add a cross reference to § 226.19(b) concerning the disclosure requirements for non-creditor holders of variable-rate transactions secured by the consumer's principal dwelling with a term longer than one year.

20(c) Variable-Rate Adjustments

Paragraph 20(c)(4). Comment 20(c)(4)–1 would be revised to clarify that the provisions of this paragraph apply to balloon payment transactions. The comment explains that the creditor should disclose any change in a balloon payment that results from an interest rate adjustment.

Paragraph 20(c)(5). Comment 20(c)(5)–1 would be amended to clarify that the provisions of this paragraph apply only when negative amortization occurs in a transaction, and not merely because a payment is a non-amortizing or partially amortizing payment.

Section 226.23—Right of Rescission

23(b) Notice of Right to Rescind

Comment 23(b)–3 would be revised to clarify the requirements for the disclosure of security interests on rescission notices. Recently, there has been some dispute over the specificity required in such a disclosure. The revised comment would make clear that where security interests taken in connection with prior transactions remain of record and a new security interest is taken, the rescission notice need not detail each interest that the creditor may hold in the property. Rather, a simple disclosure of the fact that the transaction is secured by the consumer's principal dwelling is sufficient.

Section 226.24—Advertising

24(b) Advertisement of Rate of Finance Charge

Although not reprinted in this notice, comment 24(b)–5 would be revised to change the references to comment 18(f)–8 to be 17(c)(1)–10. No substantive change is intended.

Subpart D—Miscellaneous

Section 226.25—Record Retention

25(a) General Rule

Comment 25(a)–3 would be added to address the record retention requirements for variable-rate transactions that are subject to the disclosure requirements of § 226.19(b). The comment explains that maintaining written procedures for compliance with the disclosure provisions as well as retaining a sample disclosure form for each loan program will be adequate evidence of compliance.

Section 226.30—Limitation on Rates

Comment 30–8 would be revised to clarify that this paragraph applies to the manner of stating the maximum interest rate in the credit contract only. This paragraph does not govern how interest rate ceilings should be stated in Truth in Lending disclosures. The disclosures are governed by provisions found elsewhere in the regulation and commentary.

Comment 30–13, concerning footnote 50, would be revised to clarify the requirements of the regulation after October 1, 1988. For purposes of § 226.30, the rate must be stated in the credit contract as prescribed in comment 30–8. The disclosure requirements for limitations of rate increases are described elsewhere in the regulation and commentary.

Appendix D—Multiple-Advance Construction Loans

Although not reprinted in this notice, the first sentence of comment app. D–2 would be revised to delete the word "most" and to change the reference to § 226.18(f)(4) to be § 226.18(f)(1)(iv). No substantive change is intended by either revision.

List of Subjects in 12 CFR Part 226

Advertising, Banks, Banking, Consumer protection, Credit, Federal Reserve System, Finance, Penalties, Rate limitations, Truth in Lending.

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.

Text of proposed revisions

Pursuant to authority granted in section 105 of the Truth in Lending Act (15 U.S.C. 1604 as amended) and section 1204 of the Comprehensive Equality Banking Act, Pub. L. 100–86, 101 Stat. 552, the Board proposes to amend the official staff commentary to Regulation Z (12 CFR Part 226 Supp. I) as follows:

PART 6—[AMENDED]

1. The authority citation for Part 226 continues to read:

Authority: Sec. 105, Truth in Lending Act, as amended by sec. 605, Pub. L. 96–221, 94 Stat. 170 (15 U.S.C. 1604 *et seq.*); sec. 1204(c), Competitive Equality Banking Act, Pub. L. 100–86, 101 Stat. 552.

2. The proposed revisions amend the commentary (TIL–1, 12 CFR Part 226 Supp. I) by adding a sentence and a bullet paragraph at the end of comment 4(a)–3; revising the heading and adding a sentence at the end of comment 4(b)(7) and (8)–2; adding a bullet paragraph at the end of comment 17(a)(1)–5; adding two sentences and parenthetical material after the second sentence in comment 17(c)(1)–8; redesignating comments 17(c)(1)–14 and –15 to be comments 17(c)(1)–15 and –16, respectively; adding comment 17(c)(1)–14; adding parenthetical material at the end of comment 18(f)(2)–1; adding three sentences at the end of comment 19(b)–1; revising the fourth sentence of comment 19(b)(2)–1; adding a sentence after the second sentence in comment 19(b)(2)(iii)–1; adding a new sentence before the parenthetical material at the end of comment 19(b)(2)(v)–1; revising the third sentence in the parenthetical material after the first sentence in comment 19(b)(2)(viii)–1; adding a sentence after the second sentence in comment 19(b)(2)(ix)–1; adding parenthetical material at the end of comment 20(b)–6; adding a sentence after the second sentence in comment 20(c)(4)–1; revising comment 20(c)(5)–1; adding two sentences after the second sentence in comment 23(b)–3; changing the references to "comment 18(f)–8" in the first sentence and in the first bullet paragraph of comment 24(b)–5 to "comment 17(c)(1)–10"; adding comment 25(a)–3; revising the first sentence of comment 30–8; revising the last sentence in comment 30–13; removing the word "most" and changing the reference to "§ 226.18(f)(4)" in comment app. D–2 to "§ 226.18(f)(1)(iv)" to read as follows:

Subpart A—General

* * * * *

Section 226.4—Finance Charge

4(a) Definition.

* * * * *

3. *Charges by third parties.* * * * ►In contrast, changes imposed on the consumer by someone other than the creditor are finance charges if the creditor requires the services of the third party. For example:

• Any fee charged by a loan broker if the consumer cannot obtain the same credit terms from the creditor without using a broker.◄

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4(b) Examples of Finance Charges

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Paragraph 4(b) (7) and (8)

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2. *Insurance written [after consummation.] ►in connection with a transaction.◄* * * * ►*In open-end credit plans, insurance "written in connection with a credit transaction" includes insurance sold at any time during the existence of the plan.*◄

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Subpart C—Closed-End Credit

Section 226.17—General Disclosure Requirements

17(a) Form of Disclosures

Paragraph 17(a)(1)

* * * * *

5. *Directly related.* * * *

►• The disclosures set forth under § 226.18(f)(1) for variable-rate transactions subject to § 226.18(f)(2).◄

17(c) Basis of Disclosures and Use of Estimates Paragraph 17(c)(1)

* * * * *

8. *Basis of disclosures in variable-rate transactions.* * * *

►Creditors should base the disclosures only on the initial rate and should not assume that this rate will increase. For example, in a loan with an initial rate of 10 percent and a 5 percentage points rate cap, creditors should base the disclosures on the initial rate and should not assume that this rate will increase 5 percentage points. (See, however, the commentary to § 226.17 concerning disclosures for discounted and premium variable-rate transactions.)◄ * * *

►14. *Reverse mortgages.* Reverse mortgages, also known as reverse annuity or home equity conversion mortgages, typically involve the disbursement of monthly advances to the consumer for a fixed period or until the occurrence of an event such as the consumer's selling or moving out of the home. Repayment of the loan (generally a single payment of principal and accrued interest) may be required to be made at the end of the disbursements or, for example, at the time the consumer moves out of the home. In disclosing these transactions, creditors must apply the following rules, as applicable:

• If the reverse mortgage has a specified period for advances, but repayment is due only upon the occurrence of a future event such as the sale of the house by the consumer (which could occur after the last disbursement), the creditor must assume repayment will occur on the date disbursements to the consumer will end. This assumption should be used even if repayment might not occur when the disbursements end. In such cases, the creditor may include a statement such as "The disclosures assume that repayment will be required at the time our payments to you end. As provided in your agreement, your repayment may be required at a different time."

• If the reverse mortgage has neither a specified period for advances nor a specified repayment date and these terms will be determined solely by reference to future events, the creditor must base the disclosures on the event estimated to be most likely to occur first. For example, if the plan provides that repayment will occur either upon the sale of the home or the death of the consumer, the creditor must base the disclosures on the creditor's estimate of the date the home will be sole, if the sale of the house is determined to be more likely to occur before the death of the consumer. If the creditor is unable to estimate which event is most likely to occur first, the disclosures may be based on the consumer's life expectancy (such as by using actuarial tables).

• In making the disclosures, creditors must assume that all disbursements and accrued interest must be paid by the consumer. For example, if the note has a nonrecourse provision providing that the consumer is not obligated for an amount greater than the value of the house, the creditor will nonetheless assume that the full amount to be disbursed will be repaid. In this case, however, the creditor may include a statement such as "The disclosures assume full repayment of the debt, although the amount you may be required to pay is limited by your agreement."

• Some reverse mortgages provide that some or all of the appreciation in the value of the property will be shared between the consumer and the creditor. Such loans are considered variable-rate mortgages, as described in comment 17(c)(1)–11, and the appreciation feature must be disclosed in accordance with § 226.18(f)(1). If the reverse mortgage has a variable interest rate, is written for a term greater than one year, and

is secured by the consumer's principal dwelling, the shared appreciation feature must be described under § 226.19(b)(2)(vii).◄

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Section 226.18—Content of Disclosures

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18(f) Variable Rate

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Paragraph 18(f)(2)

1. *Disclosure required.* * * * ►(See the commentary to § 226.17(a)(1) regarding the disclosure of certain directly related information in addition to the variable-rate disclosures required under § 226.18(f)(2).)◄

* * * * *

Section 226.19—Certain Residential Mortgage Transactions

* * * * *

19(b) Certain Variable-Rate Transactions

1. *Coverage.* * * * ►In determining whether a construction loan that may be permanently financed by the same creditor is covered under this section, the creditor may treat the construction and the permanent phases as separate transactions with distinct terms to maturity or as a signle transaction. For purposes of the disclosures required under § 226.18, the creditor may nevertheless treat the two phases either as a signle transaction or as a combined transaction in accordance with § 226.17(c)(6). Finally, in cases where a subsequent holder permits a new consumer to assume a variable-rate transaction secured by the consumer's principal dwelling with a term greater than one year, the holder, like a creditor, need not provide new disclosures under § 226.18(f)(2)(ii) or 226.19(b), but must provide the disclosures required under §§ 226.18(f)(2)(i) and 226.20(c).◄

* * * * *

Paragraph 19(b)(2)

1. *Disclosure for each variable-rate program.* * * *

If the consumer subsequently expresses an interest in other available variable-rate programs subject to § 226.19(b)(2), the creditor must provide disclosures for such additional programs ►as soon as reasonably possible after the subsequent expression of interest. In addition, if the creditor and consumer agree upon program terms for which the consumer has not received disclosures, the appropriate program disclosures must be provided as soon as reasonably possible after the agreement◄. * * *

* * * * *

Paragraph 19(b)(2)(iii)

1. *Determination of interest rate and payment.* * * * ►In transactions that call for a final balloon payment of the outstanding balance, the creditor must disclose this fact. For example, the disclosure might read, "At the end of the loan term, a single payment of the entire outstanding balance will be required." The creditor, however, need not reflect the balloon payment in the historical example or in the disclosure of the initial and maximum rates and payments.◄ * * *

* * * * *

Paragraph 19(b)(2)(v)

1. *Discounted and premium interest rate.* * * *

►In a transaction with a consumer buydown or with a third-party buydown that will be incorporated in the legal obligation, the creditor should disclose the program as a discounted variable-rate transaction, but need not disclose additional information regarding the buydown in its program disclosures.◄ * * *

* * * * *

Paragraph 19(b)(2)(viii)

1. *Index movement.* * * * For the remaining ten years, 1982–1991, the creditor need only show the remaining index values, margin and interest rate [.] ►and must continue to reflect all significant loan program terms such as rate limitations affecting them.◄ * * *

* * * * *

Paragraph 19(b)(2)(ix)

1. *Calculation of payments.* * * * ►However, in transactions in which the latest payment shown in the historical example is not for the latest year of index values shown (such as in a five-year loan), a creditor may base the disclosure required under this paragraph on the initial or maximum payment disclosed under § 226.19(b)(x).◄ * * *

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Section 226.20—Subsequent Disclosure Requirements

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20(b) Assumptions

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6. *Disclosures.* * * * ►(See the commentary to § 226.19(b) for the disclosure requirements for non-creditor holders of variable-rate transactions secured by the consumer's principal dwelling with a term greater than one year.)◄

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20(c) Variable-Rate Adjustments

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Paragraph 20(c)(4)

1. *Contractual effects of the adjustment.* * * * ►In balloon payment transactions, if an effect of the adjustment will be to change the balloon payment, the amount of the adjusted ballon payment must be disclosed.◄ * * *

Paragraph 20(c)(5)

1. *Fully-amortizing payment.* [A disclosure is required if the payment disclosed in § 226.20(c)(4) is not sufficient to pay off the loan balance (including capitalized interest) in the remaining term of the loan at the adjusted interest rate. In such cases, the] ►This paragraph requires a disclosure only when negative amortization occurs as a result of the adjustment. A disclosure is not required simply because a loan calls for non-amortizing or partially amortizing payments. For example, in a five-year balloon loan with payments based on a longer amortization schedule, the creditor would not have to disclose the payment necessary to fully amortize the loan in the remainder of the five-year term. A disclosure is required, however, if the payment disclosed under § 226.20(c)(4) is not sufficient to prevent negative amortization in the loan. The◄ adjustment notice must state the payment required to [fully amortize the loan over the remainder of the term.] ►prevent negative amortization◄. (This paragraph does not apply if the new payment disclosed in § 226.20(c)(4) is [fully amortizing] ►sufficient to prevent negative amortization in the loan◄ but the final payment will be a different amount due to rounding.)

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Section 226.23—Right of Rescission

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23(b) Notice of Right to Rescind

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3. Content. * * * ►In disclosing the retention or acquisition of a security interest, a creditor need not separately disclose multiple security interests that it may hold in the property. The creditor need only disclose that the transaction is secured by the consumer's principal dwelling, even when security interests from prior transactions remain of record and a new security interest is taken in connection with the transaction.◄ * * *

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Subpart D—Miscellaneous

Section 226.25—Record Retention

25(a) General Rule

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►3. *Certain variable-rate transactions.* In variable-rate transactions that are subject to the disclosure requirements of § 226.19(b), written procedures for compliance with those requirements as well as a sample disclosure form for each loan program represent adequate evidence of compliance.◄

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Section 226.30—Limitation on Rates

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8. *Manner of stating the maximum interest rate.* The maximum interest rate must be stated ►in the credit contract◄ either as a specific amount or in any other manner that would allow the consumer to easily ascertain, at the time of entering into the obligation, what the rate ceiling will be over the term of the obligation. * * *

* * * * *

13. *Transition rules.* * * * On or after that date, creditors must have the maximum rate set forth in their credit contracts and, where applicable, as part of their truth in lending disclosures [.] ►in the manner prescribed in the applicable sections of the regulation.◄

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Board of Governors of the Federal Reserve System, November 29, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88–27856 Filed 12–2–88; 8:45 am]

BILLING CODE 6210–01–M