Mailed with Circular No. 10295

NOTICE

(Ref. At-Cir. No. 10292-C)

BOARD OF GOVERNORS' SEMIANNUAL REGULATORY AGENDA

April 1, 1989 — October 1, 1989

The Semiannual Regulatory Agenda provides information on those regulatory matters that the Board now has under consideration or anticipates considering over the next six months. It is divided into three parts: (1) regulatory matters that the Board may consider for public comment during the next six months; (2) matters that have been proposed and are under consideration; and (3) regulatory matters that the Board has completed or is not expected to consider further.

A copy of the Agenda has been mailed to those on our mailing list who have previously requested it. Copies will be furnished to others upon request (Tel. No. 212-720-5215 or 5216).

Circulars Division
FEDERAL RESERVE BANK OF NEW YORK
April 1989

Federal Reserve System

Semiannual Regulatory Agenda
April 1, 1989 - October 1, 1989

BOARD OF GOVERNORS' SEMIANNUAL REGULATORY AGENDA

The Semiannual Regulatory Agenda provides information on those regulatory matters that the Board now has under consideration or anticipates considering over the next six months. It is divided into three parts: (1) regulatory matters that the Board may consider for public comment during the next six months; (2) matters that have been proposed and are under consideration; and (3) regulatory matters that the Board has completed or is not expected to consider further.

The Agenda is published in the *Federal Register* twice a year -- In April and in October. Comments regarding any of the Agenda items should be submitted directly to the Board of Governors.

Circulars Division
FEDERAL RESERVE BANK OF NEW YORK

FEDERAL RESERVE SYSTEM

[12 CFR CHAPTER II]

Notice of Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual Agenda.

SUMMARY: The Board is issuing this Agenda under the Regulatory Flexibility Act and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period from April 1 through October 1, 1989. The next Semiannual Agenda will be published in October 1989.

DATE: Comments about the form or content of the Agenda may be submitted any time during the next six months.

ADDRESS: Comments should be addressed to William W. Wiles, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated with the regulatory description below.

SUPPLEMENTARY INFORMATION: The Board is publishing its April 1989 Agenda as part of the April 1989 Unified Agenda of Federal Regulations, which is coordinated by the Office of Management and Budget under Executive Order 12291. Participation by the Board in the Unified Agenda is on a voluntary basis.

The Board's Agenda is divided into three sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next six months. The

second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. A third section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further.

A dot (•) preceding an entry indicates a new matter that was not a part of the Board's previous Agenda, and which the Board has not completed.

(signed) Barbara R. Lowrey

Barbara R. Lowrey
Associate Secretary of the Board

Section 1
Proposed Rule Stage

1.

TITLE:
Regulation: B - Equal Credit Opportunity

LEGAL AUTHORITY:
15 USC 1691 et seq. (as amended) "Equal Credit Opportunity Act"

CFR CITATION:
12 CFR 202

ABSTRACT:
During the next four months the Board will propose for public comment revisions to Regulation B to implement amendments to the Equal Credit Opportunity Act that were part of H.R. 5050, enacted on October 25, 1988. The statutory amendments deal with the notice and record retention requirements applicable in business credit transactions. Once the revised regulation takes effect, covered lenders will be required to give notice of a business applicant's right to a written statement of reasons for a credit denial; and will have to maintain records on credit applications for a minimum of one year.
Because the new requirements apply to all depository institutions, there will be some economic impact on a substantial number of small financial institutions.

TIMETABLE:	ACTION	DATE	FR CITE
Board will consider revisions to Regulation B during the next four months		06/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: Yes

AGENCY CONTACT:
Dolores S. Smith
Assistant Director
Division of Consumer and Community Affairs
202 452-2412

2.
TITLE:
Regulation: E - Electronic Fund Transfers

LEGAL AUTHORITY:
15 USC 1693 et seq "Electronic Fund Transfer Act"

CFR CITATION:
12 CFR 205

ABSTRACT:
During the next six months, the Board will conduct a review of Regulation E, which implements the Electronic Fund Transfer Act, and establishes the basic rights, liabilities, and responsibilities of consumers who use electronic fund transfer services and of financial institutions that offer these services (whether or not these institutions hold the consumer's account). The review will consider whether any provisions of the regulation are in need of updating and whether any substantive changes are necessary because of technological and other developments. The Board will also consider whether to make any legislative recommendations for statutory changes.
Public comment will be requested on any regulatory proposals that may be developed following the review. It is not anticipated that the revisions would have a significant economic impact on a substantial number of small banks.

TIMETABLE:	ACTION	DATE	FR CITE
Board will consider revisions to Regulation E during the next six months		08/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: None

AGENCY CONTACT:
Dolores S. Smith
Assistant Director
Division of Consumer and Community Affairs
202 452-2412

RIN: 7100-AA77

3.

TITLE:

Regulation: G - Securities Credit by Persons Other Than Banks, Brokers, or Dealers; and Regulation: U - Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks

LEGAL AUTHORITY:

15 USC 78g "Securities Exchange Act of 1934, as amended"
15 USC 78w "Securities Exchange Act of 1934, as amended"

CFR CITATION:

12 CFR 221
12 CFR 207

ABSTRACT:

During the next three months the Board may address the ability of lenders subject to Regulations G and U to transfer a credit between these two types of lenders without treating the transaction as creating a new extension of credit. The regulations currently permit a transfer only between lenders subject to the same regulation. Several law firms have expressed an interest in such a deregulatory amendment.
It is not anticipated that this proposal will affect a significant portion of the overall lending activities of a substantial number of small firms.

TIMETABLE:	ACTION	DATE	FR CITE
Board may address transfer provisions in Regulations G and U		05/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: None

AGENCY CONTACT:

Laura Homer
Securities Credit Officer
Div. of Banking Supervision and Regulation
202 452-2781

4.

TITLE:
Regulation: K - International Banking Operations

LEGAL AUTHORITY:
12 USC 601 et seq

CFR CITATION:
12 CFR 211

ABSTRACT:
The Board will consider an amendment to its regulation governing the establishment of foreign operating subsidiaries by member banks. The amendment would eliminate the requirement in section 211.3(b)(9) of Regulation K that a member bank's operating subsidiary be established only where required by local law or regulation. The revision is intended to promote the efficiency of member banks' foreign operations. Because the revision would remove a restriction, it is not anticipated that comment will be requested.
The proposal would not have a significant economic impact on a substantial number of small businesses because it affects only U.S. banks operating abroad.

TIMETABLE:

ACTION	DATE	FR CITE
Final action by	10/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: None

AGENCY CONTACT:
Kathleen O'Day
Senior Counsel
Legal Division
202 452-3786

RIN: 7100-AA67

5.

TITLE:

Regulation: K - International Banking Operations

LEGAL AUTHORITY:

12 USC 1843 (c)(13)
12 USC 601 to 604a
12 USC 611 to 631

CFR CITATION:

12 CFR 211

ABSTRACT:

The Board will consider whether to publish for public comment a proposed amendment to Regulation K to permit U.S. banking organizations to engage in a broader range of activities abroad. Specifically, the Board will consider whether U.S. banking organizations should be permitted to underwrite, distribute, and deal in equity securities outside the United States in excess of the current restriction in Regulation K, which prohibits a subsidiary of a U.S. banking organization from making an underwriting commitment for shares of an issuer in excess of: (i) $2 million, or (ii) 20 percent of the capital and surplus of the issuer's voting shares, unless covered by binding commitments from subunderwriters or other purchasers.

In addition, the Board will consider whether the purchases of shares of companies held in trading accounts should continue to be subject to the investment procedures set out in Regulation K at 12 CFR 211.5(c).

It is not expected that the proposal would have a significant economic impact on a substantial number of small businesses, because it applies to U.S. banking organizations involved in international securities activities.

TIMETABLE:	ACTION	DATE	FR CITE
Board may consider an amendment to Regulation K		10/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: None

AGENCY CONTACT:

Kathleen O'Day
Senior Counsel
Legal Division
202 452-3786

RIN: 7100-AA92

6.

TITLE:
Regulation: K - International Banking Operations

LEGAL AUTHORITY:
12 USC 221 et seq
12 USC 1841 et seq
12 USC 3101 et seq

CFR CITATION:
12 CFR 211

ABSTRACT:
In 1989, the Board will conduct a zero-based review of Subpart A of Regulation K (International Operations of United States Banking Organizations), as required every five years by the International Banking Act. This review will include consideration of the powers of Edge corporations and additional overseas activities of U.S. banking organizations. In addition, Subpart B (Foreign Banking Organizations) will be reviewed, particularly with respect to the effect of the revisions of the Standard Industrial Classification (SIC) codes on that Subpart. Subpart C (Export Trading Companies) will be reviewed with a view toward bringing that Subpart into conformity with the Export Trading Company Act Amendments of 1988.
Separate, but related to this review of Regulation K, is the consideration of the liberalization of overseas securities activities (RIN: 7100-AA92).
It is not expected that any revisions would have an adverse impact on a substantial number of small banking organizations.

TIMETABLE:	ACTION	DATE	FR CITE
	Board will conduct review by	12/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: None

AGENCY CONTACT:
Kathleen O'Day
Senior Counsel
Legal Division
202 452-3786

7.

TITLE:

Regulation: P - Minimum Security Devices and Procedures for Federal Reserve Banks and State Member Banks

LEGAL AUTHORITY:

12 USC 1881 to 1884

CFR CITATION:

12 CFR 216

ABSTRACT:

During the next two months, the Board will conduct a zero-based review of Regulation P, which implements the Bank Protection Act of 1968, and establishes minimum security standards for Federal Reserve Banks and for state member banks. The review will consider whether any provisions of the regulation are outdated and whether any substantive changes are necessary because of new technological developments. The regulation will also be reorganized and revised for simplicity and clarity. Public comment will be requested following the zero-based review. It is not anticipated that the revised regulation will have a significant economic impact on a substantial number of small banks.

TIMETABLE:	ACTION	DATE	FR CITE
	Board will consider revisions to Regulation P	04/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: None

AGENCY CONTACT:

Thomas A. Durkin
Regulatory Planning and Review Director
Office of the Secretary
202 452-2326

RIN: 7100-AA69

8.

TITLE:

Regulation: T - Credit by Brokers and Dealers

LEGAL AUTHORITY:

15 USC 78g "Securities Exchange Act of 1934, as amended"
15 USC 78w "Securities Exchange Act of 1934, as amended"

CFR CITATION:

12 CFR 220

ABSTRACT:

During the next three months the Board may consider proposing amendments to Regulation T to accommodate settlement and clearance of foreign securities in accounts covered by Regulation T. A request has been made that extensive amendments be proposed because of the growing internationalization of the securities markets.

It is not anticipated that any proposals in this area would affect a significant portion of the overall lending activities of a substantial number of small firms.

TIMETABLE:

	ACTION	DATE	FR CITE
Board may review a proposal to amend Regulation T		05/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: None

AGENCY CONTACT:

Laura Homer
Securities Credit Officer
Div. of Banking Supervision and Regulation
202 452-2781

RIN: 7100-AA72

9.

TITLE:

Regulation: T - Credit by Brokers and Dealers

LEGAL AUTHORITY:

15 USC 78g "Securities Exchange of 1934, as amended"
15 USC 78w "Securities Exchange of 1934, as amended"

CFR CITATION:

12 CFR 220

ABSTRACT:

Several national securities exchanges have proposed trading new stock-index-related products, often called "index participations." Because these products may not fit the existing categories of securities in Regulation T, it is expected that the Board will address the marginability of these products at broker-dealers.

It is not anticipated that this proposal will affect a significant portion of the overall lending activities of a substantial number of small firms.

TIMETABLE:	ACTION	DATE	FR CITE
Board may address marginability of new exchange-traded products under Regulation T		05/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: None

AGENCY CONTACT:

Laura Homer
Securities Credit Officer
Div. of Banking Supervision and Regulation
202 452-2781

RIN: 7100-AA93

10.
TITLE:
Private Sector Presentment (Docket Number: R-0631)

LEGAL AUTHORITY:
12 USC 4008(c)

CFR CITATION:
00 CFR None

ABSTRACT:
In April 1988, the Board requested comment on whether it should require paying banks to pay for checks presented by private sector collecting banks before 2:00 p.m. in same-day funds and without imposing presentment fees (53 FR 11911, April 11, 1988). The purpose of such a regulation would be to speed the forward collection of checks by requiring paying banks to accept checks without charging a fee later in the day, thus increasing the number of checks that can be collected that day. It would give private sector collecting banks the same rights vis-a-vis paying banks as the Federal Reserve Banks now have.
The Board has not yet made a specific proposal to amend its regulation in this regard. Rather, it is merely requesting comment on the idea of same-day payment in private sector presentments. If such a regulation were to be adopted, small entities that might be affected include small banks and state and local governments.
The Board will review the public comments and determine whether to propose specific regulations.

TIMETABLE:

ACTION	DATE	FR CITE
Board requests comment	04/11/88	53 FR 11911
Board extends comment period to December 1, 1988	07/21/88	53 FR 27565
Board will review further	04/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: Yes

AGENCY CONTACT:
Louise L. Roseman
Assistant Director
Div. of Federal Reserve Bank Operations
202 452-3874

RIN: 7100-AA96

11.

TITLE:

Proposals for Long-Term Improvement to the Check Collection System (Docket Number: R-0622)

LEGAL AUTHORITY:

12 USC 4001 et seq

CFR CITATION:

00 CFR none

ABSTRACT:

In December 1987, the Board published for comment several proposals that have the potential to improve the check collection system (52 FR 47112, December 11, 1987). They are, however, long-term proposals that are not likely to be implemented in the immediate future. They include bar-code indorsements, digitized image processing of checks, electronic clearing zones, and an electronic clearing house.

If these were to be introduced, they would likely have a significant economic impact on a substantial number of small banks and small entities including state and local governments that use their services.

The Board will review the public comments and may take further action within the next twelve months.

TIMETABLE:

	ACTION	DATE	FR CITE
Board issued proposals for comment		12/11/87	52 FR 47112
Board may take further action		04/00/90	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: Yes

AGENCY CONTACT:

Gayle Thompson
Program Leader
Div. of Federal Reserve Bank Operations
202 452-2934

RIN: 7100-AA94

Section 2
Final Rule Stage

12.

TITLE:

Regulation: D - Reserve Requirements of Depository Institutions
(Docket Number: R-0571)

LEGAL AUTHORITY:

12 USC 248(k)
12 USC 461(a)

CFR CITATION:

12 CFR 204

ABSTRACT:

In May 1986, the Board issued for comment rules to clarify the definition of "deposit" in Regulation D to include the interest or liability associated with a borrowing in the form of certain sales of assets and related transactions by a depository institution (51 FR 16855, May 7, 1986). These transactions include a sale of assets that involves a full guarantee by the institution that, in effect, substitutes the institution's credit standing for that of the ultimate borrower and in which the institution retains the risk of borrower default after the asset is sold.

Further, the regulation currently treats obligations of an affiliate as deposits of the depository institution to the extent the proceeds are provided to the depository institution. The Board proposes to exclude proceeds received from a sale of assets without recourse to the affiliate.

The proposal also would clarify the application of Regulation D to certain of these transactions involving organizations effectively controlled by the depository institution even though not formally affiliated. Finally, the proposal would clarify how the Board measures the "maturity" of an obligation for the purposes of Regulation D.

The proposal requests comment on any alternatives that the public believes may be preferable to the Board's proposed amendments. Suggested alternatives will be considered when comments are analyzed.

The proposed rule would apply to all depository institutions. It is not anticipated that the proposal will have a negative impact on the ability of small depository institutions to attract deposits.

The Board will review the comments and take further action in the near future.

TITLE:
Regulation: D - Reserve Requirements of Depository Institutions
(Docket Number: R-0571)

TIMETABLE: ACTION	DATE	FR CITE
Board proposed revisions to Regulation D	05/07/86	51 FR 16855
Comment period extended	07/10/86	51 FR 25069
Furtner Board action by	10/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: None

AGENCY CONTACT:
John Harry Jorgenson
Senior Attorney
Legal Division
202 452-3778

RIN: 7100-AA62

13.

TITLE:

Regulation: K - International Banking Operations (Docket Number: R-0550)

LEGAL AUTHORITY:

12 USC 611 et seq

CFR CITATION:

12 CFR 211

ABSTRACT:

In August 1985, the Board published for comment proposed regulations that would restrict lending by an Edge Corporation to its affiliates where the Edge Corporation is not subject to the restrictions of section 23A of the Federal Reserve Act (12 USC 371c) because it is not owned by a U.S. insured bank (50 FR 35238, August 30, 1985). In taking this action, the Board noted tne increasing number of owners of Edge corporations that are not subject to federal banking supervision and the potential adverse effects that might result from such affilations, such as the impairment of the Edge's ability to act as an impartial arbiter of credit. The Board requested comment on the effect of the proposal on existing Edge Corporations, especially those owned by foreign banks and whether any exemptions from the restrictions are appropriate.

It is not expected that the proposal would have a significant economic impact on a substantial number of small businesses, because it applies only to organizations involved in international banking.

The Board is continuing to evaluate whether this proposal should be adopted and will consider it in a zero-based review of Regulation K expected during the next eight months.

TIMETABLE:

ACTION	DATE	FR CITE
Board proposed revisions to Regulation K	08/30/85	50 FR 35238
Further Board action by	12/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: None

AGENCY CONTACT:

Kathleen O'Day
Senior Counsel
Legal Division
202 452-3786

RIN: 7100-AA58

14.

TITLE:
Regulation: Q - Interest on Deposits (Docket Number R-0514)

LEGAL AUTHORITY:
12 USC 371b

CFR CITATION:
12 CFR 217

ABSTRACT:
In January 1986, the Board issued for comment proposals to clarify, update, and simplify the advertising provisions of Regulation Q (51 FR 1379, January 13, 1986). The revisions incorporate and supersede the proposals of March 1984 concerning advertising of split-rate deposits and IRA/Keogh (HR 10) Plan accounts. The proposal is not expected to have a significant adverse effect on small banks.
The Board will review the comments and is expected to take further action within the next six months.
It is also anticipated that the Board will consider at that time various options with regard to providing written disclosures to consumers about their accounts.

TIMETABLE:

ACTION	DATE	FR CITE
Board proposed revisions	01/13/86	51 FR 1379
Further Board action by	10/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: None

AGENCY CONTACT:
Patrick J. McDivitt
Attorney
Legal Division
202 452-3818

RIN: 7100-AA56

15.

TITLE:

Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0537)

LEGAL AUTHORITY:

12 USC 1841 "Bank Holding Company Act"
12 USC 221 "Federal Reserve Act"
12 USC 3901 "International Lending Supervision Act of 1983"

CFR CITATION:

12 CFR 225

ABSTRACT:

In December 1986, the Board requested public comment on a proposal to permit bank holding companies to engage in real estate investment activities within certain limits (52 FR 543, January 7, 1987). The proposed limits are designed to ensure that conduct of the activity does not result in unsafe or unsound practices, unfair competition, conflicts of interest or other adverse effects.

The Board requested public comment on a number of specific items, including whether real estate investment activities may be deemed to be closely related to banking and a proper incident thereto for purposes of section 4(c)(8) of the Bank Holding Company Act; whether the proposed limits on the size, scope, and manner in which the activity would be conducted are appropriate; whether nonbank companies owned by holding company banks should be prohibited from conducting these activities; and whether the Board should establish special capital requirements for bank holding companies that control banks directly engaged in these activities.

The proposal, if adopted, would permit bank holding companies to engage in limited real estate investment activities that bank holding companies are not now permitted to conduct and would not impose more burdensome requirements on bank holding companies than are currently applicable. Moreover, the proposal includes provisions designed to permit small bank holding companies to participate meaningfully in the proposed activities. The proposal does not impose any limitations on the direct real estate investment activities of holding company banks. (See Docket Number R-0616, for additional information on proposed real estate investment limitations.)

It is not expected that the Board would take action on this proposal until after resolution of pending rulemaking to rescind

TITLE:
Regulation: Y - Bank Holding Companies and Change in Bank Control
(Docket Number: R-0537)

(ABSTRACT CONT.)
the Regulation Y provision permitting bank holding companies to acquire, through their subsidiary state banks, shares of companies engaged in activities that the bank is permitted to conduct under state law, so-called operations subsidiaries (R-0652).

TIMETABLE:	ACTION	DATE	FR CITE
	ANPRM	01/31/85	50 FR 4519
Board issues proposal for comment		01/07/87	52 FR 543
Further Board action indefinite		10/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: None

AGENCY CONTACT:
J. Virgil Mattingly
Deputy General Counsel
Legal Division
202 452-3430

RIN: 7100-AA52

16.

TITLE:

Regulation: Y - Bank Holding Companies and Change in Bank Control and Regulation H - Membership of State Banking Institutions (Docket Number: R-0616)

LEGAL AUTHORITY:

12 USC 1843 (c)(8)
12 USC 371c
12 USC 3901

CFR CITATION:

12 CFR 225.13 (b)(1)
12 CFR 225, Appendix
12 CFR 208.14

ABSTRACT:

In November 1987, the Board requested comment on whether, in evaluating proposals submitted under section 3 of the Bank Holding Company Act, the Board should consider the impact of real estate activities of the bank to be acquired by the bank holding company on the financial condition of the bank and bank holding company, and, where appropriate, should prohibit banks and savings banks that are acquired by bank holding companies from directly engaging in real estate investment and development activities (52 FR 42301, November 4, 1987).

The Board also requested comment on whether member banks that are not in a bank holding company should be made subject to the interaffiliate lending restrictions of section 23A of the Federal Reserve Act in their dealings with real estate investment and development subsidiaries of the bank.

Finally, the Board requested comment on whether the Board should impose special capital requirements on real estate subsidiaries of banks in a bank holding company, under the Board's authority in the International Lending Supervision Act. These three proposals supplement the Board's earlier request for comment in December 1986 regarding whether the Board should permit bank holding companies to engage in real estate investment activities.

This proposal is not expected to have a significant economic impact on small companies because the Board believes that very few small banks are currently engaged in real estate investment and development activities, and bank holding companies are not generally permitted to engage in these activities.

It is not expected that the Board would take action on this proposal until after resolution of pending rulemaking to rescin

TITLE:
Regulation: Y - Bank Holding Companies and Change in Bank Control and Regulation H - Membership of State Banking Institutions (Docket Number: R-0616)

(ABSTRACT CONT.)
the Regulation Y provision permitting bank holding companies to acquire, through their subsidiary state banks, shares of companies engaged in activities that the bank is permitted to conduct under state law, so-called operations subsidiaries (R-0652).

TIMETABLE:

	ACTION	DATE	FR CITE
Board requested public comment		11/04/87	52 FR 42301
Further Board action	indefinite	10/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: None

AGENCY CONTACT:
Scott G. Alvarez
Assistant General Counsel
Legal Division
202 452-3583

RIN: 7100-AA88

17.

TITLE:

Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0614)

LEGAL AUTHORITY:

12 USC 1843 (c)(8)

CFR CITATION:

12 CFR 225.25 (b)(9)

ABSTRACT:

In September 1987, the Board requested public comment on whether the Board should authorize bank holding companies to acquire thrift institutions as a general matter under section 4(c)(8) of the Bank Holding Company Act (52 FR 36041, September 25, 1987). The Board currently permits bank holding companies to acquire thrift institutions only if the thrift is failing or has failed, and the acquisition is likely to result in revitalization of the thrift.

The Board has requested comment on whether changes in the economic and regulatory environment, in particular, the expansion of the powers of thrifts and the growth in state initiatives authorizing interstate banking, justify revisions of the Board's policy and the authorization of thrift acquisitions by bank holding companies. The Board also requested comment on what, if any, conditions the Board should impose on bank holding companies seeking to acquire thrifts.

The Board's proposal, if adopted, is not expected to impose a substantial economic burden on small bank holding companies because this action, if taken, would permit all bank holding companies to acquire thrift institutions, and would not impose different requirements on companies based on their size.

It is expected that the Board will consider this matter further during the next six months.

TIMETABLE:

ACTION	DATE	FR CITE
Board requested public comment	09/25/87	52 FR 36041
Further Board action during next six months	10/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: None

AGENCY CONTACT:

Michael J. O'Rourke
Senior Attorney
Legal Division
202 452-3288

RIN: 7100-AA89

18.

TITLE:

Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0652)

LEGAL AUTHORITY:

12 USC 1843 "Bank Holding Company Act"
12 USC 1844(b) "Bank Holding Company Act"

CFR CITATION:

12 CFR 225

ABSTRACT:

A provision of Regulation Y permits a State bank subsidiary of a bank holding company to engage through a nonbank subsidiary in any activity that is permissible under State law for the bank subsidiary itself, subject to the same limits as if the bank engages in the activity directly. (A similar rule applies to national bank subsidiaries regarding activities permissible for such banks under Federal law.) The Board received comments on this provision in connection with its general request for comments in May 1983 regarding the proposed revision of Regulation Y. Some of the commenters challenged the Board's authority to issue this provision, although it has been part of Regulation Y since 1971. In taking final action on the revision of Regulation Y, the Board deferred consideration of the comments on this provision and allowed the existing rule to remain in effect in the interim (49 FR 794, January 5, 1984).

In December 1988, the Board requested public comment regarding whether this rule, as it applies to nonbanking companies owned by state banks in a holding company system, continues to be valid and appropriate in light of enactment of the Garn-St Germain Act and certain recent court decisions (53 FR 48915, December 5, 1988). The Board has also scheduled an informal public hearing on this matter for April 7, 1989. The Board has not proposed revising its current rule regarding subsidiaries of national banks in a holding company.

A determination to reverse the Board's state bank rule could have an adverse impact on small banks that are subsidiaries of holding companies because they might be required to restructure their nonbanking activities or to take other action.

The Board is expected to take further action within the next six months.

TITLE:

Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0652)

TIMETABLE:

ACTION	DATE	FR CITE
Board requested comments	05/25/83	48 FR 23520
Board allows existing rule to remain in effect	01/05/84	49 FR 794
Board requested comments	12/05/88	53 FR 48915
Further Board action by	10/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: Yes

AGENCY CONTACT:

J. Virgil Mattingly
Deputy General Counsel
Legal Division
202 452-3430

RIN: 7100-AA41

19.

TITLE:

Regulation: Z - Truth in Lending (Docket Number R-0655)

LEGAL AUTHORITY:

15 USC 1604, as amended, "Truth in Lending Act"

CFR CITATION:

12 CFR 226

ABSTRACT:

In January 1989, the Board published a proposal to amend Regulation Z to implement provisions of the Home Equity Loan Consumer Protection Act of 1988, which requires creditors to provide consumers with more information for open-end credit plans secured by the consumer's dwelling, and imposes substantive limitations on these plans (54 FR 3063, January 23, 1989). The law superseded the Board's December 1987 proposal to amend Regulation Z to change the disclosure requirements for home equity lines of credit secured by the consumer's principal dwelling (52 FR 48702, December 24, 1987).

Under the new law, creditors would have to provide additional information at the time an application is provided to the consumer, including information about the payment terms, fees imposed under the plan, and, for variable-rate plans, information about the index and a fifteen-year history of changes in the index values. Creditors also would be required to provide consumers with a brochure prepared by the Board (or with one substantially similar) that describes home equity plans. In addition, new duties would be imposed on third parties who provide applications to consumers, and the rules relating to advertisements for home equity plans would be modified.

The January 1989 proposal would also amend Regulation Z to implement new substantive limitations imposed by the law on home equity plans.

If the Board adopts the proposal, small institutions engaged in home equity lending could incur additional expenses, including costs to revise and reprint disclosure forms, to acquire and distribute the home equity brochures, and possibly to modify their contracts. They also would need to review and possibly modify their advertisements for home equity plans. Before adopting any final amendments to its rule, the Board would consider appropriate steps to minimize the burdens and costs of compliance.

The Board will review the public comments and take further action witnin the next three months.

TITLE:
Regulation: Z - Truth in Lending (Docket Number R-0655)

TIMETABLE:

	ACTION	DATE	FR CITE
	Board proposed amendment	01/23/89	54 FR 3063
	Further Board action by	05/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: Yes

AGENCY CONTACT:
Sharon Bowman
Attorney
Division of Consumer and Community Affairs
202 452-3667

RIN: 7100-AA91

20.

TITLE:
Regulation: Z - Truth in Lending (Docket Number R-0654)

LEGAL AUTHORITY:
15 USC 1604 as amended "Truth in Lending Act"

CFR CITATION:
12 CFR 226

ABSTRACT:
In December 1988, the Board proposed for comment revisions to Regulation Z to implement amendments to the Truth in Lending Act that were part of H.R. 515, the Fair Credit and Charge Card Disclosure Act of 1988, enacted on November 3, 1988 (53 FR 51785, December 23, 1988). The statutory amendments require credit and charge card issuers to provide certain credit disclosures in telephone solicitations and in direct mail and other applications and solicitations to open credit and charge card accounts. Card issuers will also be required to give cardholders written notice regarding the renewal of their credit and charge card accounts before a cardholder has to pay a fee to renew the account. In addition, the law requires credit card issuers to provide cardholders with written notice of a change in the entity providing credit insurance on credit card accounts.
Regardless of size, most commercial banks offer credit card plans to consumers. The proposed regulations do not distinguish between large and small creditors. Consequently, creditors of all sizes will incur similar types of costs. However, the magnitude of these expenses will depend upon the level of a particular creditor's credit card plan operation and the type of marketing employed. With respect to bank cards, the majority of credit card accounts are held by a relatively small number of large card issuers. These institutions also probably account for a substantial proportion of the credit card solicitations. Consequently, large card issuers will probably incur a larger aggregate cost, relative to smaller card issuers, to comply with the new rules, although on a cost-per-solicitation or cost-per-account basis these costs will probably be relatively small.
The Board will review the public comments and take further action within the next two months.

TIMETABLE:	ACTION	DATE	FR CITE
Board proposed amendment to Regulation Z	12/23/88		53 FR 51785
Further Board action by	04/00/89		

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: Yes

AGENCY CONTACT:
John C. Wood
Senior Attorney
Division of Consumer and Community Affairs
202 452-2412

21.
TITLE:
Regulation: CC - Availability of Funds and Collection of Checks (Docket Number: R-0639)

LEGAL AUTHORITY:
12 USC 4001 et seq

CFR CITATION:
12 CFR 229.36

ABSTRACT:
In June 1988, the Board issued for comment a proposed amendment to Regulation CC that would prohibit banks from issuing teller's checks unless a depositary bank located in the same check processing region as the issuing bank would normally receive credit for the check as early as credit for a check drawn on the issuing bank (53 FR 24093, June 27, 1988). The purpose of the amendment is to address the problems connected with certain delayed disbursement practices.
The rule will affect all banks regardless of size. It is not expected that the proposal will impose significant costs on small banks other than the costs of changing paying banks and purchasing new check stock for those banks that do not currently meet the equivalent availability standards.
Since the original proposal, the Board, in response to commenters' concerns, has determined that such an amendment would not be effective April 1, 1989 (54 FR 5495, February 3, 1989). If and when a final rule is adopted, the Board will allow such lead time as it determines to be reasonable for the industry to implement any necessary changes.
Following review of public comments and meetings with industry representatives, the Board may take further action within tne next six months.

TIMETABLE:

ACTION	DATE	FR CITE
Board requested comment on a proposed amendment to Regulation CC	06/27/88	53 FR 24093
Further Board action by	10/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: Yes

AGENCY CONTACT:
Louise L. Roseman
Assistant Director
Div. of Federal Reserve Bank Operations
202 452-3874

RIN: 7100-AA95

22.

TITLE:
Regulation: CC - Availability of Funds and Collection of Checks
(Docket Number: R-0648)

LEGAL AUTHORITY:
12 USC 4001 et seq

CFR CITATION:
12 CFR 229

ABSTRACT:
In November 1988, the Board adopted a rule to amend its Regulation CC to treat "bank payable through checks" as local or nonlocal based on the location of the bank on which they are written rather than the location of the bank through which they are payable (53 FR 44324, November 2, 1988). In conjunction with the final rule, the Board issued proposed amendments to Regulation CC designed to alleviate the operational difficulties and additional risks resulting from the final rule. (53 FR 44335, November 2, 1988).
The proposed rule would affect all institutions that issue payable through checks. A number of these institutions would be small banks, generally credit unions.
The Board will review the public comments and is expected to take further action within the next four months.

TIMETABLE:

	ACTION	DATE	FR CITE
Board issued proposals for comment		11/02/88	53 FR 44335
Further Board action by		06/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: Yes

AGENCY CONTACT:
Louise L. Roseman
Assistant Director
Div. of Federal Reserve Bank Operations
202 452-3874

23.

TITLE:
Regulation: CC - Availability of Funds and Collection of Checks
(Docket Number: R-0649)

LEGAL AUTHORITY:
12 USC 4001 et seq

CFR CITATION:
12 CFR 229

ABSTRACT:
The Board's Regulation CC requires banks to make funds available to their customers within specific times, to disclose their funds availability policies to their customers, and to handle returned checks expeditiously. Since the publication of Regulation CC, the Board has received numerous requests from banks and others for clarification of various provisions of the regulation. In November 1988, the Board issued for comment proposed changes to Regulation CC that respond to many of the questions and provide assistance to banks in understanding and complying with the regulation (53 FR 44343, November 2, 1988).
Adoption of the proposed amendments would not result in any significant economic impact on small entities.
The Board will review the public comments and is expected to take further action within the next two months.

TIMETABLE:	ACTION	DATE	FR CITE
Board request comment on proposed changes		11/02/88	53 FR 44343
Further Board action by		04/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: None

AGENCY CONTACT:
Stephanie Martin
Attorney
Legal Division
202 452-3198

24.

TITLE:

Further Proposals to Reduce Risks on Large-Dollar Wire Transfer Systems (Docket Number: R-0592)

LEGAL AUTHORITY:

12 USC 221 et seq

CFR CITATION:

00 CFR None

ABSTRACT:

In December 1986, the Board requested comment on several proposals that would refine its policy statement on payment system risk (51 FR 45042, December 16, 1986). The proposals included modifying automated clearing house transactions to reduce risks (R-0591) and various proposals to charge a fee for daylight overdrafts as a way of reducing risks associated with them (R-0592).

It is not expected that these actions will have a significant economic impact on a substantial number of small entities, because small entities do not usually participate in large-dollar wire transfer systems.

In December 1987, following review of public comments, the Board approved changes in the automated clearing house mechanism to reduce risk (52 FR 49086, December 29, 1987). Action on pricing of daylight overdrafts (Docket No. R-0592) is expected by June 1989.

Further, the Board will be conducting a zero-based review of its risk reduction policy during 1989.

TIMETABLE:

ACTION	DATE	FR CITE
Board requested comment	12/16/86	51 FR 45042
Board adopted proposal in part	12/29/87	52 FR 49086
Further Board action by	06/00/89	

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: None

AGENCY CONTACT:

Edward C. Ettin
Deputy Director
Division of Research and Statistics
202 452-3368

RIN: 7100-AA76

Section 3
Completed Actions

25.
TITLE:
Regulation: H - Membership of State Banking Institutions in the Federal Reserve System (Docket Number: R-0636)

LEGAL AUTHORITY:
12 USC 248
12 USC 321 to 338
12 USC 486
12 USC 1814
12 USC 3907
12 USC 3909

CFR CITATION:
12 CFR 208.17

ABSTRACT:
In June 1988, the Board issued for comment an amendment to Regulation H designed to facilitate the fullest possible dissemination of publicly available information regarding the condition of state member banks (53 FR 19308, June 3, 1988). The amendment would require such banks to make available upon request their year-end reports of condition or other suitable documents describing their condition.
Under the amendment to Regulation H, state member banks must make available to the public, upon request, one free copy of certain information that is presently prepared by banks. State member banks must also notify the public and shareholders of the availability of the information. Although many commenters to the proposal focused on the cost of such additional regulation, especially to small banks, the Board does not believe that the cost would be substantial. The amendment does not require the banks to prepare any new documents. Notification to the public can be accomplished by means as inexpensive as lobby posters, and notification to shareholders must be in the form of a written announcement that may be included with the notice of the annual shareholders meeting.
In February 1989, after review of the public comments, the Board approved the proposal with modifications (54 FR 6115, February 8, 1989).

TIMETABLE:

ACTION	DATE	FR CITE
Proposed regulation issued for public comment	06/03/88	53 FR 19308
Final rule adopted	02/08/89	54 FR 6115

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: Yes

AGENCY CONTACT:
Stephen L. Siciliano
Special Assistant to the General Counsel
Legal Division
202 452-3920

RIN: 7100-AA86

26.
TITLE:
Regulation: Y - Bank Hold Companies and Change in Bank Control (Docket Number: R-0637)

LEGAL AUTHORITY:
12 USC 1843

CFR CITATION:
12 CFR 225

ABSTRACT:
In June 1988, the Board proposed for comment amendments to Regulation Y to implement the limitations on grandfathered nonbank banks and industrial banks set forth in the Competitive Equality Banking Act of 1987 (CEBA) (53 FR 21462, June 1, 1988). The limitations in CEBA on nonbank banks include restrictions on new activities, joint-marketing with affiliates, annual growth, and overdrafts. Only the overdraft restriction applies to industrial banks.
The overdraft restriction requires nonbank banks and industrial banks to keep records of their affiliates' transactions in order to measure overdrafts. Because the overdraft restriction is required by CEBA, small entities cannot be exempted from this recordkeeping requirement.
Following an informal hearing on the public comments, the Board, in September 1988, adopted the amendments with minor changes (53 FR 37733, September 28, 1988).

TIMETABLE:

ACTION	DATE	FR CITE
Board requested public comment	06/01/88	53 FR 21462
Board adopted the proposal	09/28/88	53 FR 37733

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: Yes

AGENCY CONTACT:
Elaine Boutilier
Senior Attorney
Legal Division
202 452-2418

RIN: 7100-AA87

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TRUTH IN LENDING

AMENDMENTS TO THE OFFICIAL STAFF COMMENTARY ON REGULATION Z

(effective February 28, 1989)

12 CFR Part 226

[Reg. Z; TIL-1]

Truth in Lending; Update to Official Staff Commentary

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official staff interpretation.

SUMMARY: The Board is publishing 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 revisions address a variety of questions that have arisen about the regulation, and include new material and changes in existing material. The 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: Effective February 28, 1989, but compliance optional until October 1, 1989.

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 eighth general update. This update reflects material that was published in two proposed updates in 1988—a special update regarding disclosures for adjustable-rate mortgages published at 53 FR 38018 (September 29, 1988) and the proposed general update published at 53 FR 48925 (December 5, 1988). Creditors are free to rely on the revised commentary as of February 28, 1989, although they need not follow the revisions until October 1, 1989.

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

Subpart A—General

Section 226.2—Definitions and Rules of Construction

2(a) Definitions

2(a)(25) "Security Interest". In the original proposal, comment 23(b)–3 would have been revised to clarify that multiple security interests in the same property need not be disclosed on rescission notices. The comment, for example, would have clarified that the disclosure that an interest is retained, as in form H–9, is adequate in a refinancing where a new mortgage is filed and a new advance is made. Several commenters suggested that the commentary also provide guidance on the specificity required of the security interest disclosure under §§ 226.6, 226.15, and 226.18. In order to clarify that the same principle holds true in other required disclosures of security interests, the substance of the proposed comment has been incorporated in new comment 2(a)(25)–6, instead of in comment 23(b)–3.

Section 226.4—Finance Charge

4(a) Definition

Comment 4(a)–3 is 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, a fee imposed by the broker is a finance charge. The revised comment does not affect existing rules regarding charges which are excluded from the finance charge.

PRINTED IN NEW YORK, FROM *FEDERAL REGISTER*, VOL. 54, NO. 43, pp. 9417-9424

[Enc. Circ. No. 10292]

4(b) Examples of Finance Charges

Paragraphs 4(b) (7) and (8). Comment 4(b) (7) and (8)–2 is revised to clarify that insurance "written in connection with a credit transaction" does not include insurance written during an open-end credit plan if the insurance is written because of the consumer's default or because the consumer requests voluntary insurance after the opening of the plan. If insurance written during the term of the open-end plan is required by the creditor not as a result of the consumer's default, however, the insurance is written in connection with the plan. The final comment, which differs from the proposed comment, will provide identical rules for insurance written after consummation of a closed-end transaction and insurance written during the life of an open-end plan.

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 is revised to provide that creditors with variable-rate transactions 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 is revised to clarify the basis of disclosure 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. The comment also has been been reorganized for clarity, but is not different in substance from the proposal.

Comments 17(c)(1)–14 and 17(c)(1)–15 are renumbered as 17(c)(1)–15 and 17(c)(1)–16, respectively. New comment 17(c)(1)–14 is 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 or the consumer's death. Repayment of the loan may be required at the end of the disbursement period or at a later time; both accrued interest and principal generally are payable in one payment.

Some reverse "term" mortgages have a fixed term for the disbursement of funds to the consumer, but provide that the loan does not have to be repaid until a later time, such as when the consumer dies. The comment provides that the creditor should assume repayment will occur at the time disbursements are scheduled to end (or during a period following the date of the final disbursement which is not longer than the regular interval between disbursements). For example, in a transaction with monthly disbursements scheduled for ten years, the creditor may assume that repayment will be made in the 120th or 121st month.

The new comment also provides guidance on how creditors should make disclosures when both the period for disbursements and the date for repayment are determined solely by reference to future events, including the consumer's death. In such cases, the creditor may assume that disbursements will end upon the consumer's death (by using actuarial tables, for example). Alternatively, the creditor may assume that disbursements end upon the occurrence of the event that the creditor estimates will be most likely to occur first. If terms will be determined by reference to future events which do not include the consumer's death, the creditor must base the disclosures on the event estimated to be most likely to occur first. The creditor must assume repayment will occur at the same time the disbursements end (or during a period following the final disbursement which is not longer than the regular interval between disbursements).

The comment also provides that, in making disclosures, creditors would assume that all disbursements and accrued interest must be paid by the consumer. Thus, if a reverse mortgage has a "nonrecourse" provision providing that the consumer is not obligated for an amount greater than the value of the house, the comment explains that the disclosures must assume that the full amount disbursed will be repaid, although the creditor is permitted to explain that the consumer's contract may limit the amount that must be repaid.

Finally, the comment 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 is 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 is revised to clarify the disclosure of variable-rate 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 combined transaction or as separate transactions. Under revised comment 19(b)–1, a creditor is permitted to apply a similar analysis in determining the applicability of the variable-rate disclosure requirements of § 226.19(b). Thus, the creditor may treat the construction phase as a separate transaction and, if the term is one year or less, disclosures under § 226.19(b) are not required for the construction phase. The comment also makes clear that a creditor may treat the construction and permanent phases as separate and 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). If the construction and permanent phases are treated as a single combined transaction with a term greater than one year, disclosures under § 226.18(f)(2) would be required. As provided in comment 17(a)(1)–5, however, the creditor may describe the variable-rate features of the combined transaction pursuant to § 226.18(f)(1).

Comment 19(b)–1 also is revised to address the disclosure requirements in assumptions of variable-rate transactions secured by the consumer's principal dwelling with a term longer than one year. The comment explains that disclosures need not be provided under § 226.18(f)(2)(ii) or 226.19(b). References to applicable sections and to particular parties are deleted as unnecessary and in order to make the comment more concise.

Paragraph 19(b)(2). Comment 19(b)(b)–1 is revised to omit references to the form of disclosures for ARM programs. New comment 19(b)(2)–3 has been added to describe the manner in which creditors may make the disclosures for each ARM program they offer.

Comment 19(b)(2)–1 also is revised to clarify the timing requirements for disclosures provided in response to a subsequent expression of interest by the consumer. Editorial changes have been made to the original proposal. The final comment makes clear that if a consumer expresses an interest in a different program, or it the consumer and creditor decide on a program different than that set forth in the disclosures that were first provided, disclosures for the new program must be provided as soon as reasonably possible.

In addressing the proposed revision to comment 19(b)(2)–1, several commenters also requested clarification of the timing requirements in situations, such as private banking arrangements, where loan terms that are not generally offered to the public are individually negotiated with a consumer. Commenters indicated that in these instances, creditors do not know the loan program terms in advance and therefore cannot prepare program disclosures until after they conclude their negotiations with the consumer. They also expressed concern that "customized" program disclosures might be needed to disclose each individually negotiated program. Accordingly, an additional sentence has been added to comment 19(b)(2)–1 to make clear that, in such cases, creditors may provide appropriate program disclosures as soon as reasonably possible after the terms have been decided upon, but in no event later than the time a non-refundable fee is paid. Furthermore, with the flexibility provided in this commentary concerning disclosure of variations in loan maturities, rate caps and frequencies of adjustments, the potential that "customized" disclosures will need to be developed for each private banking customer is significantly limited.

Comment 19(b)(2)–2 has been revised to clarify that the term to maturity of an ARM loan does not constitute a program variation. This revision corresponds to the guidance provided in new comments 19(b)(2)(viii)–5 and 19(b)(2)(x)–2 on the terms to maturity which may be used in calculating and disclosing the historical example and the initial and maximum rates and payments.

Comments 19(b)(2)–3 and –4 have been renumbered as comments 19(b)(2)–4 and –5, respectively. Based upon public comment and to permit greater flexibility for compliance with the requirements, new comment 19(b)(2)–3 has been added to describe the form for disclosures required under § 226.19(b)(2). The Comment incorporates material previously contained in comment 19(b)(2)–1 and includes new material which explains that a creditor may use either a separate disclosure form to describe each ARM program it offers or a disclosure form which describes more than one available ARM program. The comment explains that the multiple program form must disclose if any program features are available only in conjunction with certain other features. Finally, the new comment explains that multiple terms to maturity or multiple payment amortizations may be illustrated in any program disclosure form whether the form describes separate or multiple programs.

Paragraph 19(b)(2)(iii). Comment 19(b)(2)(iii)–1 differs from the proposal in two respects. The use of the term "balloon payment" has been replaced by a more specific reference to the type of transactions subject to the disclosure provisions. The comment is revised to clarify that, in transactions where paying the periodic payments will not fully amortize the loan at the end of the loan term and where the final payment will equal the periodic payment plus the remaining unpaid balance, the creditor must disclose that such a payment will be required. The creditor, however, need not reflect any irregular final payment in the historical example or in the disclosure of the initial and maximum rates and payments. (The exception for all irregular final payments is an expansion of the proposed comment, and would include final payments that differ in amount due to the effect of rate changes.)

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

Paragraph 19(b)(2)(vi). Comment 19(b)(2)(vi)–1 is revised to address the disclosures for transactions in which the interval between consummation or closing and the initial adjustment is not known—for example, when ARM loans are grouped together for sale to a secondary mortgage market purchaser. In such cases, the comment explains that lenders may disclose the timing for the first adjustment as a range of the minimum and maximum length of time from consummation or closing until the first adjustment.

Paragraph 19(b)(2)(vii). Comment 19(b)(2)(vii)–1 is revised to address the disclosures for transactions in which the overall limitations on rate increases (and decreases) vary—for example, based on the loan features the consumer chooses or upon fluctuations in the pricing of the loan. The final comment extends the alternative disclosure rule to periodic limitations in addition to overall rate limitations. In such cases, the comment explains that the creditor may disclose the range of the lowest and highest periodic and overall rate limitations that may be applicable to the creditor's ARM transactions, and must include a statement that the consumer ask about the rate limitations that are currently applicable.

Paragraph 19(b)(2)(viii). Comment 19(b)(2)(viii)–1 is revised 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.

Comment 19(b)(2)(viii)–5 is added to describe the terms to maturity or payment amortizations which may be used as a basis for the disclosures in ARM transactions. Based upon public comment and further consideration, the proposed comment has been revised. Under the final comment, creditors will be permitted to base the disclosures required under § 226.19(b)(2)(viii) and (x) for ARM loans within certain ranges upon only three maturities—five, fifteen and thirty years. Thus, a creditor who offers ARM loans for any term over one year would be permitted to make the disclosures required under these sections based on five-, fifteen- and thirty-year terms, and need not illustrate every other maturity that is offered. The comment also permits creditors to use five-, fifteen- and thirty-year term assumptions for disclosing payments based on amortizations different than the actual loan term. (Disclosures based on fifteen- and thirty-year maturities should provide payments that fairly approximate the payments for long-term ARMs. Disclosures based on a five-year maturity should provide payments that fairly approximate the payments for most short-term ARMs. Finally, the comment explains that the creditor would be required to state the term (or amortization) used in making the disclosures when using the three terms specified in the comment.)

Comment 19(b)(2)(viii)–6 is added to explain that a creditor following the alternative rule for disclosing periodic and overall rate limitations described in revised comment 19(b)(2)(vii)–1 must base the historical example upon the highest rate limitation disclosed under

§ 226.19(b)(2)(vii). In addition, such creditors must state the periodic or overall limitation used in the historical example.

Comment 19(b)(2)(viii)–7 also is added to explain the assumptions that can be made by a creditor following the alternative rule for disclosing the frequency of rate and payment adjustments described in revised comment 19(b)(2)(vi)–1. The comment explains that, in disclosing the historical example, the creditor may assume that the first adjustment occurred at the end of the first year in which the adjustment could occur.

Paragraph 19(b)(2)(ix). Comment 19(b)(2)(ix)–1 states that a creditor should base the example of how a consumer may calculate their actual payments on the latest payment shown in the historical example. The comment is 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 include additional examples that are based on the initial or maximum payments disclosed under § 226.19(b)(2)(x). This revision differs from the proposal in that it provides that creditors may provide the extra examples in addition to, but not as alternatives for, the example based on the last payment shown in the historical table.

Paragraph 19(b)(2)(x). Comment 19(b)(2)(x)–2 is added to allow creditors to base their calculations of the initial and maximum rates and payments upon the terms to maturity stated in new comment 19(b)(2)(viii)–5. The comment explains that the term used for making disclosures under § 226.19(b)(2)(viii) also must be used in disclosing the initial and maximum interest rates and payments.

Comment 19(b)(2)(x)–3 is added to describe how a creditor following the alternative rule for disclosing periodic and overall rate limitations described in revised comment 19(b)(2)(vii)–1 would calculate the maximum interest rate and payment. In such cases, the comment explains that the creditor must base the disclosure of the maximum rate and payment upon the highest periodic and overall rate limitation disclosed under § 226.19(b)(2)(vii). The creditor would be further required to state the periodic and overall rate limitations used in calculating the maximum rate and payment.

Comment 19(b)(2)(x)–4 also is added to explain how to calculate the initial and maximum rates and payments if a creditor follows the alternative rule for disclosing the timing of the first rate and payment adjustment described in revised comment 19(b)(2)(vi)–1. The comment explains that the creditor must assume that the first adjustment occurs at the earliest time disclosed under § 226.19(b)(2)(vi).

Section 226.20—Subsequent Disclosure Requirements

20(b) Assumptions

The proposed amendment to comment 20(b)–6 to add a cross reference to § 226.19(b) is deleted as unnecessary.

20(c) Variable-Rate Adjustments

Paragraph 20(c)(4). Comment 20(c)(4)–1 differs from the proposal in that it replaces the term "balloon payment" with a more specific reference to the type of transactions covered by the disclosure provisions. The comment is revised to clarify that the provisions of this paragraph apply to transactions in which paying the periodic payments will not fully amortize the outstanding balance at the end of the loan term and where the final payment will equal the periodic payment plus the remaining unpaid balance. The comment explains that the creditor should disclose any change in such a payment that results from an interest rate adjustment.

Paragraph 20(c)(5). Comment 20(c)(5)–1 is revised 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 226.24—Advertising

24(b) Advertisement of Rate of Finance Charge

Although not reprinted in this notice, comment 24(b)–5 is revised to change the references to comment 18(f)–8 to be comment 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 is 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. The comment also states that creditors may rely on the methods for reconstructing the required disclosures provided for under comment 25(a)–2.

Section 226.30—Limitation on Rates

Comment 30–8 is 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, is 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 on 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 is 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.

Text of 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 Competitive Equality Banking Act, Pub. L. 100–86, 101 Stat. 552, the Board amends the official staff commentary to Regulation Z (12 CFR Part 226 Supp. I) as follows:

PART 226—[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 revisions amend the commentary (TIL–1, 12 CFR Part 226 Supp. I) by adding comment 2(a)(25)–6; adding a sentence and a bullet at the end of comment 4(a)–3; revising the heading and text of comment 4(b) (7) and (8)–2; adding a bullet at the end of comment 17(a)(1)–5; adding two sentences after the first sentence, and revising the second and third sentences and the parenthetical material 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 first, third and fourth sentences, adding a sentence after the third sentence, and removing the last three sentences of comment 19(b)(2)–1; revising the third sentence and the opening clause of the second and fifth sentences of comment 19(b)(2)–2 redesignating comments 19(b)(2)–3 and –4 to be comments 19(b)(2)–4 and –5, respectively; adding comment 19(b)(2)–3; adding three sentences 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; adding four sentences and parenthetical material at the end of comment 19(b)(2)(vi)–1; adding five sentences and parenthetical material at the end of comment 19(b)(2)(vii)–1; revising the third sentence in the parenthetical material after the first sentence in comment 19(b)(2)(viii)–1; adding comments 19(b)(2)(viii)–5, –6 and –7; adding a sentence after the second sentence in comment 19(b)(2)(ix)–1; adding comments 19(b)(2)(x)–2, –3 and –4; adding a sentence after the second sentence in comment 20(c)(4)–1; revising comment 20(c)(5)–1; changing the references to "comment 18(f)–8" in the first sentence and in the first bullet of comment 24(b)–5 to be "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 be "§ 226.18(f)(1)(iv)" to read as follows:

* * * * *

Supplement 1—[Amended]

Subpart A—General

* * * * *

Section 226.2—Definitions and Rules of Construction

2(a) Definitions.

* * * * *

2(a)(25) "Security Interest"

* * * * *

6. *Specificity of disclosure.* A creditor need not separately disclose multiple security interests that it may hold in the same collateral. The creditor need only disclose that the transaction is secured by the collateral, even when security interests from prior transactions remain of record and a new security interest is taken in connection with the transaction.

* * * * *

Section 226.4—Finance Charge

4(a) *Definition.*

* * * * *

3. *Charges by third parties.* * * *

In contrast, charges imposed on the consumer by someone other than the creditor are finance charges (unless otherwise excluded) if the creditor requires the services of the third party. For example:

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

* * * * *

4(b) *Example of Finance Charges.*

* * * * *

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

* * * * *

2. *Insurance written in connection with a transaction.* Insurance sold after consummation in closed-end credit transactions or after the opening of a plan in open-end credit transactions is not "written in connection with" the credit transaction if the insurance is written because of the consumer's default (for example, by failing to obtain or maintain required property insurance) or because the consumer requests insurance after consummation or the opening of a plan (although credit sale disclosures may be required for the insurance sold after consummation if it is financed).

* * * * *

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 section 226.18(f)(1) for variable-rate transactions subject to section 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. However, in a variable-rate transaction with a seller buydown that is reflected in the credit contract, a consumer buydown, or a discounted or preminum rate, disclosures should not be based solely on the initial terms. In those transactions, the disclosed annual percentage rate should be a composite rate based on the rate in effect during the initial 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, discounted, and premium transactions and the commentary to section 226.19(a)(2) for a discussion of the redisclosure in certain residential mortgage transactions with a variable-rate feature).

* * * * *

14. *Reverse mortgages.* Reverse mortgages, also known as reverse annuity or home equity conversion mortgages, tpyically 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 death. 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, upon the death of the consumer. In disclosing these transactions, creditors must apply the following rules, as applicable:

• If the reverse mortgage has a specified period for disbursements but repayment is due only upon the occurrence of a future event such as the death of the consumer, the creditor must assume that disbursements will be made until they are scheduled to end. The creditor must assume repayment will occur when disbursements end (or within a period following the final disbursement which is not longer than the regular interval between disbursements). This assumption should be used even though repayment may occur before or after the disbursements are scheduled to end. In such cases, the creditor may include a statement such as "The disclosures assume that you will repay the loan 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 disbursements nor a specified repayment date and these terms will be determined solely by reference to future events including the consumer's death, the creditor may assume that the disbursements will end upon the consumer's death (estimated by using actuarial tables, for example) and that repayment will be required at the same time (or within a period following the date of the final disbursement which is not longer than the regular interval for disbursements). Alternatively, the creditor may base the disclosures upon another future event it estimates will be most likely to occur first. (If terms will be determined by reference to future events which do not include the consumer's death, the creditor must base the disclosures upon the occurence of the event estimated to be most likely to occur first.)

• In making the disclosures, the creditor must assume that all disbursements and accrued interest will be paid by the consumer. For example, if the 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 must 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 amount advanced plus accured interest, 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).

* * * * *

Section 226.18—Content of Disclosures

* * * * *

18(f) Variable Rate

* * * * *

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 single combined transaction. For purposes of the disclosures required under section 226.18, the creditor may nevertheless treat the two phases either as separate transactions or as a single combined transaction in accordance with section 226.17(c)(6). Finally, in any assumption of a variable-rate transaction secured by the consumer's principal dwelling with a term greater than one year, disclosures need not be provided under sections 226.18(f)(2)(ii) or 226.19(b).

* * * * *

Paragraph 19(b)(2)

1. *Disclosure for each variable-rate program.* A creditor must provide disclosures to the consumer that fully describe each of the creditor's variable-rate loan programs in which the consumer expresses an interest. * * * Disclosures must be given at the time an application form is provided or before the consumer pays a nonrefundable fee, whichever is earlier. If program disclosures cannot be provided because a consumer expresses an interest in individually negotiating loan terms that are not generally offered, disclosures reflecting those terms may be provided as soon as reasonably possible after the terms have been decided upon, but not later than the time a non-refundable fee is paid. If a consumer who has received program disclosures subsequently expresses an interest in other available variable-rate programs subject to 226.19(b)(2), or the creditor and consumer decide on a program for which the consumer has not received disclosures, the creditor must provide appropriate disclosures as soon as reasonably possible. * * *

2. *Variable-rate loan program defined.* * * * For example, separate loan programs would exist based on differences in any of the following loan features: * * * In addition, if a loan feature must be taken into account in preparing the disclosures required by § 226.19(b)(2)(viii) and (x), variable-rate loans that differ as to that feature constitute separate programs under § 226.19(b)(2). * * * For example, separate programs would not exist based on differences in the following loan features: * * *

3. *Form of program disclosures.* A creditor may provide separate program disclosure forms for each ARM program it offers or a single disclosure form that describes multiple programs. A disclosure form may consist of more than one page. For example, a creditor may attach a separate page containing the historical payment example for a particular program. A disclosure form describing more than one program need not repeat information applicable to each program that is described. For example, a form describing multiple programs may disclose the information applicable to all of the programs in one place with the various program features (such as options permitting conversion to a fixed rate) disclosed separately. The form, however, must state if any program feature that is described is available only in conjunction with certain other program features. Both the separate and multiple program disclosures may illustrate more than one loan maturity or payment amortization—for example, by including multiple payment and loan balance columns in the historical payment example. Disclosures may be inserted or printed in the *Consumer Handbook* (or a suitable substitute) as long as they are identified as the creditor's loan program disclosures.

* * * * *

Paragraph 19(b)(2)(iii)

1. *Determination of interest rate and payment.* * * * In transactions where paying the periodic payments will not fully amortize the outstanding balance at the end of the loan term and where the final payment will equal the periodic payment plus the remaining unpaid balance, the creditor must disclose this fact. For example, the disclosure might read, "Your periodic payments will not fully amortize your loan and you will be required to make a single payment of the periodic payment plus the remaining unpaid balance at the end of the loan term." The creditor, however, need not reflect any irregular final 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)(vi)

1. *Frequency.* * * * In certain ARM transactions, the interval between loan closing and the initial adjustment is not known and may be different from the regular interval for adjustments. In such cases, the creditor may disclose the initial adjustment period as a range of the minimum and maximum amount of time from consummation or closing. For example, the creditor might state: "The first adjustment to your interest rate and payment will occur no sooner than 6 months and no later than 18 months after closing. Subsequent adjustments may occur once each year after the first adjustment." (See comments 19(b)(2)(viii)–7 and 19(b)(2)(x)–4 for guidance on other disclosures when this alternative disclosure rule is used.)

Paragraph 19(b)(2)(vii)

1. *Rate and payment caps.* * * * The creditor need not disclose each periodic or overall rate limitation that is currently available. As an alternative, the creditor may disclose the range of the lowest and highest periodic and overall rate limitations that may be applicable to the creditor's ARM transactions. For example, the creditor might state: "The limitation on increases to your interest rate at each adjustment will be set at an amount in the following range: Between 1 and 2 percentage points at each adjustment. The limitation on increases to your interest rate over the term of the loan will be set at an amount in the following range: Between 4 and 7 percentage points above the initial interest rate." A creditor using this alternative rule must include a statement in its program disclosures suggesting that the consumer ask about the overall rate limitations currently offered for the creditor's ARM programs. (See comments 19(b)(2)(viii)–6 and 19(b)(2)(x)–3 for an explanation of the additional requirements for a creditor using this alternative rule for disclosure of periodic and overall rate limitations.) * * *

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.) * * *

* * * * *

5. *Term of the loan.* In calculating the payments and loan balances in the historical example, a creditor need not base the disclosures on each term to maturity or payment amortization that it offers. Instead, disclosures for ARMs may be based upon terms to maturity or payment amortizations of 5, 15 and 30 years, as follows: ARMs with terms or amortizations from over 1 year to 10 years may be based on a 5-year term or amortization; ARMs with terms or amortizations from over 10 years to 20 years may be based on a 15-year term or amortization; and ARMs with terms or amortizations over 20 years may be based on a 30-year term or amortization. Thus,

disclosures for ARMs offered with any term from over 1 year to 40 years may be based solely on terms of 5, 15 and 30 years. Of course, a creditor may always base the disclosures on the actual terms or amortizations offered. If the creditor bases the disclosures on 5-, 15- or 30-year terms or payment amortization as provided above, the term or payment amortization used in making the disclosure must be stated.

6. *Rate caps.* A creditor using the alternative rule described in comment 19(b)(2)(vii)–1 for disclosure of rate limitations must base the historical example upon the highest periodic and overall rate limitations disclosure under section 226.19(b)(2)vii). In addition, the creditor must state the limitations used in the historical example. (See comment 19(b)(2)(x)–3 for an explanation of the use of the highest rate limitation in other disclosures.)

7. *Frequency of adjustments.* In certain transactions, creditors may use the alternative rule described in comment 19(b)(2)(vi)–1 for disclosure of the frequency of rate and payment adjustments. In such cases, the creditor may assume for purposes of the historical example that the first adjustment occurred at the end of the first full year in which the adjustment could occur. For example, in an ARM in which the first adjustment may occur between 6 and 18 months after closing and annually thereafter, the creditor may assume that the first adjustment occurred at the end of the first year in the historical example. (See comment 19(b)(2)(x)–4 for an explanation of how to compute the maximum interest rate and payment when the initial adjustment period is now known.)

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 provide additional examples based on the initial and maximum payments disclosed under § 226.19(b)(x). * * *

Paragraph 19(b)(2)(x)

* * * * *

2. *Term of the loan.* In calculating the initial and maximum payments the creditor need not base the disclosures on each term to maturity or payment amortization offered under the program. Instead, the creditor may follow the rules set out in comment 19(b)(2)(viii)–5. In calculating the initial and maximum payment, the terms to maturity or payment amortizations selected for the purpose of making disclosures under § 226.19(b)(2)(viii) must be used. In addition, creditors must state the term or payment amortization used in making the disclosures under this section.

3. *Rate caps.* A creditor using the alternative rule for disclosure of interest rate limitations described in comment 19(b)(2)(vii)–1 must calculate the maximum interest rate and payment based upon the highest periodic and overall rate limitations disclosed under § 226.19(b)(2)(vii). In addition, the creditor must state the rate limitations used in calculating the maximum interest rate and payment. (See comment 19(b)(2)(viii)–6 for an explanation of the use of the highest rate limitation in other disclosures.)

4. *Frequency of adjustments.* In certain transactions, a creditor may use the alternative rule for disclosure of the frequency of rate and payment adjustments described in comment 19(b)(2)(vi)–1. In such cases, the creditor must base the calculations of the initial and maximum rates and payment upon the earliest possible first adjustment disclosed under § 226.19(b)(2)(vi). (See comment 19(b)(2)(viii)–7 for an explanation of how to disclose the historical example when the initial adjustment period is not known.)

* * * * *

Section 226.20—Subsequent Disclosure Requirements

* * * * *

20(c) Variable-Rate Adjustments

* * * * *

Paragraph 20(c)(4).

1. *Contractual effects of the adjustment.* * * * In transactions where paying the periodic payments will not fully amortize the outstanding balance at the end of the loan term and where the final payment will equal the periodic payment plus the remaining unpaid balance, the amount of the adjusted payment must be disclosed if such payment has changed as a result of the rate adjustment. * * *

Paragraph 20(c)(5).

1. *Fully-amortizing payment.* 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 transaction with a five-year term and payments based on a longer amortization schedule, and where the final payment will equal the periodic payment plus the remaining unpaid balance, 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 prevent negative amortization. (This paragraph does not apply if the payment disclosed in § 226.20(c)(4) is sufficient to prevent negative amortization in the loan but the final payment will be a different amount due to rounding.)

* * * * *

Subpart D—Miscellaneous

* * * * *

Section 226.25—Record Retention

25(a) General Rule

* * * * *

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. (See comment 25(a)–2 pertaining to permissible methods of retaining the required disclosures.)

* * * * *

Section 226.30—Limitation on Rates

* * * * *

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.

Board of Governors of the Federal Reserve System, February 28, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89–5161 Filed 3–6–89; 8:45 am]

BILLING CODE 6210–01–M