

**FEDERAL RESERVE BANK  
OF NEW YORK**

AT-10802  
September 12, 1995

*To All Depository Institutions in the Second Federal Reserve  
District, and Others Maintaining Sets of Board Regulations:*

Enclosed are copies of the following regulations issued by the Board of Governors of the Federal Reserve System:

- 1) Regulation C, "Home Mortgage Disclosure," as amended effective May 1, 1995;
- 2) Regulation S, "Reimbursement for Providing Financial Records; Recordkeeping Requirements for Certain Financial Records," as amended effective January 1, 1996;  
and
- 3) Regulation Z, "Truth in Lending," as amended effective March 22, 1995;
- 4) Regulation BB, "Community Reinvestment," as amended effective July 1, 1995.

These revised pamphlets supersede the previous printings of those regulations and any subsequent amendments thereto. Each pamphlet has been punched with an additional hole so that it can be inserted into our new, two-volume, 8-1/2 x 11 size binders.

Circulars Division

# Regulation C

## Home Mortgage Disclosure

12 CFR 203; as amended effective May 1, 1995



Any inquiry relating to this regulation should be addressed to the Federal Reserve Bank of the District in which the inquiry arises.

July 1995

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# Regulation C

## Home Mortgage Disclosure

12 CFR 203\*; as amended effective May 1, 1995

### SECTION 203.1—Authority, Purpose, and Scope

(a) *Authority.* This regulation is issued by the Board of Governors of the Federal Reserve System (“Board”) pursuant to the Home Mortgage Disclosure Act (12 USC 2801 et seq.), as amended. The information-collection requirements have been approved by the U.S. Office of Management and Budget under 44 USC 3501 et seq. and have been assigned OMB No. 7100-0247.

#### (b) *Purpose.*

(1) This regulation implements the Home Mortgage Disclosure Act, which is intended to provide the public with loan data that can be used—

(i) to help determine whether financial institutions are serving the housing needs of their communities;

(ii) to assist public officials in distributing public-sector investments so as to attract private investment to areas where it is needed; and

(iii) to assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.

(2) Neither the act nor this regulation is intended to encourage unsound lending practices or the allocation of credit.

(c) *Scope.* This regulation applies to certain financial institutions, including banks, saving associations, credit unions, and other mortgage lending institutions, as defined in section 203.2(e). It requires an institution to report data to its supervisory agency about home-purchase and home-improvement loans it originates or purchases, or for which it receives applications; and to disclose certain data to the public.

(d) *Loan aggregation and central data depositories.* Using the loan data made available by financial institutions, the Federal Financial Institutions Examination Council will prepare

disclosure statements and will produce various reports for individual institutions for each metropolitan statistical area (MSA), showing lending patterns by location, age of housing stock, income level, sex, and racial characteristics. The disclosure statements and reports will be available to the public at central data depositories located in each MSA. A listing of central data depositories can be obtained from the Federal Financial Institutions Examination Council, Washington, D.C. 20006.

### SECTION 203.2—Definitions

In this regulation—

(a) *Act* means the Home Mortgage Disclosure Act (12 USC 2801 et seq.), as amended.

(b) *Application* means an oral or written request for a home-purchase or home-improvement loan that is made in accordance with procedures established by a financial institution for the type of credit requested.

(c) *Branch office* means—

(1) any office of a bank, savings association, or credit union that is approved as a branch by a federal or state supervisory agency, but excludes free-standing electronic terminals such as automated teller machines;

(2) any office of a mortgage-lending institution (other than a bank, savings association, or credit union) that takes applications from the public for home-purchase or home-improvement loans. A mortgage-lending institution is also deemed to have a branch office in an MSA if, in the preceding calendar year, it received applications for, originated, or purchased five or more home-purchase or home-improvement loans on property located in that MSA.

(d) *Dwelling* means a residential structure (whether or not it is attached to real property) located in a state of the United States of America, the District of Columbia, or the Commonwealth of Puerto Rico. The term in-

\* Code of Federal Regulations, title 12, chapter II, part 203.

cludes an individual condominium unit, cooperative unit, or mobile or manufactured home.

(e) *Financial institution* means—

(1) a bank, savings association, or credit union that originated in the preceding calendar year a home-purchase loan (other than temporary financing such as a construction loan) including a refinancing of a home-purchase loan, secured by a first lien on a one- to four-family dwelling if—

(i) the institution is federally insured or regulated; or

(ii) the loan is insured, guaranteed, or supplemented by any federal agency; or

(iii) the institution intended to sell the loan to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation;

(2) a for-profit mortgage-lending institution (other than a bank, savings association, or credit union) whose home-purchase loan originations (including refinancings of home-purchase loans) equaled or exceeded 10 percent of its loan-origination volume, measured in dollars, in the preceding calendar year.

(f) *Home-improvement loan* means any loan that—

(1) is for the purpose, in whole or in part, of repairing, rehabilitating, remodeling or improving a dwelling or the real property on which it is located; and

(2) is classified by the financial institution as a home-improvement loan.

(g) *Home-purchase loan* means any loan secured by and made for the purpose of purchasing a dwelling.

(h) *Metropolitan statistical area or MSA* means a metropolitan statistical area or a primary metropolitan statistical area, as defined by the U.S. Office of Management and Budget.

### SECTION 203.3—Exempt Institutions

(a) *Exemption based on location, asset size, or number of home-purchase loans.*

(1) A bank, savings association, or credit union is exempt from the requirements of

this regulation for a given calendar year if on the preceding December 31—

(i) the institution had neither a home office nor a branch office in an MSA; or

(ii) the institution's total assets were \$10 million or less.

(2) A for-profit mortgage lending institution (other than a bank, savings association, or credit union) is exempt from the requirements of this regulation for a given calendar year if—

(i) the institution had neither a home office nor a branch office in an MSA on the preceding December 31; or

(ii) the institution's total assets combined with those of any parent corporation were \$10 million or less on the preceding December 31, and the institution originated fewer than 100 home-purchase loans in the preceding calendar year.

(b) *Exemption based on state law.*

(1) A state-chartered or state-licensed financial institution is exempt from the requirements of this regulation if the Board determines that the institution is subject to a state disclosure law that contains requirements substantially similar to those imposed by this regulation and contains adequate provisions for enforcement.

(2) Any state, state-chartered, or state-licensed financial institution, or association of such institutions may apply to the Board for any exemption under this paragraph.

(3) An institution that is exempt under this paragraph shall submit the data required by the state disclosure law to its state supervisory agency for purposes of aggregation.

(c) *Loss of exemption.*

(1) An institution losing an exemption that was based on the criteria set forth in paragraph (a) of this section shall comply with this regulation beginning with the calendar year following the year in which it lost its exemption.

(2) An institution losing an exemption that was based on state law under paragraph (b) of this section shall comply with this regulation beginning with the calendar year following the year for which it last reported loan data under the state disclosure law.

### SECTION 203.4—Compilation of Loan Data

(a) *Data format and itemization.* A financial institution shall collect data regarding applications for, and originations and purchases of, home-purchase and home-improvement loans (including refinancings of both) for each calendar year. These transactions shall be recorded, within 30 calendar days after the end of each calendar quarter in which final action is taken (such as origination or purchase of a loan, or denial or withdrawal of an application), on a register in the format prescribed in appendix A of this part and shall include the following items:

- (1) A number for the loan or loan application, and the date the application was received.
- (2) The type and purpose of the loan.
- (3) The owner-occupancy status of the property to which the loan relates.
- (4) The amount of the loan or application.
- (5) The type of action taken, and the date.
- (6) The location of the property to which the loan relates, by MSA, state, county, and census tract, if the institution has a home or branch office in that MSA.
- (7) The race or national origin and sex of the applicant or borrower, and the gross annual income relied upon in processing the application.
- (8) The type of entity purchasing a loan that the institution originates or purchases and then sells within the same calendar year.

(b) *Collection of data on race or national origin, sex, and income.*

- (1) A financial institution shall collect data about the race or national origin and sex of the applicant or borrower as prescribed in appendix B. If the applicant or borrower chooses not to provide the information, the lender shall note the data on the basis of visual observation or surname, to the extent possible.
- (2) Race or national origin, sex, and income data may but need not be collected for—
  - (i) loans purchased by the financial institution; or
  - (ii) applications received or loans origi-

nated by a bank, savings association, or credit union with assets on the preceding December 31 of \$30 million or less.

(c) *Optional data.* A financial institution may report the reasons it denied a loan application.

(d) *Excluded data.* A financial institution shall not report—

- (1) loans originated or purchased by the financial institution acting in a fiduciary capacity (such as trustee);
- (2) loans on unimproved land;
- (3) temporary financing (such as bridge or construction loans);
- (4) the purchase of an interest in a pool of loans (such as mortgage-participation certificates); or
- (5) the purchase solely of the right to service loans.

(e) *Data reporting under CRA for banks and savings associations with total assets of \$250 million or more and banks and savings associations that are subsidiaries of a holding company whose total banking and thrift assets are \$1 billion or more.* As required by agency regulations that implement the Community Reinvestment Act, banks and savings associations that had total assets of \$250 million or more (or are subsidiaries of a holding company with total banking and thrift assets of \$1 billion or more) as of December 31 for each of the immediately preceding two years, shall also collect the location of property located outside the MSAs in which the institution has a home or branch office, or outside any MSAs.

### SECTION 203.5—Disclosure and Reporting

(a) *Reporting to agency.* By March 1 following the calendar year for which the loan data are compiled, a financial institution shall send its complete loan application register to the agency office specified in appendix A of this regulation, and shall retain a copy for its records for a period of not less than three years.

(b) *Public disclosure of statement.* A financial institution shall make its mortgage loan dis-

closure statement (to be prepared by the Federal Financial Institutions Examination Council) available to the public at its home office no later than three business days after receiving it from the Examination Council. A financial institution shall also make its disclosure statement available to the public within ten business days in at least one branch office in each additional MSA where it has offices. The disclosure statement at a branch office need only contain data relating to properties in the MSA where the branch office is located.

(c) *Public disclosure of loan application register.* A financial institution shall make its loan application register available to the public after modifying it in accordance with appendix A. An institution shall make its modified register available following the calendar year for which the data are compiled, by March 31 for a request received on or before March 1, and within 30 days for a request received after March 1. The modified register made available at a branch office need only contain data relating to properties in the MSA where the branch office is located.

(d) *Availability of data.* A financial institution shall make its modified register available to the public for a period of three years and its disclosure statement available for a period of five years. An institution shall make the data available for inspection and copying during the hours the office is normally open to the public for business. It may impose a reasonable fee for any cost incurred in providing or reproducing the data.

(e) *Notice of availability.* A financial institution shall post a general notice about the availability of its HMDA data in the lobbies of its home office and any physical branch offices located in an MSA. Upon request, it shall promptly provide the location of the institution's offices where the statement is available. At its option, an institution may include the location in its notice.

## SECTION 203.6—Enforcement

(a) *Administrative enforcement.* A violation of the act or this regulation is subject to administrative sanctions as provided in section 305 of

the act, including the imposition of civil money penalties, where applicable. Compliance is enforced by the agencies listed in appendix A of this regulation.

(b) *Bona fide errors.* An error in compiling or recording loan data is not a violation of the act or this regulation if it was unintentional and occurred despite the maintenance of procedures reasonably adopted to avoid such errors.

## APPENDIX A—Form and Instructions for Completion of HMDA Loan/ Application Register\*

### Paperwork Reduction Act Notice

Public reporting burden for collection of this information is estimated to vary from 10 to 10,000 hours per response, with an average of 200 hours per response, including time to gather and maintain the data needed and to review instructions and complete the information collection. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

### I. Who Must File a Report

A. *Depository institutions.* Subject to the exception discussed below, banks, savings associations, and credit unions must complete a register listing data about loan applications received, loans originated, and loans purchased if on the preceding December 31 an institution—

1. had assets of more than \$10 million, and
2. had a home or a branch office in a

\* This appendix incorporates the text of amendments published in December 1994. For amendments that impose a new or revised requirement, the text specifies the calendar year (CY) in which compliance becomes mandatory. In other instances, the amendments do not represent a substantive change but merely clarify an existing rule that institutions must continue to comply with (in each of these instances, the text is identified as a "clarification").

“metropolitan statistical area” or a “primary metropolitan statistical area” (both are referred to in these instructions by the term “MSA”).

*Example:* If on December 31 you had a home or a branch office in an MSA and your assets exceeded \$10 million, you must complete a register that lists the home-purchase and home-improvement loans that you originate or purchase (and also lists applications that did not result in an origination) beginning January 1.

**B. Depository institutions—exception.** You need not complete a register—even if you meet the tests for asset size and location—if your institution is a bank, savings association, or credit union that made *no* first-lien home-purchase loans (including refinancings) on one- to four-family dwellings in the preceding calendar year. This exception does not apply in the case of nondepository institutions.

**C. Other lending institutions.** Subject to the exception discussed below, for-profit mortgage lending institutions (other than banks, savings associations, and credit unions) must complete a register listing data about loan applications received, loans originated, and loans purchased if the institution had a home or branch office in an MSA on the preceding December 31, and—

1. had assets of more than \$10 million (based on the combined assets of the institution and any parent corporation) on the preceding December 31, or
2. originated 100 or more home-purchase loans (including refinancings of such loans) during the preceding calendar year, regardless of asset size.

**D. Other lending institutions—exception.** You need not complete a register—even if you meet the tests for location and asset size or number of home-purchase loans—if your institution is a for-profit mortgage lender (other than a bank, savings association, or credit union) and the home-purchase loans that you originated in the preceding calendar year (including refinancings) came to less than 10 percent of your total loan-origination volume, measured in dollars.

**E.** If you are the subsidiary of a bank or sav-

ings association, you must complete a separate register for your institution. You will submit the register, directly or through your parent, to the agency that supervises your parent. (See paragraph VI.)

**F.** Institutions that are specifically exempted by the Federal Reserve Board from complying with the federal Home Mortgage Disclosure Act because they are covered by a similar state law on mortgage loan disclosures must use the disclosure form required by their state law and submit the data to their state supervisory agency.

## II. Required Format and Reporting Procedures

**A. CURRENT TEXT:** Institutions are expected to submit data to their supervisory agencies in an automated, machine-readable form unless 100 or fewer application and loan entries are reported. The format must conform exactly to the form FR HMDA-LAR, including the order of columns, column headings, etc. Contact your federal supervisory agency for information regarding procedures and technical specifications for automated data submission. An institution that submits its register in nonautomated form must send two copies that are typed or computer printed. You must use the format of the loan/application register, but are not required to use the form itself. Each page must be numbered, and the total number of pages must be given (for example, “Page 1 of 3”).

**NEW TEXT** (*Compliance is optional for CY 1995 data due March 1, 1996. Compliance is mandatory for CY 1996 data due March 1, 1997.*): Institutions must submit data to their supervisory agencies in an automated, machine-readable form. The format must conform exactly to that of form FR HMDA-LAR, including the order of columns, column headings, etc. Contact your federal supervisory agency for information regarding procedures and technical specifications for automated data submission; in some cases, agencies also make software for automated data submission available to institutions. The data must be edited before submission, using the edits included

in the agency-supplied software or equivalent edits in software available from vendors or developed in-house. (Institutions that report 25 or fewer entries on their HMDA-LAR may collect and report the data in paper form. An institution that submits its register in nonautomated form must send two copies that are typed or computer printed and must use the format of form FR HMDA-LAR (but need not use the form itself). Each page must be numbered, and the total number of pages must be given (for example, "Page 1 of 3").

B. The required data are to be entered in the register for each loan origination, each application acted on, and each loan purchased during the calendar year. Your institution should decide on the procedure it wants to follow—for example, whether to begin entering the required data when an application is received, or to wait until final action is taken (such as when a loan goes to closing or an application is denied). Keep in mind that an application is to be reported in the calendar year when final action is taken. Report loan originations in the year they go to closing; if an application has been approved but has not yet gone to closing at year-end, report it the following year.

C. Your institution may collect the data on separate registers at different branches, or on separate registers for different loan types (such as for home-purchase or home-improvement loans, or for loans on multifamily dwellings). But make sure the application or loan numbers (discussed under paragraph V.A.1., below) are unique.

D. Entries need *not* be grouped on your register by MSA, or chronologically, or by census tract numbers, or in any other particular order.

E. NEW TEXT (*Compliance is optional through CY 1995 data; compliance is mandatory beginning with CY 1996 data*): Applications and loans must be recorded on your register within 30 calendar days after the end of the calendar quarter in which final action (such as origination or purchase of a loan, or denial or withdrawal of an application) is taken. The type of purchaser for

loans sold need not be included in these quarterly updates.

### III. Submission of HMDA-LAR and Public Release of Data

A. You must submit the data for your institution to the office specified by your supervisory agency no later than March 1 following the calendar year for which the data are compiled. A list of the agencies appears at the end of these instructions.

B. CURRENT TEXT: You must submit all required data to your supervisory agency in *one complete package*, with the prescribed transmittal sheet. An officer of your institution must certify to the accuracy of the data.

NEW TEXT (*Compliance is optional for CY 1994 data due March 1, 1995; compliance is mandatory for CY 1995 data due March 1, 1996.*): You must submit all required data to your supervisory agency in *one complete package*, with the prescribed transmittal sheet. An officer of your institution must certify to the accuracy of the data. Any additional data submissions that become necessary (for example, because you discover that data were omitted from the initial submission, or because revisions are called for) also must be accompanied by a transmittal sheet.

C. CURRENT TEXT: You are encouraged to provide in a cover letter an approximate count of the total number of line entries contained in your data submission. If you are a depository institution, you also are asked to include a list of the MSAs where you have a home or branch office.

NEW TEXT (*Compliance is mandatory for CY 1995 data due March 1, 1996.*): The transmittal sheet must state the total number of line entries contained in the accompanying data submission. If the data submission involves revisions or deletions of previously submitted data, state the total of *all* line entries contained in *that submission*, including both those representing revisions or deletions of previously submitted entries, and those that are being resubmitted unchanged or are being sub-

mitted for the first time. If you are a depository institution, you also are asked to include a list of the MSAs where you have a home or branch office.

**D. Availability of disclosure statement.** The Federal Financial Institutions Examination Council (FFIEC) will prepare a disclosure statement from the date you submit. Your disclosure statement will be returned to the name and address indicated on the transmittal sheet. Within three business days of receiving the disclosure statement, you must make a copy available at your home office for inspection by the public. You also must make the disclosure statement available, within 10 business days after receiving it from the FFIEC, in at least one branch office in each additional MSA where you have physical offices. For these purposes, a business day is any calendar day other than a Saturday, Sunday, or legal public holiday.

**E. Availability of modified loan application register.**

1. To protect the privacy of applicants and borrowers, an institution must modify its loan application register by removing the following information before releasing it to the public: the application or loan number, date application received, and date of action taken.

2. A financial institution must make its modified register available following the calendar year for which the data are compiled, by March 31 for a request received on or before March 1, and within 30 days for a request received after March 1.

**F. Location and format of disclosed data.** A financial institution must make a complete copy of its disclosure statement and modified register available to the public at its home office. Institutions may make these data available in hard copy or in automated form (such as by floppy disk or computer tape). Although you are not required to make the modified loan application register available in census-tract order, you are strongly encouraged to do so in order to enhance its utility to users. If you have physical branch offices in other MSAs, you must make available, in at least one branch office in each of those MSAs, ei-

ther a complete copy of the disclosure statement or the portion of it that relates to properties in that MSA. Similarly, a modified register at a branch office need only reflect data concerning properties within the MSA where the branch is located.

You are not required to prepare a modified loan application register in advance of receiving a request from the public for this information, but must be able to respond to a request within 30 days.

**G. CURRENT TEXT: Posters.** Your agency can provide you with HMDA posters that you can use to inform the public of the availability of your disclosure statement, or you may print your own posters.

**NEW TEXT WITH SUGGESTED LANGUAGE: Posters.** Some of the agencies provide HMDA posters that you can use to inform the public of the availability of your HMDA data, or you may create your own posters. If you print your own, the following language is suggested but is not required:

#### HOME MORTGAGE DISCLOSURE ACT NOTICE

The HMDA data about our residential mortgage lending are available for review. The data show geographic distribution of loans and applications; race, gender, and income of applicants and borrowers; and information about loan approvals and denials. Inquire at this office regarding the locations where HMDA data may be inspected.

#### IV. Types of Loans and Applications Covered and Excluded by HMDA

**A. Types of loans and applications to be reported**

1. Report the data on home-purchase and home-improvement loans that you originated (that is, loans that were closed in your name) and loans that you purchased during the calendar year covered by the report. Report these data even if the loans were subsequently sold by your institution. Include refinancings of home-purchase and home-improvement loans.
2. Report the data for applications for

home-purchase and home-improvement loans that did not result in originations—for example, applications that your institution denied or that the applicant withdrew during the calendar year covered by the report.

3. In the case of brokered loan applications or applications forwarded to you through a correspondent, report as originations loans that you approved and subsequently acquired according to a preclosing arrangement (whether or not they closed in your institution's name). Additionally, report the data for all applications that did not result in originations—for example, applications that your institution denied or that the applicant withdrew during the calendar year covered by the report (whether or not they would have closed in your institution's name). For all of these loans and applications, report the race or national origin, sex, and income information, unless your institution is a bank, savings association, or credit union with assets of \$30 million or less on the preceding December 31.

4. Originations are to be reported only once. If you are the loan broker or correspondent, do not report as originations loans that you forwarded to another lender for approval prior to closing, and that were approved and subsequently acquired by that lender (whether or not they closed in your name).

5. Report applications that were received in the previous calendar year but were acted upon during the calendar year covered by the current register.

**B. Data to be excluded.** Do not report loans or applications for loans of the following types:

1. Loans that, although secured by real estate, are made for purposes other than home purchase, home improvement, or refinancing (For example, do not report a loan secured by residential real property for purposes of financing college tuition, a vacation, or goods for business inventory.)
2. Loans made in a fiduciary capacity (for example, by your trust department)
3. Loans on unimproved land
4. Construction or bridge loans and other temporary financing

5. The purchase of an interest in a pool of loans (such as mortgage-participation certificates)

6. The purchase solely of the right to service loans

## V. Instructions for Completion of Loan/ Application Register

### A. Application or loan information

1. *Application or loan number.* Enter an identifying number that can be used later to retrieve the loan or application file. It can be any number of your choosing (not exceeding 25 characters). You may use letters, numerals, or a combination of both.

Make sure that all numbers are unique within your institution. If your register contains data for branch offices, for example, you could use a letter or a numerical code to identify the loans or applications of different branches, or could assign a certain series of numbers to particular branches to avoid duplicate numbers. You are strongly encouraged *not* to use the applicant's or borrower's name or Social Security number, for privacy reasons.

2. *Date application received.* Enter the date the loan application was received by your institution by month, day, and year, using numerals in the form MM/DD/YY (for example, 01/15/92). If your institution normally records the date shown on the application form, you may use that date instead. Enter "NA" for loans purchased by your institution.

3. *Type.* Indicate the type of loan or application by entering the applicable code from the following:

- 1—Conventional (any loan other than FHA, VA or FmHA loans)
- 2—FHA-insured (Federal Housing Administration)
- 3—VA-guaranteed (Veterans Administration)
- 4—FmHA-insured (Farmers Home Administration)

4. *Purpose.* Indicate the purpose of the loan or application by entering the applicable code from the following:

- 1—Home purchase (one- to four-family)

- 2—Home improvement (one- to four-family)
- 3—Refinancing (home purchase or home improvement, one- to four-family)
- 4—Multifamily dwelling (home purchase, home improvement, and refinancings)

5. *Explanation of purpose codes*

*Code 1: Home purchase*

- a. This code applies to loans and applications made for the purpose of purchasing a residential dwelling for one to four families, if the loan is to be secured by the dwelling being purchased or by another dwelling.
- b. At your option, you may use code 1 for loans that are made for home-improvement purposes but are secured by a first lien, if you normally classify such first-lien loans as home-purchase loans.

*Code 2: Home improvement*

- a. Code 2 applies to loans and applications for loans if (i) a portion of the proceeds is to be used for repairing, rehabilitating, remodeling, or improving a one- to four-family residential dwelling, or the real property upon which it is located, and (ii) the loan is classified as a home-improvement loan.
- b. Report both secured and unsecured loans.
- c. **CURRENT TEXT** At your option, you may report data about home-equity lines of credit—even if the credit line is not recorded on your institution's books as a home-improvement loan. If you choose to do so, you may report a home-equity line of credit as a home-improvement loan if the borrower or applicant indicates, at the time of application or when the account is opened, that some portion of the proceeds will be used for home improvement. (See paragraph 8. "Loan amount," below.) If you report originations of home-equity lines of credit, you must also report applications for such loans that did not result in originations.

**NEW TEXT** (*Compliance is optional*

*for CY 1995 data due March 1, 1996; compliance is mandatory beginning with CY data due March 1, 1997*): At your option, you may report data about home-equity lines of credit—even if the credit line is not recorded on your institution's books as a home-improvement loan. If you choose to do so, you may report a home-equity line of credit as a home-improvement loan if the borrower or applicant indicates, at the time of application or when the account is opened, that some portion of the proceeds will be used for home improvement. (See paragraph 8. "Loan amount," below.) If you report originations of home-equity lines of credit, you must also report applications for such loans that did not result in originations.

*Code 3: Refinancings*

- a. **CURRENT TEXT** Use this code for refinancings (and applications for refinancings) of home-purchase or home-improvement loans on one- to four-family residential dwellings. A refinancing involves the satisfaction of an existing obligation that is replaced by a new obligation undertaken by the same borrower. But do not report a refinancing if, under the loan agreement, you are unconditionally obligated to renew or refinance the obligation, or you are obligated to renew or refinance the obligation subject to conditions within the borrower's control.

**NEW TEXT** (*Compliance is optional for CY 1995 data due March 1, 1996; compliance is mandatory beginning with CY data due March 1, 1997*): Use this code for refinancings (and applications for refinancings) of loans secured by one- to four-family residential dwellings. A refinancing involves the satisfaction of an existing obligation that is replaced by a new obligation undertaken by the same borrower. But do not report a refinancing if, under the loan agreement, you are uncon-

ditionally obligated to refinance the obligation, or you are obligated to refinance the obligation subject to conditions within the borrower's control.

- b. Use this code whether or not you were the original creditor on the loan being refinanced, and whether or not the refinancing involves an increase in the outstanding principal.
- c. **CURRENT TEXT:** Report a refinancing if the amount outstanding on the original loan, plus the amount of new money (if any) that is for home-purchase or home-improvement purposes, is *more* than 50 percent of the total new loan amount. Do not report a refinancing if 50 percent or *less* of the loan proceeds or the amount applied for is for home purchase or home improvement.

**NEW TEXT** (*Compliance is optional for CY 1995 data due March 1, 1996; compliance is mandatory beginning with CY 1996 data due March 1, 1997.*): You may report all refinancings of loans secured by one- to four-family residential dwellings, regardless of the purpose of or amount outstanding on the original loan, and regardless of the amount of new money (if any) that is for home-purchase or home-improvement purposes.

*Code 4: Multifamily dwelling*

- a. Use this code for loans and loan applications on dwellings for five or more families, including home-purchase loans, refinancings, and loans for repairing, rehabilitation, and remodeling purposes.
- b. Do not use this code for loans on individual condominium or cooperative units; use codes 1, 2, or 3 for such loans, as applicable.

6. **Owner occupancy.** Indicate whether the property to which the loan or loan application relates is to be owner-occupied as a principal dwelling by entering the applicable code from the following:

- 1—Owner-occupied as a principal dwelling
- 2—Not owner-occupied
- 3—Not applicable

7. *Explanation of codes*

- a. Use code 2 for second homes or vacation homes, as well as rental properties.
- b. Use code 2 only for nonoccupant loans, or applications for nonoccupant loans, related to one- to four-family dwellings (including individual condominium or cooperative units).
- c. Use code 3 if the property to which the loan relates is a multifamily dwelling; is not located in an MSA; or is located in an MSA in which your institution has neither a home nor a branch office.
- d. For purchased loans, you may assume that the property will be owner-occupied as a principal dwelling (code 1) unless the loan documents or application contain information to the contrary.

8. **Loan amount.** Enter the amount of the loan or application. Do not report loans below \$500. Show the amount in thousands, rounding to the nearest thousand (\$500 should be rounded up to the next \$1,000). For example, a loan for \$167,300 should be entered as 167 and one for \$15,500 as 16.

- a. For home-purchase loans that you originate, enter the principal amount of the loan as the loan amount. For home-purchase loans that you purchase, enter the unpaid principal balance of the loan at the time of purchase as the loan amount.

b. **CURRENT TEXT:** For home-improvement loans (both originations and purchases), you may include unpaid finance charges in the loan amount if that is how you record such loans on your books.

**NEW TEXT** (*Compliance is optional for CY 1995 data due March 1, 1996; compliance is mandatory beginning with CY 1996 data due March 1, 1997.*): For home-improvement loans (both originations and purchases), you may include unpaid finance charges in the loan amount if that is how you record such loans on your books. For

a multiple-purpose loan classified by you as a home-improvement loan because it involves a home-improvement purpose, enter the full amount of the loan, not just the amount specified for home improvement.

- c. **CURRENT TEXT:** For home-equity lines of credit (if you have chosen to report them), enter as the loan amount only that portion of the line that the applicant or borrower has indicated, at the time the application is made or when the account is opened, as being for home improvement. Report the loan amount for applications that did not result in originations in the same manner. Report only in the year the line is established.

**NEW TEXT (Compliance is optional for CY 1995 data due March 1, 1996; compliance is mandatory beginning with CY 1996 data due March 1, 1997.):** For home-equity lines of credit (if you have chosen to report them), enter as the loan amount only that portion of the line that is for home improvement. Report the loan amount for applications that did not result in originations in the same manner. Report only in the year the line is established.

- d. **CURRENT TEXT** For refinancings that are to be reported, indicate the total amount of the refinancing, including the amount outstanding on the original loan and the amount of new money (if any).

**NEW TEXT (Compliance is optional for CY 1995 data due March 1, 1996; compliance is mandatory beginning with CY 1996 data due March 1, 1997.):** For refinancings of dwelling-secured loans, indicate the total amount of the refinancing, including the amount outstanding on the original loan and the amount of new money (if any).

- e. For a loan application that was denied or withdrawn, enter the amount applied for.
- f. **CURRENT TEXT** If you offered to lend less than the applicant applied for,

enter the amount of the loan if the offer was accepted by the applicant. If the offer was not accepted, enter the amount that the applicant applied for. **NEW TEXT (CLARIFICATION):** If you make a counteroffer for an amount different from the amount initially applied for, and the counteroffer is accepted by the applicant, report it as an origination for the amount of the loan actually granted. If the applicant turns down the counteroffer or fails to respond, report it as a denial for the amount initially requested.

#### B. Action taken

1. *Type of action.* Indicate the type of action taken on the application or loan by using one of the following codes. Do not report any loan application still pending at the end of the calendar year. You will report that application on your register for the year in which final action is taken.

- 1—Loan originated
- 2—Application approved but not accepted
- 3—Application denied
- 4—Application withdrawn
- 5—File closed for incompleteness
- 6—Loan purchased by your institution

#### 2. Explanation of codes.

a. **NEW TEXT (CLARIFICATION):** Use code 1 for a loan that is originated, including one resulting from a counteroffer (your offer to the applicant to make the loan on different terms or in a different amount than initially applied for) that the applicant accepts.

b. (FORMERLY a.) Use code 2 when an application is approved but the applicant (or a loan broker or correspondent) fails to respond to your notification of approval or your commitment letter within the specified time.

c. **NEW TEXT (CLARIFICATION):** Use code 3 when an application is denied. This includes the situation when an applicant turns down or fails to respond to your counteroffer. Do *not* report as a withdrawn application or as an application that was approved but not accepted.

d. (FORMERLY b.) Use code 4 only when an application is expressly withdrawn by the applicant before a credit decision was made.

e. (FORMERLY c.) Use code 5 if you sent a written notice of incompleteness under section 202.9(c)(2) of Regulation B (Equal Credit Opportunity) and the applicant failed to respond to your request for additional information within the period of time specified in your notice.

3. *Date of action.* Enter the date by month, day, and year, using numerals in the form MM/DD/YY (for example, 02/22/92).

a. For loans originated, enter the settlement or closing date. For loans purchased, enter the date of purchase by your institution.

b. For applications denied, applications approved but not accepted by the applicant, and files closed for incompleteness, enter the date that the action was taken by your institution or the date the notice was sent to the applicant.

c. For applications withdrawn, enter the date you received the applicant's express withdrawal; or you may enter the date shown on the notification from the applicant, in the case of a written withdrawal.

C. *Property location.* In these columns enter the applicable codes for the MSA, state, county, and census tract for the property to which a loan relates. For home-purchase loans secured by one dwelling, but made for the purpose of purchasing another dwelling, report the property location for the property in which the security interest is to be taken. If the home-purchase loan is secured by more than one property, report the location data for the property being purchased. (See paragraphs 5, 6, and 7 of paragraph V.C. of this appendix for treatment of loans on property outside the MSAs in which you have offices.)

1. *MSA.* For each loan or loan application, indicate the location of the property by the MSA number. Enter only the MSA number, not the MSA name. MSA boundaries are defined by the U.S. Office of Management and Budget; use the boundaries that were in effect on January 1 of the calendar year for which you are reporting. A listing of MSAs

is available from your regional supervisory agency or the FFIEC. (In these instructions, the term MSA refers to both metropolitan statistical area and primary metropolitan statistical area.)

2. *State and county.* You must use the Federal Information Processing Standard (FIPS) two-digit numerical code for the state and the three-digit numerical code for the county. These codes are available from your regional supervisory agency or the FFIEC. Do not use the letter abbreviations used by the U.S. Postal Service.

3. *Census tract.* Indicate the census tract where the property is located.

a. Enter the code "NA" if the property is located in an area not divided into census tracts on the U.S. Census Bureau's census-tract outline maps (see paragraph 4 below).

b. If the property is located in a county with a population of 30,000 or less in the 1990 census (as determined by the Census Bureau's 1990 CPH-2 population series), enter "NA" (even if the population has increased above 30,000 since 1990), or you may enter the census tract number.

4. *Census-tract number.* For the census-tract number, consult the U.S. Census Bureau's Census Tract/Street Index for 1990, and for addresses not listed in the index, consult the Census Bureau's census-tract outline maps. You must use the maps from the Census Bureau's 1990 CPH-3 series, or equivalent 1990 census data from the Census Bureau (such as the Census TIGER/Line File) or from a private publisher.

5. *CURRENT TEXT Outside MSA.* For loans on property located outside the MSAs in which you have a home or branch office (or outside any MSA), you may enter the MSA, state, county, and census tract numbers or you may enter the code "NA" in each of these columns.

*NEW TEXT (CLARIFICATION): Outside MSA.* For loans on property located outside the MSAs in which you have a home or branch office (or outside any MSA), you have two options. Under option 1, you may enter the MSA, state, and county codes and the census tract

number. You may enter "NA" in the MSA or census tract column if no code or number exists for the property. (Codes exist for all states and counties.) If you choose option 1, the codes and tract number must accurately identify the location for the property in question. Under option 2, you may enter "NA" in all four columns, whether or not the codes or number exist for the property.

6. *Nondepository lenders.* If you are a for-profit mortgage lending institution (other than a bank, savings association, or credit union), and in the preceding calendar year you received applications for, or originated or purchased, loans for home purchase or home improvement adding up to a total of five or more for a given MSA, you are deemed to have a branch office in that MSA, whether or not you have a physical office there. As a result, you will have to enter the MSA, state, county, and census-tract numbers for any transactions in that MSA. Because you must keep accurate records about lending within MSAs in the current calendar year in order to report data accurately the following year, to comply with this rule you may find it easier to enter the geographic information routinely for any property located within any MSA.

7. *Data reporting under CRA for banks and savings associations with total assets of \$250 million or more and banks and savings associations that are subsidiaries of a holding company whose total banking and thrift assets are \$1 billion or more.* If you are a bank or savings association with total assets of \$250 million or more as of December 31 for each of the immediately preceding two years, you must also enter the location of property located outside the MSAs in which you have a home or branch office, or outside any MSA. You must also enter this information if you are a bank or savings association that is a subsidiary of a holding company with total banking and thrift assets of \$1 billion or more as of December 31 for each of the immediately preceding two years.

**D. Applicant information—race or national origin, sex, and income.** Appendix B of Regu-

lation C contains instructions for the collection of data on race or national origin and sex, and also contains a sample form for data collection. The form is substantially similar to the form prescribed by section 202.13 of Regulation B (Equal Credit Opportunity) and contained in appendix B to that regulation. You may use either form.

1. *Applicability.* You must report this applicant information for loans that you originate as well as for applications that do not result in an origination.

a. You need not collect or report this information for loans purchased. If you choose not to, enter the codes specified in paragraphs 3, 4, and 5 below for "not applicable."

b. If your institution is a bank, savings association, or credit union that had assets of \$30 million or less on the preceding December 31, you may—but need not—collect and report these data. If you choose not to, enter the codes specified in paragraphs 3, 4, and 5 below for "not applicable."

c. If the borrower or applicant is not a natural person (a corporation or partnership, for example), use the codes specified in paragraphs 3, 4, and 5 below for "not applicable."

2. *Mail and telephone applications.* Any loan applications mailed to applicants must contain a collection form similar to that shown in appendix B, and you must record on your register the data on race or national origin and sex if the applicant provides it. If the applicant chooses not to provide the data, enter the code for "information not provided by applicant in mail or telephone application" specified in paragraphs 3 and 4 below. If an application is taken entirely by telephone, you need not request this information. (See appendix B for complete information on the collection of this data in mail or telephone applications.)

3. *Race or national origin of borrower or applicant.* Use the following codes to indicate the race or national origin of the applicant or borrower under column "A" and of any co-applicant or co-borrower under column "CA." If there is more than one co-applicant, provide this information only for

the first co-applicant listed on the application form. If there are no co-applicants or co-borrowers, enter code 8 for "not applicable" in the co-applicant column.

- 1—American Indian or Alaskan Native
- 2—Asian or Pacific Islander
- 3—Black
- 4—Hispanic
- 5—White
- 6—Other
- 7—Information not provided by applicant in mail or telephone application
- 8—Not applicable

4. *Sex of borrower or applicant.* Use the following codes to indicate the sex of the applicant or borrower under column "A" and of any co-applicant or co-borrower under column "CA." If there is more than one co-applicant, provide this information only for the first co-applicant listed on the application form. If there are no co-applicants or co-borrowers, enter code 4 for "not applicable."

- 1—Male
- 2—Female
- 3—Information not provided by applicant in mail or telephone application
- 4—Not applicable

5. *Income.* Enter the gross annual income that your institution relied upon in making the credit decision.

- a. Round all dollar amounts to the nearest thousand (round \$500 up to the next \$1,000), and show in terms of thousands. For example, \$35,500 should be reported as 36.
- b. For loans on multifamily dwellings, enter "NA."
- c. **CURRENT TEXT:** If no income information is asked for or relied on in the credit decision (such as in "no income verification" type loans), enter "NA."
- NEW TEXT (TECHNICAL CHANGE):** If no income information is asked for or relied on in the credit decision, enter "NA."

#### E. *Type of purchaser*

- 1. Enter the applicable code to indicate

whether a loan that your institution originated or purchased was then sold to a secondary market entity within the same calendar year:

- 0—Loan was not originated or was not sold in calendar year covered by register
- 1—FNMA (Federal National Mortgage Association)
- 2—GNMA (Government National Mortgage Association)
- 3—FHLMC (Federal Home Loan Mortgage Corporation)
- 4—FmHA (Farmers Home Administration)
- 5—Commercial bank
- 6—Savings bank or savings association
- 7—Life insurance company
- 8—Affiliate institution
- 9—Other type of purchaser

#### 2. *Explanation of codes*

- a. Enter the code 0 for applications that were denied, withdrawn, or approved but not accepted by the applicant; and for files closed for incompleteness.
- b. If you originated or purchased a loan and did not sell it during that same calendar year, enter the code 0. If you sell the loan in a succeeding year, you need not report the sale.
- c. If you conditionally assign a loan to GNMA in connection with a mortgage-backed security transaction, use code 2.
- d. Loans "swapped" for mortgage-backed securities are to be treated as sales; enter the type of entity receiving the loans that are swapped as the purchaser.
- e. Use code 8 for loans sold to an institution affiliated with you, such as your subsidiary or a subsidiary of your parent corporation.

#### F. *Reasons for denial*

1. You are not required to enter the reasons for the denial of an application. But if you choose to do so, you may indicate up to three reasons by using the following codes:

- 1—Debt-to-income ratio
- 2—Employment history
- 3—Credit history

- 4—Collateral
- 5—Insufficient cash (downpayment, closing costs)
- 6—Unverifiable information
- 7—Credit application incomplete
- 8—Mortgage insurance denied
- 9—Other

2. Leave this column blank if the "action taken" on the application is not a denial. For example, do not complete this column if the application was withdrawn or the file was closed for incompleteness.

3. If your institution uses the model form for adverse action contained in the appendix to Regulation B (Form C-1 in appendix C, Sample Notification Form, which offers some 20 reasons for denial), the following list shows which codes to enter.

a. *Code 1 corresponds to:* Income insufficient for amount of credit requested, and Excessive obligations in relation to income.

b. *Code 2 corresponds to:* Temporary or irregular employment, and Length of employment.

c. *Code 3 corresponds to:* Insufficient number of credit references provided; Unacceptable type of credit references provided; No credit file; Limited credit experience; Poor credit performance with us; Delinquent past or present credit obligations with others; Garnishment, attachment, foreclosure, repossession, collection action, or judgment; and Bankruptcy.

d. *Code 4 corresponds to:* Value or type of collateral not sufficient.

e. *Code 6 corresponds to:* Unable to verify credit references, Unable to verify employment, Unable to verify income, and Unable to verify residence.

f. *Code 7 corresponds to:* Credit application incomplete.

g. *Code 9 corresponds to:* Length of residence, Temporary residence, and Other reasons specified on notice.

## VI. Federal Supervisory Agencies

Send your loan/application register and direct any questions to the office of your federal supervisory agency as specified below. If you are the nondepository subsidiary of a bank,

savings association, or credit union, send the register to the supervisory agency for your parent institution. Terms that are not defined in the Federal Deposit Insurance Act (12 USC 1813(s)) shall have the meaning given to them in the International Banking Act of 1978 (12 USC 3101).

A. *National banks and their subsidiaries and federal branches and federal agencies of foreign banks.* District office of the Office of the Comptroller of the Currency for the district in which the institution is located.

B. *State member banks of the Federal Reserve System, their subsidiaries, subsidiaries of bank holding companies, branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act.* Federal Reserve Bank serving the District in which the state member bank is located; for institutions other than state member banks, the Federal Reserve Bank specified by the Board of Governors.

C. *Nonmember insured banks (except for federal savings banks) and their subsidiaries and insured state branches of foreign banks.* Regional director of the Federal Deposit Insurance Corporation for the region in which the institution is located.

D. *Savings institutions insured under the Savings Association Insurance Fund of the FDIC, federally chartered savings banks insured under the Bank Insurance Fund of the FDIC (but not including state-chartered savings banks insured under the Bank Insurance Fund), their subsidiaries, and subsidiaries of savings institution holding companies.* Regional or other office specified by the Office of Thrift Supervision.

E. *Credit unions.* National Credit Union Administration, Office of Examination and Insurance, 1776 G Street, N.W., Washington, D.C. 20456.

F. *Other depository institutions.* Regional director of the Federal Deposit Insurance Corpo-

ration for the region in which the institution is located.

G. *Other mortgage-lending institutions.* Assistant Secretary for Housing, HMDA Report-

ing—Room 9233, U.S. Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

Form FR HMDA-LAR  
OMB No. 7100-0247, Approval expires March 31, 1997  
Hours per response: 10 to 10,000 (200 average)  
This report is required by law (12 USC 2801-2810 and 12 CFR 203)

### LOAN/APPLICATION REGISTER

#### TRANSMITTAL SHEET

You must complete this transmittal sheet (please type or print) and attach it to the Loan/Application Register, required by the Home Mortgage Disclosure Act, that you submit to your supervisory agency.

Reporter's Identification Number	Agency Code	Reporter's Tax Identification Number	Total line entries contained in attached Loan/Application Register
_____	_____	_____	_____

The Loan/Application Register that is attached covers activity during 19\_\_\_\_ and contains a total of \_\_\_\_ pages.

Enter the name and address of your institution. The disclosure statement that is produced by the Federal Financial Institutions Examination Council will be mailed to the address you supply below:

\_\_\_\_\_  
Name of Institution

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, ZIP

Enter the name and telephone number of a person who may be contacted about questions regarding your register:

\_\_\_\_\_  
Name ( ) Telephone Number

If your institution is a subsidiary of another institution or corporation, enter the name of your parent:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, ZIP

Enter the name and address of your supervisory agency (or your parent's supervisory agency):

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, ZIP

An officer of your institution must complete the following section.

I certify to the accuracy of the data contained in this register.

\_\_\_\_\_  
Name of Officer Signature Date



**Loan/Application Register Code Sheet**

Use the following codes to complete the loan/application register. The instructions to the HMDA-LAR explain the proper use of each code.

*Application or Loan Information***Type:**

- 1—Conventional (any loan other than FHA, VA or FmHA loans)
- 2—FHA-insured (Federal Housing Administration)
- 3—VA-guaranteed (Veterans Administration)
- 4—FmHA-insured (Farmers Home Administration)

**Purpose:**

- 1—Home purchase (one- to four-family)
- 2—Home improvement (one- to four-family)
- 3—Refinancing (home purchase or home improvement, one- to four-family)
- 4—Multifamily dwelling (home purchase, home improvement, and refinancings)

**Owner Occupancy:**

- 1—Owner-occupied as a principal dwelling
- 2—Not owner-occupied
- 3—Not applicable

**Action Taken:**

- 1—Loan originated
- 2—Application approved but not accepted
- 3—Application denied by financial institution
- 4—Application withdrawn by applicant
- 5—File closed for incompleteness
- 6—Loan purchased by your institution

*Applicant Information***Race or National Origin:**

- 1—American Indian or Alaskan Native
- 2—Asian or Pacific Islander
- 3—Black
- 4—Hispanic
- 5—White
- 6—Other
- 7—Information not provided by applicant in mail or telephone application
- 8—Not applicable

**Sex:**

- 1—Male
- 2—Female
- 3—Information not provided by applicant in mail or telephone application
- 4—Not applicable

*Type of Purchaser*

- 0—Loan was not sold in calendar year covered by register
- 1—FNMA (Federal National Mortgage Association)
- 2—GNMA (Government National Mortgage Association)
- 3—FHLMC (Federal Home Loan Mortgage Corporation)
- 4—FmHA (Farmers Home Administration)
- 5—Commercial bank
- 6—Savings bank or savings association
- 7—Life insurance company
- 8—Affiliate institution
- 9—Other type of purchaser

*Reasons for Denial (optional)*

- 1—Debt-to-income ratio
- 2—Employment history
- 3—Credit history
- 4—Collateral
- 5—Insufficient cash (downpayment, closing costs)
- 6—Unverifiable information
- 7—Credit application incomplete
- 8—Mortgage insurance denied
- 9—Other

**APPENDIX B—Form and Instructions for Data Collection on Race or National Origin and Sex***I. Instructions on Collection of Data on Race or National Origin and Sex*

*A. Format.* You may list questions regarding the race or national origin and sex of the applicant on your loan application form, or on a separate form that refers to the application. (See the sample form below for recommended language.)

**B. Procedures**

1. You must ask for this information, but cannot require the applicant to provide it.
2. If the applicant chooses not to provide the information for an application taken in person, note this fact on the form and note the data, to the extent possible, on the basis of visual observation or surname.
3. Inform the applicant that the federal government is requesting this information in order to monitor compliance with federal statutes that prohibit lenders from discriminating against applicants on these bases. Inform the applicant that if the information is not provided where the application is taken in person, you are required to note the data on the basis of visual observation or surname.
4. If an application is made entirely by telephone, you need not request this information. And you need not provide the data when you take an application by mail, if the applicant fails to answer these questions on the application form. You should indicate whether an application was received by mail or telephone, if it is not otherwise evident on the face of the application.
5. The "other" block is available only to the applicant who chooses to indicate some other appropriate category for race or national origin. If completing the form based on visual observation, do not use this category; use one of the other five categories.

**Sample Data-Collection Form****INFORMATION FOR GOVERNMENT  
MONITORING PURPOSES**

The following information is requested by the federal government for certain types of loans related to a dwelling in order to monitor the lender's compliance with equal credit opportunity, fair housing, and home mortgage disclo-

sure laws. You are not required to furnish this information, but are encouraged to do so. The law provides that a lender may not discriminate on the basis of this information, or on whether you choose to furnish it. However, if you choose not to furnish the information and you have made this application in person, under federal regulations the lender is required to note race or national origin and sex on the basis of visual observation or surname. If you do not wish to furnish the information, please check below.

**APPLICANT:**

- I do not wish to furnish this information.

**Race or National Origin:**

- American Indian, Alaskan Native  
 Asian, Pacific Islander  
 Black  
 Hispanic  
 White  
 Other (specify)\_\_\_\_\_

**Sex:**

- Female  
 Male

**CO-APPLICANT:**

- I do not wish to furnish this information.

**Race or National Origin:**

- American Indian, Alaskan Native  
 Asian, Pacific Islander  
 Black  
 Hispanic  
 White  
 Other (specify)\_\_\_\_\_

**Sex:**

- Female  
 Male

# Home Mortgage Disclosure Act

12 USC 2801 et seq.; 89 Stat. 1125; Pub. L. 94-200, Title III (December 31, 1975)

## Section

- 301 Short title
- 302 Findings and purposes
- 303 Definitions
- 304 Maintenance of records and public disclosure
- 305 Enforcement
- 306 Relation to state laws
- 307 Research and improved methods
- 308 Study
- 309 Effective date
- 310 Compilation of aggregate data
- 311 Disclosure by the secretary

## SECTION 301—Short Title

This title may be cited as the “Home Mortgage Disclosure Act of 1975.”

[12 USC 2801 note.]

## SECTION 302—Findings and Purposes

(a) The Congress finds that some depository institutions have sometimes contributed to the decline of certain geographic areas by their failure pursuant to their chartering responsibilities to provide adequate home financing to qualified applicants on reasonable terms and conditions.

(b) The purpose of this title is to provide the citizens and public officials of the United States with sufficient information to enable them to determine whether depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located and to assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment.

(c) Nothing in this title is intended to, nor shall it be construed to, encourage unsound lending practices or the allocation of credit.

[12 USC 2801.]

## SECTION 303—Definitions

For purposes of this title—

(1) the term “mortgage loan” means a loan which is secured by residential real property or a home improvement loan;

(2) the term “depository institution”—

(A) means—

(i) any bank (as defined in section 3(a)(1) of the Federal Deposit Insurance Act);

(ii) any savings association (as defined in section 3(b)(1) of the Federal Deposit Insurance Act); and

(iii) any credit union,

which makes federally related mortgage loans as determined by the Board; and

(B) includes any other lending institution (as defined in paragraph (4)) other than any institution described in subparagraph (A);

(3) the term “completed application” means an application in which the creditor has received the information that is regularly obtained in evaluating applications for the amount and type of credit requested;

(4) the term “other lending institutions” means any person engaged for profit in the business of mortgage lending;

(5) the term “Board” means the Board of Governors of the Federal Reserve System; and

(6) the term “Secretary” means the Secretary of Housing and Urban Development.

[12 USC 2802. As amended by acts of Feb. 5, 1988 (101 Stat. 1945) and Aug. 9, 1989 (103 Stat. 525).]

## SECTION 304—Maintenance of Records and Public Disclosure

(a) (1) Each depository institution which has a home office or branch office located within a primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas, as defined by the Depart-

ment of Commerce shall compile and make available, in accordance with regulations of the Board, to the public for inspection and copying at the home office, and at least one branch office within each primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas in which the depository institution has an office the number and total dollar amount of mortgage loans which were (A) originated (or for which the institution received completed applications), or (B) purchased by that institution during each fiscal year (beginning with the last full fiscal year of that institution which immediately preceded the effective date of this title.)

(2) The information required to be maintained and made available under paragraph (1) shall also be itemized in order to clearly and conspicuously disclose the following:

(A) The number and dollar amount for each item referred to in paragraph (1), by census tracts for mortgage loans secured by property located within any county with a population of more than 30,000, within that primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas, otherwise, by county, for mortgage loans secured by property located within any other county within that primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas.

(B) The number and dollar amount for each item referred to in paragraph (1) for all such mortgage loans which are secured by property located outside that primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas.

For the purpose of this paragraph, a depository institution which maintains offices in more than one primary metropolitan statisti-

cal area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas shall be required to make the information required by this paragraph available at any such office only to the extent that such information relates to mortgage loans which were originated or purchased (or for which completed applications were received) by an office of that depository institution located in the primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas in which the office making such information available is located. For purposes of this paragraph, other lending institutions shall be deemed to have a home office or branch office within a primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas if such institutions have originated or purchased or received completed applications for at least 5 mortgage loans in such area in the preceding calendar year.

(b) Any item of information relating to mortgage loans required to be maintained under subsection (a) shall be further itemized in order to disclose for each such item—

(1) the number and dollar amount of mortgage loans which are insured under title II of the National Housing Act or under title V of the Housing Act of 1949 or which are guaranteed under chapter 37 of title 38, United States Code;

(2) the number and dollar amount of mortgage loans made to mortgagors who did not, at the time of execution of the mortgage, intend to reside in the property securing the mortgage loan;

(3) the number and dollar amount of home improvement loans; and

(4) the number and dollar amount of mortgage loans and completed applications involving mortgagors or mortgage applicants grouped according to census tract, income level, racial characteristics, and gender.

(c) Any information required to be compiled and made available under this section, other than loan application register information under subsection (j), shall be maintained and made available for a period of five years after the close of the first year during which such information is required to be maintained and made available.

(d) Notwithstanding the provisions of subsection (a)(1), data required to be disclosed under this section for 1980 and thereafter shall be disclosed for each calendar year. Any depository institution which is required to make disclosures under this section but which has been making disclosures on some basis other than a calendar year basis shall make available a separate disclosure statement containing data for any period prior to calendar year 1980 which is not covered by the last full year report prior to the 1980 calendar year report.

(e) Subject to subsection (h), the Board shall prescribe a standard format for the disclosures required under this section.

(f) The Federal Financial Institutions Examination Council in consultation with the Secretary, shall implement a system to facilitate access to data required to be disclosed under this section. Such system shall include arrangements for a central depository of data in each primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas. Disclosure statements shall be made available to the public for inspection and copying at such central depository of data for all depository institutions which are required to disclose information under this section (or which are exempted pursuant to section 306(b)) and which have a home office or branch office within such primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas.

(g) The requirements of subsections (a) and (b) shall not apply with respect to mortgage loans that are—

(1) made (or for which completed applications are received) by any mortgage banking subsidiary of a bank holding company or savings and loan holding company or by any savings and loan service corporation that originates or purchases mortgage loans; and

(2) approved (or for which completed applications are received) by the secretary for insurance under title I or II of the National Housing Act.

(h) The data required to be disclosed under subsection (b)(4) shall be submitted to the appropriate agency for each institution reporting under this title. Notwithstanding the requirement of section 304(a)(2)(A) for disclosure by census tract, the Board, in cooperation with other appropriate regulators, including—

(1) the Office of the Comptroller of the Currency for national banks and Federal branches and Federal agencies of foreign banks;

(2) the Director of the Office of Thrift Supervision for savings associations;

(3) the Federal Deposit Insurance Corporation for banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks, insured State branches of foreign banks, and any other depository institution described in section 303(2)(A) which is not otherwise referred to in this paragraph;

(4) the National Credit Union Administration Board for credit unions; and

(5) the Secretary of Housing and Urban Development for other lending institutions not regulated by the agencies referred to in paragraphs (1) through (4),

shall develop regulations prescribing the format for such disclosures, the method for submission of the data to the appropriate regulatory agency, and the procedures for disclosing the information to the public. These regulations shall also require the collection of data required to be disclosed under subsection (b)(4) with respect to loans sold by each institution reporting under this title, and, in addition, shall require disclosure of the class of

the purchaser of such loans. Any reporting institution may submit in writing to the appropriate agency such additional data or explanations as it deems relevant to the decision to originate or purchase mortgage loans.

(i) The requirements of subsection (b)(4) shall not apply with respect to any depository institution described in section 303(2)(A) which has total assets, as of the most recent full fiscal year of such institution, of \$30,000,000 or less.

(j) *Loan application register information.*

(1) In addition to the information required to be disclosed under subsections (a) and (b), any depository institution which is required to make disclosures under this section shall make available to the public, upon request, loan application register information (as defined by the Board by regulation) in the form required under regulations prescribed by the Board.

(2) (A) Subject to subparagraph (B), the loan application register information described in paragraph (1) may be disclosed by a depository institution without editing or compilation and in the format in which such information is maintained by the institution.

(B) The Board shall require, by regulation, such deletions as the Board may determine to be appropriate to protect—

(i) any privacy interest of any applicant, including the deletion of the applicant's name and identification number, the date of the application, and the date of any determination by the institution with respect to such application; and

(ii) a depository institution from liability under any Federal or State privacy law.

(C) It is the sense of the Congress that a depository institution should provide loan register information under this section in a format based on the census tract in which the property is located.

(3) A depository institution meets the disclosure requirement of paragraph (1) if the institution provides the information required under such paragraph in the form in which the institution maintains such information.

(4) Any depository institution which provides information under this subsection may impose a reasonable fee for any cost incurred in reproducing such information.

(5) The disclosure of the loan application register information described in paragraph (1) for any year pursuant to a request under paragraph (1) shall be made—

(A) in the case of a request made on or before March 1 of the succeeding year, before April 1 of the succeeding year; and

(B) in the case of a request made after March 1 of the succeeding year, before the end of the 30-day period beginning on the date the request is made.

(6) Notwithstanding subsection (c), the loan application register information described in paragraph (1) for any year shall be maintained and made available, upon request, for 3 years after the close of the 1st year during which such information is required to be maintained and made available.

(7) In prescribing regulations under this subsection, the Board shall make every effort to minimize the costs incurred by a depository institution in complying with this subsection and such regulations.

(k) *Disclosure of statements by depository institutions.*

(1) In accordance with procedures established by the Board pursuant to this section, any depository institution required to make disclosures under this section—

(A) shall make a disclosure statement available, upon request, to the public no later than 3 business days after the institution receives the statement from the Federal Financial Institutions Examination Council; and

(B) may make such statement available on a floppy disc which may be used with a personal computer or in any other media which is not prohibited under regulations prescribed by the Board.

(2) Any disclosure statement provided pursuant to paragraph (1) shall be accompanied by a clear and conspicuous notice that the

statement is subject to final review and revision, if necessary.

(3) Any depository institution which provides a disclosure statement pursuant to paragraph (1) may impose a reasonable fee for any cost incurred in providing or reproducing such statement.

(l) *Prompt disclosures.*

(1) Any disclosure of information pursuant to this section or section 310 shall be made as promptly as possible.

(2) (A) Except as provided in subsections (j)(5) and (k)(1) and regulations prescribed by the Board and subject to subparagraph (B), any information required to be disclosed for any year beginning after December 31, 1992, under—

(i) this section shall be made available to the public before September 1 of the succeeding year; and

(ii) section 310 shall be made available to the public before December 1 of the succeeding year.

(B) With respect to disclosures of information under this section or section 310 for any year beginning after December 31, 1993, every effort shall be made—

(i) to make information disclosed under this section or section 310 available to the public before July 1 of the succeeding year; and

(ii) to make information required to be disclosed under section 310 available to the public before September 1 of the succeeding year.

(3) The Federal Financial Institutions Examination Council shall make such changes in the system established pursuant to subsection (f) as may be necessary to carry out the requirements of this subsection.

[12 USC 2803. As amended by acts of Oct. 8, 1980 (94 Stat. 1657); Nov. 30, 1983 (97 Stat. 1266); Feb. 5, 1988 (101 Stat. 1945, 1950); Aug. 9, 1989 (103 Stat. 524, 525, 526); Dec. 19, 1991 (105 Stat. 2299); and Oct. 28, 1992 (106 Stat. 3889, 3891).]

## SECTION 305—Enforcement

(a) The Board shall prescribe such regulations as may be necessary to carry out the purposes

of this title. These regulations may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary and proper to effectuate the purposes of this title, and prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(b) Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks and Federal branches and Federal agencies of foreign banks, by the Office of Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act, by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), insured State branches of foreign banks, and any other depository institution not referred to in this paragraph or paragraph (2) or (3) of this subsection, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any credit union; and

(4) other lending institutions, by the Secretary of Housing and Urban Development. The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

(c) For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

[12 USC 2804. As amended by acts of Aug. 9, 1989 (103 Stat. 440, 526) and Dec. 19, 1991 (105 Stat. 2299).]

#### SECTION 306—Relation to State Laws

(a) This title does not annul, alter, or affect, or exempt any State-chartered depository institution subject to the provisions of this title from complying with the laws of any state or subdivision thereof with respect to public disclosure and recordkeeping by depository institutions, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board may not determine that any such law is inconsistent with any provision of this title if the Board determines that such law requires the maintenance of records with greater geographic or other detail than is required under this title, or that such law otherwise provides greater disclosure than is required under this title.

(b) The Board may by regulation exempt from the requirements of this title any state-chartered depository institution within any state or subdivision thereof if it determines

that, under the law of such state or subdivision, that institution is subject to requirements substantially similar to those imposed under this title, and that such law contains adequate provisions for enforcement. Notwithstanding any other provision of this subsection, compliance with the requirements imposed under this subsection shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act in the case of national banks, by the Comptroller of the Currency; and

(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation.

[12 USC 2805. As amended by act of Aug. 9, 1989 (103 Stat. 440).]

#### SECTION 307—Research and Improved Methods

(a) (1) The Director of the Office of Thrift Supervision, with the assistance of the Secretary, the Director of the Bureau of the Census, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and such other persons as the Director of the Office of Thrift Supervision deems appropriate, shall develop, or assist in the improvement of, methods of matching addresses and census tracts to facilitate compliance by depository institutions in as economical a manner as possible with the requirements of this title.

(2) There is authorized to be appropriated such sums as may be necessary to carry out this subsection.

(3) The Director of the Office of Thrift Supervision is authorized to utilize, contract with, act through, or compensate any person or agency in order to carry out this subsection.

(b) The Director of the Office of Thrift Supervision shall recommend to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of

the Senate such additional legislation as the Director of the Office of Thrift Supervision deems appropriate to carry out the purpose of this title.

[12 USC 2806. As amended by H. Res. 5 of Jan. 4, 1977 and acts of Nov. 7, 1988 (102 Stat. 3280) and Aug. 9, 1989 (103 Stat. 440).]

### SECTION 308—Study

The Board, in consultation with the Secretary of Housing and Urban Development, shall report annually to the Congress on the utility of the requirements of section 304(b)(4).

[12 USC 2807. As amended by acts of Nov. 30, 1983 (97 Stat. 1266) and Aug. 9, 1989 (103 Stat. 526).]

### SECTION 309—Effective Date

This title shall take effect on the one hundred and eightieth day beginning after the date of its enactment. Any institution specified in section 303(2)(A) which has total assets as of its last full fiscal year of \$10,000,000 or less is exempt from the provisions of this title. The Board, in consultation with the Secretary, may exempt institutions described in section 303(2)(B) that are comparable within their respective industries to institutions that are exempt under the preceding sentence.

[12 USC 2808. As amended by act of Dec. 19, 1991 (105 Stat. 2307).]

### SECTION 310—Compilation of Aggregate Data

(a) Beginning with data for calendar year 1980, the Federal Financial Institutions Examination Council shall compile each year, for each primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas, aggregate data by census tract for all depository institutions which are required to disclose data under section 304 or which are exempt pursuant to section 306(b). The Council shall also produce tables indicating, for each primary metropolitan statistical area, metropolitan statistical area, or consoli-

dated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas, aggregate lending patterns for various categories of census tracts grouped according to location, age of housing stock, income level, and racial characteristics.

(b) The Board shall provide staff and data processing resources to the Council to enable it to carry out the provisions of subsection (a).

(c) The data and tables required pursuant to subsection (a) shall be made available to the public by no later than December 31 of the year following the calendar year on which the data is based.

[12 USC 2809. As added by act of Oct. 8, 1980 (94 Stat. 1658) and amended by act of Nov. 30, 1983 (97 Stat. 1266).]

### SECTION 311—Disclosure by the Secretary

Beginning with data for calendar year 1980, the Secretary shall make publicly available data in the Secretary's possession for each mortgagee which is not otherwise subject to the requirements of this title and which is not exempt pursuant to section 306(b) (and for each mortgagee making mortgage loans exempted under section 304(g)), with respect to mortgage loans approved (or for which completed applications are received) by the Secretary for insurance under title I or II of the National Housing Act. Such data to be disclosed shall consist of data comparable to the data which would be disclosed if such mortgagee were subject to the requirements of section 304. Disclosure statements containing data for each such mortgage for a primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas shall, at a minimum, be publicly available at the central depository of data established pursuant to section 304(f) for such primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas. The Secretary shall also compile and make

publicly available aggregate data for such mortgagees by census tract, and tables indicating aggregate lending patterns, in a manner comparable to the information required to be made publicly available in accordance with section 310.

[12 USC 2810. As added by act of Oct. 8, 1980 (94 Stat. 1658) and amended by acts of Nov. 30, 1983 (97 Stat. 1266); Feb. 5, 1988 (101 Stat. 1945); and Aug. 9, 1989 (103 Stat. 525).]

### PUBLIC LAW 96-399, TITLE III SECTION 340

(d) The Federal Financial Institutions Examination Council, in consultation with the Administrator of the Small Business Administration, shall conduct a study to assess the feasibility and usefulness of requiring depository institutions which make small business loans to compile and publicly disclose information regarding such loans. The Council shall submit a report on the results of such study, together with recommendations, to the Committee on Banking, Housing, and Urban

Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives not later than March 1, 1981.

[12 USC 3305 note.]

(e) To promote efficiency and avoid duplication to the maximum extent feasible, the Federal Financial Institutions Examination Council shall transmit a report to the Congress not later than September 30, 1982, on the feasibility and desirability of establishing a unified system for enforcing fair lending laws and regulations, implementing the Community Reinvestment Act of 1977, and satisfying the public disclosure purposes of the Home Mortgage Disclosure Act of 1975. Such report shall evaluate the status and effectiveness of data collection and analysis systems of such agencies involving fair lending and community reinvestment, and shall outline possible specific timetables for implementing such a unified system.

[12 USC 3305 note.]

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# Regulation S Reimbursement for Providing Financial Records; Recordkeeping Requirements for Certain Financial Records

12 CFR 219, as amended effective January 1, 1996



Any inquiry relating to this regulation should be addressed to the Federal Reserve Bank of the Federal Reserve District in which the inquiry arises.

June 1995

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# Regulation S

## Reimbursement for Providing Financial Records; Recordkeeping Requirements for Certain Financial Records

12 CFR 219; as amended effective January 1, 1996

### SUBPART A—REIMBURSEMENT TO FINANCIAL INSTITUTIONS FOR PROVIDING FINANCIAL RECORDS

#### SECTION 219.1—Authority, Purpose and Scope

This subpart of Regulation S is issued by the Board of Governors of the Federal Reserve System (the Board) under section 1115 of the Right to Financial Privacy Act (the act) (12 USC 3415). It establishes the rates and conditions for reimbursement of reasonably necessary costs directly incurred by financial institutions in assembling or providing customer financial records to a government authority pursuant to the act.

#### SECTION 219.2—Definitions

For the purposes of this subpart, the following definitions shall apply:

(a) "*Financial institution*" means any office of a bank, savings bank, card issuer as defined in section 103 of the Consumer Credit Protection Act (15 USC 1602(n)), industrial loan company, trust company, savings and loan, building and loan, or homestead association (including cooperative banks), credit union, or consumer finance institution, located in any state or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

(b) "*Financial record*" means an original of, a copy of, or information known to have been derived from, any record held by a financial institution pertaining to a customer's relationship with the financial institution.

(c) "*Government authority*" means any agency or department of the United States, or any officer, employee or agent thereof.

(d) "*Person*" means an individual or a partnership of five or fewer individuals.

(e) "*Customer*" means any person or authorized representative of that person who utilized or is utilizing any service of a financial institution, or for whom a financial institution is acting or has acted as a fiduciary, in relation to an account maintained in the person's name. "Customer" does not include corporations or partnerships comprised of more than five persons.

(f) "*Directly incurred costs*" means costs incurred solely and necessarily as a consequence of searching for, reproducing or transporting books, papers, records, or other data, in order to comply with legal process or a formal written request or a customer's authorization to produce a customer's financial records. The term does not include any allocation of fixed costs (overhead, equipment, depreciation, etc.). If a financial institution has financial records that are stored at an independent storage facility that charges a fee to search for, reproduce, or transport particular records requested, these costs are considered to be directly incurred by the financial institution.

#### SECTION 219.3—Cost Reimbursement

Except as hereinafter provided, a government authority requiring or requesting access to financial records pertaining to a customer shall pay to the financial institution that assembles or provides the financial records a fee for reimbursement of reasonably necessary costs which have been directly incurred according to the following schedule:

##### (a) *Search and processing costs.*

(1) Reimbursement of search and processing costs shall be the total amount of personnel direct time incurred in locating and retrieving, reproducing, packaging and preparing financial records for shipment. (2) The rate for search and processing costs is \$10 per hour per person, computed on the basis of \$2.50 per quarter hour or fraction thereof, and is limited to the total amount

of personnel time spent in locating and retrieving documents or information or reproducing or packaging and preparing documents for shipment where required or requested by a government authority. Specific salaries of such persons shall not be included in search costs. In addition, search and processing costs do not include salaries, fees, or similar costs for analysis of material or for managerial or legal advice, expertise, research, or time spent for any of these activities. If itemized separately, search and processing costs may include the actual cost of extracting information stored by computer in the format in which it is normally produced, based on computer time and necessary supplies; however, personnel time for computer search may be paid for only at the rate specified in this paragraph.

(b) *Reproduction costs.*

(1) Reimbursement for reproduction costs shall be for costs incurred in making copies of documents required or requested. (2) The rate for reproduction costs for making copies of required or requested documents is 15 cents for each page, including copies produced by reader/printer reproduction processes. Photographs, films, and other materials are reimbursed at actual cost.

(c) *Transportation costs.* Reimbursement for transportation costs shall be for (1) necessary costs, directly incurred, to transport personnel to locate and retrieve the information required or requested; and (2) necessary costs, directly incurred solely by the need to convey the required or requested material to the place of examination.

## SECTION 219.4—Exceptions

A financial institution is not entitled to reimbursement under the act for costs incurred in assembling or providing the following financial records or information:

(a) *Security interests, bankruptcy claims, debt collection.* Any financial records provided as an incident to perfecting a security interest, proving a claim in bankruptcy, or otherwise collecting on a debt owing either to the finan-

cial institution itself or in its role as a fiduciary.

(b) *Government loan programs.* Financial records provided in connection with a government authority's consideration or administration of assistance to a customer in the form of a government loan, loan guaranty, or loan insurance program; or as an incident to processing an application for assistance to a customer in the form of a government loan, loan guaranty, or loan insurance agreement; or as an incident to processing a default on, or administering, a government-guaranteed or -insured loan, as necessary to permit a responsible government authority to carry out its responsibilities under the loan, loan guaranty, or loan insurance agreement.

(c) *Nonidentifiable information.* Financial records that are not identified with or identifiable as being derived from the financial records of a particular customer.

(d) *Financial supervisory agencies.* Financial records disclosed to a financial supervisory agency in the exercise of its supervisory, regulatory, or monetary functions with respect to a financial institution.

(e) *Internal Revenue summons.* Financial records disclosed in accordance with procedures authorized by the Internal Revenue Code.

(f) *Federally required reports.* Financial records required to be reported in accordance with any federal statute or rule promulgated thereunder (such as the Bank Secrecy Act).

(g) *Government civil or criminal litigation.* Financial records sought by a government authority under the Federal Rules of Civil or Criminal Procedure or comparable rules of other courts in connection with litigation to which the government authority and the customer are parties.

(h) *Administrative agency subpoenas.* Financial records sought by a government authority pursuant to an administrative subpoena issued by an administrative law judge in an adjudicatory proceeding subject to section 554 of title 5, United States Code, and to which the gov-

ernment authority and the customer are parties.

(i) *Identity of accounts in limited circumstances.* Financial information sought by a government authority, in accordance with the Right to Financial Privacy Act procedures and for a legitimate law enforcement inquiry, and limited only to the name, address, account number, and type of account of any customer or ascertainable group of customers associated (1) with a financial transaction or class of financial transactions, or (2) with a foreign country or subdivision thereof in the case of a government authority exercising financial controls over foreign accounts in the United States under section 5(b) of the Trading With the Enemy Act (50 USC App. 5(b)); the International Emergency Economic Powers Act (title II, Pub. L. 95-223); or section 5 of the United Nations Participation Act (22 USC 287(c)).

(j) *Investigation of a financial institution or its noncustomers.* Financial records sought by a government authority in connection with a lawful proceeding, investigation, examination, or inspection directed at the financial institution in possession of such records or at a legal entity which is not a customer.

(k) *General Accounting Office requests.* Financial records sought by the General Accounting Office pursuant to an authorized proceeding, investigation, examination or audit directed at a government authority.

(l) *Securities and Exchange Commission requests.* Until November 10, 1980, financial records sought by the Securities and Exchange Commission.

#### SECTION 219.5—Conditions for Payment

(a) *Limitations.* Payment for reasonably necessary, directly incurred costs to financial institutions shall be limited to material required or requested.

(b) *Separate consideration of component costs.* Payment shall be made only for costs that are both directly incurred and reasonably necessary. In determining whether costs are

reasonably necessary, search and processing, reproduction, and transportation costs shall be considered separately.

(c) *Compliance with legal process, request, or authorization.* No payment shall be made until the financial institution satisfactorily complies with the legal process or formal written request, or customer authorization, except that in the case where the legal process or formal written request is withdrawn, or the customer authorization is revoked, or where the customer successfully challenges access by or disclosure to a government authority, the financial institution shall be reimbursed for reasonably necessary costs directly incurred in assembling financial records required or requested to be produced prior to the time that the government authority notifies the institution that the legal process or request is withdrawn or defeated, or that the customer has revoked his or her authorization.

(d) *Itemized bill or invoice.* No payment shall be made unless the financial institution submits an itemized bill or invoice showing specific details concerning the search and processing, reproduction, and transportation costs.

#### SECTION 219.6—Payment Procedures

(a) *Notice to submit invoice.* Promptly following a government authority's service of legal process or request, the government authority shall notify the financial institution that an itemized bill or invoice must be submitted for payment and shall furnish an office address for this purpose.

(b) *Special Notice.* If a government authority withdraws the legal process or formal written request, or if the customer revokes his or her authorization, or if the legal process or request has been successfully challenged by the customer, the government authority shall promptly notify the financial institution of these facts, and shall also notify the financial institution that the itemized bill or invoice must be submitted for payment of costs incurred prior to the time that the financial institution receives this notice.

**SECTION 219.7—Effective Date**

This regulation shall become effective October 1, 1979.

**SUBPART B—RECORDKEEPING AND REPORTING REQUIREMENTS FOR FUNDS TRANSFERS AND TRANSMITTALS OF FUNDS\***

**SECTION 219.21—Authority, Purpose and Scope**

This subpart of Regulation S is issued by the Board under the authority of section 21(b) of the Federal Deposit Insurance Act (12 USC 1829b), as amended by the Annunzio-Wylie Anti-Money Laundering Act of 1992 (Pub.L. 102-550, title XV), which authorizes the Board and the secretary of the Treasury jointly to prescribe recordkeeping and reporting requirements for domestic wire transfers by insured depository institutions; and which also required the Board and the Treasury jointly to prescribe recordkeeping and reporting requirements for international wire transfers by insured depository institutions and by nonbank financial institutions. The definitions and recordkeeping and reporting requirements referenced in this subpart are promulgated and administered jointly by the Board and the Treasury and are codified in 31 CFR 103.11 and 103.33(e) and (f). Such recordkeeping and reporting requirements will assist in the prosecution of money-laundering activities and are determined to have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

**SECTION 219.22—Definitions**

The following terms are defined in 31 CFR 103.11 [beginning at 3-1700] under the joint authority of the Board and the Treasury:

Accept.  
Beneficiary.  
Beneficiary's bank.  
Established customer.

Execution date.  
Funds transfer.  
Intermediary bank.  
Intermediary financial institution.  
Originator.  
Originator's bank.  
Payment date.  
Payment order.  
Receiving bank.  
Receiving financial institution.  
Recipient.  
Recipient's financial institution.  
Sender.  
Transmittal of funds.  
Transmittal order.  
Transmittor.  
Transmittor's financial institution.

**SECTION 219.23—Recordkeeping and Reporting Requirements**

(a) *Domestic and international funds transfers by insured depository institutions.* The Board and the Treasury are authorized to promulgate jointly recordkeeping and reporting requirements for domestic and international funds transfers by insured depository institutions whenever the agencies determine that the maintenance of such records has a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings. These regulations are codified at 31 CFR 103.33(e). For the purposes of this subpart, the provisions of 31 CFR 103.33(e) apply only to funds transfers by insured depository institutions.

(b) *International transmittals of funds by financial institutions other than insured depository institutions.* The Board and the Treasury are required to promulgate jointly reporting and recordkeeping requirements for international transmittals of funds by financial institutions, including brokers and dealers in securities and businesses that provide money-transmitting services. In prescribing these requirements, the Board and the Treasury take into account the usefulness of these records in criminal, tax, or regulatory investigations or proceedings and the effect the recordkeeping will have on the cost and efficiency of the payment system. These regulations are

\* Subpart B is effective January 1, 1996.

codified at 31 CFR 103.33(f). For the purposes of this subpart, the provisions of 31 CFR 103.33(f) apply only to international transmittals of funds.

#### SECTION 219.24—Retention Period

All records that are required to be retained by this subpart shall be retained for a period of

five years. All these records shall be filed or stored in such a way as to be accessible within a reasonable period of time, taking into consideration the nature of the record and the amount of time that has expired since the record was made. Any records required to be retained by this subpart shall be made available to the Board upon request.



# Statutory Authority for Regulation S

## RIGHT TO FINANCIAL PRIVACY ACT OF 1978

### SECTION 1115—Cost Reimbursement

(a) Except for records obtained pursuant to section 1103(d) or 1113 (a) through (h), or as otherwise provided by law, a Government authority shall pay to the financial institution assembling or providing financial records pertaining to a customer and in accordance with procedures established by this title a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required or requested to be produced. The Board of Governors of the Federal Reserve System shall, by regulation, establish the rates and conditions under which such payment may be made.

(b) This section shall take effect on October 1, 1979.

[12 USC 3415.]

## FEDERAL DEPOSIT INSURANCE ACT

### SECTION 21—Retention of Records by Insured Depository Institutions

(a) *Congressional findings and declaration of purpose.*

(1) The Congress finds that adequate records maintained by insured depository institutions have a high degree of usefulness in criminal, tax, and regulatory investigations and proceedings. The Congress further finds that microfilm or other reproductions and other records made by banks of checks, as well as records kept by banks of the identity of persons maintaining or authorized to act with respect to accounts therein, have been of particular value in this respect.

(2) It is the purpose of this section to require the maintenance of appropriate types of records by insured depository institutions in the United States where such records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

(b) *Recordkeeping regulations.*

(1) Where the Secretary of the Treasury (referred to in this section as the "Secretary") determines that the maintenance of appropriate types of records and other evidence by insured depository institutions has a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, he shall prescribe regulations to carry out the purposes of this section.

(2) Whenever the Secretary and the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the 'Board') determine that the maintenance of records, by insured depository institutions, of payment orders which direct transfers of funds over wholesale funds transfer systems has a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, the Secretary and the Board shall jointly prescribe regulations to carry out the purposes of this section with respect to the maintenance of such records.

(3) (A) The Secretary and the Board shall jointly prescribe, after consultation with State banking supervisors, final regulations requiring that insured depository institutions, businesses that provide check cashing services, money transmitting businesses, and businesses that issue or redeem money orders, travelers' checks or other similar instruments maintain such records of payment orders which—

(i) involve international transactions; and

(ii) direct transfers of funds over wholesale funds transfer systems or on the books of any insured depository institution, or on the books of any business that provides check cashing ser-

vices, any money transmitting business, and any business that issues or redeems money orders, travelers' checks or similar instruments,

that will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

(B) In prescribing the regulations required under subparagraph (A), the Secretary and the Board shall consider—

(i) the usefulness in criminal, tax, or regulatory investigations or proceedings of any record required to be maintained pursuant to the proposed regulations; and

(ii) the effect the recordkeeping required pursuant to such proposed regulations will have on the cost and efficiency of the payment system.

(C) Any records required to be maintained pursuant to the regulations prescribed under subparagraph (A) shall be submitted or made available to the Secretary or the Board upon request.

(c) *Identity of persons having accounts and persons authorized to act with respect to such accounts; exemptions.* Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b), each insured depository institution shall maintain such records and other evidence, in such form as the Secretary shall require, of the identity of each person having an account in the United States with the insured depository institution and of each individual authorized to sign checks, make withdrawals, or otherwise act with respect to any such account. The Secretary may make such exemptions from any requirement otherwise imposed under this subsection as are consistent with the purposes of this section.

(d) *Reproduction of checks, drafts, and other instruments; record of transactions; identity of party.* Each insured depository institution shall make, to the extent that the regulations of the Secretary so require—

(1) a microfilm or other reproduction of each check, draft, or similar instrument drawn on it and presented to it for payment; and

(2) a record of each check, draft, or similar instrument received by it for deposit or collection, together with an identification of the party for whose account it is to be deposited or collected, unless the insured depository institution has already made a record of the party's identity pursuant to subsection (c) of this section.

(e) *Identity of persons making reportable currency and foreign transactions.* Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b), whenever any individual engages (whether as principal, agent, or bailee) in any transaction with an insured depository institution which is required to be reported or recorded under subchapter II of chapter 53 of Title 31, the insured depository institution shall require and retain such evidence of the identity of that individual as the Secretary may prescribe as appropriate under the circumstances.

(f) *Additions to or substitutes for required records.* Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b), in addition to or in lieu of the records and evidence otherwise referred to in this section, each insured depository institution shall maintain such records and evidence as the Secretary may prescribe to carry out the purposes of this section.

(g) *Retention period.* Any type of record or evidence required under this section shall be retained for such period as the Secretary may prescribe for the type in question. Any period so prescribed shall not exceed six years unless the Secretary determines, having regard for the purposes of this section, that a longer period is necessary in the case of a particular type of record or evidence.

(h) *Report to Congress by Secretary of the Treasury.* The Secretary shall include in his annual report to the Congress information on his implementation of the authority conferred by this section and any similar authority with respect to recordkeeping or reporting requirements conferred by other provisions of law.

(i) *Application of provisions to foreign banks.*

The provisions of this section shall not apply to any foreign bank except with respect to the transactions and records of any insured branch of such a bank.

(j) *Civil penalties.*

(1) Any insured depository institution and any director, officer, or employee of an insured depository institution who willfully or through gross negligence violates or any person who willfully causes such a violation, any regulation prescribed under subsection (b) of this section shall be liable to the United States for a civil penalty of not more than \$10,000.

(2) A separate violation of any regulation prescribed under subsection (b) of this section occurs for each day the violation continues and at each office, branch, or place of business at which such violation occurs.

(3) Any penalty imposed under paragraph (1) shall be assessed, mitigated, and collected in the manner provided in subsections (b) and (c) of section 5321 of Title 31.

[12 USC 1829b. As added by act of Oct. 26, 1970 (84 Stat. 1114) and amended by acts of Sept. 17, 1978 (92 Stat. 620); Nov. 18, 1988 (102 Stat. 4356); Aug. 9, 1989 (103 Stat. 187); Oct. 28, 1992 (106 Stat. 4058, 4059, 4066); and Sept. 23, 1994 (108 Stat. 2290).]

# Regulation Z

## Truth in Lending

12 CFR 226; as amended effective March 22, 1995



Any inquiry relating to this regulation should be addressed to the Federal Reserve Bank of the Federal Reserve District in which the inquiry arises.

July 1995

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# Regulation Z Truth in Lending

12 CFR 226; as amended effective March 22, 1995

## SUBPART A—GENERAL

### SECTION 226.1—Authority, Purpose, Coverage, Organization, Enforcement and Liability

(a) *Authority.* This regulation, known as Regulation Z, is issued by the Board of Governors of the Federal Reserve System to implement the federal Truth in Lending and Fair Credit Billing Acts, which are contained in title I of the Consumer Credit Protection Act, as amended (15 USC 1601 et seq.). This regulation also implements title XII, section 1204 of the Competitive Equality Banking Act of 1987 (Pub. L. 100-86, 101 Stat. 552). Information-collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of 44 USC 3501 et seq. and have been assigned OMB No. 7100-0199.

(b) *Purpose.* The purpose of this regulation is to promote the informed use of consumer credit by requiring disclosures about its terms and cost. The regulation also gives consumers the right to cancel certain credit transactions that involve a lien on a consumer's principal dwelling, regulates certain credit card practices, and provides a means for fair and timely resolution of credit billing disputes. The regulation does not govern charges for consumer credit. The regulation requires a maximum interest rate to be stated in variable-rate contracts secured by the consumer's dwelling. It also imposes limitations on home-equity plans that are subject to the requirements of section 226.5b and mortgages that are subject to the requirements of section 226.32.

(c) *Coverage.*

(1) In general, this regulation applies to each individual or business that offers or extends credit when four conditions are met: (i) the credit is offered or extended to consumers; (ii) the offering or extension of

credit is done regularly;<sup>1</sup> (iii) the credit is subject to a finance charge or is payable by a written agreement in more than four installments; and (iv) the credit is primarily for personal, family, or household purposes. (2) If a credit card is involved, however, certain provisions apply even if the credit is not subject to a finance charge, or is not payable by a written agreement in more than four installments, or if the credit card is to be used for business purposes.

(3) In addition, certain requirements of section 226.5b apply to persons who are not creditors but who provide applications for home-equity plans to consumers.

(d) *Organization.* The regulation is divided into subparts and appendices as follows:

(1) Subpart A contains general information. It sets forth: (i) the authority, purpose, coverage, and organization of the regulation; (ii) the definitions of basic terms; (iii) the transactions that are exempt from coverage; and (iv) the method of determining the finance charge.

(2) Subpart B contains the rules for openend credit. It requires that initial disclosures and periodic statements be provided, as well as additional disclosures for credit and charge card applications and solicitations and for home-equity plans subject to the requirements of sections 226.5a and 226.5b, respectively. It also describes special rules that apply to credit card transactions, treatment of payments and credit balances, procedures for resolving credit billing errors, annual percentage rate calculations, rescission requirements, and advertising rules.

(3) Subpart C relates to closed-end credit. It contains rules on disclosures, treatment of credit balances, annual percentage rate calculations, rescission requirements, and advertising.

(4) Subpart D contains rules on oral disclosures, Spanish-language disclosure in Puerto

<sup>1</sup> The meaning of "regularly" is explained in the definition of "creditor" in section 226.2(a).

Rico, record retention, effect on state laws, state exemptions, and rate limitations.

(5) Subpart E relates to mortgage transactions covered by section 226.32 and reverse-mortgage transactions. It contains rules on disclosures, fees, and total-annual-loan-cost rates.

(6) Several appendices contain information such as the procedures for determinations about state laws, state exemptions and issuance of staff interpretations, special rules for certain kinds of credit plans, a list of enforcement agencies, and the rules for computing annual percentage rates in closed-end credit transactions and total-annual-loan-cost rates.

(e) *Enforcement and liability.* Section 108 of the act contains the administrative enforcement provisions. Sections 112, 113, 130, 131, and 134 contain provisions relating to liability for failure to comply with the requirements of the act and the regulation. Section 1204(c) of title XII of the Competitive Equality Banking Act of 1987, Pub. L. No. 100-86, 101 Stat. 552, incorporates by reference administrative enforcement and civil liability provisions of sections 108 and 130 of the act.

## SECTION 226.2—Definitions and Rules of Construction

(a) *Definitions.* For purposes of this regulation, the following definitions apply:

(1) “*Act*” means the Truth in Lending Act (15 USC 1601 et seq.).

(2) “*Advertisement*” means a commercial message in any medium that promotes, directly or indirectly, a credit transaction.

(3) [Reserved]

(4) “*Billing cycle*” or “*cycle*” means the interval between the days or dates of regular periodic statements. These intervals shall be equal and no longer than a quarter of a year. An interval will be considered equal if the number of days in the cycle does not vary more than four days from the regular day or date of the periodic statement.

(5) “*Board*” means the Board of Governors of the Federal Reserve System.

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

(7) “*Card issuer*” means a person that issues a credit card or that person’s agent with respect to the card.

(8) “*Cardholder*” means a natural person to whom a credit card is issued for consumer credit purposes, or a natural person who has agreed with the card issuer to pay consumer credit obligations arising from the issuance of a credit card to another natural person. For purposes of section 226.12(a) and (b), the term includes any person to whom a credit card is issued for any purpose, including business, commercial, or agricultural use, or a person who has agreed with the card issuer to pay obligations arising from the issuance of such a credit card to another person.

(9) “*Cash price*” means the price at which a creditor, in the ordinary course of business, offers to sell for cash the property or service that is the subject of the transaction. At the creditor’s option, the term may include the price of accessories, services related to the sale, service contracts and taxes and fees for license, title, and registration. The term does not include any finance charge.

(10) “*Closed-end credit*” means consumer credit other than “open-end credit” as defined in this section.

(11) “*Consumer*” means a cardholder or a natural person to whom consumer credit is offered or extended. However, for purposes of rescission under sections 226.15 and 226.23, the term also includes a natural person in whose principal dwelling a security interest is or will be retained or acquired, if that person’s ownership interest in the dwelling is or will be subject to the security interest.

<sup>2</sup> [Footnote reserved]

(12) “*Consumer credit*” means credit offered or extended to a consumer primarily for personal, family, or household purposes.

(13) “*Consummation*” means the time that a consumer becomes contractually obligated on a credit transaction.

(14) “*Credit*” means the right to defer payment of debt or to incur debt and defer its payment.

(15) “*Credit card*” means any card, plate, coupon book, or other single credit device that may be used from time to time to obtain credit. “*Charge card*” means a credit card on an account for which no periodic rate is used to compute a finance charge.

(16) “*Credit sale*” means a sale in which the seller is a creditor. The term includes a bailment or lease (unless terminable without penalty at any time by the consumer) under which the consumer—

(i) Agrees to pay as compensation for use a sum substantially equivalent to, or in excess of, the total value of the property and services involved; and

(ii) Will become (or has the option to become), for no additional consideration or for nominal consideration, the owner of the property upon compliance with the agreement.

(17) “*Creditor*” means:

(i) A person (A) who regularly extends consumer credit<sup>3</sup> that is subject to a finance charge or is payable by written agreement in more than four installments (not including a downpayment), and (B) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract.

(ii) For purposes of sections 226.4(c)(8)(Discounts), 226.9(d) (Finance Charge Imposed at Time of Transaction), and

226.12(e) (Prompt Notification of Returns and Crediting of Refunds), a person that honors a credit card.

(iii) For purposes of subpart B, any card issuer that extends either open-end credit or credit that is not subject to a finance charge and is not payable by written agreement in more than four installments.

(iv) For purposes of subpart B (except for the credit and charge card disclosures contained in sections 226.5a and 226.9(e) and (f), the finance-charge disclosures contained in sections 226.6(a) and 226.7(d) through (g) and the right of rescission set forth in section 226.15) and subpart C, any card issuer that extends closed-end credit that is subject to a finance charge or is payable by written agreement in more than four installments.

(18) “*Downpayment*” means an amount, including the value of any property used as a trade-in, paid to a seller to reduce the cash price of goods or services purchased in a credit sale transaction. A deferred portion of a downpayment may be treated as part of the downpayment if it is payable not later than the due date of the second otherwise regularly scheduled payment and is not subject to a finance charge.

(19) “*Dwelling*” means a residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobile home, and trailer, if it is used as a residence.

(20) “*Open-end credit*” means consumer credit extended by a creditor under a plan in which—

(i) the creditor reasonably contemplates repeated transactions;

(ii) the creditor may impose a finance charge from time to time on an outstanding unpaid balance; and

(iii) the amount of credit that may be extended to the consumer during the term of the plan (up to any limit set by the creditor) is generally made available to the extent that any outstanding balance is repaid.

(21) “*Periodic rate*” means a rate of finance charge that is or may be imposed by

<sup>3</sup> A person regularly extends consumer credit only if it extended credit (other than credit subject to the requirements of section 226.32) more than 25 times (or more than 5 times for transactions secured by a dwelling) in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year. A person regularly extends consumer credit if, in any 12-month period, the person originates more than one credit extension that is subject to the requirements of section 226.32 or one or more such credit extensions through a mortgage broker.

a creditor on a balance for a day, week, month, or other subdivision of a year.

(22) “*Person*” means a natural person or an organization, including a corporation, partnership, proprietorship, association, cooperative, estate, trust, or government unit.

(23) “*Prepaid finance charge*” means any finance charge paid separately in cash or by check before or at consummation of a transaction, or withheld from the proceeds of the credit at any time.

(24) “*Residential mortgage transaction*” means a transaction in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained in the consumer’s principal dwelling to finance the acquisition or initial construction of that dwelling.

(25) “*Security interest*” means an interest in property that secures performance of a consumer credit obligation and that is recognized by state or federal law. It does not include incidental interests such as interests in proceeds, accessions, additions, fixtures, insurance proceeds (whether or not the creditor is a loss payee or beneficiary), premium rebates, or interests in after-acquired property. For purposes of disclosure under sections 226.6 and 226.18, the term does not include an interest that arises solely by operation of law. However, for purposes of the right of rescission under sections 226.15 and 226.23, the term does include interests that arise solely by operation of law.

(26) “*State*” means any state, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(b) *Rules of construction.* For purposes of this regulation, the following rules of construction apply:

(1) Where appropriate, the singular form of a word includes the plural form and plural includes singular.

(2) Where the words “obligation” and “transaction” are used in this regulation, they refer to a consumer credit obligation or transaction, depending upon the context. Where the word “credit” is used in this

regulation, it means “consumer credit” unless the context clearly indicates otherwise.

(3) Unless defined in this regulation, the words used have the meanings given to them by state law or contract.

(4) Footnotes have the same legal effect as the text of the regulation.

### SECTION 226.3—Exempt Transactions

This regulation does not apply to the following:<sup>4</sup>

(a) *Business, commercial, agricultural, or organizational credit.*

(1) An extension of credit primarily for a business, commercial or agricultural purpose.

(2) An extension of credit to other than a natural person, including credit to government agencies or instrumentalities.

(b) *Credit over \$25,000 not secured by real property or a dwelling.* An extension of credit not secured by real property, or by personal property used or expected to be used as the principal dwelling of the consumer, in which the amount financed exceeds \$25,000 or in which there is an express written commitment to extend credit in excess of \$25,000.

(c) *Public utility credit.* An extension of credit that involves public utility services provided through pipe, wire, other connected facilities, or radio or similar transmission (including extensions of such facilities), if the charges for service, delayed payment, or any discounts for prompt payment are filed with or regulated by any government unit. The financing of durable goods or home improvements by a public utility is not exempt.

(d) *Securities or commodities accounts.* Transactions in securities or commodities accounts in which credit is extended by a broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission.

<sup>4</sup> The provisions in sections 226.12(a) and (b) governing the issuance of credit cards and the liability for their unauthorized use apply to all credit cards, even if the credit cards are issued for use in connection with extensions of credit that otherwise are exempt under this section.

(e) *Home fuel budget plans.* An installment agreement for the purchase of home fuels in which no finance charge is imposed.

(f) *Student loan programs.* Loans made, insured, or guaranteed pursuant to a program authorized by Title IV of the Higher Education Act of 1965 (20 USC 1070 et seq.).

## SECTION 226.4—Finance Charge

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

(b) *Examples of finance charges.* The finance charge includes the following types of charges, except for charges specifically excluded by paragraphs (c) through (e) of this section:

(1) Interest, time price differential, and any amount payable under an add-on or discount system of additional charges.

(2) Service, transaction, activity, and carrying charges, including any charge imposed on a checking or other transaction account to the extent that the charge exceeds the charge for a similar account without a credit feature.

(3) Points, loan fees, assumption fees, finder's fees, and similar charges.

(4) Appraisal, investigation, and credit report fees.

(5) Premiums or other charges for any guarantee or insurance protecting the creditor against the consumer's default or other credit loss.

(6) Charges imposed on a creditor by another person for purchasing or accepting a consumer's obligation, if the consumer is required to pay the charges in cash, as an addition to the obligation, or as a deduction from the proceeds of the obligation.

(7) Premiums or other charges for credit life, accident, health, or loss-of-income insurance, written in connection with a credit transaction.

(8) Premiums or other charges for insurance against loss of or damage to property, or against liability arising out of the ownership or use of property, written in connection with a credit transaction.

(9) Discounts for the purpose of inducing payment by a means other than the use of credit.

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

The following charges are not finance charges:

(1) Application fees charged to all applicants for credit, whether or not credit is actually extended.

(2) Charges for actual unanticipated late payment, for exceeding a credit limit, or for delinquency, default, or a similar occurrence.

(3) Charges imposed by a financial institution for paying items that overdraw an account, unless the payment of such items and the imposition of the charge were previously agreed upon in writing.

(4) Fees charged for participation in a credit plan, whether assessed on an annual or other periodic basis.

(5) Seller's points.

(6) Interest forfeited as a result of an interest reduction required by law on a time deposit used as security for an extension of credit.

(7) The following fees in a transaction secured by real property or in a residential mortgage transaction, if the fees are bona fide and reasonable in amount:

(i) Fees for title examination, abstract of title, title insurance, property survey, and similar purposes.

(ii) Fees for preparing deeds, mortgages, and reconveyance, settlement, and similar documents.

(iii) Notary, appraisal, and credit-report fees.

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

(8) Discounts offered to induce payment for a purchase by cash, check, or other means, as provided in section 167(b) of the act.

(d) *Insurance.*

(1) Premiums for credit life, accident, health, or loss-of-income insurance may be excluded from the finance charge if the following conditions are met:

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

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

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

(2) Premiums for insurance against loss of or damage to property, or against liability arising out of the ownership or use of property,<sup>5</sup> may be excluded from the finance charge if the following conditions are met:

(i) The insurance coverage may be obtained from a person of the consumer's choice,<sup>6</sup> and this fact is disclosed.

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

<sup>5</sup> This includes single interest insurance if the insurer waives all right of subrogation against the consumer.

<sup>6</sup> A creditor may reserve the right to refuse to accept, for reasonable cause, an insurer offered by the consumer.

(e) *Certain security-interest charges.* If itemized and disclosed, the following charges may be excluded from the finance charge:

(1) Taxes and fees prescribed by law that actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest.

(2) The premium for insurance in lieu of perfecting a security interest to the extent that the premium does not exceed the fees described in paragraph (e)(1) of this section that otherwise would be payable.

(f) *Prohibited offsets.* Interest, dividends, or other income received or to be received by the consumer on deposits or investments shall not be deducted in computing the finance charge.

## SUBPART B—OPEN-END CREDIT

### SECTION 226.5—General Disclosure Requirements

(a) *Form of disclosures.*

(1) The creditor shall make the disclosures required by this subpart clearly and conspicuously in writing,<sup>7</sup> in a form that the consumer may keep.<sup>8</sup>

(2) The terms "finance charge" and "annual percentage rate," when required to be disclosed with a corresponding amount or percentage rate, shall be more conspicuous than any other required disclosure.<sup>9</sup>

(3) Certain disclosures required under section 226.5a for credit and charge card appli-

<sup>7</sup> The disclosure required by section 226.9(d) when a finance charge is imposed at the time of a transaction need not be written.

<sup>8</sup> The disclosures required under section 226.5a for credit and charge card applications and solicitations, the home-equity disclosures required under section 226.5b(d), the alternative summary billing-rights statement provided for in section 226.9(a)(2), the credit and charge card renewal disclosures required under section 226.9(e), and the disclosures made under section 226.10(b) about payment requirements need not be in a form that the consumer can keep.

<sup>9</sup> The terms need not be more conspicuous when used under section 226.5a for credit and charge card applications and solicitations, under section 226.7(d) on periodic statements, under section 226.9(e) in credit and charge card renewal disclosures, and under section 226.16 in advertisements.

cations and solicitations must be provided in a tabular format or in a prominent location in accordance with the requirements of that section.

(4) For rules governing the form of disclosures for home-equity plans, see section 226.5b(a).

(b) *Time of disclosures.*

(1) *Initial disclosures.* The creditor shall furnish the initial disclosure statement required by section 226.6 before the first transaction is made under the plan.

(2) *Periodic statements.*

(i) The creditor shall mail or deliver a periodic statement as required by section 226.7 for each billing cycle at the end of which an account has a debit or credit balance of more than \$1 or on which a finance charge has been imposed. A periodic statement need not be sent for an account if the creditor deems it uncollectible, or if delinquency collection proceedings have been instituted, or if furnishing the statement would violate federal law.

(ii) The creditor shall mail or deliver the periodic statement at least 14 days prior to any date or the end of any time period required to be disclosed under section 226.7(j) in order for the consumer to avoid an additional finance or other charge.<sup>10</sup> A creditor that fails to meet this requirement shall not collect any finance or other charge imposed as a result of such failure.

(3) *Credit and charge card application and solicitation disclosures.* The card issuer shall furnish the disclosures for credit and charge card applications and solicitations in accordance with the timing requirements of section 226.5a.

(4) *Home-equity plans.* Disclosures for home equity plans shall be made in accordance with the timing requirements of section 226.5b(b).

(c) *Basis of disclosures and use of estimates.* Disclosures shall reflect the terms of the legal obligation between the parties. If any informa-

tion necessary for accurate disclosure is unknown to the creditor, it shall make the disclosure based on the best information reasonably available and shall state clearly that the disclosure is an estimate.

(d) *Multiple creditors; multiple consumers.* If the credit plan involves more than one creditor, only one set of disclosures shall be given, and the creditors shall agree among themselves which creditor must comply with the requirements that this regulation imposes on any or all of them. If there is more than one consumer, the disclosures may be made to any consumer who is primarily liable on the account. If the right of rescission under section 226.15 is applicable, however, the disclosures required by sections 226.6 and 226.15(b) shall be made to each consumer having the right to rescind.

(e) *Effect of subsequent events.* If a disclosure becomes inaccurate because of an event that occurs after the creditor mails or delivers the disclosures, the resulting inaccuracy is not a violation of this regulation, although new disclosures may be required under section 226.9(c).

### SECTION 226.5a—Credit and Charge Card Applications and Solicitations

(a) *General rules.* The card issuer shall provide the disclosures required under this section on or with a solicitation or an application to open a credit or charge card account.

(1) *Definition of solicitation.* For purposes of this section, the term "solicitation" means an offer by the card issuer to open a credit or charge card account that does not require the consumer to complete an application.

(2) *Form of disclosures.*

(i) The disclosures in paragraph (b)(1) through (7) of this section shall be provided in a prominent location on or with an application or a solicitation, or other applicable document, and in the form of a table with headings, content, and format substantially similar to any of the applicable tables found in appendix G.

(ii) The disclosures in paragraph (b)(8)

<sup>10</sup> This timing requirement does not apply if the creditor is unable to meet the requirement because of an act of God, war, civil disorder, natural disaster, or strike.

through (10) of this section shall be provided either in the table containing the disclosures in paragraph (b)(1) through (7), or clearly and conspicuously elsewhere on or with the application or solicitation.

(iii) The disclosure required under paragraph (b)(5) of this section shall contain the term "grace period."

(iv) The terminology in the disclosures under paragraph (b) of this section shall be consistent with that to be used in the disclosures under sections 226.6 and 226.7.

(3) *Exceptions.* This section does not apply to home-equity plans accessible by a credit or charge card that are of the type subject to the requirements of section 226.5b; overdraft lines of credit tied to asset accounts accessed by check-guarantee cards or by debit cards; or lines of credit accessed by check-guarantee cards or by debit cards that can be used only at automated teller machines.

(4) *Fees based on a percentage.* If the amount of any fee required to be disclosed under this section is determined on the basis of a percentage of another amount, the percentage used and the identification of the amount against which the percentage is applied may be disclosed instead of the amount of the fee.

(5) *Certain fees that vary by state.* If the amount of any fee referred to in paragraph (b)(8) through (10) of this section varies from state to state, the card issuer may disclose the range of the fees instead of the amount for each state, if the disclosure includes a statement that the amount of the fee varies from state to state.

(b) *Required disclosures.* The card issuer shall disclose the items in this paragraph on or with an application or a solicitation in accordance with the requirements of paragraphs (c), (d) or (e) of this section. A credit card issuer shall disclose all applicable items in this paragraph except for paragraph (b)(7) of this section. A charge card issuer shall disclose the applicable items in paragraph (b)(2), (4), and (7) through (10) of this section.

(1) *Annual percentage rate.* Each periodic

rate that may be used to compute the finance charge on an outstanding balance for purchases, expressed as an annual percentage rate (as determined by section 226.14(b)). When more than one rate applies, the range of balances to which each rate is applicable shall also be disclosed.

(i) If the account has a variable rate, the card issuer shall also disclose the fact that the rate may vary and how the rate is determined.

(ii) When variable-rate disclosures are provided under paragraph (c) of this section, an annual percentage rate disclosure is accurate if the rate was in effect within 60 days before mailing the disclosures. When variable-rate disclosures are provided under paragraph (e) of this section, an annual percentage rate disclosure is accurate if the rate was in effect within 30 days before printing the disclosures.

(2) *Fees for issuance or availability.* Any annual or other periodic fee, expressed as an annualized amount, or any other fee that may be imposed for the issuance or availability of a credit or charge card, including any fee based on account activity or inactivity.

(3) *Minimum finance charge.* Any minimum or fixed finance charge that could be imposed during a billing cycle.

(4) *Transaction charges.* Any transaction charge imposed for the use of the card for purchases.

(5) *Grace period.* The date by which or the period within which any credit extended for purchases may be repaid without incurring a finance charge. If no grace period is provided, that fact must be disclosed. If the length of the grace period varies, the card issuer may disclose the range of days, the minimum number of days, or the average number of days in the grace period, if the disclosure is identified as a range, minimum, or average.

(6) *Balance-computation method.* The name of the balance-computation method listed in paragraph (g) of this section that is used to determine the balance for purchases on which the finance charge is computed, or an explanation of the method used if it is not listed. The explanation may appear outside

the table if the table contains a reference to the explanation. In determining which balance-computation method to disclose, the card issuer shall assume that credit extended for purchases will not be repaid within the grace period, if any.

(7) *Statement on charge card payments.* A statement that charges incurred by use of the charge card are due when the periodic statement is received.

(8) *Cash-advance fee.* Any fee imposed for an extension of credit in the form of cash.

(9) *Late-payment fee.* Any fee imposed for a late payment.

(10) *Over-the-limit fee.* Any fee imposed for exceeding a credit limit.

(c) *Direct-mail applications and solicitations.* The card issuer shall disclose the applicable items in paragraph (b) of this section on or with an application or solicitation that is mailed to consumers.

(d) *Telephone applications and solicitations.*

(1) *Oral disclosure.* The card issuer shall orally disclose the information in paragraph (b)(1) through (7) of this section, to the extent applicable, in a telephone application or solicitation initiated by the card issuer.

(2) *Alternative disclosure.* The oral disclosure under paragraph (d)(1) of this section need not be given if the card issuer either does not impose a fee described in paragraph (b)(2) of this section or does not impose such a fee unless the consumer uses the card, and the card issuer discloses in writing within 30 days after the consumer requests the card (but in no event later than the delivery of the card) the following:

(i) The applicable information in paragraph (b) of this section; and

(ii) The fact that the consumer need not accept the card or pay any fee disclosed unless the consumer uses the card.

(e) *Applications and solicitations made available to general public.* The card issuer shall provide disclosures, to the extent applicable, on or with an application or solicitation that is made available to the general public, including one contained in a catalog, magazine, or other generally available publication. The dis-

closures shall be provided in accordance with paragraph (e)(1), (2) or (3) of this section.

(1) *Disclosure of required credit information.* The card issuer may disclose in a prominent location on the application or solicitation the following:

(i) The applicable information in paragraph (b) of this section;

(ii) The date the required information was printed, including a statement that the required information was accurate as of that date and is subject to change after that date; and

(iii) A statement that the consumer should contact the card issuer for any change in the required information since it was printed, and a toll-free telephone number or a mailing address for that purpose.

(2) *Inclusion of certain initial disclosures.* The card issuer may disclose on or with the application or solicitation the following:

(i) The disclosures required under section 226.6(a) through (c); and

(ii) A statement that the consumer should contact the card issuer for any change in the required information, and a toll-free telephone number or a mailing address for that purpose.

(3) *No disclosure of credit information.* If none of the items in paragraph (b) of this section is provided on or with the application or solicitation, the card issuer may state in a prominent location on the application or solicitation the following:

(i) There are costs associated with the use of the card; and

(ii) The consumer may contact the card issuer to request specific information about the costs, along with a toll-free telephone number and a mailing address for that purpose.

(4) *Prompt response to requests for information.* Upon receiving a request for any of the information referred to in this paragraph, the card issuer shall promptly and fully disclose the information requested.

(f) *Special charge card rule—card issuer and person extending credit not the same person.* If a cardholder may by use of a charge card access an open-end credit plan that is not

maintained by the charge card issuer, the card issuer need not provide the disclosures in paragraphs (c), (d) or (e) of this section for the open-end credit plan if the card issuer states on or with an application or a solicitation the following:

- (1) The card issuer will make an independent decision whether to issue the card;
- (2) The charge card may arrive before the decision is made about extending credit under the open-end credit plan; and
- (3) Approval for the charge card does not constitute approval for the open-end credit plan.

(g) *Balance-computation methods defined.* The following methods may be described by name. Methods that differ due to variations such as the allocation of payments, whether the finance charge begins to accrue on the transaction date or the date of posting the transaction, the existence or length of a grace period, and whether the balance is adjusted by charges such as late fees, annual fees and unpaid finance charges do not constitute separate balance-computation methods.

- (1) (i) *Average daily balance (including new purchases).* This balance is figured by adding the outstanding balance (including new purchases and deducting payments and credits) for each day in the billing cycle, and then dividing by the number of days in the billing cycle.
- (ii) *Average daily balance (excluding new purchases).* This balance is figured by adding the outstanding balance (excluding new purchases and deducting payments and credits) for each day in the billing cycle, and then dividing by the number of days in the billing cycle.
- (2) (i) *Two-cycle average daily balance (including new purchases).* This balance is the sum of the average daily balances for two billing cycles. The first balance is for the current billing cycle, and is figured by adding the outstanding balance (including new purchases and deducting payments and credits) for each day in the billing cycle, and then dividing by the number of days in the billing cycle. The second balance is for the preceding billing cycle.

(ii) *Two-cycle average daily balance (excluding new purchases).* This balance is the sum of the average daily balances for two billing cycles. The first balance is for the current billing cycle, and is figured by adding the outstanding balance (excluding new purchases and deducting payments and credits) for each day in the billing cycle, and then dividing by the number of days in the billing cycle. The second balance is for the preceding billing cycle.

(3) *Adjusted balance.* This balance is figured by deducting payments and credits made during the billing cycle from the outstanding balance at the beginning of the billing cycle.

(4) *Previous balance.* This balance is the outstanding balance at the beginning of the billing cycle.

#### SECTION 226.5b—Requirements for Home-Equity Plans

The requirements of this section apply to open-end credit plans secured by the consumer's dwelling. For purposes of this section, an annual percentage rate is the annual percentage rate corresponding to the periodic rate as determined under section 226.14(b).

##### (a) *Form of disclosures.*

(1) *General.* The disclosures required by paragraph (d) of this section shall be made clearly and conspicuously and shall be grouped together and segregated from all unrelated information. The disclosures may be provided on the application form or on a separate form. The disclosure described in paragraph (d)(4)(iii), the itemization of third-party fees described in paragraph (d)(8), and the variable-rate information described in paragraph (d)(12) of this section may be provided separately from the other required disclosures.

(2) *Precedence of certain disclosures.* The disclosures described in paragraph (d)(1) through (4)(ii) of this section shall precede the other required disclosures.

(b) *Time of disclosures.* The disclosures and brochure required by paragraphs (d) and (e) of

this section shall be provided at the time an application is provided to the consumer.<sup>10a</sup>

(c) *Duties of third parties.* Persons other than the creditor who provide applications to consumers for home-equity plans must provide the brochure required under paragraph (e) of this section at the time an application is provided. If such persons have the disclosures required under paragraph (d) of this section for a creditor's home-equity plan, they also shall provide the disclosures at such time.

(d) *Content of disclosures.* The creditor shall provide the following disclosures, as applicable:

(1) *Retention of information.* A statement that the consumer should make or otherwise retain a copy of the disclosures.

(2) *Conditions for disclosed terms.*

(i) A statement of the time by which the consumer must submit an application to obtain specific terms disclosed and an identification of any disclosed term that is subject to change prior to opening the plan.

(ii) A statement that, if a disclosed term changes (other than a change due to fluctuations in the index in a variable-rate plan) prior to opening the plan and the consumer therefore elects not to open the plan, the consumer may receive a refund of all fees paid in connection with the application.

(3) *Security interest and risk to home.* A statement that the creditor will acquire a security interest in the consumer's dwelling and that loss of the dwelling may occur in the event of default.

(4) *Possible actions by creditor.*

(i) A statement that, under certain conditions, the creditor may terminate the plan and require payment of the outstanding balance in full in a single payment and impose fees upon termination; prohibit additional extensions of credit or reduce the credit limit; and, as specified in the

initial agreement, implement certain changes in the plan.

(ii) A statement that the consumer may receive, upon request, information about the conditions under which such actions may occur.

(iii) In lieu of the disclosure required under paragraph (d)(4)(ii) of this section, a statement of such conditions.

(5) *Payment terms.* The payment terms of the plan, including—

(i) The length of the draw period and any repayment period.

(ii) An explanation of how the minimum periodic payment will be determined and the timing of the payments. If paying only the minimum periodic payments may not repay any of the principal or may repay less than the outstanding balance, a statement of this fact, as well as a statement that a balloon payment may result.<sup>10b</sup>

(iii) An example, based on a \$10,000 outstanding balance and a recent annual percentage rate,<sup>10c</sup> showing the minimum periodic payment, any balloon payment, and the time it would take to repay the \$10,000 outstanding balance if the consumer made only those payments and obtained no additional extensions of credit.

If different payment terms may apply to the draw and any repayment period, or if different payment terms may apply within either period, the disclosures shall reflect the different payment terms.

(6) *Annual percentage rate.* For fixed-rate plans, a recent annual percentage rate imposed under the plan and a statement that the rate does not include costs other than interest.

(7) *Fees imposed by creditor.* An itemization of any fees imposed by the creditor to

<sup>10b</sup> A balloon payment results if paying the minimum periodic payments does not fully amortize the outstanding balance by a specified date or time, and the consumer must repay the entire outstanding balance at such time.

<sup>10c</sup> For fixed-rate plans, a recent annual percentage rate is a rate that has been in effect under the plan within the 12 months preceding the date the disclosures are provided to the consumer. For variable-rate plans, a recent annual percentage rate is the most recent rate provided in the historical example described in paragraph (d)(12)(xi) of this section or a rate that has been in effect under the plan since the date of the most recent rate in the table.

<sup>10a</sup> The disclosures and the brochure may be delivered or placed in the mail not later than three business days following receipt of a consumer's application in the case of applications contained in magazines or other publications, or when the application is received by telephone or through an intermediary agent or broker.

open, use, or maintain the plan, stated as a dollar amount or percentage, and when such fees are payable.

(8) *Fees imposed by third parties to open a plan.* A good faith estimate, stated as a single dollar amount or range, of any fees that may be imposed by persons other than the creditor to open the plan, as well as a statement that the consumer may receive, upon request, a good faith itemization of such fees. In lieu of the statement, the itemization of such fees may be provided.

(9) *Negative amortization.* A statement that negative amortization may occur and that negative amortization increases the principal balance and reduces the consumer's equity in the dwelling.

(10) *Transaction requirements.* Any limitations on the number of extensions of credit and the amount of credit that may be obtained during any time period, as well as any minimum outstanding balance and minimum draw requirements, stated as dollar amounts or percentages.

(11) *Tax implications.* A statement that the consumer should consult a tax advisor regarding the deductibility of interest and charges under the plan.

(12) *Disclosures for variable-rate plans.* For a plan in which the annual percentage rate is variable, the following disclosures, as applicable:

(i) The fact that the annual percentage rate, payment, or term may change due to the variable-rate feature.

(ii) A statement that the annual percentage rate does not include costs other than interest.

(iii) The index used in making rate adjustments and a source of information about the index.

(iv) An explanation of how the annual percentage rate will be determined, including an explanation of how the index is adjusted, such as by the addition of a margin.

(v) A statement that the consumer should ask about the current index value, margin, discount or premium, and annual percentage rate.

(vi) A statement that the initial annual percentage rate is not based on the index

and margin used to make later rate adjustments, and the period of time such initial rate will be in effect.

(vii) The frequency of changes in the annual percentage rate.

(viii) Any rules relating to changes in the index value and the annual percentage rate and resulting changes in the payment amount, including, for example, an explanation of payment limitations and rate carryover.

(ix) A statement of any annual or more frequent periodic limitations on changes in the annual percentage rate (or a statement that no annual limitation exists), as well as a statement of the maximum annual percentage rate that may be imposed under each payment option.

(x) The minimum periodic payment required when the maximum annual percentage rate for each payment option is in effect for a \$10,000 outstanding balance, and a statement of the earliest date or time the maximum rate may be imposed.

(xi) An historical example, based on a \$10,000 extension of credit, illustrating how annual percentage rates and payments would have been affected by index-value changes implemented according to the terms of the plan. The historical example shall be based on the most recent 15 years of index values (selected for the same time period each year) and shall reflect all significant plan terms, such as negative amortization, rate carryover, rate discounts, and rate and payment limitations, that would have been affected by the index movement during the period.

(xii) A statement that rate information will be provided on or with each periodic statement.

(e) *Brochure.* The home-equity brochure published by the Board or a suitable substitute shall be provided.

(f) *Limitations on home-equity plans.* No creditor may, by contract or otherwise—

(1) change the annual percentage rate unless—

- (i) such change is based on an index that is not under the creditor's control; and
  - (ii) such index is available to the general public;
- (2) terminate a plan and demand repayment of the entire outstanding balance in advance of the original term (except for reverse-mortgage transactions that are subject to paragraph (f)(4) of this section) unless—
- (i) there is fraud or material misrepresentation by the consumer in connection with the plan;
  - (ii) the consumer fails to meet the repayment terms of the agreement for any outstanding balance;
  - (iii) any action or inaction by the consumer adversely affects the creditor's security for the plan, or any right of the creditor in such security; or
  - (iv) federal law dealing with credit extended by a depository institution to its executive officers specifically requires that as a condition of the plan the credit shall become due and payable on demand, provided that the creditor includes such a provision in the initial agreement.
- (3) change any term, except that a creditor may—
- (i) provide in the initial agreement that it may prohibit additional extensions of credit or reduce the credit limit during any period in which the maximum annual percentage rate is reached. A creditor also may provide in the initial agreement that specified changes will occur if a specified event takes place (for example, that the annual percentage rate will increase a specified amount if the consumer leaves the creditor's employment).
  - (ii) change the index and margin used under the plan if the original index is no longer available, the new index has an historical movement substantially similar to that of the original index, and the new index and margin would have resulted in an annual percentage rate substantially similar to the rate in effect at the time the original index became unavailable.
  - (iii) make a specified change if the consumer specifically agrees to it in writing at that time.
  - (iv) make a change that will unequivocally

benefit the consumer throughout the remainder of the plan.

(v) make an insignificant change to terms.

(vi) prohibit additional extensions of credit or reduce the credit limit applicable to an agreement during any period in which—

(A) the value of the dwelling that secures the plan declines significantly below the dwelling's appraised value for purposes of the plan;

(B) the creditor reasonably believes that the consumer will be unable to fulfill the repayment obligations under the plan because of a material change in the consumer's financial circumstances;

(C) the consumer is in default of any material obligation under the agreement;

(D) the creditor is precluded by government action from imposing the annual percentage rate provided for in the agreement;

(E) the priority of the creditor's security interest is adversely affected by government action to the extent that the value of the security interest is less than 120 percent of the credit line; or

(F) the creditor is notified by its regulatory agency that continued advances constitute an unsafe and unsound practice.

(4) for reverse-mortgage transactions that are subject to section 226.33, terminate a plan and demand repayment of the entire outstanding balance in advance of the original term except—

(i) in the case of default;

(ii) if the consumer transfers title to the property securing the note;

(iii) if the consumer ceases using the property securing the note as the primary dwelling; or

(iv) upon the consumer's death.

(g) *Refund of fees.* A creditor shall refund all fees paid by the consumer to anyone in connection with an application if any term required to be disclosed under paragraph (d) of this section changes (other than a change due

to fluctuations in the index in a variable-rate plan) before the plan is opened and, as a result, the consumer elects not to open the plan.

(h) *Imposition of nonrefundable fees.* Neither a creditor nor any other person may impose a nonrefundable fee in connection with an application until three business days after the consumer receives the disclosures and brochure required under this section.<sup>10d</sup>

### SECTION 226.6—Initial Disclosure Statement

The creditor shall disclose to the consumer, in terminology consistent with that to be used on the periodic statement, each of the following items, to the extent applicable:

(a) *Finance charge.* The circumstances under which a finance charge will be imposed and an explanation of how it will be determined, as follows:

- (1) A statement of when finance charges begin to accrue, including an explanation of whether or not any time period exists within which any credit extended may be repaid without incurring a finance charge. If such a time period is provided, a creditor may, at its option and without disclosure, impose no finance charge when payment is received after the time period's expiration.
- (2) A disclosure of each periodic rate that may be used to compute the finance charge, the range of balances to which it is applicable,<sup>11</sup> and the corresponding annual percentage rate.<sup>12</sup> When different periodic rates apply to different types of transactions, the types of transactions to which the periodic rates apply shall also be disclosed.
- (3) An explanation of the method used to determine the balance on which the finance charge may be computed.
- (4) An explanation of how the amount of

any finance charge will be determined,<sup>13</sup> including a description of how any finance charge other than the periodic rate will be determined.

(b) *Other charges.* The amount of any charge other than a finance charge that may be imposed as part of the plan, or an explanation of how the charge will be determined.

(c) *Security interests.* The fact that the creditor has or will acquire a security interest in the property purchased under the plan, or in other property identified by item or type.

(d) *Statement of billing rights.* A statement that outlines the consumer's rights and the creditor's responsibilities under sections 226.12(c) and 226.13 and that is substantially similar to the statement found in appendix G.

(e) *Home-equity plan information.* The following disclosures described in section 226.5b(d), as applicable:

- (1) A statement of the conditions under which the creditor may take certain action, as described in section 226.5b(d)(4)(i), such as terminating the plan or changing the terms.
- (2) The payment information described in section 226.5b(d)(5)(i) and (ii) for both the draw period and any repayment period.
- (3) A statement that negative amortization may occur as described in section 226.5b(d)(9).
- (4) A statement of any transaction requirements as described in section 226.5b(d)(10).
- (5) A statement regarding the tax implications as described in section 226.5b(d)(11).
- (6) A statement that the annual percentage rate imposed under the plan does not include costs other than interest as described in section 226.5b(d)(6) and 226.5b(d)(12)(ii).
- (7) The variable-rate disclosures described in section 226.5b(d)(12)(viii), (x), (xi), and (xii), as well as the disclosure described in section 226.5b(d)(5)(iii), unless the disclosures provided with the application were in a form the consumer could keep and in-

<sup>10d</sup> If the disclosures and brochure are mailed to the consumer, the consumer is considered to have received them three business days after they are mailed.

<sup>11</sup> A creditor is not required to adjust the range of balances disclosure to reflect the balance below which only a minimum charge applies.

<sup>12</sup> If a creditor is offering a variable-rate plan, the creditor shall also disclose (1) the circumstances under which the rate(s) may increase; (2) any limitations on the increase; and (3) the effect(s) of an increase.

<sup>13</sup> If no finance charge is imposed when the outstanding balance is less than a certain amount, no disclosure is required of that fact or of the balance below which no finance charge will be imposed.

cluded a representative payment example for the category of payment option chosen by the consumer.

### SECTION 226.7—Periodic Statement

The creditor shall furnish the consumer with a periodic statement that discloses the following items, to the extent applicable:

(a) *Previous balance.* The account balance outstanding at the beginning of the billing cycle.

(b) *Identification of transactions.* An identification of each credit transaction in accordance with section 226.8.

(c) *Credits.* Any credit to the account during the billing cycle, including the amount and the date of crediting. The date need not be provided if a delay in crediting does not result in any finance or other charge.

(d) *Periodic rates.* Each periodic rate that may be used to compute the finance charge, the range of balances to which it is applicable,<sup>14</sup> and the corresponding annual percentage rate.<sup>15</sup> If different periodic rates apply to different types of transactions, the types of transactions to which the periodic rates apply shall also be disclosed.

(e) *Balance on which finance charge computed.* The amount of the balance to which a periodic rate was applied and an explanation of how that balance was determined. When a balance is determined without first deducting all credits and payments made during the billing cycle, that fact and the amount of the credits and payments shall be disclosed.

(f) *Amount of finance charge.* The amount of any finance charge debited or added to the account during the billing cycle, using the term “finance charge.” The components of the finance charge shall be individually itemized and identified to show the amount(s) due to the application of any periodic rates and the amount(s) of any other type of finance charge. If there is more than one periodic rate, the

amount of the finance charge attributable to each rate need not be separately itemized and identified.

(g) *Annual percentage rate.* When a finance charge is imposed during the billing cycle, the annual percentage rate(s) determined under section 226.14, using the term “annual percentage rate.”

(h) *Other charges.* The amounts, itemized and identified by type, of any charges other than finance charges debited to the account during the billing cycle.

(i) *Closing date of billing cycle; new balance.* The closing date of the billing cycle and the account balance outstanding on that date.

(j) *Free-ride period.* The date by which or the time period within which the new balance or any portion of the new balance must be paid to avoid additional finance charges. If such a time period is provided, a creditor may, at its option and without disclosure, impose no finance charge when payment is received after the time period's expiration.

(k) *Address for notice of billing errors.* The address to be used for notice of billing errors. Alternatively, the address may be provided on the billing rights statement permitted by section 226.9(a)(2).

### SECTION 226.8—Identification of Transactions

The creditor shall identify credit transactions on or with the first periodic statement that reflects the transaction by furnishing the following information, as applicable.<sup>16</sup>

(a) *Sale credit.* For each credit transaction involving the sale of property or services, the following rules shall apply:

<sup>16</sup> Failure to disclose the information required by this section shall not be deemed a failure to comply with the regulation if (1) the creditor maintains procedures reasonably adapted to obtain and provide the information; and (2) the creditor treats an inquiry for clarification or documentation as a notice of a billing error, including correcting the account in accordance with section 226.13(e). This applies to transactions that take place outside a state, as defined in section 226.2(a), whether or not the creditor maintains procedures reasonably adapted to obtain the required information.

<sup>14</sup> See footnotes 11 and 13.

<sup>15</sup> If a variable-rate plan is involved, the creditor shall disclose the fact that the periodic rate(s) may vary.

(1) *Copy of credit document provided.* When an actual copy of the receipt or other credit document is provided with the first periodic statement reflecting the transaction, the transaction is sufficiently identified if the amount of the transaction and either the date of the transaction or the date of debiting the transaction to the consumer's account are disclosed on the copy or on the periodic statement.

(2) *Copy of credit document not provided—creditor and seller same or related person(s).* When the creditor and the seller are the same person or related persons, and an actual copy of the receipt or other credit document is not provided with the periodic statement, the creditor shall disclose the amount and date of the transaction, and a brief identification<sup>17</sup> of the property or services purchased.<sup>18</sup>

(3) *Copy of credit document not provided—creditor and seller not same or related person(s).* When the creditor and seller are not the same person or related persons, and an actual copy of the receipt or other credit document is not provided with the periodic statement, the creditor shall disclose the amount and date of the transaction; the seller's name; and the city, and state or foreign country where the transaction took place.<sup>19</sup>

(b) *Nonsale credit.* A nonsale credit transaction is sufficiently identified if the first periodic statement reflecting the transaction dis-

<sup>17</sup> As an alternative to the brief identification, the creditor may disclose a number or symbol that also appears on the receipt or other credit document given to the consumer, if the number or symbol reasonably identifies that transaction with that creditor, and if the creditor treats an inquiry for clarification or documentation as a notice of a billing error, including correcting the account in accordance with section 226.13(e).

<sup>18</sup> An identification of property or services may be replaced by the seller's name and location of the transaction when: (1) the creditor and the seller are the same person; (2) the creditor's open-end plan has fewer than 15,000 accounts; (3) the creditor provides the consumer with point-of-sale documentation for that transaction; and (4) the creditor treats an inquiry for clarification or documentation as a notice of a billing error, including correcting the account in accordance with section 226.13(e).

<sup>19</sup> The creditor may omit the address or provide any suitable designation that helps the consumer to identify the transaction when the transaction (1) took place at a location that is not fixed; (2) took place in the consumer's home; or (3) was a mail or telephone order.

closes a brief identification of the transaction;<sup>20</sup> the amount of the transaction; and at least one of the following dates: the date of the transaction, the date of debiting the transaction to the consumer's account, or, if the consumer signed the credit document, the date appearing on the document. If an actual copy of the receipt or other credit document is provided and that copy shows the amount and at least one of the specified dates, the brief identification may be omitted.

#### SECTION 226.9—Subsequent Disclosure Requirements

(a) *Furnishing statement of billing rights.*

(1) *Annual statement.* The creditor shall mail or deliver the billing rights statement required by section 226.6(d) at least once per calendar year, at intervals of not less than 6 months nor more than 18 months, either to all consumers or to each consumer entitled to receive a periodic statement under section 226.5(b)(2) for any one billing cycle.

(2) *Alternative summary statement.* As an alternative to paragraph (a)(1) of this section, the creditor may mail or deliver, on or with each periodic statement, a statement substantially similar to that in appendix G.

(b) *Disclosures for supplemental credit devices and additional features.*

(1) If a creditor, within 30 days after mailing or delivering the initial disclosures under section 226.6(a), adds a credit feature to the consumer's account or mails or delivers to the consumer a credit device for which the finance charge terms are the same as those previously disclosed, no additional disclosures are necessary. After 30 days, if the creditor adds a credit feature or furnishes a credit device (other than as a renewal, resupply, or the original issuance of a credit card) on the same finance charge terms, the creditor shall disclose, before the consumer uses the feature or device for the first time, that it is for use in obtaining credit under the terms previously disclosed.

(2) Whenever a credit feature is added or a

<sup>20</sup> See footnote 17.

credit device is mailed or delivered, and the finance charge terms for the feature or device differ from disclosures previously given, the disclosures required by section 226.6(a) that are applicable to the added feature or device shall be given before the consumer uses the feature or device for the first time.

(c) *Change in terms.*

(1) *Written notice required.* Whenever any term required to be disclosed under section 226.6 is changed or the required minimum periodic payment is increased, the creditor shall mail or deliver written notice of the change to each consumer who may be affected. The notice shall be mailed or delivered at least 15 days prior to the effective date of the change. The 15-day timing requirement does not apply if the change has been agreed to by the consumer, or if a periodic rate or other finance charge is increased because of the consumer's delinquency or default; the notice shall be given, however, before the effective date of the change.

(2) *Notice not required.* No notice under this section is required when the change involves late-payment charges, charges for documentary evidence, or over-the-limit charges; a reduction of any component of a finance or other charge; suspension of future credit privileges or termination of an account or plan; or when the change results from an agreement involving a court proceeding, or from the consumer's default or delinquency (other than an increase in the periodic rate or other finance charge).

(3) *Notice for home-equity plans.* If a creditor prohibits additional extensions of credit or reduces the credit limit applicable to a home-equity plan pursuant to section 226.5b(f)(3)(i) or 226.5b(f)(3)(vi), the creditor shall mail or deliver written notice of the action to each consumer who will be affected. The notice must be provided not later than three business days after the action is taken and shall contain specific reasons for the action. If the creditor requires the consumer to request reinstatement of credit privileges, the notice also shall state that fact.

(d) *Finance charge imposed at time of transaction.*

(1) Any person, other than the card issuer, who imposes a finance charge at the time of honoring a consumer's credit card, shall disclose the amount of that finance charge prior to its imposition.

(2) The card issuer, if other than the person honoring the consumer's credit card, shall have no responsibility for the disclosure required by paragraph (d)(1) of this section, and shall not consider any such charge for purposes of sections 226.5a, 226.6 and 226.7.

(e) *Disclosures upon renewal of credit or charge card.*

(1) *Notice prior to renewal.* Except as provided in paragraph (e)(2) of this section, a card issuer that imposes any annual or other periodic fee to renew a credit or charge card account of the type subject to section 226.5a, including any fee based on account activity or inactivity, shall mail or deliver written notice of the renewal to the cardholder. The notice shall be provided at least 30 days or one billing cycle, whichever is less, before the mailing or the delivery of the periodic statement on which the renewal fee is initially charged to the account. The notice shall contain the following information:

(i) The disclosures contained in section 226.5a(b)(1) through (7) that would apply if the account were renewed;<sup>20a</sup> and

(ii) How and when the cardholder may terminate credit availability under the account to avoid paying the renewal fee.

(2) *Delayed notice.* The disclosures required by paragraph (e)(1) of this section may be provided later than the time in paragraph (e)(1) of this section, but no later than the mailing or the delivery of the periodic statement on which the renewal fee is initially charged to the account, if the card issuer also discloses at that time that—

(i) The cardholder has 30 days from the time the periodic statement is mailed or delivered to avoid paying the fee or to have the fee recredited if the cardholder

<sup>20a</sup> These disclosures need not be provided in tabular format or in a prominent location.

terminates credit availability under the account; and

(ii) The cardholder may use the card during the interim period without having to pay the fee.

(3) *Notification on periodic statements.* The disclosures required by this paragraph may be made on or with a periodic statement. If any of the disclosures are provided on the back of a periodic statement, the card issuer shall include a reference to those disclosures on the front of the statement.

(f) *Change in credit card account insurance provider.*

(1) *Notice prior to change.* If a credit card issuer plans to change the provider of insurance for repayment of all or part of the outstanding balance of an open-end credit card account of the type subject to section 226.5a, the card issuer shall mail or deliver the cardholder written notice of the change not less than 30 days before the change in providers occurs. The notice shall also include the following items, to the extent applicable:

- (i) Any increase in the rate that will result from the change;
- (ii) Any substantial decrease in coverage that will result from the change; and
- (iii) A statement that the cardholder may discontinue the insurance.

(2) *Notice when change in provider occurs.* If a change described in paragraph (f)(1) of this section occurs, the card issuer shall provide the cardholder with a written notice no later than 30 days after the change, including the following items, to the extent applicable:

- (i) The name and address of the new insurance provider;
- (ii) A copy of the new policy or group certificate containing the basic terms of the insurance, including the rate to be charged; and
- (iii) A statement that the cardholder may discontinue the insurance.

(3) *Substantial decrease in coverage.* For purposes of this paragraph, a substantial decrease in coverage is a decrease in a significant term of coverage that might reasonably be expected to affect the cardholder's deci-

sion to continue the insurance. Significant terms of coverage include, for example, the following:

- (i) Type of coverage provided;
- (ii) Age at which coverage terminates or becomes more restrictive;
- (iii) Maximum insurable loan balance, maximum periodic benefit payment, maximum number of payments, or other term affecting the dollar amount of coverage or benefits provided;
- (iv) Eligibility requirements and number and identity of persons covered;
- (v) Definition of a key term of coverage such as disability;
- (vi) Exclusions from or limitations on coverage; and
- (vii) Waiting periods and whether coverage is retroactive.

(4) *Combined notification.* The notices required by paragraph (f)(1) and (2) of this section may be combined provided the timing requirement of paragraph (f)(1) of this section is met. The notices may be provided on or with a periodic statement.

#### SECTION 226.10—Prompt Crediting of Payments

(a) *General rule.* A creditor shall credit a payment to the consumer's account as of the date of receipt, except when a delay in crediting does not result in a finance or other charge or except as provided in paragraph (b) of this section.

(b) *Specific requirements for payments.* If a creditor specifies, on or with the periodic statement, requirements for the consumer to follow in making payments, but accepts a payment that does not conform to the requirements, the creditor shall credit the payment within five days of receipt.

(c) *Adjustment of account.* If a creditor fails to credit a payment, as required by paragraphs (a) or (b) of this section, in time to avoid the imposition of finance or other charges, the creditor shall adjust the consumer's account so that the charges imposed are credited to the consumer's account during the next billing cycle.

### SECTION 226.11—Treatment of Credit Balances

When a credit balance in excess of \$1 is created on a credit account (through transmittal of funds to a creditor in excess of the total balance due on an account, through rebates of unearned finance charges or insurance premiums, or through amounts otherwise owed to or held for the benefit of a consumer), the creditor shall—

- (a) Credit the amount of the credit balance to the consumer's account;
- (b) Refund any part of the remaining credit balance within seven business days from receipt of a written request from the consumer; and
- (c) Make a good faith effort to refund to the consumer by cash, check, or money order, or credit to a deposit account of the consumer, any part of the credit balance remaining in the account for more than six months. No further action is required if the consumer's current location is not known to the creditor and cannot be traced through the consumer's last known address or telephone number.

### SECTION 226.12—Special Credit Card Provisions

(a) *Issuance of credit cards.* Regardless of the purpose for which a credit card is to be used, including business, commercial, or agricultural use, no credit card shall be issued to any person except—

- (1) In response to an oral or written request or application for the card; or
- (2) As a renewal of, or substitute for, an accepted credit card.<sup>21</sup>

(b) *Liability of cardholder for unauthorized use.*

- (1) *Limitation on amount.* The liability of a

<sup>21</sup> For purposes of this section, "accepted credit card" means any credit card that a cardholder has requested or applied for and received, or has signed, used, or authorized another person to use to obtain credit. Any credit card issued as a renewal or substitute in accordance with this paragraph becomes an accepted credit card when received by the cardholder.

cardholder for unauthorized use<sup>22</sup> of a credit card shall not exceed the lesser of \$50 or the amount of money, property, labor, or services obtained by the unauthorized use before notification to the card issuer under paragraph (b)(3) of this section.

(2) *Conditions of liability.* A cardholder shall be liable for unauthorized use of a credit card only if—

- (i) The credit card is an accepted credit card;
- (ii) The card issuer has provided adequate notice<sup>23</sup> of the cardholder's maximum potential liability and of means by which the card issuer may be notified of loss or theft of the card. The notice shall state that the cardholder's liability shall not exceed \$50 (or any lesser amount) and that the cardholder may give oral or written notification, and shall describe a means of notification (for example, a telephone number, an address, or both); and
- (iii) The card issuer has provided a means to identify the cardholder on the account or the authorized user of the card.

(3) *Notification to card issuer.* Notification to a card issuer is given when steps have been taken as may be reasonably required in the ordinary course of business to provide the card issuer with the pertinent information about the loss, theft, or possible unauthorized use of a credit card, regardless of whether any particular officer, employee, or agent of the card issuer does, in fact, receive the information. Notification may be given, at the option of the person giving it, in person, by telephone, or in writing. Notification in writing is considered given at the time of receipt or, whether or not received, at the expiration of the time ordinarily required for transmission, whichever is earlier.

<sup>22</sup> "Unauthorized use" means the use of a credit card by a person, other than the cardholder, who does not have actual, implied, or apparent authority for such use, and from which the cardholder receives no benefit.

<sup>23</sup> "Adequate notice" means a printed notice to a cardholder that sets forth clearly the pertinent facts so that the cardholder may reasonably be expected to have noticed it and understood its meaning. The notice may be given by any means reasonably assuring receipt by the cardholder.

(4) *Effect of other applicable law or agreement.* If state law or an agreement between a cardholder and the card issuer imposes lesser liability than that provided in this paragraph, the lesser liability shall govern.

(5) *Business use of credit cards.* If 10 or more credit cards are issued by one card issuer for use by the employees of an organization, this section does not prohibit the card issuer and the organization from agreeing to liability for unauthorized use without regard to this section. However, liability for unauthorized use may be imposed on an employee of the organization, by either the card issuer or the organization, only in accordance with this section.

(c) *Right of cardholder to assert claims or defenses against card issuer.*<sup>24</sup>

(1) *General rule.* When a person who honors a credit card fails to resolve satisfactorily a dispute as to property or services purchased with the credit card in a consumer credit transaction, the cardholder may assert against the card issuer all claims (other than tort claims) and defenses arising out of the transaction and relating to the failure to resolve the dispute. The cardholder may withhold payment up to the amount of credit outstanding for the property or services that gave rise to the dispute and any finance or other charges imposed on that amount.<sup>25</sup>

(2) *Adverse credit reports prohibited.* If, in accordance with paragraph (c)(1) of this section, the cardholder withholds payment of the amount of credit outstanding for the disputed transaction, the card issuer shall not report that amount as delinquent until

<sup>24</sup> This paragraph does not apply to the use of a check-guarantee card or a debit card in connection with an overdraft credit plan, or to a check-guarantee card used in connection with cash-advance checks.

<sup>25</sup> The amount of the claim or defense that the cardholder may assert shall not exceed the amount of credit outstanding for the disputed transaction at the time the cardholder first notifies the card issuer or the person honoring the credit card of the existence of the claim or defense. To determine the amount of credit outstanding for purposes of this section, payments and other credits shall be applied to: (1) late charges in the order of entry to the account; then to (2) finance charges in the order of entry to the account; and then to (3) any other debits in the order of entry to the account. If more than one item is included in a single extension of credit, credits are to be distributed pro rata according to prices and applicable taxes.

the dispute is settled or judgment is rendered.

(3) *Limitations.* The rights stated in paragraphs (c)(1) and (2) of this section apply only if—

(i) The cardholder has made a good faith attempt to resolve the dispute with the person honoring the credit card; and

(ii) The amount of credit extended to obtain the property or services that result in the assertion of the claim or defense by the cardholder exceeds \$50, and the disputed transaction occurred in the same state as the cardholder's current designated address or, if not within the same state, within 100 miles from that address.<sup>26</sup>

(d) *Offsets by card issuer prohibited.*

(1) A card issuer may not take any action, either before or after termination of credit card privileges, to offset a cardholder's indebtedness arising from a consumer credit transaction under the relevant credit card plan against funds of the cardholder held on deposit with the card issuer.

(2) This paragraph does not alter or affect the right of a card issuer acting under state or federal law to do any of the following with regard to funds of a cardholder held on deposit with the card issuer if the same procedure is constitutionally available to creditors generally: obtain or enforce a consensual security interest in the funds; attach or otherwise levy upon the funds; or obtain or enforce a court order relating to the funds.

(3) This paragraph does not prohibit a plan, if authorized in writing by the cardholder, under which the card issuer may periodically deduct all or part of the cardholder's credit card debt from a deposit account held with the card issuer (subject to the limitations in section 226.13(d)(1)).

<sup>26</sup> The limitations stated in paragraph (c)(3)(ii) of this section shall not apply when the person honoring the credit card: (1) is the same person as the card issuer; (2) is controlled by the card issuer directly or indirectly; (3) is under the direct or indirect control of a third person that also directly or indirectly controls the card issuer; (4) controls the card issuer directly or indirectly; (5) is a franchised dealer in the card issuer's products or services; or (6) has obtained the order for the disputed transaction through a mail solicitation made or participated in by the card issuer.

(e) *Prompt notification of returns and crediting of refunds.*

(1) When a creditor other than the card issuer accepts the return of property or forgives a debt for services that is to be reflected as a credit to the consumer's credit card account, that creditor shall, within seven business days from accepting the return or forgiving the debt, transmit a credit statement to the card issuer through the card issuer's normal channels for credit statements.

(2) The card issuer shall, within three business days from receipt of a credit statement, credit the consumer's account with the amount of the refund.

(3) If a creditor other than a card issuer routinely gives cash refunds to consumers paying in cash, the creditor shall also give credit or cash refunds to consumers using credit cards, unless it discloses at the time the transaction is consummated that credit or cash refunds for returns are not given. This section does not require refunds for returns nor does it prohibit refunds in kind.

(f) *Discounts: tie-in arrangements.* No card issuer may, by contract or otherwise—

- (1) Prohibit any person who honors a credit card from offering a discount to a consumer to induce the consumer to pay by cash, check, or similar means rather than by use of a credit card or its underlying account for the purchase of property or services; or
- (2) Require any person who honors the card issuer's credit card to open or maintain any account or obtain any other service not essential to the operation of the credit card plan from the card issuer or any other person, as a condition of participation in a credit card plan. If maintenance of an account for clearing purposes is determined to be essential to the operation of the credit card plan, it may be required only if no service charges or minimum balance requirements are imposed.

(g) *Relation to Electronic Fund Transfer Act and Regulation E.* For guidance on whether Regulation Z or Regulation E applies in instances involving both credit and electronic fund transfer aspects, refer to Regulation E, 12 CFR 205.5(c) regarding issuance and

205.6(d) regarding liability for unauthorized use. On matters other than issuance and liability, this section applies to the credit aspects of combined credit/electronic fund transfer transactions, as applicable.

### SECTION 226.13—Billing-Error Resolution<sup>27</sup>

(a) *Definition of billing error.* For purposes of this section, the term "billing error" means:

(1) A reflection on or with a periodic statement of an extension of credit that is not made to the consumer or to a person who has actual, implied, or apparent authority to use the consumer's credit card or open-end credit plan.

(2) A reflection on or with a periodic statement of an extension of credit that is not identified in accordance with the requirements of sections 226.7(b) and 226.8.

(3) A reflection on or with a periodic statement of an extension of credit for property or services not accepted by the consumer or the consumer's designee, or not delivered to the consumer or the consumer's designee as agreed.

(4) A reflection on a periodic statement of the creditor's failure to credit properly a payment or other credit issued to the consumer's account.

(5) A reflection on a periodic statement of a computational or similar error of an accounting nature that is made by the creditor.

(6) A reflection on a periodic statement of an extension of credit for which the consumer requests additional clarification, including documentary evidence.

(7) The creditor's failure to mail or deliver a periodic statement to the consumer's last known address if that address was received by the creditor, in writing, at least 20 days before the end of the billing cycle for which the statement was required.

<sup>27</sup> A creditor shall not accelerate any part of the consumer's indebtedness or restrict or close a consumer's account solely because the consumer has exercised in good faith rights provided by this section. A creditor may be subject to the forfeiture penalty under section 161(e) of the act for failure to comply with any of the requirements of this section.

(b) *Billing-error notice.*<sup>28</sup> A billing-error notice is a written notice<sup>29</sup> from a consumer that—

- (1) Is received by a creditor at the address disclosed under section 226.7(k) no later than 60 days after the creditor transmitted the first periodic statement that reflects the alleged billing error;
- (2) Enables the creditor to identify the consumer's name and account number; and
- (3) To the extent possible, indicates the consumer's belief and the reasons for the belief that a billing error exists, and the type, date, and amount of the error.

(c) *Time for resolution; general procedures.*

- (1) The creditor shall mail or deliver written acknowledgment to the consumer within 30 days of receiving a billing-error notice, unless the creditor has complied with the appropriate resolution procedures of paragraphs (e) and (f) of this section, as applicable, within the 30-day period; and
- (2) The creditor shall comply with the appropriate resolution procedures of paragraphs (e) and (f) of this section, as applicable, within two complete billing cycles (but in no event later than 90 days) after receiving a billing-error notice.

(d) *Rules pending resolution.* Until a billing error is resolved under paragraphs (e) or (f) of this section, the following rules apply:

- (1) *Consumer's right to withhold disputed amount; collection action prohibited.* The consumer need not pay (and the creditor may not try to collect) any portion of any required payment that the consumer believes is related to the disputed amount (including related finance or other charges).<sup>30</sup>

<sup>28</sup> The creditor need not comply with the requirements of paragraphs (c) through (g) of this section if the consumer concludes that no billing error occurred and voluntarily withdraws the billing-error notice.

<sup>29</sup> The creditor may require that the written notice not be made on the payment medium or other material accompanying the periodic statement if the creditor so stipulates in the billing rights statement required by sections 226.6(d) and 226.9(a).

<sup>30</sup> A creditor is not prohibited from taking action to collect any undisputed portion of the item or bill; from deducting any disputed amount and related finance or other charges from the consumer's credit limit on the account; or from reflecting a disputed amount and related finance or other charges on a periodic statement, provided that the

Continued

If the cardholder maintains a deposit account with the card issuer and has agreed to pay the credit card indebtedness by periodic deductions from the cardholder's deposit account, the card issuer shall not deduct any part of the disputed amount or related finance or other charges if a billing error notice is received any time up to three business days before the scheduled payment date.

(2) *Adverse credit reports prohibited.* The creditor or its agent shall not (directly or indirectly) make or threaten to make an adverse report to any person about the consumer's credit standing, or report that an amount or account is delinquent, because the consumer failed to pay the disputed amount or related finance or other charges.

(e) *Procedures if billing error occurred as asserted.* If a creditor determines that a billing error occurred as asserted, it shall within the time limits in paragraph (c)(2) of this section—

- (1) Correct the billing error and credit the consumer's account with any disputed amount and related finance or other charges, as applicable; and
- (2) Mail or deliver a correction notice to the consumer.

(f) *Procedures if different billing error or no billing error occurred.* If, after conducting a reasonable investigation,<sup>31</sup> a creditor determines that no billing error occurred or that a different billing error occurred from that asserted, the creditor shall within the time limits in paragraph (c)(2) of this section—

- (1) Mail or deliver to the consumer an explanation that sets forth the reasons for the creditor's belief that the billing error al-

Continued

creditor indicates on or with the periodic statement that payment of any disputed amount and related finance or other charges is not required pending the creditor's compliance with this section.

<sup>31</sup> If a consumer submits a billing-error notice alleging either the nondelivery of property or services under paragraph (a)(3) of this section or that information appearing on a periodic statement is incorrect because a person honoring the consumer's credit card has made an incorrect report to the card issuer, the creditor shall not deny the assertion unless it conducts a reasonable investigation and determines that the property or services were actually delivered, mailed, or sent as agreed or that the information was correct.

leged by the consumer is incorrect in whole or in part;

(2) Furnish copies of documentary evidence of the consumer's indebtedness, if the consumer so requests; and

(3) If a different billing error occurred, correct the billing error and credit the consumer's account with any disputed amount and related finance or other charges, as applicable.

(g) *Creditor's rights and duties after resolution.* If a creditor, after complying with all of the requirements of this section, determines that a consumer owes all or part of the disputed amount and related finance or other charges, the creditor—

(1) Shall promptly notify the consumer in writing of the time when payment is due and the portion of the disputed amount and related finance or other charges that the consumer still owes;

(2) Shall allow any time period disclosed under sections 226.6(a)(1) and 226.7(j), during which the consumer can pay the amount due under paragraph (g)(1) of this section without incurring additional finance or other charges;

(3) May report an account or amount as delinquent because the amount due under paragraph (g)(1) of this section remains unpaid after the creditor has allowed any time period disclosed under sections 226.6(a)(1) and 226.7(j) or 10 days (whichever is longer) during which the consumer can pay the amount; but

(4) May not report that an amount or account is delinquent because the amount due under paragraph (g)(1) of the section remains unpaid, if the creditor receives (within the time allowed for payment in paragraph (g)(3) of this section) further written notice from the consumer that any portion of the billing error is still in dispute, unless the creditor also—

(i) Promptly reports that the amount or account is in dispute;

(ii) Mails or delivers to the consumer (at the same time the report is made) a written notice of the name and address of each person to whom the creditor makes a report; and

(iii) Promptly reports any subsequent resolution of the reported delinquency to all persons to whom the creditor has made a report.

(h) *Reassertion of billing error.* A creditor that has fully complied with the requirements of this section has no further responsibilities under this section (other than as provided in paragraph (g)(4) of this section) if a consumer reasserts substantially the same billing error.

(i) *Relation to Electronic Fund Transfer Act and Regulation E.* If an extension of credit is incident to an electronic fund transfer, under an agreement between a consumer and a financial institution to extend credit when the consumer's account is overdrawn or to maintain a specified minimum balance in the consumer's account, the creditor shall comply with the requirements of Regulation E, 12 CFR 205.11, governing error resolution rather than those of paragraphs (a), (b), (c), (e), (f), and (h) of this section.

#### SECTION 226.14—Determination of Annual Percentage Rate

(a) *General rule.* The annual percentage rate is a measure of the cost of credit, expressed as a yearly rate. An annual percentage rate shall be considered accurate if it is not more than  $\frac{1}{8}$  of 1 percentage point above or below the annual percentage rate determined in accordance with this section.<sup>31a</sup>

(b) *Annual percentage rate for section 226.5a and 226.5b disclosures, for initial disclosures and for advertising purposes.* Where one or more periodic rates may be used to compute the finance charge, the annual percentage rate(s) to be disclosed for purposes of sections 226.5a, 226.5b, 226.6, and 226.16 shall be computed by multiplying each periodic rate by the number of periods in a year.

<sup>31a</sup> An error in disclosure of the annual percentage rate or finance charge shall not, in itself, be considered a violation of this regulation if: (1) the error resulted from a corresponding error in a calculation tool used in good faith by the creditor; and (2) upon discovery of the error, the creditor promptly discontinues use of that calculation tool for disclosure purposes, and notifies the Board in writing of the error in the calculation tool.

(c) *Annual percentage rate for periodic statements.* The annual percentage rate(s) to be disclosed for purposes of section 226.7(d) shall be computed by multiplying each periodic rate by the number of periods in a year and, for purposes of section 226.7(g), shall be determined as follows:

(1) If the finance charge is determined solely by applying one or more periodic rates, at the creditor's option, either—

(i) By multiplying each periodic rate by the number of periods in a year; or

(ii) By dividing the total finance charge for the billing cycle by the sum of the balances to which the periodic rates were applied and multiplying the quotient (expressed as a percentage) by the number of billing cycles in a year.

(2) If the finance charge imposed during the billing cycle is or includes a minimum, fixed, or other charge not due to the application of a periodic rate, other than a charge with respect to any specific transaction during the billing cycle, by dividing the total finance charge for the billing cycle by the amount of the balance(s) to which it is applicable<sup>32</sup> and multiplying the quotient (expressed as a percentage) by the number of billing cycles in a year.<sup>33</sup>

(3) If the finance charge imposed during the billing cycle is or includes a charge relating to a specific transaction during the billing cycle (even if the total finance charge also includes any other minimum, fixed, or other charge not due to the application of a periodic rate), by dividing the total finance charge imposed during the billing cycle by the total of all balances and other amounts on which a finance charge was imposed during the billing cycle without duplication, and multiplying the quotient (expressed as a percentage) by the number of billing cycles in a year,<sup>34</sup> except

<sup>32</sup> If there is no balance to which the finance charge is applicable, an annual percentage rate cannot be determined under this section.

<sup>33</sup> Where the finance charge imposed during the billing cycle is or includes a loan fee, points, or similar charge that relates to the opening of the account, the amount of such charge shall not be included in the calculation of the annual percentage rate.

<sup>34</sup> See appendix F regarding determination of the denominator of the fraction under this paragraph.

that the annual percentage rate shall not be less than the largest rate determined by multiplying each periodic rate imposed during the billing cycle by the number of periods in a year.<sup>35</sup>

(4) If the finance charge imposed during the billing cycle is or includes a minimum, fixed, or other charge not due to the application of a periodic rate and the total finance charge imposed during the billing cycle does not exceed 50 cents for a monthly or longer billing cycle, or the pro rata part of 50 cents for a billing cycle shorter than monthly, at the creditor's option, by multiplying each applicable periodic rate by the number of periods in a year, notwithstanding the provisions of paragraphs (c)(2) and (3) of this section.

(d) *Calculations where daily periodic rate applied.* If the provisions of paragraphs (c)(1)(ii) or (2) of this section apply and all or a portion of the finance charge is determined by the application of one or more daily periodic rates, the annual percentage rate may be determined either—

(1) By dividing the total finance charge by the average of the daily balances and multiplying the quotient by the number of billing cycles in a year; or

(2) By dividing the total finance charge by the sum of the daily balances and multiplying the quotient by 365.

## SECTION 226.15—Right of Rescission

(a) *Consumer's right to rescind.*

(1) (i) Except as provided in paragraph (a)(1)(ii) of this section, in a credit plan in which a security interest is or will be retained or acquired in a consumer's principal dwelling, each consumer whose ownership interest is or will be subject to the security interest shall have the right to rescind: each credit extension made under the plan; the plan when the plan is opened; a security interest when added or increased to secure an existing plan; and the increase when a credit limit on the plan is increased.

<sup>35</sup> See footnote 33.

(ii) As provided in section 125(e) of the act, the consumer does not have the right to rescind each credit extension made under the plan if such extension is made in accordance with a previously established credit limit for the plan.

(2) To exercise the right to rescind, the consumer shall notify the creditor of the rescission by mail, telegram, or other means of written communication. Notice is considered given when mailed, or when filed for telegraphic transmission, or, if sent by other means, when delivered to the creditor's designated place of business.

(3) The consumer may exercise the right to rescind until midnight of the third business day following the occurrence described in paragraph (a)(1) of this section that gave rise to the right of rescission, delivery of the notice required by paragraph (b) of this section, or delivery of all material disclosures,<sup>36</sup> whichever occurs last. If the required notice and material disclosures are not delivered, the right to rescind shall expire three years after the occurrence giving rise to the right of rescission, or upon transfer of all of the consumer's interest in the property, or upon sale of the property, whichever occurs first. In the case of certain administrative proceedings, the rescission period shall be extended in accordance with section 125(f) of the act.

(4) When more than one consumer has the right to rescind, the exercise of the right by one consumer shall be effective as to all consumers.

(b) *Notice of right to rescind.* In any transaction or occurrence subject to rescission, a creditor shall deliver two copies of the notice of the right to rescind to each consumer entitled to rescind. The notice shall identify the transaction or occurrence and clearly and conspicuously disclose the following:

<sup>36</sup> The term "material disclosures" means the information that must be provided to satisfy the requirements in section 226.6 with regard to the method of determining the finance charge and the balance upon which a finance charge will be imposed, the annual percentage rate, the amount or method of determining the amount of any membership or participation fee that may be imposed as part of the plan, and the payment information described in section 226.5b(d)(5)(i) and (ii) that is required under section 226.6(e)(2).

(1) The retention or acquisition of a security interest in the consumer's principal dwelling.

(2) The consumer's right to rescind, as described in paragraph (a)(1) of this section.

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

(4) The effects of rescission, as described in paragraph (d) of this section.

(5) The date the rescission period expires.

(c) *Delay of creditor's performance.* Unless a consumer waives the right to rescind under paragraph (e) of this section, no money shall be disbursed other than in escrow, no services shall be performed, and no materials delivered until after the rescission period has expired and the creditor is reasonably satisfied that the consumer has not rescinded. A creditor does not violate this section if a third party with no knowledge of the event activating the rescission right does not delay in providing materials or services, as long as the debt incurred for those materials or services is not secured by the property subject to rescission.

(d) *Effects of rescission.*

(1) When a consumer rescinds a transaction, the security interest giving rise to the right of rescission becomes void, and the consumer shall not be liable for any amount, including any finance charge.

(2) Within 20 calendar days after receipt of a notice of rescission, the creditor shall return any money or property that has been given to anyone in connection with the transaction and shall take any action necessary to reflect the termination of the security interest.

(3) If the creditor has delivered any money or property, the consumer may retain possession until the creditor has met its obligation under paragraph (d)(2) of this section. When the creditor has complied with that paragraph, the consumer shall tender the money or property to the creditor or, where the latter would be impracticable or inequitable, tender its reasonable value. At the consumer's option, tender of property may be made at the location of the property or at the consumer's residence. Tender of

money must be made at the creditor's designated place of business. If the creditor does not take possession of the money or property within 20 calendar days after the consumer's tender, the consumer may keep it without further obligation.

(4) The procedures outlined in paragraphs (d)(2) and (3) of this section may be modified by court order.

(e) *Consumer's waiver of right to rescind.*

(1) The consumer may modify or waive the right to rescind if the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency. To modify or waive the right, the consumer shall give the creditor a dated written statement that describes the emergency, specifically modifies or waives the right to rescind, and bears the signatures of all the consumers entitled to rescind. Printed forms for this purpose are prohibited, except as provided in paragraph (2) of this section.

(2) The need of the consumer to obtain funds immediately shall be regarded as a bona fide personal financial emergency provided that the dwelling securing the extension of credit is located in an area declared during June through September 1993, pursuant to 42 USC 5170, to be a major disaster area because of severe storms and flooding in the Midwest.<sup>36a</sup> In this instance, creditors may use printed forms for the consumer to waive the right to rescind. This exemption to paragraph (e)(1) of this section shall expire one year from the date an area was declared a major disaster.

(3) The consumer's need to obtain funds immediately shall be regarded as a bona fide personal financial emergency provided that the dwelling securing the extension of credit is located in an area declared during June through September 1994 to be a major disaster area, pursuant to 42 USC 5170, because of severe storms and flooding in the South.<sup>36b</sup> In this instance, creditors may use

printed forms for the consumer to waive the right to rescind. This exemption to paragraph (e)(1) of this section shall expire one year from the date an area was declared a major disaster.

(4) The consumer's need to obtain funds immediately shall be regarded as a bona fide personal financial emergency provided that the dwelling securing the extension of credit is located in an area declared during October 1994 to be a major disaster area, pursuant to 42 USC 5170, because of severe storms and flooding in Texas.<sup>36c</sup> In this instance, creditors may use printed forms for the consumer to waive the right to rescind. This exemption to paragraph (e)(1) of this section shall expire one year from the date an area was declared a major disaster.

(f) *Exempt transactions.* The right to rescind does not apply to the following:

- (1) A residential mortgage transaction.
- (2) A credit plan in which a state agency is a creditor.

## SECTION 226.16—Advertising

(a) *Actually available terms.* If an advertisement for credit states specific credit terms, it shall state only those terms that actually are or will be arranged or offered by the creditor.

(b) *Advertisement of terms that require additional disclosures.* If any of the terms required to be disclosed under section 226.6 is set forth in an advertisement, the advertisement shall also clearly and conspicuously set forth the following:<sup>36d</sup>

- (1) Any minimum, fixed, transaction, activity or similar charge that could be imposed.
- (2) Any periodic rate that may be applied

<sup>36c</sup> A list of the affected areas will be maintained and published by the Board. Such areas now include the following counties in Texas: Angelina, Austin, Bastrop, Brazos, Brazoria, Burleson, Chambers, Fayette, Fort Bend, Galveston, Grimes, Hardin, Harris, Houston, Jackson, Jasper, Jefferson, Lee, Liberty, Madison, Matagorda, Montgomery, Nacagdoches, Orange, Polk, San Augustine, San Jacinto, Shelby, Trinity, Victoria, Washington, Waller, Walker, and Wharton.

<sup>36d</sup> The disclosures given in accordance with section 226.5a do not constitute advertising terms for purposes of the requirements of this section.

<sup>36a</sup> A list of the affected areas will be maintained by the Board. Such areas now include parts of Iowa, Illinois, Minnesota, Missouri, Nebraska, South Dakota, and Wisconsin.

<sup>36b</sup> A list of the affected areas will be maintained and published by the Board. Such areas now include parts of Alabama, Florida, and Georgia.

expressed as an annual percentage rate as determined under section 226.14(b). If the plan provides for a variable periodic rate, that fact shall be disclosed.

(3) Any membership or participation fee that could be imposed.

(c) *Catalogs and multiple-page advertisements.*

(1) If a catalog or other multiple-page advertisement gives information in a table or schedule in sufficient detail to permit determination of the disclosures required by paragraph (b) of this section, it shall be considered a single advertisement if—

(i) The table or schedule is clearly and conspicuously set forth; and

(ii) Any statement of terms set forth in section 226.6 appearing anywhere else in the catalog or advertisement clearly refers to that page on which the table or schedule begins.

(2) A catalog or multiple-page advertisement complies with this paragraph if the table or schedule of terms includes all appropriate disclosures for a representative scale of amounts up to the level of the more commonly sold higher-priced property or services offered.

(d) *Additional requirements for home-equity plans.*

(1) *Advertisement of terms that require additional disclosures.* If any of the terms required to be disclosed under section 226.6(a) or (b) or the payment terms of the plan are set forth, affirmatively or negatively, in an advertisement for a home-equity plan subject to the requirements of section 226.5b, the advertisement also shall clearly and conspicuously set forth the following:

(i) Any loan fee that is a percentage of the credit limit under the plan and an estimate of any other fees imposed for opening the plan, stated as a single dollar amount or a reasonable range.

(ii) Any periodic rate used to compute the finance charge, expressed as an annual percentage rate as determined under section 226.14(b).

(iii) The maximum annual percentage

rate that may be imposed in a variable-rate plan.

(2) *Discounted and premium rates.* If an advertisement states an initial annual percentage rate that is not based on the index and margin used to make later rate adjustments in a variable-rate plan, the advertisement also shall state the period of time such rate will be in effect, and, with equal prominence to the initial rate, a reasonably current annual percentage rate that would have been in effect using the index and margin.

(3) *Balloon payment.* If an advertisement contains a statement about any minimum periodic payment, the advertisement also shall state, if applicable, that a balloon payment may result.<sup>36e</sup>

(4) *Tax implications.* An advertisement that states that any interest expense incurred under the home-equity plan is or may be tax deductible may not be misleading in this regard.

(5) *Misleading terms.* An advertisement may not refer to a home-equity plan as “free money” or contain a similarly misleading term.

## SUBPART C—CLOSED-END CREDIT

### SECTION 226.17—General Disclosure Requirements

(a) *Form of disclosures.*

(1) The creditor shall make the disclosures required by this subpart clearly and conspicuously in writing, in a form that the consumer may keep. The disclosures shall be grouped together, shall be segregated from everything else, and shall not contain any information not directly related<sup>37</sup> to the disclosures required under section 226.18.<sup>38</sup>

<sup>36e</sup> See footnote 10b.

<sup>37</sup> The disclosures may include an acknowledgment of receipt, the date of the transaction, and the consumer's name, address, and account number.

<sup>38</sup> The following disclosures may be made together or separately from other required disclosures: the creditor's identity under section 226.18(a), the variable rate example under section 226.18(f)(4), insurance under section 226.18(n), and certain security interest charges under section 226.18(o).

The itemization of the amount financed under section 226.18(c)(1) must be separate from the other disclosures under that section.

(2) The terms “finance charge” and “annual percentage rate,” when required to be disclosed under section 226.18(d) and (e) together with a corresponding amount or percentage rate, shall be more conspicuous than any other disclosure, except the creditor’s identity under section 226.18(a).

(b) *Time of disclosures.* The creditor shall make disclosures before consummation of the transaction. In certain residential mortgage transactions, special timing requirements are set forth in section 226.19(a). In certain variable-rate transactions, special timing requirements for variable-rate disclosures are set forth in section 226.19(b) and section 226.20(c). In certain transactions involving mail or telephone orders or a series of sales, the timing of the disclosures may be delayed in accordance with paragraphs (g) and (h) of this section.

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

(1) The disclosures shall reflect the terms of the legal obligation between the parties.

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

(3) The creditor may disregard the effects of the following in making calculations and disclosures:

(i) That payments must be collected in whole cents.

(ii) That dates of scheduled payments and advances may be changed because the scheduled date is not a business day.

(iii) That months have different numbers of days.

(iv) The occurrence of leap year.

(4) In making calculations and disclosures, the creditor may disregard any irregularity in the first period that falls within the limits described below and any payment schedule irregularity that results from the irregular first period—

(i) For transactions in which the term is

less than 1 year, a first period not more than 6 days shorter or 13 days longer than a regular period;

(ii) For transactions in which the term is at least 1 year and less than 10 years, a first period not more than 11 days shorter or 21 days longer than a regular period; and

(iii) For transactions in which the term is at least 10 years, a first period shorter than or not more than 32 days longer than a regular period.

(5) If an obligation is payable on demand, the creditor shall make the disclosures based on an assumed maturity of one year. If an alternate maturity date is stated in the legal obligation between the parties, the disclosures shall be based on that date.

(6) (i) A series of advances under an agreement to extend credit up to a certain amount may be considered as one transaction.

(ii) When a multiple-advance loan to finance the construction of a dwelling may be permanently financed by the same creditor, the construction phase and the permanent phase may be treated as either one transaction or more than one transaction.

(d) *Multiple creditors; multiple consumers.* If a transaction involves more than one creditor, only one set of disclosures shall be given and the creditors shall agree among themselves which creditor must comply with the requirements that this regulation imposes on any or all of them. If there is more than one consumer, the disclosures may be made to any consumer who is primarily liable on the obligation. If the transaction is rescindable under section 226.23, however, the disclosures shall be made to each consumer who has the right to rescind.

(e) *Effect of subsequent events.* If a disclosure becomes inaccurate because of an event that occurs after the creditor delivers the required disclosures, the inaccuracy is not a violation of this regulation, although new disclosures may be required under paragraph (f) of this section, section 226.19, or section 226.20.

(f) *Early disclosures.* If disclosures are given

before the date of consummation of a transaction and a subsequent event makes them inaccurate, the creditor shall disclose the changed terms before consummation, if the annual percentage rate in the consummated transaction varies from the annual percentage rate disclosed under section 226.18(e) by more than  $\frac{1}{8}$  of 1 percentage point in a regular transaction, or more than  $\frac{1}{4}$  of 1 percentage point in an irregular transaction, as defined in section 226.22(a).

(g) *Mail or telephone orders—delay in disclosures.* If a creditor receives a purchase order or a request for an extension of credit by mail, telephone, or any other written or electronic communication without face-to-face or direct telephone solicitation, the creditor may delay the disclosures until the due date of the first payment, if the following information for representative amounts or ranges of credit is made available in written form to the consumer or to the public before the actual purchase order or request:

- (1) The cash price or the principal loan amount.
- (2) The total sale price.
- (3) The finance charge.
- (4) The annual percentage rate, and if the rate may increase after consummation, the following disclosures:
  - (i) The circumstances under which the rate may increase.
  - (ii) Any limitations on the increase.
  - (iii) The effect of an increase.
- (5) The terms of repayment.

(h) *Series of sales—delay in disclosures.* If a credit sale is one of a series made under an agreement providing that subsequent sales may be added to an outstanding balance, the creditor may delay the required disclosures until the due date of the first payment for the current sale, if the following two conditions are met:

- (1) The consumer has approved in writing the annual percentage rate or rates, the range of balances to which they apply, and the method of treating any unearned finance charge on an existing balance.
- (2) The creditor retains no security interest in any property after the creditor has received payments equal to the cash price and

any finance charge attributable to the sale of that property. For purposes of this provision, in the case of items purchased on different dates, the first purchased is deemed the first item paid for; in the case of items purchased on the same date, the lowest priced is deemed the first item paid for.

(i) *Interim student credit extensions.* For each transaction involving an interim credit extension under a student credit program, the creditor need not make the following disclosures: the finance charge under section 226.18(d), the payment schedule under section 226.18(g), the total of payments under section 226.18(h), or the total sale price under section 226.18(j).

#### SECTION 226.18—Content of Disclosures

For each transaction, the creditor shall disclose the following information as applicable:

(a) *Creditor.* The identity of the creditor making the disclosures.

(b) *Amount financed.* The “amount financed,” using that term, and a brief description such as “the amount of credit provided to you or on your behalf.” The amount financed is calculated by—

- (1) Determining the principal loan amount or the cash price (subtracting any downpayment);
- (2) Adding any other amounts that are financed by the creditor and are not part of the finance charge; and
- (3) Subtracting any prepaid finance charge.

(c) *Itemization of amount financed.*

- (1) A separate written itemization of the amount financed, including:<sup>39</sup>
  - (i) The amount of any proceeds distributed directly to the consumer.
  - (ii) The amount credited to the consumer’s account with the creditor.
  - (iii) Any amounts paid to other persons by the creditor on the consumer’s behalf.

<sup>39</sup> Good faith estimates of settlement costs provided for transactions subject to the Real Estate Settlement Procedures Act (12 USC 2601 et seq.) may be substituted for the disclosures required by paragraph (c) of this section.

The creditor shall identify those persons.<sup>40</sup>

(iv) The prepaid finance charge.

(2) The creditor need not comply with paragraph (c)(1) of this section if the creditor provides a statement that the consumer has the right to receive a written itemization of the amount financed, together with a space for the consumer to indicate whether it is desired, and the consumer does not request it.

(d) *Finance charge.* The “finance charge,” using that term, and a brief description such as “the dollar amount the credit will cost you.”<sup>41</sup>

(e) *Annual percentage rate.* The “annual percentage rate,” using that term, and a brief description such as “the cost of your credit as a yearly rate.”<sup>42</sup>

(f) *Variable rate.*

(1) If the annual percentage rate may increase after consummation in a transaction not secured by the consumer’s principal dwelling or in a transaction secured by the consumer’s principal dwelling with a term of one year or less, the following disclosures:<sup>43</sup>

(i) The circumstances under which the rate may increase.

(ii) Any limitations on the increase.

(iii) The effect of an increase.

(iv) An example of the payment terms that would result from an increase.

(2) If the annual percentage rate may increase after consummation in a transaction secured by the consumer’s principal dwell-

ing with a term greater than one year, the following disclosures:

(i) The fact that the transaction contains a variable-rate feature.

(ii) A statement that variable-rate disclosures have been provided earlier.

(g) *Payment schedule.* The number, amounts, and timing of payments scheduled to repay the obligation.

(1) In a demand obligation with no alternate maturity date, the creditor may comply with this paragraph by disclosing the due dates or payment periods of any scheduled interest payments for the first year.

(2) In a transaction in which a series of payments varies because a finance charge is applied to the unpaid principal balance, the creditor may comply with this paragraph by disclosing the following information:

(i) The dollar amounts of the largest and smallest payments in the series.

(ii) A reference to the variations in the other payments in the series.

(h) *Total of payments.* The “total of payments,” using that term, and a descriptive explanation such as “the amount you will have paid when you have made all scheduled payments.”<sup>44</sup>

(i) *Demand feature.* If the obligation has a demand feature, that fact shall be disclosed. When the disclosures are based on an assumed maturity of one year as provided in section 226.17(c)(5), that fact shall also be disclosed.

(j) *Total sale price.* In a credit sale, the “total sale price,” using that term, and a descriptive explanation (including the amount of any downpayment) such as “the total price of your purchase on credit, including your downpayment of \$\_\_\_\_\_.” The total sale price is the sum of the cash price, the items described in paragraph (b)(2), and the finance charge disclosed under paragraph (d) of this section.

(k) *Prepayment.*

(1) When an obligation includes a finance charge computed from time to time by ap-

<sup>40</sup> The following payees may be described using generic or other general terms and need not be further identified: public officials or government agencies, credit reporting agencies, appraisers, and insurance companies.

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

<sup>42</sup> For any transaction involving a finance charge of \$5 or less on an amount financed of \$75 or less, or a finance charge of \$7.50 or less on an amount financed of more than \$75, the creditor need not disclose the annual percentage rate.

<sup>43</sup> Information provided in accordance with sections 226.18(f)(2) and 226.19(b) may be substituted for the disclosures required by paragraph (f)(1) of this section.

<sup>44</sup> In any transaction involving a single payment, the creditor need not disclose the total of payments.

plication of a rate to the unpaid principal balance, a statement indicating whether or not a penalty may be imposed if the obligation is prepaid in full.

(2) When an obligation includes a finance charge other than the finance charge described in paragraph (k)(1) of this section, a statement indicating whether or not the consumer is entitled to a rebate of any finance charge if the obligation is prepaid in full.

(l) *Late payment.* Any dollar or percentage charge that may be imposed before maturity due to a late payment, other than a deferral or extension charge.

(m) *Security interest.* The fact that the creditor has or will acquire a security interest in the property purchased as part of the transaction, or in other property identified by item or type.

(n) *Insurance.* The items required by section 226.4(d) in order to exclude certain insurance premiums from the finance charge.

(o) *Certain security-interest charges.* The disclosures required by section 226.4(e) in order to exclude from the finance charge certain fees prescribed by law or certain premiums for insurance in lieu of perfecting a security interest.

(p) *Contract reference.* A statement that the consumer should refer to the appropriate contract document for information about nonpayment, default, the right to accelerate the maturity of the obligation, and prepayment rebates and penalties. At the creditor's option, the statement may also include a reference to the contract for further information about security interests and, in a residential mortgage transaction, about the creditor's policy regarding assumption of the obligation.

(q) *Assumption policy.* In a residential mortgage transaction, a statement whether or not a subsequent purchaser of the dwelling from the consumer may be permitted to assume the remaining obligation on its original terms.

(r) *Required deposit.* If the creditor requires the consumer to maintain a deposit as a condition of the specific transaction, a statement

that the annual percentage rate does not reflect the effect of the required deposit.<sup>45</sup>

### SECTION 226.19—Certain Residential Mortgage Transactions

(a) (1) *Time of disclosure.* In a residential mortgage transaction subject to the Real Estate Settlement Procedures Act (12 USC 2601 et seq.) the creditor shall make good faith estimates of the disclosures required by section 226.18 before consummation, or shall deliver or place them in the mail not later than three business days after the creditor receives the consumer's written application, whichever is earlier.

(2) *Redisclosure required.* If the annual percentage rate in the consummated transaction varies from the annual percentage rate disclosed under section 226.18(e) by more than  $\frac{1}{8}$  of 1 percentage point in a regular transaction or more than  $\frac{1}{4}$  of 1 percentage point in an irregular transaction, as defined in section 226.22, the creditor shall disclose the changed terms no later than consummation or settlement.

(b) *Certain variable-rate transactions.*<sup>45a</sup> If the annual percentage rate may increase after consummation in a transaction secured by the consumer's principal dwelling with a term greater than one year, the following disclosures must be provided at the time an application form is provided or before the consumer pays a nonrefundable fee, whichever is earlier:<sup>45b</sup>

(1) The booklet titled *Consumer Handbook on Adjustable Rate Mortgages* published by the Board and the Federal Home Loan Bank Board, or a suitable substitute.

(2) A loan program disclosure for each variable-rate program in which the consumer

<sup>45</sup> A required deposit need not include, for example: (1) an escrow account for items such as taxes, insurance or repairs; (2) a deposit that earns not less than 5 percent per year; or (3) payments under a Morris Plan.

<sup>45a</sup> Information provided in accordance with variable-rate regulations of other federal agencies may be substituted for the disclosures required by paragraph (b) of this section.

<sup>45b</sup> Disclosures may be delivered or placed in the mail not later than three business days following receipt of a consumer's application when the application reaches the creditor by telephone, or through an intermediary agent or broker.

expresses an interest. The following disclosures, as applicable, shall be provided:

- (i) The fact that the interest rate, payment, or term of the loan can change.
- (ii) The index or formula used in making adjustments, and a source of information about the index or formula.
- (iii) An explanation of how the interest rate and payment will be determined, including an explanation of how the index is adjusted, such as by the addition of a margin.
- (iv) A statement that the consumer should ask about the current margin value and current interest rate.
- (v) The fact that the interest rate will be discounted, and a statement that the consumer should ask about the amount of the interest rate discount.
- (vi) The frequency of interest rate and payment changes.
- (vii) Any rules relating to changes in the index, interest rate, payment amount, and outstanding loan balance including, for example, an explanation of interest rate or payment limitations, negative amortization, and interest rate carryover.
- (viii) An historical example, based on a \$10,000 loan amount, illustrating how payments and the loan balance would have been affected by interest rate changes implemented according to the terms of the loan program. The example shall be based upon index values beginning in 1977 and be updated annually until a 15-year history is shown. Thereafter, the example shall reflect the most recent 15 years of index values. The example shall reflect all significant loan program terms, such as negative amortization, interest rate carryover, interest rate discounts, and interest rate and payment limitations, that would have been affected by the index movement during the period.
- (ix) An explanation of how the consumer may calculate the payments for the loan amount to be borrowed based on the most recent payment shown in the historical example.
- (x) The maximum interest rate and payment for a \$10,000 loan originated at the

most recent interest rate shown in the historical example assuming the maximum periodic increases in rates and payments under the program; and the initial interest rate and payment for that loan.

- (xi) The fact that the loan program contains a demand feature.
- (xii) The type of information that will be provided in notices of adjustments and the timing of such notices.
- (xiii) A statement that disclosure forms are available for the creditor's other variable-rate loan programs.

#### SECTION 226.20—Subsequent Disclosure Requirements

(a) *Refinancings.* A refinancing occurs when an existing obligation that was subject to this subpart is satisfied and replaced by a new obligation undertaken by the same consumer. A refinancing is a new transaction requiring new disclosures to the consumer. The new finance charge shall include any unearned portion of the old finance charge that is not credited to the existing obligation. The following shall not be treated as a refinancing:

- (1) A renewal of a single payment obligation with no change in the original terms.
- (2) A reduction in the annual percentage rate with a corresponding change in the payment schedule.
- (3) An agreement involving a court proceeding.
- (4) A change in the payment schedule or a change in collateral requirements as a result of the consumer's default or delinquency, unless the rate is increased, or the new amount financed exceeds the unpaid balance plus earned finance charge and premiums for continuation of insurance of the types described in section 226.4(d).
- (5) The renewal of optional insurance purchased by the consumer and added to an existing transaction, if disclosures relating to the initial purchase were provided as required by this subpart.

(b) *Assumptions.* An assumption occurs when a creditor expressly agrees in writing with a subsequent consumer to accept that consumer as a primary obligor on an existing residential

mortgage transaction. Before the assumption occurs, the creditor shall make new disclosures to the subsequent consumer, based on the remaining obligation. If the finance charge originally imposed on the existing obligation was an add-on or discount finance charge, the creditor need only disclose:

- (1) The unpaid balance of the obligation assumed.
- (2) The total charges imposed by the creditor in connection with the assumption.
- (3) The information required to be disclosed under section 226.18(k), (l), (m), and (n).
- (4) The annual percentage rate originally imposed on the obligation.
- (5) The payment schedule under section 226.18(g) and the total of payments under section 226.18(h), based on the remaining obligation.

(c) *Variable-rate adjustments.*<sup>45c</sup> An adjustment to the interest rate with or without a corresponding adjustment to the payment in a variable-rate transaction subject to section 226.19(b) is an event requiring new disclosures to the consumer. At least once each year during which an interest rate adjustment is implemented without an accompanying payment change, and at least 25, but no more than 120, calendar days before a payment at a new level is due, the following disclosures, as applicable, must be delivered or placed in the mail:

- (1) The current and prior interest rates.
- (2) The index values upon which the current and prior interest rates are based.
- (3) The extent to which the creditor has forgone any increase in the interest rate.
- (4) The contractual effects of the adjustment, including the payment due after the adjustment is made, and a statement of the loan balance.
- (5) The payment, if different from that referred to in paragraph (c)(4) of this section, that would be required to fully amortize the loan at the new interest rate over the remainder of the loan term.

<sup>45c</sup> Information provided in accordance with variable-rate subsequent-disclosure regulations of other federal agencies may be substituted for the disclosure required by paragraph (c) of this section.

### SECTION 226.21—Treatment of Credit Balances

When a credit balance in excess of \$1 is created in connection with a transaction (through transmittal of funds to a creditor in excess of the total balance due on an account, through rebates of unearned finance charges or insurance premiums, or through amounts otherwise owed to or held for the benefit of a consumer), the creditor shall—

- (a) Credit the amount of the credit balance to the consumer's account;
- (b) Refund any part of the remaining credit balance, upon the written request of the consumer; and
- (c) Make a good faith effort to refund to the consumer by cash, check, or money order, or credit to a deposit account of the consumer, any part of the credit balance remaining in the account for more than 6 months, except that no further action is required if the consumer's current location is not known to the creditor and cannot be traced through the consumer's last known address or telephone number.

### SECTION 226.22—Determination of Annual Percentage Rate

- (a) *Accuracy of annual percentage rate.*
  - (1) The annual percentage rate is a measure of the cost of credit, expressed as a yearly rate, that relates the amount and timing of value received by the consumer to the amount and timing of payments made. The annual percentage rate shall be determined in accordance with either the actuarial method or the United States Rule method. Explanations, equations and instructions for determining the annual percentage rate in accordance with the actuarial method are set forth in appendix J to this regulation.<sup>45d</sup>
  - (2) As a general rule, the annual percentage

<sup>45d</sup> An error in disclosure of the annual percentage rate or finance charge shall not, in itself, be considered a violation of this regulation if (1) the error resulted from a corresponding error in a calculation tool used in good faith by the creditor; and (2) upon discovery of the error, the creditor promptly discontinues use of that calculation tool for disclosure purposes and notifies the Board in writing of the error in the calculation tool.

rate shall be considered accurate if it is not more than  $\frac{1}{8}$  of 1 percentage point above or below the annual percentage rate determined in accordance with paragraph (a)(1) of this section.

(3) In an irregular transaction, the annual percentage rate shall be considered accurate if it is not more than  $\frac{1}{4}$  of 1 percentage point above or below the annual percentage rate determined in accordance with paragraph (a)(1) of this section.<sup>46</sup>

(b) *Computation tools.*

(1) The Regulation Z Annual Percentage Rate Tables produced by the Board may be used to determine the annual percentage rate, and any rate determined from those tables in accordance with the accompanying instructions complies with the requirements of this section. Volume I of the tables applies to single-advance transactions involving up to 480 monthly payments or 104 weekly payments. It may be used for regular transactions and for transactions with any of the following irregularities: an irregular first period, an irregular first payment, and an irregular final payment. Volume II of the tables applies to transactions involving multiple advances and any type of payment or period irregularity.

(2) Creditors may use any other computation tool in determining the annual percentage rate if the rate so determined equals the rate determined in accordance with appendix J, within the degree of accuracy set forth in paragraph (a) of this section.

(c) *Single add-on rate transactions.* If a single add-on rate is applied to all transactions with maturities up to 60 months and if all payments are equal in amount and period, a single annual percentage rate may be disclosed for all those transactions, so long as it is the highest annual percentage rate for any such transaction.

(d) *Certain transactions involving ranges of balances.* For purposes of disclosing the an-

<sup>46</sup> For purposes of paragraph (a)(3) of this section, an irregular transaction is one that includes one or more of the following features: multiple advances, irregular payment periods, or irregular payment amounts (other than an irregular first period or an irregular first or final payment).

nual percentage rate referred to in section 226.17(g)(4)(Mail or Telephone Orders—Delay in Disclosures) and (h)(Series of Sales—Delay in Disclosures), if the same finance charge is imposed on all balances within a specified range of balances, the annual percentage rate computed for the median balance may be disclosed for all the balances. However, if the annual percentage rate computed for the median balance understates the annual percentage rate computed for the lowest balance by more than 8 percent of the latter rate, the annual percentage rate shall be computed on whatever lower balance will produce an annual percentage rate that does not result in an understatement of more than 8 percent of the rate determined on the lowest balance.

## SECTION 226.23—Right of Rescission

(a) *Consumer's right to rescind.*

(1) In a credit transaction in which a security interest is or will be retained or acquired in a consumer's principal dwelling, each consumer whose ownership interest is or will be subject to the security interest shall have the right to rescind the transaction, except for transactions described in paragraph (f) of this section.<sup>47</sup>

(2) To exercise the right to rescind, the consumer shall notify the creditor of the rescission by mail, telegram or other means of written communication. Notice is considered given when mailed, when filed for telegraphic transmission or, if sent by other means, when delivered to the creditor's designated place of business.

(3) The consumer may exercise the right to rescind until midnight of the third business day following consummation, delivery of the notice required by paragraph (b) of this section, or delivery of all material disclo-

<sup>47</sup> For purposes of this section, the addition to an existing obligation of a security interest in a consumer's principal dwelling is a transaction. The right of rescission applies only to the addition of the security interest and not the existing obligation. The creditor shall deliver the notice required by paragraph (b) of this section but need not deliver new material disclosures. Delivery of the required notice shall begin the rescission period.

tures,<sup>48</sup> whichever occurs last. If the required notice or material disclosures are not delivered, the right to rescind shall expire three years after consummation, upon transfer of all of the consumer's interest in the property, or upon sale of the property, whichever occurs first. In the case of certain administrative proceedings, the rescission period shall be extended in accordance with section 125(f) of the act.

(4) When more than one consumer in a transaction has the right to rescind, the exercise of the right by one consumer shall be effective as to all consumers.

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

(1) The retention or acquisition of a security interest in the consumer's principal dwelling.

(2) The consumer's right to rescind the transaction.

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

(4) The effects of rescission, as described in paragraph (d) of this section.

(5) The date the rescission period expires.

(c) *Delay of creditor's performance.* Unless a consumer waives the right of rescission under paragraph (e) of this section, no money shall be disbursed other than in escrow, no services shall be performed and no materials delivered until the rescission period has expired and the creditor is reasonably satisfied that the consumer has not rescinded.

(d) *Effects of rescission.*

(1) When a consumer rescinds a transaction, the security interest giving rise to the right of rescission becomes void and the

consumer shall not be liable for any amount, including any finance charge.

(2) Within 20 calendar days after receipt of a notice of rescission, the creditor shall return any money or property that has been given to anyone in connection with the transaction and shall take any action necessary to reflect the termination of the security interest.

(3) If the creditor has delivered any money or property, the consumer may retain possession until the creditor has met its obligation under paragraph (d)(2) of this section. When the creditor has complied with that paragraph, the consumer shall tender the money or property to the creditor or, where the latter would be impracticable or inequitable, tender its reasonable value. At the consumer's option, tender of property may be made at the location of the property or at the consumer's residence. Tender of money must be made at the creditor's designated place of business. If the creditor does not take possession of the money or property within 20 calendar days after the consumer's tender, the consumer may keep it without further obligation.

(4) The procedures outlined in paragraphs (d)(2) and (3) of this section may be modified by court order.

(e) *Consumer's waiver of right to rescind.*

(1) The consumer may modify or waive the right to rescind if the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency. To modify or waive the right, the consumer shall give the creditor a dated written statement that describes the emergency, specifically modifies or waives the right to rescind, and bears the signature of all of the consumers entitled to rescind. Printed forms for this purpose are prohibited, except as provided in paragraph (2) of this section.

(2) The need of the consumer to obtain funds immediately shall be regarded as a bona fide personal financial emergency provided that the dwelling securing the extension of credit is located in an area declared during June through September 1993, pursuant to 42 USC 5170, to be a major disas-

<sup>48</sup> The term "material disclosures" means the required disclosures of the annual percentage rate, the finance charge, the amount financed, the total of payments, the payment schedule, and the disclosures and limitations referred to in section 226.32(c) and (d).

ter area because of severe storms and flooding in the Midwest.<sup>48a</sup> In this instance, creditors may use printed forms for the consumer to waive the right to rescind. This exemption to paragraph (e)(1) of this section shall expire one year from the date an area was declared a major disaster.

(3) The consumer's need to obtain funds immediately shall be regarded as a bona fide personal financial emergency provided that the dwelling securing the extension of credit is located in an area declared during June through September 1994 to be a major disaster area, pursuant to 42 USC 5170, because of severe storms and flooding in the South.<sup>48b</sup> In this instance, creditors may use printed forms for the consumer to waive the right to rescind. This exemption to paragraph (e)(1) of this section shall expire one year from the date an area was declared a major disaster.

(4) The consumer's need to obtain funds immediately shall be regarded as a bona fide personal financial emergency provided that the dwelling securing the extension of credit is located in an area declared during October 1994 to be a major disaster area, pursuant to 42 USC 5170, because of severe storms and flooding in Texas.<sup>48c</sup> In this instance, creditors may use printed forms for the consumer to waive the right to rescind. This exemption to paragraph (e)(1) of this section shall expire one year from the date an area was declared a major disaster.

(f) *Exempt transactions.* The right to rescind does not apply to the following:

- (1) A residential mortgage transaction.
- (2) A refinancing or consolidation by the

<sup>48a</sup> A list of the affected areas will be maintained by the Board. Such areas now include parts of Illinois, Iowa, Minnesota, Missouri, Nebraska, South Dakota, and Wisconsin.

<sup>48b</sup> A list of the affected areas will be maintained and published by the Board. Such areas now include parts of Alabama, Florida, and Georgia.

<sup>48c</sup> A list of the affected areas will be maintained and published by the Board. Such areas now include the following counties in Texas: Angelina, Austin, Bastrop, Brazos, Brazoria, Burleson, Chambers, Fayette, Fort Bend, Galveston, Grimes, Hardin, Harris, Houston, Jackson, Jasper, Jefferson, Lee, Liberty, Madison, Matagorda, Montgomery, Nacagdoches, Orange, Polk, San Augustine, San Jacinto, Shelby, Trinity, Victoria, Washington, Waller, Walker, and Wharton.

same creditor of an extension of credit already secured by the consumer's principal dwelling. The right of rescission shall apply, however, to the extent the new amount financed exceeds the unpaid principal balance, any earned unpaid finance charge on the existing debt, and amounts attributed solely to the costs of the refinancing or consolidation.

(3) A transaction in which a state agency is a creditor.

(4) An advance, other than an initial advance, in a series of advances or in a series of single-payment obligations that is treated as a single transaction under section 226.17(c)(6), if the notice required by paragraph (b) of this section and all material disclosures have been given to the consumer.

(5) A renewal of optional insurance premiums that is not considered a refinancing under section 226.20(a)(5).

## SECTION 226.24—Advertising

(a) *Actually available terms.* If an advertisement for credit states specific credit terms, it shall state only those terms that actually are or will be arranged or offered by the creditor.

(b) *Advertisement of rate of finance charge.* If an advertisement states a rate of finance charge, it shall state the rate as an "annual percentage rate," using that term. If the annual percentage rate may be increased after consummation, the advertisement shall state that fact. The advertisement shall not state any other rate, except that a simple annual rate or periodic rate that is applied to an unpaid balance may be stated in conjunction with, but not more conspicuously than, the annual percentage rate.

(c) *Advertisement of terms that require additional disclosures.*

(1) If any of the following terms is set forth in an advertisement, the advertisement shall meet the requirements of paragraph (c)(2) of this section:

- (i) The amount or percentage of any downpayment.
- (ii) The number of payments or period of repayment.

(iii) The amount of any payment.

(iv) The amount of any finance charge.

(2) An advertisement stating any of the terms in paragraph (c)(1) of this section shall state the following terms,<sup>49</sup> as applicable:

(i) The amount or percentage of the downpayment.

(ii) The terms of repayment.

(iii) The "annual percentage rate," using that term, and, if the rate may be increased after consummation, that fact.

(d) *Catalogs and multiple-page advertisements.*

(1) If a catalog or other multiple-page advertisement gives information in a table or schedule in sufficient detail to permit determination of the disclosures required by paragraph (c)(2) of this section, it shall be considered a single advertisement if—

(i) The table or schedule is clearly set forth; and

(ii) Any statement of the credit terms in paragraph (c)(1) of this section appearing anywhere else in the catalog or advertisement clearly refers to the page on which the table or schedule begins.

(2) A catalog or multiple-page advertisement complies with paragraph (c)(2) of this section if the table or schedule of terms includes all appropriate disclosures for a representative scale of amounts up to the level of the more commonly sold higher-priced property or services offered.

ing the regulation may require creditors under their jurisdictions to retain records for a longer period if necessary to carry out their enforcement responsibilities under section 108 of the act.

(b) *Inspection of records.* A creditor shall permit the agency responsible for enforcing this regulation with respect to that creditor to inspect its relevant records for compliance.

#### SECTION 226.26—Use of Annual Percentage Rate in Oral Disclosures

(a) *Open-end credit.* In an oral response to a consumer's inquiry about the cost of open-end credit, only the annual percentage rate or rates shall be stated, except that the periodic rate or rates also may be stated. If the annual percentage rate cannot be determined in advance because there are finance charges other than a periodic rate, the corresponding annual percentage rate shall be stated, and other cost information may be given.

(b) *Closed-end credit.* In an oral response to a consumer's inquiry about the cost of closed-end credit, only the annual percentage rate shall be stated, except that a simple annual rate or periodic rate also may be stated if it is applied to an unpaid balance. If the annual percentage rate cannot be determined in advance, the annual percentage rate for a sample transaction shall be stated, and other cost information for the consumer's specific transaction may be given.

### SUBPART D—MISCELLANEOUS

#### SECTION 226.25—Record Retention

(a) *General rule.* A creditor shall retain evidence of compliance with this regulation (other than advertising requirements under sections 226.16 and 226.24) for two years after the date disclosures are required to be made or action is required to be taken. The administrative agencies responsible for enforcing

#### SECTION 226.27—Spanish-Language Disclosures

All disclosures required by this regulation shall be made in the English language, except in the Commonwealth of Puerto Rico, where creditors may, at their option, make disclosures in the Spanish language. If Spanish disclosures are made, English disclosures shall be provided on the consumer's request, either in substitution for or in addition to the Spanish disclosures. This requirement for providing English disclosures on request shall not apply to advertisements subject to sections 226.16 and 226.24 of this regulation.

<sup>49</sup> An example of one or more typical extensions of credit with a statement of all the terms applicable to each may be used.

## SECTION 226.28—Effect on State Laws

(a) *Inconsistent disclosure requirements.*

(1) Except as provided in paragraph (d) of this section, state law requirements that are inconsistent with the requirements contained in chapter 1 (General Provisions), chapter 2 (Credit Transactions), or chapter 3 (Credit Advertising) of the act and the implementing provisions of this regulation are preempted to the extent of the inconsistency. A state law is inconsistent if it requires a creditor to make disclosures or take actions that contradict the requirements of the federal law. A state law is contradictory if it requires the use of the same term to represent a different amount or a different meaning than the federal law, or if it requires the use of a term different from that required in the federal law to describe the same item. A creditor, state, or other interested party may request the Board to determine whether a state law requirement is inconsistent. After the Board determines that a state law is inconsistent, a creditor may not make disclosures using the inconsistent term or form.

(2) (i) State law requirements are inconsistent with the requirements contained in sections 161 (Correction of Billing Errors) or 162 (Regulation of Credit Reports) of the act and the implementing provisions of this regulation and are preempted if they provide rights, responsibilities, or procedures for consumers or creditors that are different from those required by the federal law. However, a state law that allows a consumer to inquire about an open-end credit account and imposes on the creditor an obligation to respond to such inquiry after the time allowed in the federal law for the consumer to submit written notice of a billing error shall not be preempted in any situation where the time period for making written notice under this regulation has expired. If a creditor gives written notice of a consumer's rights under such state law, the notice shall state that reliance on the longer time period available under state law may result in the loss of important rights that could be preserved

by acting more promptly under federal law; it shall also explain that the state law provisions apply only after expiration of the time period for submitting a proper written notice of a billing error under the federal law. If the state disclosures are made on the same side of a page as the required federal disclosures, the state disclosures shall appear under a demarcation line below the federal disclosures, and the federal disclosures shall be identified by a heading indicating that they are made in compliance with federal law.

(ii) State law requirements are inconsistent with the requirements contained in chapter 4 (Credit Billing) of the act (other than sections 161 or 162) and the implementing provisions of this regulation and are preempted if the creditor cannot comply with state law without violating federal law.

(iii) A state may request the Board to determine whether its law is inconsistent with chapter 4 of the act and its implementing provisions.

(b) *Equivalent disclosure requirements.* If the Board determines that a disclosure required by state law (other than a requirement relating to the finance charge, annual percentage rate or the disclosures required under section 226.32) is substantially the same in meaning as a disclosure required under the act or this regulation, creditors in that state may make the state disclosure in lieu of the federal disclosure. A creditor, state, or other interested party may request the Board to determine whether a state disclosure is substantially the same in meaning as a federal disclosure.

(c) *Request for determination.* The procedures under which a request for a determination may be made under this section are set forth in appendix A.

(d) *Special rule for credit and charge cards.* State law requirements relating to the disclosure of credit information in any credit or charge card application or solicitation that is subject to the requirements of section 127(c) of chapter 2 of the act (section 226.5a of the regulation) or in any renewal notice for a

credit or charge card that is subject to the requirements of section 127(d) of chapter 2 of the act (section 226.9(e) of the regulation) are preempted. State laws relating to the enforcement of section 127(c) and (d) of the act are not preempted.

#### SECTION 226.29—State Exemptions

(a) *General rule.* Any state may apply to the Board to exempt a class of transactions within the state from the requirements of chapter 2 (Credit Transactions) or chapter 4 (Credit Billing) of the act and the corresponding provisions of this regulation. The Board shall grant an exemption if it determines that—

- (1) the state law is substantially similar to the federal law or, in the case of chapter 4, affords the consumer greater protection than the federal law; and
- (2) there is adequate provision for enforcement.

(b) *Civil liability.*

- (1) No exemptions granted under this section shall extend to the civil liability provisions of sections 130 and 131 of the act.
- (2) If an exemption has been granted, the disclosures required by the applicable state law (except any additional requirements not imposed by federal law) shall constitute the disclosures required by this act.

(c) *Applications.* The procedures under which a state may apply for an exemption under this section are set forth in appendix B.

#### SECTION 226.30—Limitation on Rates

A creditor shall include in any consumer credit contract secured by a dwelling and subject to the act and this regulation the maximum interest rate that may be imposed during the term of the obligation<sup>50</sup> when—

(a) in the case of closed-end credit, the annual percentage rate may increase after consummation, or

<sup>50</sup> Compliance with this section will constitute compliance with the disclosure requirements on limitations on increases in footnote 12 to section 226.6(a)(2) and section 226.18(f)(2) until October 1, 1988.

(b) in the case of open-end credit, the annual percentage rate may increase during the plan.

#### SUBPART E—SPECIAL RULES FOR CERTAIN HOME MORTGAGE TRANSACTIONS

##### SECTION 226.31—General Rules

(a) *Relation to other subparts in this part.* The requirements and limitations of this subpart are in addition to and not in lieu of those contained in other subparts of this part.

(b) *Form of disclosure.* The creditor shall make the disclosures required by this subpart clearly and conspicuously in writing, in a form that the consumer may keep.

(c) *Timing of disclosure.*

(1) *Disclosures for certain closed-end home mortgages.* The creditor shall furnish the disclosures required by section 226.32 at least three business days prior to consummation of a mortgage transaction covered by section 226.32.

(i) *Change in terms.* After complying with paragraph (c)(1) of this section and prior to consummation, if the creditor changes any term that makes the disclosures inaccurate, new disclosures shall be provided in accordance with the requirements of this subpart.

(ii) *Telephone disclosures.* A creditor may provide new disclosures by telephone if the consumer initiates the change and if, at consummation—

(A) the creditor provides new written disclosures; and

(B) the consumer and creditor sign a statement that the new disclosures were provided by telephone at least three days prior to consummation.

(iii) *Consumer's waiver of waiting period before consummation.* The consumer may, after receiving the disclosures required by paragraph (c)(1) of this section, modify or waive the three-day waiting period between delivery of those disclosures and consummation if the consumer determines that the extension of credit is

needed to meet a bona fide personal financial emergency. To modify or waive the right, the consumer shall give the creditor a dated written statement that describes the emergency, specifically modifies or waives the waiting period, and bears the signature of all the consumers entitled to the waiting period. Printed forms for this purpose are prohibited, except when creditors are permitted to use printed forms pursuant to section 226.23(e)(2).

(2) *Disclosures for reverse mortgages.* The creditor shall furnish the disclosures required by section 226.33 at least three business days prior to—

- (i) consummation of a closed-end credit transaction; or
- (ii) the first transaction under an open-end credit plan.

(d) *Basis of disclosures and use of estimates.* Disclosures shall reflect the terms of the legal obligation between the parties. If any information necessary for accurate disclosure is unknown to the creditor, the creditor shall make the disclosure based on the best information reasonably available and shall state clearly that the disclosure is an estimate.

(e) *Multiple creditors; multiple consumers.* If a transaction involves more than one creditor, only one set of disclosures shall be given and the creditors shall agree among themselves which creditor must comply with the requirements that this part imposes on any or all of them. If there is more than one consumer, the disclosures may be made to any consumer who is primarily liable on the obligation. If the transaction is rescindable under section 226.15 or section 226.23, however, the disclosures shall be made to each consumer who has the right to rescind.

(f) *Effect of subsequent events.* If a disclosure becomes inaccurate because of an event that occurs after the creditor delivers the required disclosures, the inaccuracy is not a violation of Regulation Z (12 CFR 226), although new disclosures may be required for mortgages covered by section 226.32 under paragraph (c) of this section, section 226.9(c), section 226.19, or section 226.20.

(g) *Accuracy of annual percentage rate.* For purposes of section 226.32, the annual percentage rate shall be considered accurate if it is accurate according to the requirements and within the tolerances set forth in section 226.22.

## SECTION 226.32—Requirements for Certain Closed-End Home Mortgages

(a) *Coverage.*

(1) Except as provided in paragraph (a)(2) of this section, the requirements of this section apply to a consumer credit transaction that is secured by the consumer's principal dwelling, and in which either—

- (i) the annual percentage rate at consummation will exceed by more than 10 percentage points the yield on Treasury securities having comparable periods of maturity to the loan maturity as of the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or
- (ii) the total points and fees payable by the consumer at or before loan closing will exceed the greater of 8 percent of the total loan amount, or \$400; the \$400 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index that was reported on the preceding June 1.

(2) This section does not apply to the following:

- (i) a residential mortgage transaction.
- (ii) a reverse-mortgage transaction subject to section 226.33.
- (iii) an open-end credit plan subject to subpart B of this part.

(b) *Definitions.* For purposes of this subpart, the following definitions apply:

(1) For purposes of paragraph (a)(1)(ii) of this section, *points and fees* means—

- (i) all items required to be disclosed under section 226.4(a) and 226.4(b), except interest or the time-price differential;
- (ii) all compensation paid to mortgage brokers; and
- (iii) all items listed in section 226.4(c)(7) (other than amounts held for future pay-

ment of taxes) unless the charge is reasonable, the creditor receives no direct or indirect compensation in connection with the charge, and the charge is not paid to an affiliate of the creditor.

(2) *Affiliate* means any company that controls, is controlled by, or is under common control with another company, as set forth in the Bank Holding Company Act of 1956 (12 USC 1841 et seq.).

(c) *Disclosures.* In addition to other disclosures required by this part, in a mortgage subject to this section the creditor shall disclose the following:

(1) *Notices.* The following statement: "You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application. If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan."

(2) *Annual percentage rate.* The annual percentage rate.

(3) *Regular payment.* The amount of the regular monthly (or other periodic) payment.

(4) *Variable rate.* For variable-rate transactions, a statement that the interest rate and monthly payment may increase, and the amount of the single maximum monthly payment, based on the maximum interest rate required to be disclosed under section 226.30.

(d) *Limitations.* A mortgage transaction subject to this section may not provide for the following terms:

(1) (i) *Balloon payment.* For a loan with a term of less than five years, a payment schedule with regular periodic payments that when aggregated do not fully amortize the outstanding principal balance.

(ii) *Exception.* The limitations in paragraph (d)(1)(i) of this section do not apply to loans with maturities of less than one year, if the purpose of the loan is a "bridge" loan connected with the acquisition or construction of a dwelling intended to become the consumer's principal dwelling.

(2) *Negative amortization.* A payment schedule with regular periodic payments that cause the principal balance to increase.

(3) *Advance payments.* A payment schedule that consolidates more than two periodic payments and pays them in advance from the proceeds.

(4) *Increased interest rate.* An increase in the interest rate after default.

(5) *Rebates.* A refund calculated by a method less favorable than the actuarial method (as defined by section 933(d) of the Housing and Community Development Act of 1992, 15 USC 1615(d)), for rebates of interest arising from a loan acceleration due to default.

(6) *Prepayment penalties.* Except as allowed under paragraph (d)(7) of this section, a penalty for paying all or part of the principal before the date on which the principal is due. A prepayment penalty includes computing a refund of unearned interest by a method that is less favorable to the consumer than the actuarial method, as defined by section 933(d) of the Housing and Community Development Act of 1992.

(7) *Prepayment-penalty exception.* A mortgage transaction subject to this section may provide for a prepayment penalty otherwise permitted by law (including a refund calculated according to the rule of 78s) if—

(i) the penalty can be exercised only for the first five years following consummation;

(ii) the source of the prepayment funds is not a refinancing by the creditor or an affiliate of the creditor; and

(iii) at consummation, the consumer's total monthly debts (including amounts owed under the mortgage) do not exceed 50 percent of the consumer's monthly gross income, as verified by the consumer's signed financial statement, a credit report, and payment records for employment income.

(e) *Prohibited acts and practices.* A creditor extending mortgage credit subject to this section may not—

(1) *Repayment ability.* Engage in a pattern or practice of extending such credit to a consumer based on the consumer's collat-

eral if, considering the consumer's current and expected income, current obligations, and employment status, the consumer will be unable to make the scheduled payments to repay the obligation.

(2) *Home-improvement contracts.* Pay a contractor under a home-improvement contract from the proceeds of a mortgage covered by this section, other than—

(i) by an instrument payable to the consumer or jointly to the consumer and the contractor; or

(ii) at the election of the consumer, through a third-party escrow agent in accordance with terms established in a written agreement signed by the consumer, the creditor, and the contractor prior to the disbursement.

(3) *Notice to assignee.* Sell or otherwise assign a mortgage subject to this section without furnishing the following statement to the purchaser or assignee: "Notice: This is a mortgage subject to special rules under the federal Truth in Lending Act. Purchasers or assignees of this mortgage could be liable for all claims and defenses with respect to the mortgage that the borrower could assert against the creditor."

### SECTION 226.33—Requirements for Reverse Mortgages

(a) *Definition.* For purposes of this subpart, *reverse-mortgage transaction* means a nonrecourse consumer credit obligation in which—

(1) a mortgage, deed of trust, or equivalent consensual security interest securing one or more advances is created in the consumer's principal dwelling; and

(2) any principal, interest, or shared appreciation or equity is due and payable (other than in the case of default) only after—

(i) the consumer dies;

(ii) the dwelling is transferred; or

(iii) the consumer ceases to occupy the dwelling as a principal dwelling.

(b) *Content of disclosures.* In addition to other disclosures required by this part, in a reverse-mortgage transaction the creditor shall provide the following disclosures in a form

substantially similar to the model form found in paragraph (d) of appendix K of this part:

(1) *Notice.* A statement that the consumer is not obligated to complete the reverse-mortgage transaction merely because the consumer has received the disclosures required by this section or has signed an application for a reverse-mortgage loan.

(2) *Total-annual-loan-cost rates.* A good faith projection of the total cost of the credit, determined in accordance with paragraph (c) of this section and expressed as a table of "total-annual-loan-cost rates," using that term, in accordance with appendix K of this part.

(3) *Itemization of pertinent information.* An itemization of loan terms, charges, the age of the youngest borrower, and the appraised property value.

(4) *Explanation of table.* An explanation of the table of total-annual-loan-cost rates as provided in the model form found in paragraph (d) of appendix K of this part.

(c) *Projected total cost of credit.* The projected total cost of credit shall reflect the following factors, as applicable:

(1) *Costs to consumer.* All costs and charges to the consumer, including the costs of any annuity the consumer purchases as part of the reverse-mortgage transaction.

(2) *Payments to consumer.* All advances to and for the benefit of the consumer, including annuity payments that the consumer will receive from an annuity that the consumer purchases as part of the reverse-mortgage transaction.

(3) *Additional creditor compensation.* Any shared appreciation or equity in the dwelling that the creditor is entitled by contract to receive.

(4) *Limitations on consumer liability.* Any limitation on the consumer's liability (such as nonrecourse limits and equity-conservation agreements).

(5) *Assumed annual appreciation rates.* Each of the following assumed annual appreciation rates for the dwelling:

(i) 0 percent.

(ii) 4 percent.

(iii) 8 percent.

(6) *Assumed loan period.*

(i) Each of the following assumed loan periods, as provided in appendix L of this part:

(A) Two years.

(B) The actuarial life expectancy of the consumer to become obligated on the reverse-mortgage transaction (as of that consumer's most recent birthday). In the case of multiple consumers, the period shall be the actuarial life expectancy of the youngest consumer (as of that consumer's most recent birthday).

(C) The actuarial life expectancy specified by paragraph (c)(6)(i)(B) of this section, multiplied by a factor of 1.4 and rounded to the nearest full year.

(ii) At the creditor's option, the actuarial life expectancy specified by paragraph (c)(6)(i)(B) of this section, multiplied by a factor of 0.5 and rounded to the nearest full year.

(4) Any other information that the requesting party believes may assist the Board in its determination.

#### *Public Notice of Determination*

Notice that the Board intends to make a determination (either on request or on its own motion) will be published in the *Federal Register*, with an opportunity for public comment, unless the Board finds that notice and opportunity for comment would be impracticable, unnecessary, or contrary to the public interest and publishes its reasons for such decision.

Subject to the Board's Rules Regarding Availability of Information (12 CFR 261), all requests made, including any documents and other material submitted in support of the requests, will be made available for public inspection and copying.

#### *Notice After Determination*

Notice of a final determination will be published in the *Federal Register* and the Board will furnish a copy of such notice to the party who made the request and to the appropriate state official.

#### *Reversal of Determination*

The Board reserves the right to reverse a determination for any reason bearing on the coverage or effect of state or federal law.

Notice of reversal of a determination will be published in the *Federal Register* and a copy furnished to the appropriate state official.

## APPENDIX A—Effect on State Laws

### *Request for Determination*

A request for a determination that a state law is inconsistent or that a state law is substantially the same as the act and regulation shall be in writing and addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The request shall be made pursuant to the procedures herein and the Board's Rules of Procedure (12 CFR 262).

### *Supporting Documents*

A request for a determination shall include the following items:

- (1) The text of the state statute, regulation, or other document that is the subject of the request.
- (2) Any other statute, regulation, or judicial or administrative opinion that implements, interprets, or applies the relevant provision.
- (3) A comparison of the state law with the corresponding provision of the federal law, including a full discussion of the basis for the requesting party's belief that the state provision is either inconsistent or substantially the same.

## APPENDIX B—State Exemptions

### *Application*

Any state may apply to the Board for a determination that a class of transactions subject to state law is exempt from the requirements of the act and this regulation. An application shall be in writing and addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and shall be signed by the appropriate state official. The application shall be made pursuant to the procedures herein and the Board's Rules of Procedure (12 CFR 262).

### *Supporting Documents*

An application shall be accompanied by:

- (1) The text of the state statute or regulation that is the subject of the application, and any other statute, regulation, or judicial or administrative opinion that implements, interprets, or applies it.
- (2) A comparison of the state law with the corresponding provisions of the federal law.
- (3) The text of the state statute or regulation that provides for civil and criminal liability and administrative enforcement of the state law.
- (4) A statement of the provisions for enforcement, including an identification of the state office that administers the relevant law, information on the funding and the number and qualifications of personnel engaged in enforcement, and a description of the enforcement procedures to be followed, including information on examination procedures, practices, and policies. If an exemption application extends to federally chartered institutions, the applicant must furnish evidence that arrangements have been made with the appropriate federal agencies to ensure adequate enforcement of state law in regard to such creditors.
- (5) A statement of reasons to support the applicant's claim that an exemption should be granted.

### *Public Notice of Application*

Notice of an application will be published, with an opportunity for public comment, in the *Federal Register*, unless the Board finds that notice and opportunity for comment would be impracticable, unnecessary, or contrary to the public interest and publishes its reasons for such decision.

Subject to the Board's Rules Regarding Availability of Information (12 CFR 261), all applications made, including any documents and other material submitted in support of the applications, will be made available for public inspection and copying. A copy of the application also will be made available at the Federal Reserve Bank of each District in which the applicant is situated.

### *Favorable Determination*

If the Board determines on the basis of the information before it that an exemption should be granted, notice of the exemption will be published in the *Federal Register*, and a copy furnished to the applicant and to each federal official responsible for administrative enforcement.

The appropriate state official shall inform the Board within 30 days of any change in its relevant law or regulations. The official shall file with the Board such periodic reports as the Board may require.

The Board will inform the appropriate state official of any subsequent amendments to the federal law, regulation, interpretations, or enforcement policies that might require an amendment to state law, regulation, interpretations, or enforcement procedures.

### *Adverse Determination*

If the Board makes an initial determination that an exemption should not be granted, the Board will afford the applicant a reasonable opportunity to demonstrate further that an exemption is proper. If the Board ultimately finds that an exemption should not be granted, notice of an adverse determination will be published in the *Federal Register* and a copy furnished to the applicant.

### *Revocation of Exemption*

The Board reserves the right to revoke an exemption if at any time it determines that the standards required for an exemption are not met.

Before taking such action, the Board will notify the appropriate state official of its intent, and will afford the official such opportunity as it deems appropriate in the circumstances to demonstrate that revocation is improper. If the Board ultimately finds that revocation is proper, notice of the Board's intention to revoke such exemption will be published in the *Federal Register* with a reasonable period of time for interested persons to comment.

Notice of revocation of an exemption will be published in the *Federal Register*. A copy of such notice will be furnished to the appro-

priate state official and to the federal officials responsible for enforcement. Upon revocation of an exemption, creditors in that state shall then be subject to the requirements of the federal law.

## APPENDIX C—Issuance of Staff Interpretations

### *Official Staff Interpretations*

Officials in the Board's Division of Consumer and Community Affairs are authorized to issue official staff interpretations of this regulation. These interpretations provide the protection afforded under section 130(f) of the act. Except in unusual circumstances, such interpretations will not be issued separately but will be incorporated in an official commentary to the regulation, which will be amended periodically.

### *Requests for Issuance of Official Staff Interpretations*

A request for an official staff interpretation shall be in writing and addressed to the Director, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The request shall contain a complete statement of all relevant facts concerning the issue, including copies of all pertinent documents.

### *Scope of Interpretations*

No staff interpretations will be issued approving creditors' forms, statements, or calculation tools or methods. This restriction does not apply to forms, statements, tools, or methods whose use is required or sanctioned by a government agency.

## APPENDIX D—Multiple-Advance Construction Loans

Section 226.17(c)(6) permits creditors to treat multiple-advance loans to finance construction of a dwelling that may be permanently financed by the same creditor either as a single transaction or as more than one transaction. If the actual schedule of advances is not known,

the following methods may be used to estimate the interest portion of the finance charge and the annual percentage rate and to make disclosures. If the creditor chooses to disclose the construction phase separately, whether interest is payable periodically or at the end of construction, part I may be used. If the creditor chooses to disclose the construction and the permanent financing as one transaction, part II may be used.

### *Part I—Construction Period Disclosed Separately*

A. If interest is payable only on the amount actually advanced for the time it is outstanding:

1. Estimated interest—Assume that one-half of the commitment amount is outstanding at the contract interest rate for the entire construction period.
2. Estimated annual percentage rate—Assume a single-payment loan that matures at the end of the construction period. The finance charge is the sum of the estimated interest and any prepaid finance charge. The amount financed for computation purposes is determined by subtracting any prepaid finance charge from one-half of the commitment amount.
3. Repayment schedule—The number and amounts of any interest payments may be omitted in disclosing the payment schedule under section 226.18(g). The fact that interest payments are required and the timing of such payments shall be disclosed.
4. Amount financed—The amount financed for disclosure purposes is the entire commitment amount less any prepaid finance charge.

B. If interest is payable on the entire commitment amount without regard to the dates or amounts of actual disbursement:

1. Estimated interest—Assume that the entire commitment amount is outstanding at the contract interest rate for the entire construction period.
2. Estimated annual percentage rate—Assume a single payment loan that matures at the end of the construction period. The finance charge is the sum of the estimated interest and any prepaid finance charge. The

amount financed for computation purposes is determined by subtracting any prepaid finance charge from one-half of the commitment amount.

3. Repayment schedule—Interest payments shall be disclosed in making the repayment schedule disclosure under section 226.18(g).

**EXAMPLE:**

Assume a \$50,000 loan commitment at 10.5 percent interest with a five-month construction period and a prepaid finance charge of 2 points.

<u>(A)</u>	<u>(B)</u>
Estimated interest:	
$\$25,000 \times .105 \div 12 \times 5 =$ \$1,093.75	$\$50,000 \times .105 \div 12 \times 5 =$ \$2,187.50
Estimated APR:	
$\frac{(1,093.75 + 1,000) \times 100}{(25,000 - 1,000)} \div 5 \times 12 =$ 20.94%	$\frac{(2,187.50 + 1,000) \times 100}{(25,000 - 1,000)} \div 5 \times 12 =$ 31.88%
<i>Disclosures:</i>	
Amount financed \$49,000.00	\$49,000.00
Prepaid finance charge 1,000.00	1,000.00
FINANCE CHARGE (estimate) 2,093.75	3,187.50
ANNUAL PERCENTAGE RATE (estimate) 20.94%	31.88%
Repayment: One payment of principal of \$50,000 on 12-12-80. Interest on the amount of credit outstanding will be paid monthly.	4 monthly payments of \$437.50, beginning 8-12-80, and a final payment of \$50,437.50 on 12-12-80.
Total of payments (estimate) \$51,093.75	\$52,187.50

*Part II—Construction and permanent financing disclosed as one transaction.*

A. The creditor shall estimate the interest payable during the construction period to be included in the total finance charge as follows:

1. If interest is payable only on the amount actually advanced for the time it is outstanding, assume that one-half of the commitment amount is outstanding at the contract interest rate for the entire construction period.

2. If interest is payable on the entire commitment amount without regard to the dates or amounts of actual disbursement, assume that the entire commitment amount is out-

standing at the contract rate for the entire construction period.

B. The creditor shall compute the estimated annual percentage rate as follows:

1. Estimated interest payable during the construction period shall be treated for computation purposes as a prepaid finance charge (although it shall not be treated as a prepaid finance charge for disclosure purposes).

2. The number of payments shall not include any payments of interest only that are made during the construction period.

3. The first payment period shall consist of one-half of the construction period plus the

period between the end of the construction period and the first amortization payment.

C. The creditor shall disclose the repayment schedule as follows:

1. For loans under paragraph A.1. of part II, without reflecting the number or amounts of payments of interest only that are made during the construction period. The fact that interest payments must be

made and the timing of such payments shall be disclosed.

2. For loans under paragraph A.2. of part II, including any payments of interest only that are made during the construction period.

D. The creditor shall disclose the amount financed as the entire commitment amount less any prepaid finance charge.

#### EXAMPLE:

Assume a \$50,000 loan commitment at 10.5 percent interest with a five-month construction period and a prepaid finance charge of 2 points, followed by 30-year permanent financing at the same rate with monthly amortization payments of \$457.37.

#### Computation of Estimated APR

	<i>Interest on amount advanced</i>	<i>Interest on entire commitment</i>
Estimated construction interest:		
$\$25,000 \times .105 \div 12 \times 5 =$	\$1,093.75	$\$50,000 \times .105 \div 12 \times 5 =$ \$2,187.50
Estimated total finance charge:		
$360 \times \$457.37 =$	\$164,653.20	\$164,653.20
Principal	-50,000.00	-50,000.00
Interest on permanent financing	114,653.20	114,653.20
Construction interest	+ 1,093.75	+ 2,187.50
Points	+ 1,000.00	+ 1,000.00
	\$116,746.95	\$117,840.70
Estimated amount financed:		
Principal	\$50,000.00	\$50,000.00
Construction interest	- 1,093.75	- 2,187.50
Points	- 1,000.00	- 1,000.00
	\$47,906.25	\$46,812.50
Number of payments	360	360
Payment amount	\$457.37	\$457.37
First payment period $(5 \div 2) + 1$	3½ months	$(5 \div 2) + 1$ 3½ months
Estimated APR (Actuarial)	10.75%	11.03%
Estimated APR (Volume I):		
$\frac{11,674,695}{47,906.25} = 243.70 = FC/\$100$		$\frac{11,784,070}{46,812.50} = 251.73 = FC/\$100$
First period adjustment = 3 mo., 15 days = +5.0		First period adjustment = 3 mo., 15 days = +5.0
Using 365 payment line, the figure closest to 243.70 is 247.00, which corresponds to an APR of	11%	Using 365 payment line, the figure closest to 251.73 is 253.93, which corresponds to an APR of
		11.25%
<i>Disclosures</i>		
Amount financed	\$49,000.00	\$49,000.00
Prepaid finance charge	1,000.00	1,000.00
FINANCE CHARGE (estimate)	116,746.95	117,840.70

	<i>Interest on amount advanced</i>	<i>Interest on entire commitment</i>
ANNUAL PERCENTAGE RATE (estimate)	11%	11.25%
Repayment: Interest on the amount of credit outstanding during the construction period will be paid monthly, followed by 360 monthly payments of \$457.37, beginning 1-12-81.		5 monthly payments of \$437.50 beginning 8-12-80, followed by 360 monthly payments of \$457.37 beginning 1-12-81.
Total of payments (estimate)	\$165,746.95	\$166,840.70

#### APPENDIX E—Rules for Card Issuers That Bill on a Transaction-by-Transaction Basis

The following provisions of subpart B apply if credit cards are issued and (1) the card issuer and the seller are the same or related persons; (2) no finance charge is imposed; (3) consumers are billed in full for each use of the card on a transaction-by-transaction basis, by means of an invoice or other statement reflecting each use of the card; and (4) no cumulative account is maintained which reflects the transactions by each consumer during a period of time, such as a month:

*Section 226.6(d), and, as applicable, section 226.6(b) and (c).* The disclosure required by Section 226.6(b) shall be limited to those charges that are or may be imposed as a result of the deferral of payment by use of the card, such as late payment or delinquency charges.

*Section 226.7(b) and section 226.7(k).* Creditors may comply by placing the required disclosures on the invoice or statement sent to the consumer for each transaction.

*Section 226.9(a).* Creditors may comply by mailing or delivering the statement required by section 226.6(d) (see appendix G-3) to each consumer receiving a transaction invoice during a one-month period chosen by the card issuer or by sending either the statement prescribed by section 226.6(d) or an alternative billing error rights statement substantially similar to that in appendix G-4, with each invoice sent to a consumer.

*Section 226.9(c).*

*Section 226.10.*

*Section 226.11.* This section applies when a card issuer receives a payment or other credit

that exceeds by more than \$1 the amount due, as shown on the transaction invoice. The requirement to credit amounts to an account may be complied with by other reasonable means, such as by a credit memorandum. Since no periodic statement is provided, a notice of the credit balance shall be sent to the consumer within a reasonable period of time following its occurrence unless a refund of the credit balance is mailed or delivered to the consumer within seven business days of its receipt by the card issuer.

*Section 226.12 including section 226.12(c) and (d), as applicable.* Section 226.12(e) is inapplicable.

*Section 226.13, as applicable.* All references to "periodic statement" shall be read to indicate the invoice or other statement for the relevant transaction. All actions with regard to correcting and adjusting a consumer's account may be taken by issuing a refund or a new invoice, or by other appropriate means consistent with the purposes of the section.

*Section 226.15, as applicable.*

#### APPENDIX F—Annual Percentage Rate Computations for Certain Open-End Credit Plans

In determining the denominator of the fraction under section 226.14(c)(3), no amount will be used more than once when adding the sum of the balances<sup>1</sup> subject to periodic rates to the sum of the amounts subject to specific trans-

<sup>1</sup> Where a portion of the finance charge is determined by application of one or more daily periodic rates, the phrase "sum of the balances" shall also mean the "average of daily balances."

action charges. In every case, the full amount of transactions subject to specific transaction charges shall be included in the denominator. Other balances or parts of balances shall be included according to the manner of determining the balance subject to a periodic rate, as illustrated in the following examples of accounts on monthly billing cycles:

1. Previous balance—none.

A specific transaction of \$100 occurs on the first day of the billing cycle. The average daily balance is \$100. A specific transaction charge of 3 percent is applicable to the specific transaction. The periodic rate is  $1\frac{1}{2}$  percent applicable to the average daily balance. The numerator is the amount of the finance charge, which is \$4.50. The denominator is the amount of the transaction (which is \$100), plus the amount by which the balance subject to the periodic rate exceeds the amount of the specific transactions (such excess in this case is 0), totaling \$100.

The annual percentage rate is the quotient (which is  $4\frac{1}{2}$  percent) multiplied by 12 (the number of months in a year), i.e., 54 percent.

2. Previous balance—\$100.

A specific transaction of \$100 occurs at the midpoint of the billing cycle. The average daily balance is \$150. A specific transaction charge of 3 percent is applicable to the specific transaction. The periodic rate is  $1\frac{1}{2}$  percent applicable to the average daily balance. The numerator is the amount of the finance charge which is \$5.25. The denominator is the amount of the transaction (which is \$100), plus the amount by which the balance subject to the periodic rate exceeds the amount of the specific transaction (such excess in this case is \$50), totaling \$150. As explained in example 1, the annual percentage rate is  $3\frac{1}{2}\% \times 12 = 42\%$ .

3. If, in example 2, the periodic rate applies only to the previous balance, the numerator is \$4.50 and the denominator is \$200 (the amount of the transaction, \$100, plus the balance subject only to the periodic rate, the \$100 previous balance). As explained in example 1, the annual percentage rate is  $2\frac{1}{4}\% \times 12 = 27\%$ .

4. If, in example 2, the periodic rate applies only to an adjusted balance (previous balance less payments and credits) and the consumer made a payment of \$50 at the midpoint of the billing cycle, the numerator is \$3.75 and the denominator is \$150 (the amount of the transaction, \$100, plus the balance subject to the periodic rate, the \$50 adjusted balance). As explained in example 1, the annual percentage rate is  $2\frac{1}{2}\% \times 12 = 30\%$ .

5. Previous balance—\$100.

A specific transaction (check) of \$100 occurs at the midpoint of the billing cycle. The average daily balance is \$150. The specific transaction charge is \$.25 per check. The periodic rate is  $1\frac{1}{2}$  percent applied to the average daily balance. The numerator is the amount of the finance charge, which is \$2.50 and includes the \$.25 check charge and the \$2.25 resulting from the application of the periodic rate. The denominator is the full amount of the specific transaction (which is \$100) plus the amount by which the average daily balance exceeds the amount of the specific transaction (which in this case is \$50), totaling \$150. As explained in example 1, the annual percentage rate would be  $1\frac{2}{3}\% \times 12 = 20\%$ .

6. Previous balance—none.

A specific transaction of \$100 occurs at the midpoint of the billing cycle. The average daily balance is \$50. The specific transaction charge is 3 percent of the transaction amount or \$3.00. The periodic rate is  $1\frac{1}{2}$  percent per month applied to the average daily balance. The numerator is the amount of the finance charge, which is \$3.75, including the \$3.00 transaction charge and \$.75 resulting from application of the periodic rate. The denominator is the full amount of the specific transaction (\$100) plus the amount by which the balance subject to the periodic rate exceeds the amount of the transaction (\$0). Where the specific transaction amount exceeds the balance subject to the periodic rate, the resulting number is considered to be zero rather than a negative number ( $\$50 - \$100 = -\$50$ ). The denominator, in this case, is \$100. As explained in example 1, the annual percentage rate is  $3\frac{3}{4}\% \times 12 = 45\%$ .

## APPENDIX G—Open-End Model Forms and Clauses

- G-1 Balance-Computation Methods Model Clauses (§§ 226.6 and 226.7)
- G-2 Liability for Unauthorized Use Model Clause (§ 226.12)
- G-3 Long-Form Billing-Error Rights Model Form (§§ 226.6 and 226.9)
- G-4 Alternative Billing-Error Rights Model Form (§ 226.9)
- G-5 Rescission Model Form (When Opening an Account) (§ 226.15)
- G-6 Rescission Model Form (For Each Transaction) (§ 226.15)
- G-7 Rescission Model Form (When Increasing the Credit Limit) (§§ 226.15)
- G-8 Rescission Model Form (When Adding a Security Interest) (§§ 226.15)
- G-9 Rescission Model Form (When Increasing the Security) (§§ 226.15)
- G-10 (A)–(B) Applications and Solicitations Model Forms (Credit Cards) (§§ 226.5a(b))
- G-10(C) Applications and Solicitations Model Form (Charge Cards) (§§ 226.5a(b))
- G-11 Applications and Solicitations Made Available to General Public Model Clauses (§ 226.5a(e))
- G-12 Charge Card Model Clause (When Access to Plan Offered by Another) (§ 226.5a(f))
- G-13(A) Change in Insurance Provider Model Form (Combined Notice) (§ 226.9(f))
- G-13(B) Change in Insurance Provider Model Form (§ 226.9(f)(2))
- G-14A Home Equity Sample
- G-14B Home Equity Sample
- G-15 Home Equity Model Clauses

## G-1—Balance-Computation Methods Model Clauses

(a) *Adjusted-balance method*

We figure [a portion of] the finance charge on your account by applying the periodic rate to

50

the “adjusted balance” of your account. We get the “adjusted balance” by taking the balance you owed at the end of the previous billing cycle and subtracting [any unpaid finance charges and] any payments and credits received during the present billing cycle.

(b) *Previous-balance method*

We figure [a portion of] the finance charge on your account by applying the periodic rate to the amount you owe at the beginning of each billing cycle [minus any unpaid finance charges]. We do not subtract any payments or credits received during the billing cycle. [The amount of payments and credits to your account this billing cycle was \$\_\_\_\_\_.]

(c) *Average-daily-balance method (excluding current transactions)*

We figure [a portion of] the finance charge on your account by applying the periodic rate to the “average daily balance” of your account (excluding current transactions). To get the “average daily balance” we take the beginning balance of your account each day and subtract any payments or credits [and any unpaid finance charges]. We do not add in any new [purchases/advances/loans]. This gives us the daily balance. Then, we add all the daily balances for the billing cycle together and divide the total by the number of days in the billing cycle. This gives us the “average daily balance.”

(d) *Average-daily-balance method (including current transactions)*

We figure [a portion of] the finance charge on your account by applying the periodic rate to the “average daily balance” of your account (including current transactions). To get the “average daily balance” we take the beginning balance of your account each day, add any new [purchases/advances/loans], and subtract any payments or credits, [and unpaid finance charges]. This gives us the daily balance. Then, we add up all the daily balances for the billing cycle and divide the total by the number of days in the billing cycle. This gives us the “average daily balance.”

(e) *Ending-balance method*

We figure [a portion of] the finance charge on your account by applying the periodic rate to the amount you owe at the end of each billing

cycle (including new purchases and deducting payments and credits made during the billing cycle).

### G-2—Liability for Unauthorized Use Model Clause

You may be liable for the unauthorized use of your credit card [or other term that describes the credit card]. You will not be liable for unauthorized use that occurs after you notify [name of card issuer or its designee] at [address], orally or in writing, of the loss, theft, or possible unauthorized use. In any case, your liability will not exceed [insert \$50 or any lesser amount under agreement with the cardholder].

### G-3—Long-Form Billing-Error Rights Model Form

#### YOUR BILLING RIGHTS KEEP THIS NOTICE FOR FUTURE USE

This notice contains important information about your rights and our responsibilities under the Fair Credit Billing Act.

#### *Notify Us in Case of Errors or Questions About Your Bill*

If you think your bill is wrong, or if you need more information about a transaction on your bill, write us [on a separate sheet] at [address] [the address listed on your bill]. Write to us as soon as possible. We must hear from you no later than 60 days after we sent you the first bill on which the error or problem appeared. You can telephone us, but doing so will not preserve your rights.

In your letter, give us the following information:

- Your name and account number.
- The dollar amount of the suspected error.
- Describe the error and explain, if you can, why you believe there is an error. If you need more information, describe the item you are not sure about.

If you have authorized us to pay your credit card bill automatically from your savings or

checking account, you can stop the payment on any amount you think is wrong. To stop the payment your letter must reach us three business days before the automatic payment is scheduled to occur.

#### *Your Rights and Our Responsibilities After We Receive Your Written Notice*

We must acknowledge your letter within 30 days, unless we have corrected the error by then. Within 90 days, we must either correct the error or explain why we believe the bill was correct.

After we receive your letter, we cannot try to collect any amount you question, or report you as delinquent. We can continue to bill you for the amount you question, including finance charges, and we can apply any unpaid amount against your credit limit. You do not have to pay any questioned amount while we are investigating, but you are still obligated to pay the parts of your bill that are not in question.

If we find that we made a mistake on your bill, you will not have to pay any finance charges related to any questioned amount. If we didn't make a mistake, you may have to pay finance charges, and you will have to make up any missed payments on the questioned amount. In either case, we will send you a statement of the amount you owe and the date that it is due.

If you fail to pay the amount that we think you owe, we may report you as delinquent. However, if our explanation does not satisfy you and you write to us within ten days telling us that you still refuse to pay, we must tell anyone we report you to that you have a question about your bill. And, we must tell you the name of anyone we reported you to. We must tell anyone we report you to that the matter has been settled between us when it finally is.

If we don't follow these rules, we can't collect the first \$50 of the questioned amount, even if your bill was correct.

#### *Special Rule for Credit Card Purchases*

If you have a problem with the quality of property or services that you purchased with a credit card, and you have tried in good faith

to correct the problem with the merchant, you may have the right not to pay the remaining amount due on the property or services. There are two limitations on this right:

- (a) You must have made the purchase in your home state or, if not within your home state within 100 miles of your current mailing address; and
- (b) The purchase price must have been more than \$50.

These limitations do not apply if we own or operate the merchant, or if we mailed you the advertisement for the property or services.

#### G-4—Alternative Billing-Error Rights Model Form

##### BILLING RIGHTS SUMMARY

###### *In Case of Errors or Questions About Your Bill*

If you think your bill is wrong, or if you need more information about a transaction on your bill, write us [on a separate sheet] at [address] [the address shown on your bill] as soon as possible. We must hear from you no later than 60 days after we sent you the first bill on which the error or problem appeared. You can telephone us, but doing so will not preserve your rights.

In your letter, give us the following information:

- Your name and account number.
- The dollar amount of the suspected error.
- Describe the error and explain, if you can, why you believe there is an error. If you need more information, describe the item you are unsure about.

You do not have to pay any amount in question while we are investigating, but you are still obligated to pay the parts of your bill that are not in question. While we investigate your question, we cannot report you as delinquent or take any action to collect the amount you question.

###### *Special Rule for Credit Card Purchases*

If you have a problem with the quality of

goods or services that you purchased with a credit card, and you have tried in good faith to correct the problem with the merchant, you may not have to pay the remaining amount due on the goods or services. You have this protection only when the purchase price was more than \$50 and the purchase was made in your home state or within 100 miles of your mailing address. (If we own or operate the merchant, or if we mailed you the advertisement for the property or services, all purchases are covered regardless of amount or location of purchase.)

#### G-5—Rescission Model Form (When Opening an Account)

##### NOTICE OF RIGHT TO CANCEL

###### *1. Your Right to Cancel*

We have agreed to establish an open-end credit account for you, and you have agreed to give us a [mortgage/lien/security interest] [on/in] your home as security for the account. You have a legal right under federal law to cancel the account, without cost, within three business days after the latest of the following events:

- (1) the opening date of your account which is \_\_\_\_\_; or
- (2) the date you received your Truth-in-Lending disclosures; or
- (3) the date you received this notice of your right to cancel the account.

If you cancel the account, the [mortgage/lien/security interest] [on/in] your home is also cancelled. Within 20 days of receiving your notice, we must take the necessary steps to reflect the fact that the [mortgage/lien/security interest] [on/in] your home has been cancelled. We must return to you any money or property you have given to us or to anyone else in connection with the account.

You may keep any money or property we have given you until we have done the things mentioned above, but you must then offer to return the money or property. If it is impractical or unfair for you to return the property, you must offer its reasonable value. You may offer to return the property at your home or at

the location of the property. Money must be returned to the address shown below. If we do not take possession of the money or property within 20 calendar days of your offer, you may keep it without further obligation.

2. How to Cancel.

If you decide to cancel the account, you may do so by notifying us, in writing, at

(creditor's name and business address).

You may use any written statement that is signed and dated by you and states your intention to cancel, or you may use this notice by dating and signing below. Keep one copy of this notice no matter how you notify us because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice no later than midnight of

(date)

(or midnight of the third business day following the latest of the three events listed above). If you send or deliver your written notice to cancel some other way, it must be delivered to the above address no later than that time.

I WISH TO CANCEL.

Consumer's Signature

Date

G-6—Rescission Model Form (For Each Transaction)

NOTICE OF RIGHT TO CANCEL

1. Your Right to Cancel

We have extended credit to you under your open-end credit account. This extension of credit will increase the amount you owe on your account. We already have a [mortgage/lien/security interest] [on/in] your home as security for your account. You have a legal right under federal law to cancel the extension of credit, without cost, within three business days after the latest of the following events:

- (1) the date of the additional extension of credit which is \_\_\_\_\_ ; or
- (2) the date you received your Truth-in-Lending disclosures; or

- (3) the date you received this notice of your right to cancel the additional extension of credit.

If you cancel the additional extension of credit, your cancellation will only apply to the additional amount and to any increase in the [mortgage/lien/security interest] that resulted because of the additional amount. It will not affect the amount you presently owe, and it will not affect the [mortgage/lien/security interest] we already have [on/in] your home. Within 20 calendar days after we receive your notice of cancellation, we must take the necessary steps to reflect the fact that any increase in the [mortgage/lien/security interest] [on/in] your home has been cancelled. We must also return to you any money or property you have given to us or to anyone else in connection with this extension of credit.

You may keep any money or property we have given you until we have done the things mentioned above, but you must then offer to return the money or property. If it is impractical or unfair for you to return the property, you must offer its reasonable value. You may offer to return the property at your home or at the location of the property. Money must be returned to the address shown below. If we do not take possession of the money or property within 20 calendar days of your offer, you may keep it without further obligation.

2. How to Cancel

If you decide to cancel the additional extension of credit, you may do so by notifying us, in writing, at

(creditor's name and business address).

You may use any written statement that is signed and dated by you and states your intention to cancel, or you may use this notice by dating and signing below. Keep one copy of this notice no matter how you notify us because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice no later than midnight of

(date)

(or midnight of the third business day following the latest of the three events listed above). If you send or deliver your written notice to

cancel some other way, it must be delivered to the above address no later than that time.

I WISH TO CANCEL.

\_\_\_\_\_  
Consumer's Signature

\_\_\_\_\_  
Date

### G-7—Rescission Model Form (When Increasing the Credit Limit)

#### NOTICE OF RIGHT TO CANCEL

##### 1. *Your Right to Cancel*

We have agreed to increase the credit limit on your open-end credit account. We have a [mortgage/lien/security interest] [on/in] your home as security for your account. Increasing the credit limit will increase the amount of the [mortgage/lien/security interest] [on/in] your home. You have a legal right under federal law to cancel the increase in your credit limit, without cost, within three business days after the latest of the following events:

- (1) the date of the increase in your credit limit which is \_\_\_\_\_ ; or
- (2) the date you received your Truth-in-Lending disclosures; or
- (3) the date you received this notice of your right to cancel the increase in your credit limit.

If you cancel, your cancellation will apply only to the increase in your credit limit and to the [mortgage/lien/security interest] that resulted from the increase in your credit limit. It will not affect the amount you presently owe, and it will not affect the [mortgage/lien/security interest] we already have [on/in] your home. Within 20 calendar days after we receive your notice of cancellation, we must take the necessary steps to reflect the fact that any increase in the [mortgage/lien/security interest] [on/in] your home has been cancelled. We must also return to you any money or property you have given to us or to anyone else in connection with this increase.

You may keep any money or property we have given you until we have done the things

mentioned above, but you must then offer to return the money or property. If it is impractical or unfair for you to return the property, you must offer its reasonable value. You may offer to return the property at your home or at the location of the property. Money must be returned to the address shown below. If we do not take possession of the money or property within 20 calendar days of your offer, you may keep it without further obligation.

##### 2. *How to Cancel*

If you decide to cancel the increase in your credit limit, you may do so by notifying us, in writing, at

(creditor's name and business address).

You may use any written statement that is signed and dated by you and states your intention to cancel, or you may use this notice by dating and signing below. Keep one copy of this notice no matter how you notify us because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice no later than midnight of

(date)

(or midnight of the third business day following the latest of the three events listed above). If you send or deliver your written notice to cancel some other way, it must be delivered to the above address no later than that time.

I WISH TO CANCEL.

\_\_\_\_\_  
Consumer's Signature

\_\_\_\_\_  
Date

### G-8—Rescission Model Form (When Adding a Security Interest)

#### NOTICE OF RIGHT TO CANCEL

##### 1. *Your Right to Cancel*

You have agreed to give us a [mortgage/lien/security interest] [on/in] your home as security for your existing open-end credit account. You have a legal right under federal law to cancel the [mortgage/lien/security interest], without cost, within three business days after the latest of the following events:

- (1) the date of the [mortgage/lien/security interest] which is \_\_\_\_\_; or
- (2) the date you received your Truth-in-Lending disclosures; or
- (3) the date you received this notice of your right to cancel the [mortgage/lien/security interest].

If you cancel the [mortgage/lien/security interest], your cancellation will apply only to the [mortgage/lien/security interest]. It will not affect the amount you owe on your account. Within 20 calendar days after we receive your notice of cancellation, we must take the necessary steps to reflect that any [mortgage/lien/security interest] [on/in] your home has been cancelled. We must also return to you any money or property you have given to us or to anyone else in connection with this increase.

You may keep any money or property we have given you until we have done the things mentioned above, but you must then offer to return the money or property. If it is impractical or unfair for you to return the property, you must offer its reasonable value. You may make the offer at your home or at the location of the property. Money must be returned to the address shown below. If we do not take possession of the money or property within 20 calendar days of your offer, you may keep it without further obligation.

### 2. How to Cancel

If you decide to cancel the [mortgage/lien/security interest], you may do so by notifying us, in writing, at

(creditor's name and business address).

You may use any written statement that is signed and dated by you and states your intention to cancel, or you may use this notice by dating and signing below. Keep one copy of this notice no matter how you notify us because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice no later than midnight of

(date)

(or midnight of the third business day following the latest of the three events listed above). If you send or deliver your written notice to

cancel some other way, it must be delivered to the above address no later than that time.

I WISH TO CANCEL.

\_\_\_\_\_  
Consumer's Signature

\_\_\_\_\_  
Date

## G-9—Rescission Model Form (When Increasing the Security)

### NOTICE OF RIGHT TO CANCEL

#### 1. Your Right to Cancel

You have agreed to increase the amount of the [mortgage/lien/security interest] [on/in] your home that we hold as security for your open-end credit account. You have a legal right under federal law to cancel the increase, without cost, within three business days after the latest of the following events:

- (1) the date of the increase in the security which is \_\_\_\_\_; or
- (2) the date you received your Truth-in-Lending disclosures; or
- (3) the date you received this notice of your right to cancel the increase in the security.

If you cancel the increase in the security, your cancellation will apply only to the increase in the amount of the [mortgage/lien/security interest]. It will not affect the amount you presently owe on your account, and it will not affect the [mortgage/lien/security interest] we already have [on/in] your home. Within 20 calendar days after we receive your notice of cancellation, we must take the necessary steps to reflect the fact that any increase in the [mortgage/lien/security interest] [on/in] your home has been cancelled. We must also return to you any money or property you have given to us or to anyone else in connection with this increase.

You may keep any money or property we have given you until we have done the things mentioned above, but you must then offer to return the money or property. If it is impractical or unfair for you to return the property, you must offer its reasonable value. You may offer to return the property at your home or at

the location of the property. Money must be returned to the address shown below. If we do not take possession of the money or property within 20 calendar days of your offer, you may keep it without further obligation.

### 2. How to Cancel

If you decide to cancel the increase in security, you may do so by notifying us, in writing, at

(creditor's name and business address).

You may use any written statement that is signed and dated by you and states your intention to cancel, or you may use this notice by dating and signing below. Keep one copy

of this notice no matter how you notify us because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice no later than midnight of

(date)

(or midnight of the third business day following the latest of the three events listed above). If you send or deliver your written notice to cancel some other way, it must be delivered to the above address no later than that time.

I WISH TO CANCEL.

\_\_\_\_\_

Consumer's Signature

\_\_\_\_\_

Date

### G-10(A)—Applications and Solicitations Model Form (Credit Cards)

<b>Annual percentage rate for purchases</b>	_____ %
<b>Variable-rate information</b>	Your annual percentage rate may vary. The rate is determined by (explanation).
<b>Grace period for repayment of balances for purchases</b>	You have [__ days] [until ____] [not less than __days] [between __ and __ days] [__ days on average] to repay your balance [for purchases] before a finance charge will be imposed.  [You have no grace period in which to repay your balance for purchases before a finance charge will be imposed.]
<b>Method of computing the balance for purchases</b>	
<b>Annual fees</b>	[Annual] [Membership] fee: \$ _____ per year [(type of fee): \$ _____ per year] [(type of fee): \$ _____]
<b>Minimum finance charge</b>	\$ _____
<b>Transaction fee for purchases</b>	[\$ _____] [____ % of _____]
<b>Transaction fee for cash advances, and fees for paying late or exceeding the credit limit</b>	Transaction fee for cash advances: [\$ _____] [____ % of _____] Late-payment fee: [\$ _____] [____ % of _____] Over-the-credit-limit fee: \$ _____

## G-10(B)—Applications and Solicitations Model Form (Credit Cards)

Annual percentage rate for purchases	Variable-rate Information	Grace period for repayment of the balance for purchases	Method of computing the balance for purchases	Annual fees	Minimum finance charge	Transaction fee for purchases
_____%	Your annual percentage rate may vary. The rate is determined by (explanation).	[____ days] [Until ____] [Not less than ____ days] [Between ____ and ____ days] [____ days on average] [None]		[Annual fee: \$____ per year] [Membership fee: \$____ per year] [(type of fee): \$____ per year] [(type of fee): \$____]	\$____	[\$____] [____% of ____]

Transaction fee for cash advances: [\$\_\_\_\_] [\_\_\_\_% of \_\_\_\_] Late-payment fee: [\$\_\_\_\_] [\_\_\_\_% of \_\_\_\_]

Over-the-credit-limit fee: \$\_\_\_\_

## G-10(C)—Applications and Solicitations Model Form (Charge Cards)

Annual fees	Transaction fee for purchases	Transaction fee for cash advances, and fees for paying late or exceeding the credit limit
[Annual fee: \$____ per year] [Membership fee: \$____ per year] [(type of fee): \$____ per year] [(type of fee): \$____]	[\$____] [____% of ____]	Transaction fee for cash advances: [\$____] [____% of ____] Late-payment fee: [\$____] [____% of ____] Over-the-credit-limit fee: \$____
All charges made on this charge card are due and payable when you receive your periodic statement.		

## G-11—Applications and Solicitations Made Available to General Public Model Clauses

(a) *Disclosure of required credit information*  
The information about the costs of the card described in this [application] [solicitation] is accurate as of (month/year). This information may have changed after that date. To find out what may have changed, [call us at (telephone number)] [write to us at (address)].

(b) *Disclosure with account opening statement*  
To find out about changes in the information in this [application] [solicitation], [call us at (telephone number)] [write to us at (address)].

(c) *No disclosure of credit information*  
There are costs associated with the use of this card. To obtain information about these costs,

call us at (telephone number) or write to us at (address).

## G-12—Charge Card Model Clause (When Access to Plan Offered by Another)

This charge card may allow you to access credit offered by another creditor. Our decision about issuing you a charge card will be independent of the other creditor's decision about allowing you access to a line of credit. Therefore, approval by us to issue you a card does not constitute approval by the other creditor to grant you credit privileges. If we issue you a charge card, you may receive it before the other creditor decides whether or not to grant you credit privileges.

### G-13(A)—Change in Insurance Provider Model Form (Combined Notice)

The credit card account you have with us is insured. This is to notify you that we plan to replace your current coverage with insurance coverage from a different insurer.

If we obtain insurance for your account from a different insurer, you may cancel the insurance.

[Your premium rate will increase to \$\_\_\_\_ per \_\_\_\_.]

[Your coverage will be affected by the following:

- The elimination of a type of coverage previously provided to you. [(*explanation*)] [See \_\_\_\_ of the attached policy for details.]
- A lowering of the age at which your coverage will terminate or will become more restrictive. [(*explanation*)] [See \_\_\_\_ of the attached policy or certificate for details.]
- A decrease in your maximum insurable loan balance, maximum periodic benefit payment, maximum number of payments, or any other decrease in the dollar amount of your coverage or benefits. [(*explanation*)] [See \_\_\_\_ of the attached policy or certificate for details.]
- A restriction on the eligibility for benefits for you or others. [(*explanation*)] [See \_\_\_\_ of the attached policy or certificate for details.]
- A restriction in the definition of “disability” or other key term of coverage. [(*explanation*)] [See \_\_\_\_ of the attached policy or certificate for details.]
- The addition of exclusions or limitations that are broader or other than those under the current coverage. [(*explanation*)] [See \_\_\_\_ of the attached policy or certificate for details.]
- An increase in the elimination (waiting) period or a change to nonretroactive coverage. [(*explanation*)] [See \_\_\_\_ of the attached policy or certificate for details.]

[The name and mailing address of the new insurer providing the coverage for your account is (*name and address*).]

### G-13(B)—Change in Insurance Provider Model Form

We have changed the insurer providing the coverage for your account. The new insurer’s name and address are (*name and address*). A copy of the new policy or certificate is attached.

You may cancel the insurance for your account.

### G-14A—Home Equity Sample

#### IMPORTANT TERMS OF OUR HOME EQUITY LINE OF CREDIT

This disclosure contains important information about our home equity line of credit. You should read it carefully and keep a copy for your records.

*Availability of terms:* To obtain the terms described below, you must submit your application before January 1, 1990.

If these terms change (other than the annual percentage rate) and you decide, as a result, not to enter into an agreement with us, you are entitled to a refund of any fees that you have paid to us or anyone else in connection with your application.

*Security interest:* We will take a mortgage on your home. You could lose your home if you do not meet the obligations in your agreement with us.

*Possible actions:* Under certain circumstances, we can (1) terminate your line, require you to pay us the entire outstanding balance in one payment, and charge you certain fees; (2) refuse to make additional extensions of credit; and (3) reduce your credit limit.

If you ask, we will give you more specific information concerning when we can take these actions.

*Minimum-payment requirements:* You can obtain advances of credit for 10 years (the “draw period”). During the draw period, payments will be due monthly. Your minimum monthly payment will equal the greater of \$100 or 1/360th of the outstanding balance plus the finance charges that have accrued on the outstanding balance.

After the draw period ends, you will no longer be able to obtain credit advances and must pay the outstanding balance over 5 years (the "repayment period"). During the repayment period, payments will be due monthly. Your minimum monthly payment will equal 1/60th of the balance that was outstanding at the end of the draw period plus the finance charges that have accrued on the remaining balance.

*Minimum-payment example:* If you made only the minimum monthly payments and took no other credit advances, it would take 15 years to pay off a credit advance of \$10,000 at an ANNUAL PERCENTAGE RATE of 12%. During that period, you would make 120 monthly payments varying between \$127.78 and \$100.00 followed by 60 monthly payments varying between \$187.06 and \$118.08.

*Fees and charges:* To open and maintain a line of credit, you must pay the following fees to us:

- Application fee: \$150 (due at application)
- Points: 1% of credit limit (due when account opened)
- Annual maintenance fee: \$75 (due each year)

You also must pay certain fees to third parties to open a line. These fees generally total between \$500 and \$900. If you ask, we will give you an itemization of the fees you will have to pay to third parties.

*Minimum draw and balance requirements:* The minimum credit advance you can receive is \$500. You must maintain an outstanding balance of at least \$100.

*Tax deductibility:* You should consult a tax advisor regarding the deductibility of interest and charges for the line.

*Variable-rate information:* The line has a variable-rate feature, and the annual percentage rate (corresponding to the periodic rate) and the minimum payment can change as a result.

The annual percentage rate includes only interest and not other costs.

The annual percentage rate is based on the value of an index. The index is the monthly average prime rate charged by banks and is

published in the *Federal Reserve Bulletin*. To determine the annual percentage rate that will apply to your line, we add a margin to the value of the index.

Ask us for the current index value, margin and annual percentage rate. After you open a credit line, rate information will be provided on periodic statements that we will send you.

*Rate changes:* The annual percentage rate can change each month. The maximum ANNUAL PERCENTAGE RATE that can apply is 18%. Except for this 18% "cap," there is no limit on the amount by which the rate can change during any one-year period.

*Maximum-rate and payment examples:* If you had an outstanding balance of \$10,000 during the draw period, the minimum monthly payment at the maximum ANNUAL PERCENTAGE RATE of 18% would be \$177.78. This annual percentage rate could be reached during the first month of the draw period.

If you had an outstanding balance of \$10,000 at the beginning of the repayment period, the minimum monthly payment at the maximum ANNUAL PERCENTAGE RATE of 18% would be \$316.67. This annual percentage rate could be reached during the first month of the repayment period.

*Historical example:* The following table shows how the annual percentage rate and the minimum monthly payments for a single \$10,000 credit advance would have changed based on changes in the index over the past 15 years. The index values are from September of each year. While only one payment amount per year is shown, payments would have varied during each year.

The table assumes that no additional credit advances were taken, that only the minimum payments were made each month, and that the rate remained constant during each year. It does not necessarily indicate how the index or your payments will change in the future.

	Year	Index (%)	Margin* (%)	ANNUAL PERCENTAGE RATE (%)	Minimum Monthly Payment (\$)
	1974	12.00	2	14.00	144.44
	1975	7.88	2	9.88	106.50
	1976	7.00	2	9.00	100.00
	1977	7.13	2	9.13	100.00
Draw	1978	9.41	2	11.41	105.47
Period	1979	12.90	2	14.90	126.16
	1980	12.23	2	14.23	117.53
	1981	20.08	2	18.00**	138.07
	1982	13.50	2	15.50	117.89
	1983	11.00	2	13.00	100.00
	1984	12.97	2	14.97	203.81
Repayment	1985	9.50	2	11.50	170.18
Period	1986	7.50	2	9.50	149.78
	1987	8.70	2	10.70	141.50
	1988	10.00	2	12.00	130.55

\* This is a margin we have used recently.

\*\* This rate reflects the 18% rate cap.

## G-14B—Home Equity Sample

### IMPORTANT TERMS OF OUR HOME EQUITY LINE OF CREDIT

This disclosure contains important information about our home equity line of credit. You should read it carefully and keep a copy for your records.

*Availability of terms:* All of the terms described below are subject to change.

If these terms change (other than the annual percentage rate) and you decide, as a result, not to enter into an agreement with us, you are entitled to a refund of any fees you paid to us or anyone else in connection with your application.

*Security interest:* We will take a mortgage on

your home. You could lose your home if you do not meet the obligations in your agreement with us.

*Possible actions:* We can terminate your line, require you to pay us the entire outstanding balance in one payment, and charge you certain fees if:

- You engage in fraud or material misrepresentation in connection with the line.
- You do not meet the repayment terms.
- Your action or inaction adversely affects the collateral or our rights in the collateral.

We can refuse to make additional extensions of credit or reduce your credit limit if:

- The value of the dwelling securing the line

declines significantly below its appraised value for purposes of the line.

- We reasonably believe you will not be able to meet the repayment requirements due to a material change in your financial circumstances.
- You are in default of a material obligation in the agreement.
- Government action prevents us from imposing the annual percentage rate provided for or impairs our security interest such that the value of the interest is less than 120 percent of the credit line.
- A regulatory agency has notified us that continued advances would constitute an unsafe and unsound practice.
- The maximum annual percentage rate is reached.

The initial agreement permits us to make certain changes to the terms of the agreement at specified times or upon the occurrence of specified events.

*Minimum-payment requirements:* You can obtain advances of credit for 10 years (the "draw period"). You can choose one of three payment options for the draw period:

- *Monthly interest-only payments.* Under this option, your payments will be due monthly and will equal the finance charges that accrued on the outstanding balance during the preceding month.
- *Quarterly interest-only payments.* Under this option, your payments will be due quarterly and will equal the finance charges that accrued on the outstanding balance during the preceding quarter.
- *2% of the balance.* Under this option, your payments will be due monthly and will equal 2% of the outstanding balance on your line plus finance charges that accrued on the outstanding balance during the preceding month.

If the payment determined under any option is less than \$50, the minimum payment will equal \$50 or the outstanding balance on your line, whichever is less.

Under both the monthly and quarterly interest-only payment options, the minimum pay-

ment will not reduce the principal that is outstanding on your line.

After the draw period ends, you will no longer be able to obtain credit advances and must repay the outstanding balance (the "repayment period"). The length of the repayment period will depend on the balance outstanding at the beginning of it. During the repayment period, payments will be due monthly and will equal 3% of the outstanding balance on your line plus finance charges that accrued on the outstanding balance or \$50, whichever is greater.

*Minimum-payment examples:* If you took a single \$10,000 advance and the ANNUAL PERCENTAGE RATE was 9.52%:

- Under the monthly interest-only payment option, it would take 18 years and 1 month to pay off the advance if you made only the minimum payments. During that period, you would make 120 payments of \$79.33, followed by 96 payments varying between \$379.33 and \$50 and one final payment of \$10.75.
- Under the 2%-of-the-balance payment option, it would take 10 years and 8 months to pay off the advance if you made only the minimum payments. During that period, you would make 120 payments varying between \$279.33 and \$50, followed by 7 payments of \$50 and 1 final payment of \$21.53.

*Fees and charges:* To open and maintain a line of credit, you must pay us the following fees:

- Application fee: \$100 (due at application)
- Points: 1% of credit limit (due when account opened)
- Annual maintenance fee: \$50 during the first 3 years, \$75 thereafter (due each year)

You also must pay certain fees to third parties to open a line. These fees generally total between \$500 and \$900. If you ask, we will give you an itemization of the fees you will have to pay to third parties.

*Minimum-draw requirement:* The minimum credit advance that you can receive is \$200.

*Tax deductibility:* You should consult a tax ad-

visor regarding the deductibility of interest and charges for the line.

*Variable-rate feature:* The line has a variable-rate feature, and the annual percentage rate (corresponding to the periodic rate) and the minimum monthly payment can change as a result.

The annual percentage rate includes only interest and not other costs.

The annual percentage rate is based on the value of an index. During the draw period, the index is the monthly average prime rate charged by banks. During the repayment period, the index is the weekly average yield on U.S. Treasury securities adjusted to a constant maturity of one year. Information on these indices is published in the *Federal Reserve Bulletin*. To determine the annual percentage rate that will apply to your line, we add a margin to the value of the index.

The initial annual percentage rate is “discounted”—it is not based on the index and margin used for later rate adjustments. The initial rate will be in effect for the first year your credit line is open.

Ask us for the current index values, margin, discount and annual percentage rate. After you open a credit line, rate information will be provided on periodic statements that we send you.

*Rate changes:* The annual percentage rate can change monthly. The maximum ANNUAL PERCENTAGE RATE that can apply is 18%. Apart from this rate “cap,” there is no limit on the amount by which the rate can change during any one-year period.

*Maximum-rate and payment examples:* If the ANNUAL PERCENTAGE RATE during the draw period equaled the 18% maximum and you had an outstanding balance of \$10,000:

- Under the monthly interest-only payment option, the minimum monthly payment would be \$150.
- Under the 2%-of-the-balance payment option, the minimum monthly payment would be \$350.

This annual percentage rate could be reached during the first month of the draw period.

If you had an outstanding balance of \$10,000 during the repayment period, the minimum monthly payment at the maximum ANNUAL PERCENTAGE RATE of 18% would be \$450. This annual percentage rate could be reached during the first month of the repayment period.

*Historical Example:* The following table shows how the annual percentage rate and the monthly payments for a single \$10,000 credit advance would have changed based on changes in the indices over the past 15 years. For the draw period, the index values for the prime rate are from September of each year. For the repayment period, the index values for the yield on U.S. Treasury securities are from the first week ending in July. While only one payment amount per year is shown, payments under the 2%-of-the-balance payment option and during the repayment period would have varied during each year.

The table assumes that no additional credit advances were taken, that only the minimum payments were made, and that the rate remained constant during each year. It does not necessarily indicate how the indices or your payments will change in the future.

	Year	Index %	Margin* %	ANNUAL PERCENTAGE RATE %	Monthly Interest-Only Payments \$	Monthly 2% of Balance Payments (\$)
	1974	12.00	2	10.00**	83.33	283.33
	1975	7.88	2	9.88	82.33	221.55
	1976	7.00	2	9.00	75.00	169.34
	1977	7.13	2	9.13	76.08	133.41
Draw	1978	9.41	2	11.41	95.08	111.89
Period	1979	12.90	2	14.90	124.17	96.46
	1980	12.23	2	14.23	118.58	74.39
	1981	20.08	2	18.00***	150.00	64.13
	1982	13.50	2	15.50	129.17	50.00
	1983	11.00	2	13.00	108.33	50.00
	1984	12.17	2	14.17	418.08	50.00
Repayment	1985	7.66	2	9.66	264.01	
Period	1986	6.36	2	8.36	177.96	
	1987	6.71	2	8.71	124.45	
	1988	7.52	2	9.52	87.92	

\* This is a margin we have used recently.

\*\* This rate reflects a 4% "discount" we have used recently.

\*\*\* This rate reflects the 18% rate cap.

### G-15—Home Equity Model Clauses

(a) *Retention of information:* This disclosure contains important information about our home-equity line of credit. You should read it carefully and keep a copy for your records.

(b) *Availability of terms:* To obtain the terms described below, you must submit your application before (*date*). However, the (*description of terms*) are subject to change.

[or

All of the terms described below are subject to change.

If these terms change [(other than the annual percentage rate)] and you decide, as a

result, not to enter into an agreement with us, you are entitled to a refund of any fees you paid to us or anyone else in connection with your application.

(c) *Security interest:* We will take a [security interest in/mortgage on] your home. You could lose your home if you do not meet the obligations in your agreement with us.

(d) *Possible actions:* Under certain circumstances, we can (1) terminate your line, require you to pay us the entire outstanding balance in one payment [, and charge you certain fees]; (2) refuse to make additional extensions of credit; (3) reduce your credit limit [, and

(4) make specific changes that are set forth in your agreement with us].

If you ask, we will give you more specific information about when we can take these actions.

[or

*Possible actions:* We can terminate your account, require you to pay us the entire outstanding balance in one payment [, and charge you certain fees] if:

- You engage in fraud or material misrepresentation in connection with the line.
- You do not meet the repayment terms.
- Your action or inaction adversely affects the collateral or our rights in the collateral.

We can refuse to make additional extensions of credit or reduce your credit limit if:

- The value of the dwelling securing the line declines significantly below its appraised value for purposes of the line.
- We reasonably believe you will not be able to meet the repayment requirements due to a material change in your financial circumstances.
- You are in default of a material obligation in the agreement.
- Government action prevents us from imposing the annual percentage rate provided for or impairs our security interest such that the value of the interest is less than 120 percent of the credit line.
- A regulatory agency has notified us that continued advances would constitute an unsafe and unsound practice.
- The maximum annual percentage rate is reached.

[The initial agreement permits us to make certain changes to the terms of the agreement at specified times or upon the occurrence of specified events.]

(e) *Minimum-payment requirements:* The length of the [draw period/repayment period] is (*length*). Payments will be due (*frequency*). Your minimum payment will equal (*how payment determined*).

[The minimum payment will not reduce the principal that is outstanding on your line./The minimum payment will not fully repay the

principal that is outstanding on your line.] You will then be required to pay the entire balance in a single "balloon" payment.

(f) *Minimum-payment example:* If you made only the minimum payments and took no other credit advances, it would take (*length of time*) to pay off a credit advance of \$10,000 at an ANNUAL PERCENTAGE RATE of (*recent rate*). During that period, you would make (*number*) (*frequency*) payments of \$\_\_\_\_\_.

(g) *Fees and charges:* To open and maintain a line of credit, you must pay the following fees to us:

(Description of fee) [\$\_\_\_\_/\_\_\_\_% of \_\_\_\_]  
(When payable)

(Description of fee) [\$\_\_\_\_/\_\_\_\_% of \_\_\_\_]  
(When payable)

You also must pay certain fees to third parties. These fees generally total [\$\_\_\_\_/\_\_\_\_% of \_\_\_\_/between \$\_\_\_\_ and [\$\_\_\_\_]. If you ask, we will give you an itemization of the fees you will have to pay to third parties.

(h) *Minimum draw and balance requirements:* The minimum credit advance you can receive is \$\_\_\_\_\_. You must maintain an outstanding balance of at least \$\_\_\_\_\_.

(i) *Negative amortization:* Under some circumstances, your payments will not cover the finance charges that accrue and "negative amortization" will occur. Negative amortization will increase the amount that you owe us and reduce your equity in your home.

(j) *Tax deductibility:* You should consult a tax advisor regarding the deductibility of interest and charges for the line.

(k) *Other products:* If you ask, we will provide you with information on our other available home-equity lines.

(l) *Variable-rate feature:* The plan has a variable-rate feature and the annual percentage rate (corresponding to the periodic rate) and the [minimum payment/term of the line] can change as a result.

The annual percentage rate includes only interest and not other costs.

The annual percentage rate is based on the

value of an index. The index is the (*identification of index*) and is [published in/available from] (*source of information*). To determine the annual percentage rate that will apply to your line, we add a margin to the value of the index.

[The initial annual percentage rate is “discounted”—it is not based on the index and margin used for later rate adjustments. The initial rate will be in effect for (*period*).]

Ask us for the current index value, margin, [discount,] and annual percentage rate. After you open a credit line, rate information will be provided on periodic statements that we send you.

(m) *Rate changes*: The annual percentage rate can change (*frequency*). [The rate cannot in-

crease by more than \_\_\_ percentage points in any one-year period./There is no limit on the amount by which the rate can change in any one-year period.] [The maximum ANNUAL PERCENTAGE RATE that can apply is \_\_\_%./The ANNUAL PERCENTAGE RATE cannot increase by more than \_\_\_ percentage points above the initial rate.] [Ask us for the specific rate limitations that will apply to your credit line.]

(n) *Maximum-rate and payment examples*: If you had an outstanding balance of \$10,000, the minimum payment at the maximum ANNUAL PERCENTAGE RATE of \_\_\_% would be \$\_\_\_. This annual percentage rate could be reached (*when maximum rate could be reached*).

(o) *Historical example*: The following table shows how the annual percentage rate and the minimum payments for a single \$10,000 credit advance would have changed based on changes in the index over the past 15 years. The index values are from (*when values are measured*). [While only one payment amount per year is shown, payments would have varied during each year.]

The table assumes that no additional credit advances were taken, that only the minimum payments were made, and that the rate remained constant during each year. It does not necessarily indicate how the index or your payments will change in the future.

<i>Year</i>	<i>Index (%)</i>	<i>Margin (%)</i>	<i>ANNUAL PERCENTAGE RATE (%)</i>	<i>Minimum Payment (\$)</i>
1975				
1976				
1977				
1978				
1979				
1980				
1981				
1982				
1983				
1984				
1985				
1986				
1987				
1988				
1989				

**APPENDIX H—Closed-End Model  
Forms and Clauses**

- H-1 Credit Sale Model Form (§ 226.18)
- H-2 Loan Model Form (§ 226.18)
- H-3 Amount Financed Itemization Model  
Form (§ 226.18(c))
- H-4(A) Variable-Rate Model Clauses  
(§ 226.18(f)(1))
- H-4(B) Variable-Rate Model Clauses  
(§ 226.18(f)(2))
- H-4(C) Variable-Rate Model Clauses  
(§ 226.19(b))
- H-4(D) Variable-Rate Model Clauses  
(§ 226.20(c))
- H-5 Demand Feature Model Clauses  
(§ 226.18(i))
- H-6 Assumption Policy Model Clause  
(§ 226.18(q))
- H-7 Required Deposit Model Clause  
(§ 226.18(r))
- H-8 Rescission Model Form (General)  
(§ 226.23)
- H-9 Rescission Model Form (Refinanc-  
ing) (§ 226.23)
- H-10 Credit Sale Sample
- H-11 Installment Loan Sample
- H-12 Refinancing Sample
- H-13 Mortgage with Demand Feature  
Sample
- H-14 Variable-Rate Mortgage Sample  
(§ 226.19(b))
- H-15 Graduated-Payment Mortgage  
Sample
- H-16 Mortgage Sample  
(§ 226.32)

H-1—Credit Sale Model Form

<b>ANNUAL PERCENTAGE RATE</b> The cost of your credit as a yearly rate.  <p style="text-align: center;">%</p>	<b>FINANCE CHARGE</b> The dollar amount the credit will cost you.  <p style="text-align: center;">\$</p>	<b>Amount Financed</b> The amount of credit provided to you or on your behalf.  <p style="text-align: center;">\$</p>	<b>Total of Payments</b> The amount you will have paid after you have made all payments as scheduled.  <p style="text-align: center;">\$</p>	<b>Total Sale Price</b> The total cost of your purchase on credit, including your downpayment of \$ _____  <p style="text-align: center;">\$</p>
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You have the right to receive at this time an itemization of the Amount Financed.

- I want an itemization.     I do not want an itemization.

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due

**Insurance**

Credit life insurance and credit disability insurance are not required to obtain credit, and will not be provided unless you sign and agree to pay the additional cost.

Type	Premium	Signature
Credit Life		I want credit life insurance. _____ Signature
Credit Disability		I want credit disability insurance. _____ Signature
Credit Life and Disability		I want credit life and disability insurance. _____ Signature

You may obtain property insurance from anyone you want that is acceptable to \_\_\_\_\_ (creditor). If you get the insurance from \_\_\_\_\_ (creditor), you will pay \$ \_\_\_\_\_.

**Security:** You are giving a security interest in:

- the goods or property being purchased.  
 (brief description of other property).

Filing fees \$ \_\_\_\_\_      Non-filing insurance \$ \_\_\_\_\_

**Late Charge:** If a payment is late, you will be charged \$ \_\_\_\_\_ / \_\_\_\_\_ % of the payment.

**Prepayment:** If you pay off early, you

- may     will not    have to pay a penalty.  
 may     will not    be entitled to a refund of part of the finance charge.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

\_\_\_\_\_ e means an estimate

H-2—Loan Model Form

<p><b>ANNUAL PERCENTAGE RATE</b> The cost of your credit as a yearly rate.</p> <p style="text-align: center;">%</p>	<p><b>FINANCE CHARGE</b> The dollar amount the credit will cost you.</p> <p style="text-align: center;">\$</p>	<p><b>Amount Financed</b> The amount of credit provided to you or on your behalf.</p> <p style="text-align: center;">\$</p>	<p><b>Total of Payments</b> The amount you will have paid after you have made all payments as scheduled.</p> <p style="text-align: center;">\$</p>
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You have the right to receive at this time an itemization of the Amount Financed.

I want an itemization.       I do not want an itemization.

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due

**Insurance**  
Credit life insurance and credit disability insurance are not required to obtain credit, and will not be provided unless you sign and agree to pay the additional cost.

Type	Premium	Signature
Credit Life		I want credit life insurance. _____ Signature
Credit Disability		I want credit disability insurance. _____ Signature
Credit Life and Disability		I want credit life and disability insurance. _____ Signature

You may obtain property insurance from anyone you want that is acceptable to \_\_\_\_\_ (creditor). If you get the insurance from \_\_\_\_\_ (creditor), you will pay \$ \_\_\_\_\_.

**Security:** You are giving a security interest in:

the goods or property being purchased.

(brief description of other property).

Filing fees \$ \_\_\_\_\_      Non-filing insurance \$ \_\_\_\_\_

**Late Charge:** If a payment is late, you will be charged \$ \_\_\_\_\_ / \_\_\_\_\_ % of the payment.

**Prepayment:** If you pay off early, you

may     will not    have to pay a penalty.

may     will not    be entitled to a refund of part of the finance charge.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

           e means an estimate

### H-3—Amount Financed Itemization Model Form

Itemization of the Amount Financed of \$\_\_\_\_\_

\$\_\_\_\_\_ Amount given to you directly

\$\_\_\_\_\_ Amount paid on your account

Amount paid to others on your behalf

\$\_\_\_\_\_ to [public officials]

[credit bureau]

[appraiser]

[insurance company]

\$\_\_\_\_\_ to (name of another creditor)

\$\_\_\_\_\_ to (other)

\$\_\_\_\_\_ Prepaid finance charge

#### H-4(A)—Variable-Rate Model Clauses

The annual percentage rate may increase during the term of this transaction if:

[the prime interest rate of (creditor) increases.]

[the balance in your deposit account falls below \$\_\_\_\_\_.]

[you terminate your employment with (employer) .]

[The interest rate will not increase above \_\_\_\_\_%.]

[The maximum interest rate increase at one time will be \_\_\_\_\_%.]

[The rate will not increase more than once every (time period) .]

Any increase will take the form of:

[higher payment amounts.]

[more payments of the same amount.]

[a larger amount due at maturity.]

#### Example based on the specific transaction

[If the interest rate increases by \_\_\_\_\_% in (time period),

[your regular payments will increase to \$\_\_\_\_\_.]

[you will have to make \_\_\_\_\_ additional payments.]

[your final payment will increase to \$\_\_\_\_\_.]

#### Example based on a typical transaction

[If your loan were for \$\_\_\_\_\_ at \_\_\_\_\_% for (term) and the rate increased to \_\_\_\_\_% in (time period),

[your regular payments would increase by \$\_\_\_\_\_.]

[you would have to make \_\_\_\_\_ additional payments.]

[your final payment would increase by \$\_\_\_\_\_.]

#### H-4(B)—Variable-Rate Model Clauses

Your loan contains a variable-rate feature. Disclosures about the variable-rate feature have been provided to you earlier.

#### H-4(C)—Variable-Rate Model Clauses

This disclosure describes the features of the adjustable-rate mortgage (ARM) program you are considering. Information on other ARM programs is available upon request.

#### How Your Interest Rate and Payment Are Determined

- Your interest rate will be based on [an index plus a margin] [a formula].
- Your payment will be based on the interest rate, loan balance, and loan term.
  - [The interest rate will be based on (identification of index) plus our margin. Ask for our current interest rate and margin.]
  - [The interest rate will be based on (identification of formula). Ask us for our current interest rate.]
  - Information about the index [formula for rate adjustments] is published [can be found] \_\_\_\_\_.
  - [The initial interest rate is not based on the (index) (formula) used to make later adjustments. Ask us for the amount of current interest rate discounts.]

#### How Your Interest Rate Can Change

- Your interest rate can change (frequency).
- [Your interest rate cannot increase or de-

crease more than \_\_\_\_\_ percentage points at each adjustment.]

- Your interest rate cannot increase [or decrease] more than \_\_\_\_\_ percentage points over the term of the loan.

#### *How Your Payment Can Change*

- Your payment can change (frequency) based on changes in the interest rate.
- [Your payment cannot increase more than (amount or percentage) at each adjustment.]
- You will be notified in writing \_\_\_\_\_ days before the due date of a payment at a new level. This notice will contain information about your interest rates, payment amount, and loan balance.
- [You will be notified once each year during which interest rate adjustments, but no payment adjustments, have been made to your loan. This notice will contain information about your interest rates, payment amount, and loan balance.]
- For example, on a \$10,000 [term] loan with an initial interest rate of \_\_\_\_\_ (the rate shown in the interest rate column below for the year 19\_\_\_\_\_), the maximum amount that the interest rate can rise under this program is \_\_\_\_\_ percentage points, to \_\_\_\_\_%, and the monthly payment can rise from a first-year payment of \$\_\_\_\_\_ to a maximum of \$\_\_\_\_\_ in the \_\_\_\_\_ year.

*Example*

The example below shows how your payments would have changed under this ARM program based on actual changes in the index from 1977 to 1991. This does not necessarily indicate how your index will change in the future.

The example is based on the following assumptions:

Amount of loan . . . . .	\$10,000	Caps _____	[periodic interest rate cap]
Term . . . . .	_____	_____	lifetime interest rate cap
Change date . . . . .	_____	_____	[payment cap]
Payment adjustment . . . . .	(frequency)	_____	[Interest rate carryover]
Interest adjustment . . . . .	(frequency)	_____	[Negative amortization]
[Margin]* . . . . .	_____	_____	[Interest rate discount]**
		Index . . . . .	(identification of index or formula)

<i>Year</i>	<i>Index</i> (%)	<i>Margin</i> (percentage points)	<i>Interest Rate</i> (%)	<i>Monthly Payment</i> (\$)	<i>Remaining Balance</i> (\$)
1977					
1978					
1979					
1980					
1981					
1982					
1983					
1984					
1985					
1986					
1987					
1988					
1989					
1990					
1991					

To see what your payments would have been during that period, divide your mortgage amount by \$10,000; then multiply the monthly payment by that amount. (For example, in 1991 the monthly payment for a mortgage amount of \$60,000 taken out in 1977 would be:  $\$60,000 \div \$10,000 = 6$ ;  $6 \times \text{_____} = \$ \text{_____}$  per month.)

\* This is a margin we have used recently, your margin may be different.

\*\* This is the amount of a discount we have provided recently; your loan may be discounted by a different amount.

## H-4(D)—Variable-Rate Model Clauses

Your new interest rate will be \_\_\_\_\_%, which is based on an index value of \_\_\_\_\_%.

Your previous interest rate was \_\_\_\_\_%, which was based on an index value of \_\_\_\_\_%.

[The new interest rate does not reflect a change of \_\_\_\_\_ percentage point in the index value which was not added because of \_\_\_\_\_.]

[The new payment will be \$\_\_\_\_\_.]

[Your new loan balance is \$\_\_\_\_\_.]

[Your (new) (existing) payment will not be sufficient to cover the interest due and the difference will be added to the loan amount. The payment amount needed to pay your loan in full by the end of the term at the new interest rate is \$\_\_\_\_\_.]

[The following interest rate adjustments have been implemented this year without changing your payment: \_\_\_\_\_. These interest rates were based on the following index values: \_\_\_\_\_.]

## H-5—Demand Feature Model Clauses

This obligation [is payable on demand.]  
[has a demand feature.]

[All disclosures are based on an assumed maturity of one year.]

## H-6—Assumption Policy Model Clause

Assumption: Someone buying your house [may, subject to conditions, be allowed to] [cannot] assume the remainder of the mortgage on the original terms.

## H-7—Required Deposit Model Clause

The annual percentage rate does not take into account your required deposit.

## H-8—Rescission Model Form (General)

## NOTICE OF RIGHT TO CANCEL

*Your Right to Cancel*

You are entering into a transaction that will result in a [mortgage/lien/security interest] [on/in] your home. You have a legal right under federal law to cancel this transaction, without cost, within three business days from whichever of the following events occurs last:

- (1) the date of the transaction, which is \_\_\_\_\_; or
- (2) the date you received your Truth in Lending disclosures; or
- (3) the date you received this notice of your right to cancel.

If you cancel the transaction, the [mortgage/lien/security interest] is also cancelled. Within 20 calendar days after we receive your notice, we must take the steps necessary to reflect the fact that the [mortgage/lien/security interest] [on/in] your home has been cancelled, and we must return to you any money or property you have given to us or to anyone else in connection with this transaction.

You may keep any money or property we have given you until we have done the things mentioned above, but you must then offer to return the money or property. If it is impractical or unfair for you to return the property, you must offer its reasonable value. You may offer to return the property at your home or at the location of the property. Money must be returned to the address below. If we do not take possession of the money or property within 20 calendar days of your offer, you may keep it without further obligation.

*How to Cancel*

If you decide to cancel this transaction, you may do so by notifying us in writing, at

(creditor's name and business address).

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

If you cancel by mail or telegram, you must send the notice no later than midnight of  
(date)

(or midnight of the third business day following the latest of the three events listed above). If you send or deliver your written notice to cancel some other way, it must be delivered to the above address no later than that time.

I WISH TO CANCEL.

\_\_\_\_\_  
Consumer's Signature

\_\_\_\_\_  
Date

### H-9—Rescission Model Form (Refinancing)

#### NOTICE OF RIGHT TO CANCEL

##### *Your Right to Cancel*

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

- (1) the date of the new transaction, which is \_\_\_\_\_; or
- (2) the date you received your new Truth in Lending disclosures; or
- (3) the date you received this notice of your right to cancel.

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

have given to us or anyone else in connection with the new transaction.

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

##### *How to Cancel*

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

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

If you cancel by mail or telegram, you must send the notice no later than midnight of  
(date)

(or midnight of the third business day following the latest of the three events listed above). If you send or deliver your written notice to cancel some other way, it must be delivered to the above address no later than that time.

I WISH TO CANCEL.

\_\_\_\_\_  
Consumer's Signature

\_\_\_\_\_  
Date

H-10—Credit Sale Sample

<b>Big Wheel Auto</b>		Alice Green		
<b>ANNUAL PERCENTAGE RATE</b> <small>The cost of your credit as a yearly rate.</small> <div style="font-size: 1.2em; font-weight: bold;">14.84%</div>	<b>FINANCE CHARGE</b> <small>The dollar amount the credit will cost you.</small> <div style="font-size: 1.2em; font-weight: bold;">\$1496.80</div>	<b>Amount Financed</b> <small>The amount of credit provided to you or on your behalf.</small> <div style="font-size: 1.2em; font-weight: bold;">\$6107.50</div>	<b>Total of Payments</b> <small>The amount you will have paid after you have made all payments as scheduled.</small> <div style="font-size: 1.2em; font-weight: bold;">\$7604.30</div>	<b>Total Sale Price</b> <small>The total cost of your purchase on credit, including your downpayment of</small> <div style="font-size: 1.2em; font-weight: bold;">\$1500 -</div> <div style="font-size: 1.2em; font-weight: bold;">\$9129.30</div>

You have the right to receive at this time an itemization of the Amount Financed.

I want an itemization.    
  I do not want an itemization.

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due
36	\$211.23	Monthly beginning 6-1-81

**Insurance**

Credit life insurance and credit disability insurance are not required to obtain credit, and will not be provided unless you sign and agree to pay the additional cost.

Type	Premium	Signature
Credit Life	\$120 -	I want credit life insurance. <u>Alice Green</u> <small>Signature</small>
Credit Disability		I want credit disability insurance.     _____ <small>Signature</small>
Credit Life and Disability		I want credit life and disability insurance.     _____ <small>Signature</small>

**Security:** You are giving a security interest in:

the goods being purchased.  
 \_\_\_\_\_

Filing fees \$ 12.50     Non-filing insurance \$ \_\_\_\_\_

**Late Charge:** If a payment is late, you will be charged \$10.

**Prepayment:** If you pay off early, you

may      will not     have to pay a penalty.  
 may      will not     be entitled to a refund of part of the finance charge.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

I have received a copy of this statement.

Alice Green     5-1-81  
Signature     Date

e means an estimate

H-11—Installment Loan Sample

**Friendly Bank & Trust Co.**  
 700 East Street  
 Little Creek, USA

Lisa Stone  
 22-4859-22  
 300 Maple Avenue  
 Little Creek, USA

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	Amount Financed The amount of credit provided to you or on your behalf.	Total of Payments The amount you will have paid after you have made all payments as scheduled.
12 %	\$ 675.31	\$ 5000-	\$ 5675.31

You have the right to receive at this time an itemization of the Amount Financed.

I want an itemization.     I do not want an itemization.

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due
1	\$ 262.03 <sup>e</sup>	6/1/81
23	\$ 235.36	Monthly beginning 7/1/81

**Late Charge:** If a payment is late, you will be charged \$5 or 10% of the payment, whichever is less.

**Prepayment:** If you pay off early, you  may  will not have to pay a penalty.

**Required Deposit:** The annual percentage rate does not take into account your required deposit.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

<sup>e</sup> means an estimate

H-12—Refinancing Sample

**Everyone's Credit Union** Date: *April 1, 1981*

<b>ANNUAL PERCENTAGE RATE</b> <small>The cost of your credit as a yearly rate.</small>  <p style="text-align: center; font-size: 1.2em;"><i>15</i> %</p>	<b>FINANCE CHARGE</b> <small>The dollar amount the credit will cost you.</small>  <p style="text-align: center; font-size: 1.2em;">\$ <i>1285.06</i></p>	<b>Amount Financed</b> <small>The amount of credit provided to you or on your behalf.</small>  <p style="text-align: center; font-size: 1.2em;">\$ <i>5177.73</i></p>	<b>Total of Payments</b> <small>The amount you will have paid after you have made all payments as scheduled.</small>  <p style="text-align: center; font-size: 1.2em;">\$ <i>6462.79</i></p>
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Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due
<i>35</i>	<i>\$179.53</i>	<i>Monthly starting 5-1-81</i>
<i>1</i>	<i>\$179.24</i>	<i>4-1-84</i>

**Insurance**  
 Credit life insurance and credit disability insurance are not required to obtain credit, and will not be provided unless you sign and agree to pay the additional cost.

Type	Premium	Signature
Credit Life		I want credit life insurance.
Credit Disability	<i>\$177.73</i>	I want credit disability insurance. <i>Joseph Day</i>

**Security:** You are giving a security interest in:  the goods or property being purchased.   
 your automobile.

**Late Charge:** If a payment is late, you will be charged 20% of the interest due with a minimum charge of \$.05.

**Prepayment:** If you pay off early, you will not have to pay a penalty.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

e means an estimate

Itemization of the Amount Financed of \$ *5177.73*

- \$ *1000* Amount given to you directly
- \$ *3000* Amount paid on your account
  
- Amount paid to others on your behalf
- \$ \_\_\_\_\_ to public officials
- \$ *500* to *Coop Credit Union*
- \$ *500* to *ACME Finance Co.*
- \$ *177.73* to *Pan-Galactic Ins. Co.*
- \$ \_\_\_\_\_ for credit report
  
- \$ \_\_\_\_\_ Prepaid finance charge

H-13—Mortgage with Demand Feature Sample

**Mortgage Savings and Loan Assoc.**

Date: April 15, 1981

Glenn Jones  
700 Oak Drive  
Little Creek, USA

<b>ANNUAL PERCENTAGE RATE</b> The cost of your credit as a yearly rate.  <b>14.85 %</b>	<b>FINANCE CHARGE</b> The dollar amount the credit will cost you.  <b>\$156,551.54</b>	<b>Amount Financed</b> The amount of credit provided to you or on your behalf.  <b>\$44,605.66</b>	<b>Total of Payments</b> The amount you will have paid after you have made all payments as scheduled.  <b>\$201,157.20</b>
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Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due
<b>360</b>	<b>\$558.77</b>	<b>Monthly beginning 6/1/81</b>

This obligation has a demand feature.

You may obtain property insurance from anyone you want that is acceptable to Mortgage Savings and Loan Assoc.. If you get the insurance from Mortgage Savings and Loan Assoc. you will pay \$ 150 / year

**Security:** You are giving a security interest in:

- the goods or property being purchased.
- \_\_\_\_\_

**Late Charge:** If a payment is late, you will be charged \$ N/A / 5 % of the payment.

**Prepayment:** If you pay off early, you may have to pay a penalty.

**Assumption:** Someone buying your house may, subject to conditions, be allowed to assume the remainder of the mortgage on the original terms.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

\_\_\_\_\_ e means an estimate

### H-14—Variable-Rate Mortgage Sample

This disclosure describes the features of the adjustable-rate mortgage (ARM) program you are considering. Information on other ARM programs is available upon request.

#### *How Your Interest Rate and Payment Are Determined*

- Your interest rate will be based on an index rate plus a margin.
- Your payment will be based on the interest rate, loan balance, and loan term.
  - The interest rate will be based on the weekly average yield on United States Treasury securities adjusted to a constant maturity of 1 year (your index), plus our margin. Ask us for our current interest rate and margin.
  - Information about the index rate is published weekly in the *Wall Street Journal*.
- Your interest rate will equal the index rate plus our margin unless your interest rate “caps” limit the amount of change in the interest rate.

#### *How Your Interest Rate Can Change*

- Your interest rate can change yearly.
- Your interest rate cannot increase or decrease more than 2 percentage points per year.
- Your interest rate cannot increase or decrease more than 5 percentage points over the term of the loan.

#### *How Your Monthly Payment Can Change*

- Your monthly payment can change yearly based on changes in the interest rate.
- For example, on a \$10,000, 30-year loan with an initial interest rate of 9.71 percent (the rate shown in the interest rate column below for the year 1987), the maximum amount that the interest rate can rise under this program is 5 percentage points, to 14.71 percent, and the monthly payment can rise from a first-year payment of \$85.62 to a maximum of \$123.31 in the fourth year.
- You will be notified in writing 25 days before the annual payment adjustment may

be made. This notice will contain information about your interest rates, payment amount, and loan balance.

*Example*

The example below shows how your payments would have changed under this ARM program based on actual changes in the index from 1977 to 1987. This does not necessarily indicate how your index will change in the future. The example is based on the following assumptions.

Amount . . . . .	\$10,000	Caps . . . . .	2 percentage points annual interest rate
Term . . . . .	30 years		
Payment adjustment . . .	1 year		5 percentage points lifetime interest rate
Interest adjustment . . .	1 year	Index . . . . .	Weekly average yield on U.S. Treasury securities adjusted to a constant maturity of one year
Margin . . . . .	3 percentage points		

<i>Year</i>	<i>Index</i>	<i>Margin*</i>	<i>Interest Rate</i>	<i>Monthly Payment</i>	<i>Remaining Balance</i>
<i>(as of 1st week ending in July)</i>	<i>(%)</i>	<i>(percentage points)</i>	<i>(%)</i>	<i>(\$)</i>	<i>(\$)</i>
1977	5.72	3	8.72	78.46	9,927.64
1978	8.34	3	10.72**	92.89	9,874.67
1979	9.44	3	12.44	105.67	9,832.70
1980	8.51	3	11.51	98.79	9,776.04
1981	14.94	3	13.51**	113.51	9,731.98
1982	14.41	3	13.72***	115.07	9,683.39
1983	9.78	3	12.78	108.25	9,618.21
1984	12.17	3	13.72***	114.96	9,554.39
1985	7.66	3	11.72**	101.08	9,456.03
1986	6.36	3	9.72**	88.13	9,311.25
1987	6.71	3	9.71	88.07	9,151.55

\*This is a margin we have used recently; your margin may be different.

\*\*This interest rate reflects a 2 percentage point annual interest rate cap.

\*\*\*This interest rate reflects a 5 percentage point lifetime interest rate cap.

To see what your payments would have been during that period, divide your mortgage amount by \$10,000; then multiply the monthly payment by that amount. (For example, in 1987 the monthly payment for a mortgage amount of \$60,000 taken out in 1977 would be:  $\$60,000 \div \$10,000 = 6$ ;  $6 \times \$88.07 = \$528.42$ .)

H-15—Graduated Payment Mortgage Sample

**Convenient Savings and Loan**

Account number: 4862-88

Michael Jones  
500 Walnut Court, Little Creek USA

<b>ANNUAL PERCENTAGE RATE</b> The cost of your credit as a yearly rate.	<b>FINANCE CHARGE</b> The dollar amount the credit will cost you.	<b>Amount Financed</b> The amount of credit provided to you or on your behalf.	<b>Total of Payments</b> The amount you will have paid after you have made all payments as scheduled.
15.37 %	\$177,970.44	\$43,777	\$221,548.44

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due
12	\$446.62	Monthly beginning 6/1/81
12	\$479.67	" " 6/1/82
12	\$515.11	" " 6/1/83
12	\$553.13	" " 6/1/84
12	\$593.91	" " 6/1/85
300	varying from \$637.68 to \$627.37	" " 6/1/86

**Security:** You are giving a security interest in the property being purchased.

**Late Charge:** If a payment is late, you will be charged 5% of the payment.

**Prepayment:** If you pay off early, you

- may  will not have to pay a penalty.  
 may  will not be entitled to a refund of part of the finance charge.

**Assumption:** Someone buying your home cannot assume the remainder of the mortgage on the original terms.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

e means an estimate

## H-16—Mortgage Sample

You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application. If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan.

The annual percentage rate on your loan will be \_\_\_\_\_%.

Your regular (frequency) payment will be \$\_\_\_\_\_.

[Your interest rate may increase. Increases in the interest rate could increase your payment. The highest amount your payment could increase is to \$\_\_\_\_\_.]

## APPENDIX I—Federal Enforcement Agencies

The following list indicates which federal agency enforces Regulation Z for particular classes of businesses. Any questions concerning compliance by a particular business should be directed to the appropriate enforcement agency. Terms that are not defined in the Federal Deposit Insurance Act (12 USC 1813(s)) shall have the meaning given to them in the International Banking Act of 1978 (12 USC 3101).

### *National banks and federal branches and federal agencies of foreign banks*

District office of the Office of the Comptroller of the Currency for the district in which the institution is located

### *State member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act*

Federal Reserve Bank serving the District in which the institution is located

### *Nonmember insured banks and insured state branches of foreign banks*

Federal Deposit Insurance Corporation Re-

gional director for the region in which the institution is located

### *Savings institutions insured under the Savings Association Insurance Fund of the FDIC and federally chartered savings banks insured under the Bank Insurance Fund of the FDIC (but not including state-chartered savings banks insured under the Bank Insurance Fund).*

Office of Thrift Supervision regional director for the region in which the institution is located

### *Federal credit unions*

Regional office of the National Credit Union Administration serving the area in which the federal credit union is located

### *Air carriers*

Assistant General Counsel for Aviation  
Enforcement and Proceedings  
Department of Transportation  
400 Seventh Street, S.W.  
Washington, D.C. 20590

### *Creditors subject to Packers and Stockyards Act*

Nearest Packers and Stockyards Administration area supervisor

### *Federal Land Banks, Federal Land Bank Associations, Federal Intermediate Credit Banks and Production Credit Associations*

Farm Credit Administration  
490 L'Enfant Plaza, S.W.  
Washington, D.C. 20578

### *Retail, department stores, consumer finance companies, all other creditors, and all non-bank credit card issuers (Creditors operating on a local or regional basis should use the address of the FTC regional office in which they operate.)*

Division of Credit Practices  
Bureau of Consumer Protection  
Federal Trade Commission  
Washington, D.C. 20580

## APPENDIX J—Annual Percentage Rate Computations for Closed-End Credit Transactions

(a) *Introduction.*

(1) Section 226.22(a) of Regulation Z provides that the annual percentage rate for other than open-end credit transactions shall be determined in accordance with either the actuarial method or the United States Rule method. This appendix contains an explanation of the actuarial method as well as equations, instructions and examples of how this method applies to single-advance and multiple-advance transactions.

(2) Under the actuarial method, at the end of each unit period (or fractional unit period) the unpaid balance of the amount financed is increased by the finance charge earned during that period and is decreased by the total payment (if any) made at the end of that period. The determination of unit periods and fractional unit periods shall be consistent with the definitions and rules in paragraphs (b)(3), (4) and (5) of this section and the general equation in paragraph (b)(8) of this section.

(3) In contrast, under the United States Rule method, at the end of each payment period, the unpaid balance of the amount financed is increased by the finance charge earned during that payment period and is decreased by the payment made at the end of that payment period. If the payment is less than the finance charge earned, the adjustment of the unpaid balance of the amount financed is postponed until the end of the next payment period. If at that time the sum of the two payments is still less than the total earned finance charge for the two payment periods, the adjustment of the unpaid balance of the amount financed is postponed still another payment period, and so forth.

(b) *Instructions and equations for the actuarial method.*

(1) *General rule.* The annual percentage rate shall be the nominal annual percentage rate determined by multiplying the unit-period rate by the number of unit periods in a year.

(2) *Term of the transaction.* The term of the transaction begins on the date of its consummation, except that if the finance charge or any portion of it is earned beginning on a later date, the term begins on the

later date. The term ends on the date the last payment is due, except that if an advance is scheduled after that date, the term ends on the later date. For computation purposes, the length of the term shall be equal to the time interval between any point in time on the beginning date to the same point in time on the ending date.

(3) *Definitions of time intervals.*

(i) A period is the interval of time between advances or between payments and includes the interval of time between the date the finance charge begins to be earned and the date of the first advance thereafter or the date of the first payment thereafter, as applicable.

(ii) A common period is any period that occurs more than once in a transaction.

(iii) A standard interval of time is a day, week, semimonth, month, or a multiple of a week or a month up to, but not exceeding, one year.

(iv) All months shall be considered equal. Full months shall be measured from any point in time on a given date of a given month to the same point in time on the same date of another month. If a series of payments (or advances) is scheduled for the last day of each month, months shall be measured from the last day of the given month to the last day of another month. If payments (or advances) are scheduled for the 29th or 30th of each month, the last day of February shall be used when applicable.

(4) *Unit period.*

(i) In all transactions other than a single-advance, single-payment transaction, the unit period shall be that common period, not to exceed one year, that occurs most frequently in the transaction, except that—

(A) If two or more common periods occur with equal frequency, the smaller of such common periods shall be the unit period; or

(B) If there is no common period in the transaction, the unit period shall be that period which is the average of all periods rounded to the nearest whole standard interval of time. If the average is equally near two standard inter-

vals of time, the lower shall be the unit period.

(ii) In a single-advance, single-payment transaction, the unit period shall be the term of the transaction, but shall not exceed one year.

(5) *Number of unit periods between two given dates.*

(i) The number of days between two dates shall be the number of 24-hour intervals between any point in time on the first date to the same point in time on the second date.

(ii) If the unit period is a month, the number of full unit periods between two dates shall be the number of months measured back from the later date. The remaining fraction of a unit period shall be the number of days measured forward from the earlier date to the beginning of the first full unit period, divided by 30. If the unit period is a month, there are 12 unit periods per year.

(iii) If the unit period is a semimonth or a multiple of a month not exceeding 11 months, the number of days between two dates shall be 30 times the number of full months measured back from the later date, plus the number of remaining days. The number of full unit periods and the remaining fraction of a unit period shall be determined by dividing such number of days by 15 in the case of a semi-monthly unit period or by the appropriate multiple of 30 in the case of a mult-monthly unit period. If the unit period is a semimonth, the number of unit periods per year shall be 24. If the number of unit periods is a multiple of a month, the number of unit periods per year shall be 12 divided by the number of months per unit period.

(iv) If the unit period is a day, a week, or a multiple of a week, the number of full unit periods and the remaining fractions of a unit period shall be determined by dividing the number of days between the two given dates by the number of days per unit period. If the unit period is a day, the number of unit periods per year shall be 365. If the unit period is a week or a multiple of a week, the num-

ber of unit periods per year shall be 52 divided by the number of weeks per unit period.

(v) If the unit period is a year, the number of full unit periods between two dates shall be the number of full years (each equal to 12 months) measured back from the later date. The remaining fraction of a unit period shall be—

(A) The remaining number of months divided by 12 if the remaining interval is equal to a whole number of months, or

(B) The remaining number of days divided by 365 if the remaining interval is *not* equal to a whole number of months.

(vi) In a single-advance, single-payment transaction in which the term is less than a year and is equal to a whole number of months, the number of unit periods in the term shall be one, and the number of unit periods per year shall be 12 divided by the number of months in the term or 365 divided by the number of days in the term.

(vii) In a single-advance, single-payment transaction in which the term is less than a year and is *not* equal to a whole number of months, the number of unit periods in the term shall be one, and the number of unit periods per year shall be 365 divided by the number of days in the term.

(6) *Percentage rate for a fraction of a unit period.* The percentage rate of finance charge for a fraction (less than one) of a unit period shall be equal to such fraction multiplied by the percentage rate of finance charge per unit period.

(7) *Symbols.* The symbols used to express the terms of a transaction in the equation set forth in paragraph (b)(8) of this section are defined as follows:

$A_k$  = The amount of the  $k$ th advance.

$q_k$  = The number of full unit periods from the beginning of the term of the transaction to the  $k$ th advance.

$e_k$  = The fraction of a unit period in

the time interval from the beginning of the term of the transaction to the  $k$ th advance.

$m$  = The number of advances.

$P_j$  = The amount of the  $j$ th payment.

$t_j$  = The number of full unit periods from the beginning of the term of the transaction to the  $j$ th payment.

$f_j$  = The fraction of a unit period in the time interval from the beginning of the term of the transaction to the  $j$ th payment.

$n$  = The number of payments.

$i$  = The percentage rate of finance charge per unit period, expressed as a decimal equivalent.

Symbols used in the examples shown in this appendix are defined as follows:

$\ddot{a}_{\overline{x}|}$  = The present value of 1 per unit period for  $x$  unit periods, first payment due immediately.

$$= 1 + \frac{1}{(1+i)} + \frac{1}{(1+i)^2} + \dots + \frac{1}{(1+i)^{x-1}}$$

$w$  = The number of unit periods per year.

$I = wi \times 100$  = The nominal annual percentage rate.

(8) *General equation.* The following equation sets forth the relationship among the terms of a transaction:

$$\frac{A_1}{(1+e_1i)(1+i)^{q_1}} + \frac{A_2}{(1+e_2i)(1+i)^{q_2}} + \dots + \frac{A_m}{(1+e_m i)(1+i)^{q_m}} = \frac{P_1}{(1+f_1i)(1+i)^{t_1}} + \frac{P_2}{(1+f_2i)(1+i)^{t_2}} + \dots + \frac{P_n}{(1+f_n i)(1+i)^{t_n}}$$

(9) *Solution of general equation by iteration process.*

(i) The general equation in paragraph (b)(8) of this section, when applied to a simple transaction in which a loan of \$1000 is repaid by 36 monthly payments of \$33.61 each, takes the special form:

$$A = \frac{33.61 \ddot{a}_{\overline{36}|}}{(1+i)}$$

Step 1:

Let  $I_1$  = estimated annual percentage rate = 12.50%  
Evaluate expression for  $A$ , letting  $i = I_1/(100w) = .010416667$   
Results (referred to as  $A'$ ) = 1004.674391

Step 2:

Let  $I_2 = I_1 + .1 = 12.60\%$   
Evaluate expression for  $A$ , letting  $i = I_2/(100w) = .010500000$   
Result (referred to as  $A''$ ) = 1003.235366

Step 3:

Interpolate for  $I$  (annual percentage rate):

$$I = I_1 + .1 \left[ \frac{(A - A')}{(A'' - A')} \right] = 12.50 +$$

$$.1 \left[ \frac{(1000.000000 - 1004.674391)}{(1003.235366 - 1004.674391)} \right] = 12.82483042\%$$

Step 4:

First iteration, let  $I_1 = 12.82483042\%$  and repeat Steps 1, 2, and 3 obtaining a new  $I = .82557859\%$   
Second iteration, let  $I_1 = 12.82557859\%$  and repeat Steps 1, 2, and 3 obtaining a new  $I = .82557529\%$

In this case, no further iterations are required to obtain the annual percentage rate correct to two decimal places, 12.83%.

(ii) When the iteration approach is used, it is expected that calculators or com-

puters will be programmed to carry all available decimals throughout the calculation and that enough iterations will be performed to make virtually certain that the annual percentage rate obtained, when rounded to two decimals, is correct. Annual percentage rates in the examples below were obtained by using a 10-digit programmable calculator and the iteration procedure described above.

(c) *Examples for the actuarial method.*

(1) *Single-advance transaction, with or without an odd first period, and otherwise regular.* The general equation in paragraph (b)(8) of this section can be put in the following special form for this type of transaction:

$$A = \frac{1}{(1+f i)(1+i)^t} \left( P \ddot{a}_{\overline{n}|i} \right)$$

*Example (i):* Monthly payments (regular first period)

Amount advanced (A) = \$5000. Payment (P) = \$230.

Number of payments (n) = 24.

Unit period = 1 month. Unit periods per year (w) = 12.

Advance, 1-10-78. First payment, 2-10-78.

From 1-10-78 through 2-10-78 = 1 unit period. (t = 1; f = 0)

Annual percentage rate

(I) = wi = .0969 = 9.69%

*Example (ii):* Monthly payments (long first period)

Amount advanced (A) = \$6000. Payment (P) = \$200.

Number of payments (n) = 36.

Unit period = 1 month. Unit periods per year (w) = 12.

Advance, 2-10-78. First payment, 4-1-78.

From 3-1-78 through 4-1-78 = 1 unit period. (t = 1)

From 2-10-78 through 3-1-78 = 19 days. (f = 19/30)

Annual percentage rate

(I) = wi = .1182 = 11.82%

*Example (iii):* Semimonthly payments (short first period)

Amount advanced (A) = \$5000. Payment (P) = \$219.17.

Number of payments (n) = 24.

Unit period = 1/2 month. Unit periods per year (w) = 24.

Advance, 2-23-78. First payment, 3-1-78. Payments made on 1st and 16th of each month.

From 2-23-78 through 3-1-78 = 6 days. (t = 0; f = 6/15)

Annual percentage rate

(I) = wi = .1034 = 10.34%

*Example (iv):* Quarterly payments (long first period)

Amount advanced (A) = \$10,000.

Payment (P) = \$385.

Number of payments (n) = 40.

Unit period = 3 months. Unit periods per year (w) = 4.

Advance, 5-23-78. First payment, 10-1-78.

From 7-1-78 through 10-1-78 = 1 unit period. (t = 1)

From 6-1-78 through 7-1-78 = 1 month = 30 days. From 5-23-78 through 6-1-78 = 9 days. (f = 39/90)

Annual percentage rate

(I) = wi = .0897 = 8.97%

*Example (v):* Weekly payments (long first period)

Amount advanced (A) = \$500. Payment (P) = \$17.60.

Number of payments (n) = 30.

Unit period = 1 week. Unit periods per year (w) = 52.

Advance, 3-20-78. First payment, 4-21-78.

From 3-24-78 through 4-21-78 = 4 unit periods. (t = 4)

From 3-20-78 through 3-24-78 = 4 days. (f = 4/7)

Annual percentage rate

(I) = wi = .1496 = 14.96%

(2) *Single-advance transaction, with an odd*

first payment, with or without an odd first period, and otherwise regular. The general equation in paragraph (b)(8) of this section can be put in the following special form for this type of transaction:

$$A = \frac{1}{(1+f)(1+i)^t} \left[ P_1 + \frac{P \bar{a}_{n-1}}{(1+i)} \right]$$

*Example (i):* Monthly payments (regular first period and irregular first payment)

Amount advanced (A) \$5000. First payment ( $P_1$ ) = \$250.  
 Regular payment (P) = \$230. Number of payments (n) = 24.  
 Unit period = 1 month. Unit periods per year (w) = 12.  
 Advance, 1-10-78. First payment, 2-10-78.  
 From 1-10-78 through 2-10-78 = 1 unit period. (t = 1; f = 0)  
 Annual percentage rate  
 (I) = wi = .1008 = 10.08%

*Example (ii):* Payments every four weeks (long first period and irregular first payment)

Amount advanced (A) = \$400. First payment ( $P_1$ ) = \$39.50.  
 Regular payment (P) = \$38.31. Number of payments (n) = 12.  
 Unit period = 4 weeks. Unit periods per year (w) = 52/4 = 13.  
 Advance, 3-18-78. First payment, 4-20-78.  
 From 3-23-78 through 4-20-78 = 1 unit period. (t = 1)  
 From 3-18-78 through 3-23-78 = 5 days. (f = 5/28)  
 Annual percentage rate  
 (I) = wi = .2850 = 28.50%.

(3) *Single-advance transaction, with an odd final payment, with or without an odd first period, and otherwise regular.* The general equation in paragraph (b)(8) of this section

can be put in the following special form for this type of transaction:

$$A = \frac{1}{(1+f)(1+i)^t} \left[ P \bar{a}_{n-1} + \frac{P_n}{(1+i)^{n-1}} \right]$$

*Example (i):* Monthly payments (regular first period and irregular final payment)

Amount advanced (A) = \$5000. Regular payment (P) = \$230.  
 Final payment ( $P_n$ ) = \$280. Number of payments (n) = 24.  
 Unit period = 1 month. Unit periods per year (w) = 12.  
 Advance, 1-10-78. First payment, 2-10-78.  
 From 1-10-78 through 2-10-78 = 1 unit period. (t = 1; f = 0)  
 Annual percentage rate  
 (I) = wi = .1050 = 10.50%

*Example (ii):* Payments every two weeks (short first period and irregular final payment)

Amount advanced (A) = \$200. Regular payment (P) = \$9.50.  
 Final payment ( $P_n$ ) = \$30. Number of payments (n) = 20.  
 Unit period = 2 weeks. Unit periods per year (w) = 52/2 = 26.  
 Advance, 4-3-78. First payment, 4-11-78.  
 From 4-3-78 through 4-11-78 = 8 days. (t = 0; f = 8/14)  
 Annual percentage rate  
 (I) = wi = .1222 = 12.22%

(4) *Single-advance transaction, with an odd first payment, odd final payment, with or without an odd first period, and otherwise regular.* The general equation in paragraph (b)(8) of this section can be put in the following special form for this type of transaction:

$$A = \frac{1}{(1+fi)(1+i)^t} \left[ P_1 + \frac{P \ddot{a}_{\overline{n-2}|}}{(1+i)} + \frac{P_n}{(1+i)^{n-1}} \right]$$

*Example (i):* Monthly payments (regular first period, irregular first payment, and irregular final payment)

Amount advanced (A) = \$5000. First payment (P<sub>1</sub>) = \$250.

Regular payment (P) = \$230. Final payment (P<sub>n</sub>) = \$280.

Number of payments (n) = 24. Unit period = 1 month.

Unit periods per year (w) = 12.

Advance, 1-10-78. First payment, 2-10-78.

From 1-10-78 through 2-10-78 = 1 unit period. (t = 1; f = 0)

Annual percentage rate

$$(I) = wi = .1090 = 10.90\%$$

*Example (ii):* Payments every two months (short first period, irregular first payment, and irregular final payment)

Amount advanced (A) = \$8000. First payment (P<sub>1</sub>) = \$449.36.

Regular payment (P) = \$465. Final payment (P<sub>n</sub>) = \$200.

Number of payments (n) = 20. Unit period = 2 months.

Unit periods per year (w) = 12/2 = 6.

Advance, 1-10-78. First payment, 3-1-78.

From 2-1-78 through 3-1-78 = 1 month.

From 1-10-78 through 2-1-78 = 22

days. (t = 0; f = 52/60)

Annual percentage rate

$$(I) = wi = .0730 = 7.30\%$$

(5) *Single-advance, single-payment transaction.* The general equation in paragraph (b)(8) of this section can be put in the special forms below for single advance, single payment transactions. Forms 1 through 3 are for the direct determination of the annual percentage rate under special conditions. Form 4 requires the use of the iteration procedure of paragraph (b)(9) of this

section and can be used for all single-advance, single-payment transactions regardless of term.

*Form 1—Term less than one year:*

$$I = 100w \left( \frac{P}{A} - 1 \right)$$

*Form 2—Term more than one year but less than two years:*

$$I = \frac{50}{f} \left\{ \left[ (1+f)^2 + 4f \left( \frac{P}{A} - 1 \right) \right]^{1/2} - (1+f) \right\}$$

*Form 3—Term equal to exactly a year or exact multiple of a year:*

$$I = 100 \left[ \left( \frac{P}{A} \right)^{1/t} - 1 \right]$$

*Form 4—Special form for iteration procedure (no restriction on term):*

$$A = \frac{P}{(1+fi)(1+i)^t}$$

*Example (i):* Single-advance, single-payment (term of less than one year, measured in days)

Amount advanced (A) = \$1000. Payment (P) = \$1080.

Unit period = 255 days. Unit periods per year (w) = 365/255.

Advance, 1-3-78. Payment, 9-15-78.

From 1-3-78 through 9-15-78 = 255 days. (t = 1; f = 0)

Annual percentage rate

$$(I) = wi = .1145 = 11.45\%. \text{ (Use form 1 or 4.)}$$

*Example (ii):* Single-advance, single-payment (term of less than one year, measured in exact calendar months)

Amount advanced (A) = \$1000. Payment (P) = \$1044.

Unit period = 6 months. Unit periods per year (w) = 2.

Advance, 7-15-78. Payment, 1-15-79.

From 7-15-78 through 1-15-79 = 6 mos.  
( $t = 1$ ;  $f = 0$ )

Annual percentage rate

( $I$ ) =  $wi = .0880 = 8.80\%$ . (Use form 1 or 4.)

*Example (iii):* Single-advance, single-payment (term of more than one year but less than two years, fraction measured in exact months)

Amount advanced ( $A$ ) = \$1000. Payment ( $P$ ) = \$1135.19.

Unit period = 1 year. Unit periods per year ( $w$ ) = 1.

Advance, 7-17-78. Payment, 1-17-80.

From 1-17-79 through 1-17-80 = 1 unit period. ( $t = 1$ )

From 7-17-78 through 1-17-79 = 6 mos.  
( $f = 6/12$ )

Annual percentage rate

( $I$ ) =  $wi = .0876 = 8.76\%$ . (Use form 2 or 4.)

*Example (iv):* Single-advance, single-payment (term of exactly two years)

Amount advanced ( $A$ ) = \$1000. Payment ( $P$ ) = \$1240.

Unit period = 1 year. Unit periods per year ( $w$ ) = 1.

Advance, 1-3-78. Payment, 1-3-80.

From 1-3-78 through 1-3-79 = 1 unit period. ( $t = 2$ ;  $f = 0$ )

Annual percentage rate

( $I$ ) =  $wi = .1136 = 11.36\%$ . (Use form 3 or 4.)

(6) *Complex single-advance transaction.*

*Example (i):* Skipped-payment loan (payments every four weeks)

A loan of \$2135 is advanced on 1-25-78. It is to be repaid by 24 payments of \$100 each. Payments are due every four weeks beginning 2-20-78. However, in those months in which two payments would be due, only the first of the two payments is made and the following payment is delayed by two weeks to place it in the next month.

Unit period = 4 weeks. Unit periods per year ( $w$ ) =  $52/4 = 13$ .

First series of payments begins 26 days after 1-25-78. ( $t_1 = 0$ ;  $f_1 = 26/28$ )

Second series of payments begins nine unit periods plus two weeks after start of first series. ( $t_2 = 10$ ;  $f_2 = 12/28$ )

Third series of payments begins six unit periods plus two weeks after start of second series. ( $t_3 = 16$ ;  $f_3 = 26/28$ )

Last series of payments begins six unit periods plus two weeks after start of third series. ( $t_4 = 23$ ;  $f_4 = 12/28$ )

The general equation in paragraph (b)(8) of this section can be written in the special form:

$$2135 = \frac{100 \ddot{a}_{\overline{9}|}}{(1 + (26/28)i)} + \frac{100 \ddot{a}_{\overline{6}|}}{(1 + (12/28)i)(1+i)^{10}} + \frac{100 \ddot{a}_{\overline{6}|}}{(1 + (26/28)i)(1+i)^{16}} + \frac{100 \ddot{a}_{\overline{3}|}}{(1 + (12/28)i)(1+i)^{23}}$$

Annual percentage rate

( $I$ ) =  $wi = .1200 = 12.00\%$

*Example (ii):* Skipped-payment loan plus single payments

A loan of \$7350 on 3-3-78 is to be repaid by three monthly payments of \$1000 each beginning 9-15-78, plus a single payment of \$2000 on 3-15-79, plus three more monthly payments of \$750 each beginning 9-15-79, plus a final payment of \$1000 on 2-1-80.

Unit period = 1 month. Unit periods per year ( $w$ ) = 12.

First series of payments begins six unit periods plus 12 days after 3-3-78. ( $t_1 = 6$ ;  $f_1 = 12/30$ )

Second series of payments (single payment) occurs 12 unit periods plus 12 days after 3-3-78. ( $t_2 = 12$ ;  $f_2 = 12/30$ )

Third series of payments begins 18 unit periods plus 12 days after 3-3-78. ( $t_3 = 18$ ;  $f_3 = 12/30$ )

Final payment occurs 22 unit periods plus 29 days after 3-3-78. ( $t_4 = 22$ ;  $f_4 = 29/30$ )

The general equation in paragraph (b)(8) of this section can be written in the special form:

$$7350 = \frac{1000 \ddot{a}_{\overline{3}|}}{(1+(12/30)i)(1+i)^6} + \frac{2000}{(1+(12/30)i)(1+i)^{12}} + \frac{750 \ddot{a}_{\overline{3}|}}{(1+(12/30)i)(1+i)^{18}} + \frac{1000}{(1+(29/30)i)(1+i)^{22}}$$

Annual percentage rate  
(I) =  $wi = .1022 = 10.22\%$

*Example (iii): Mortgage with varying payments*

A loan of \$39,688.56 (net) on 4-10-78 is to be repaid by 360 monthly payments beginning 6-1-78. Payments are the same for 12 months at a time as follows:

Year	Monthly payment	Year	Monthly payment
1	\$291.81	16	\$383.67
2	300.18	17	383.13
3	308.78	18	382.54
4	317.61	19	381.90
5	326.65	20	381.20
6	335.92	21	380.43
7	345.42	22	379.60
8	355.15	23	378.68
9	365.12	24	377.69
10	375.33	25	376.60
11	385.76	26	375.42
12	385.42	27	374.13

Year	Monthly payment	Year	Monthly payment
13	385.03	28	372.72
14	384.62	29	371.18
15	384.17	30	369.50

Unit period = 1 month. Unit periods per year ( $w$ ) = 12.

From 5-1-78 through 6-1-78 = 1 unit period. ( $t = 1$ )

From 4-10-78 through 5-1-78 = 21 days. ( $f = 21/30$ )

The general equation in paragraph (b)(8) of this section can be written in the special form:

$$39,688.56 = \frac{\ddot{a}_{\overline{12}|}}{(1+(21/30)i)(1+i)} \left[ 291.81 + \frac{300.18}{(1+i)^{12}} + \frac{308.78}{(1+i)^{24}} + \dots + \frac{369.50}{(1+i)^{348}} \right]$$

Annual percentage rate  
(I) =  $wi = .0980 = 9.80\%$

(7) *Multiple-advance transactions.*

*Example (i): Construction loan*

Three advances of \$20,000 each are made on 4-10-79, 6-12-79, and 9-18-79. Repayment is by 240 monthly payments of \$612.36 each beginning 12-10-79.

Unit period = 1 month. Unit periods per year ( $w$ ) = 12.

From 4-10-79 through 6-12-79 =  $(2 + 2/30)$  unit periods.

From 4-10-79 through 9-18-79 =  $(5 + 8/30)$  unit periods.

From 4-10-79 through 12-10-79 = (8) unit periods.

The general equation in paragraph (b)(8) of this section is changed to the single-

advance made by treating the second and third advances as negative payments:

$$20,000 = \frac{612.36\ddot{a}_{240}}{(1+i)^8} - \frac{20,000}{(1+(2/30)i)(1+i)^2} - \frac{20,000}{(1+(8/30)i)(1+i)^5}$$

Annual percentage rate  
(I) =  $wi = .1025 = 10.25\%$

*Example (ii): Student loan*

A student loan consists of eight advances: \$1800 on 9-5-78, 9-5-79, 9-5-80, and 9-5-81; plus \$1000 on 1-5-79, 1-5-80, 1-5-81, and 1-5-82. The borrower is to make 50 monthly payments of \$240 each beginning 7-1-78 (prior to first advance).

Unit period = 1 month. Unit periods per year ( $w$ ) = 12.

Zero point is date of first payment since it precedes first advance.

From 7-1-78 to 9-5-78 =  $(2 + 4/30)$  unit periods.

From 7-1-78 to 9-5-79 =  $(14 + 4/30)$  unit periods.

From 7-1-78 to 9-5-80 =  $(26 + 4/30)$  unit periods.

From 7-1-78 to 9-5-81 =  $(38 + 4/30)$  unit periods.

From 7-1-78 to 1-5-79 =  $(6 + 4/30)$  unit periods.

From 7-1-78 to 1-5-80 =  $(18 + 4/30)$  unit periods.

From 7-1-78 to 1-5-81 =  $(30 + 4/30)$  unit periods.

From 7-1-78 to 1-5-82 =  $(42 + 4/30)$  unit periods.

Since the zero point is date of first payment, the general equation in paragraph (b)(8) of this section is written in the single-advance form below by treating the first payment as a negative advance and the eight advances as negative payments:

$$-240 = \frac{240\ddot{a}_{49}}{(1+i)} - \frac{1800}{(1+(4/30)i)} \left[ \frac{1}{(1+i)^2} + \frac{1}{(1+i)^{14}} + \frac{1}{(1+i)^{26}} + \frac{1}{(1+i)^{38}} \right] - \frac{1000}{(1+(4/30)i)} \left[ \frac{1}{(1+i)^6} + \frac{1}{(1+i)^{18}} + \frac{1}{(1+i)^{30}} + \frac{1}{(1+i)^{42}} \right]$$

Annual percentage rate  
(I) =  $wi = .3204 = 32.04\%$

#### APPENDIX K—Total-Annual-Loan-Cost Rate Computations for Reverse-Mortgage Transactions

(a) *Introduction.* Creditors are required to disclose a series of total-annual-loan-cost rates for each reverse-mortgage transaction. This appendix contains the equations creditors must use in computing the total-annual-loan-cost rate for various transactions, as well as instructions, explanations, and examples for various transactions. This appendix is modeled after appendix J of this part (Annual Percentage Rates Computations for Closed-End Credit Transactions); creditors should consult appendix J of this part for additional guidance in using the formulas for reverse mortgages.

(b) *Instructions and equations for the total-annual-loan-cost rate.*

(1) *General rule.* The total-annual-loan-cost rate shall be the nominal total-annual-loan-cost rate determined by multiplying the unit-period rate by the number of unit periods in a year.

(2) *Term of the transaction.* For purposes of total-annual-loan-cost disclosures, the term of a reverse-mortgage transaction is assumed to begin on the first of the month in which consummation is expected to occur. If a loan cost or any portion of a loan cost is initially incurred beginning on a date

later than consummation, the term of the transaction is assumed to begin on the first of the month in which that loan cost is incurred. For purposes of total-annual-loan-cost disclosures, the term ends on each of the assumed loan periods specified in section 226.33(c)(6).

(3) *Definitions of time intervals.*

(i) a *period* is the interval of time between advances.

(ii) A *common period* is any period that occurs more than once in a transaction.

(iii) A *standard interval of time* is a day, week, semimonth, month, or multiple of a week or a month up to, but not exceeding, one year.

(iv) All months shall be considered to have an equal number of days.

(4) *Unit period.*

(i) In all transactions other than single-advance, single-payment transactions, the unit period shall be that common period, not to exceed one year, that occurs most frequently in the transaction, except that—

(A) if two or more common periods occur with equal frequency, the smaller of such common periods shall be the unit period; or

(B) if there is no common period in the transaction, the unit period shall be that period which is the average of all periods rounded to the nearest whole standard interval of time. If the average is equally near two standard intervals of time, the lower shall be the unit period.

(ii) In a single-advance, single-payment transaction, the unit period shall be the term of the transaction, but shall not exceed one year.

(5) *Number of unit periods between two given dates.*

(i) The number of days between two dates shall be the number of 24-hour intervals between any point in time on the first date to the same point in time on the second date.

(ii) If the unit period is a month, the number of full unit periods between two dates shall be the number of months. If

the unit period is a month, the number of unit periods per year shall be 12.

(iii) If the unit period is a semimonth or a multiple of a month not exceeding 11 months, the number of days between two dates shall be 30 times the number of full months. The number of full unit periods shall be determined by dividing the number of days by 15 in the case of a semimonthly unit period or by the appropriate multiple of 30 in the case of a multimonthly unit period. If the unit period is a semimonth, the number of unit periods per year shall be 24. If the number of unit periods is a multiple of a month, the number of unit periods per year shall be 12 divided by the number of months per unit period.

(iv) If the unit period is a day, a week, or a multiple of a week, the number of full unit periods shall be determined by dividing the number of days between the two given dates by the number of days per unit period. If the unit period is a day, the number of unit periods per year shall be 365. If the unit period is a week or a multiple of a week, the number of unit periods per year shall be 52 divided by the number of weeks per unit period.

(v) If the unit period is a year, the number of full unit periods between two dates shall be the number of full years (each equal to 12 months).

(6) *Symbols.* The symbols used to express the terms of a transaction in the equation set forth in paragraph (b)(8) of this appendix are defined as follows:

$A_j$  = The amount of each periodic or lump-sum advance to the consumer under the reverse-mortgage transaction.

$i$  = Percentage rate of the total annual loan cost per unit period, expressed as a decimal equivalent.

$j$  = The number of unit periods until the  $j$ th advance.

$n$  = The number of unit periods between consummation and repayment of the debt.

$P_n$  = Min ( $Bal_n$ ,  $Val_n$ ). This is the

maximum amount that the creditor can be repaid at the specified loan term.

$Bal_n$  = Loan balance at time of repayment, including all costs and fees incurred by the consumer (including any shared appreciation or shared equity amount) compounded to time  $n$  at the creditor's contract rate of interest.

$Val_n$  =  $Val_0 (1 + \sigma)^y$ , where  $Val_0$  is the property value at consummation,  $\sigma$  is the assumed annual rate of appreciation for the dwelling, and  $y$  is the number of years in the assumed term.  $Val_n$  must be reduced by the amount of any equity reserved for the consumer by agreement between the parties, or by 7 percent (or the amount or percentage specified in the credit agreement), if the amount required to be repaid is limited to the net proceeds of sale.

$\Sigma$  = The summation operator.

Symbols used in the examples shown in this appendix are defined as follows:

$FV_{\bar{x}|i}$  = The future value of 1 per unit period for  $x$  unit periods, first advance due immediately (at time = 0, which is consummation).

$$\begin{aligned} &= \sum_{j=0}^{x-1} (1+i)^{x-j} \\ &= (1+i)^x + (1+i)^{x-1} \\ &\quad + (1+i)^1 \end{aligned}$$

or

$$= \frac{(1+i)^n - 1}{i} \times (1+i)$$

$w$  = The number of unit periods per year.

$I$  =  $wi \times 100$  = the nominal total-annual-loan-cost rate.

(7) *General equation.* The total-annual-

loan-cost rate for a reverse-mortgage transaction must be determined by first solving the following formula, which sets forth the relationship between the advances to the consumer and the amount owed to the creditor under the terms of the reverse-mortgage agreement for the loan-cost rate per unit period (the loan-cost rate per unit period is then multiplied by the number of unit periods per year to obtain the total-annual-loan-cost rate  $I$ ; that is,  $I = wi$ ):

$$\sum_{j=0}^{n-1} A_j (1+i)^{n-j} = P_n$$

(8) *Solution of general equation by iteration process.*

(i) The general equation in paragraph (b)(7) of this appendix, when applied to a simple transaction for a reverse-mortgage loan of equal monthly advances of \$350 each, and with a total amount owed of \$14,313.08 at an assumed repayment period of two years, takes the special form:

$$P_n = 350 FV_{\overline{24}|i}$$

or

$$P_n = 350 \times \left[ \frac{(1+i)^n - 1}{i} \times (1+i) \right]$$

Using the iteration procedures found in steps 1 through 4 of (b)(9)(i) of appendix J of this part, the total-annual-loan-cost rate, correct to two decimals, is 48.53 percent.

(ii) In using these iteration procedures, it is expected that calculators or computers will be programmed to carry all available decimals throughout the calculation and that enough iterations will be performed to make virtually certain that the total-annual-loan-cost rate obtained, when rounded to two decimals, is correct. Total-annual-loan-cost rates in the examples below were obtained by using a 10-digit programmable calculator and the iteration procedure described in appendix J of this part.

(9) *Assumption for discretionary cash advances.* If the consumer controls the timing of advances made after consummation (such

as in a credit-line arrangement), the creditor must use the general formula in paragraph (b)(7) of this appendix. The total-annual-loan-cost rate shall be based on the assumption that 50 percent of the principal loan amount is advanced at closing, or in the case of an open-end transaction, at the time the consumer becomes obligated under the plan. Creditors shall assume the advances are made at the interest rate then in effect and that no further advances are made to, or repayments made by, the consumer during the term of the transaction or plan.

(10) *Assumption for variable-rate reverse-mortgage transactions.* If the interest rate for a reverse-mortgage transaction may increase during the loan term and the amount or timing is not known at consummation, creditors shall base the disclosures on the initial interest rate in effect at the time the disclosures are provided.

(11) *Assumption for closing costs.* In calculating the total-annual-loan-cost rate, creditors shall assume all closing and other consumer costs are financed by the creditor.

(c) *Examples of total-annual-loan-cost rate computations.*

(1) *Lump-sum advance at consummation.*

Lump-sum advance to consumer at consummation: \$30,000

Total of consumer's loan costs financed at consummation: \$4,500

Contract interest rate: 11.60%

Estimated time of repayment (based on life expectancy of a consumer at age 78): 10 years

Appraised value of dwelling at consummation: \$100,000

Assumed annual dwelling appreciation rate: 4%

$$P_{120} = \text{Min} (109,441.32, 137,662.72)$$

$$30,000(1 + i)^{120-0} + \sum_{j=0}^{119} 0(1 + i)^{120-j} = 109,441.32$$

$$i = .010843293$$

$$\begin{aligned} &\text{Total-annual-loan-cost rate} \\ &(100(.010843293 \times 12)) = 13.01\% \end{aligned}$$

(2) *Monthly advance beginning at consummation.*

Monthly advance to consumer, beginning at consummation: \$492.51

Total of consumer's loan costs financed at consummation: \$4,500

Contract interest rate: 9.00%

Estimated time of repayment (based on life expectancy of a consumer at age 78): 10 years

Appraised value of dwelling at consummation: \$100,000

Assumed annual dwelling appreciation rate: 8%

$$P_{120} = \text{Min} (107,053.63, 200,780.02)$$

$$492.51 \times \left[ \frac{(1 + i)^{120} - 1}{i} \times (1 + i) \right] = 107,053.63$$

$$i = .009061140$$

$$\begin{aligned} &\text{Total-annual-loan-cost rate} \\ &(100(.009061140 \times 12)) = 10.87\% \end{aligned}$$

(3) *Lump-sum advance at consummation and monthly advances thereafter.*

Lump-sum advance to consumer at consummation: \$10,000

Monthly advance to consumer, beginning at consummation: \$725

Total of consumer's loan costs financed at consummation: \$4,500

Contract rate of interest: 8.5%

Estimated time of repayment (based on life expectancy of a consumer at age 75): 12 years

Appraised value of dwelling at consummation: \$100,000

Assumed annual dwelling appreciation rate: 8%

$$P_{144} = \text{Min} (221,818.30, 234,189.82)$$

$$10,000(1 + i)^{140-0} + \sum_{j=0}^{143} 725(1 + i)^{144-j} = 221,818.30$$

$$i = .007708844$$

$$\begin{aligned} &\text{Total-annual-loan-cost rate} \\ &(100(.007708844 \times 12)) = 9.25\% \end{aligned}$$

(d) *Reverse-mortgage model form and sample form.*(1) *Model form.*

## TOTAL-ANNUAL-LOAN-COST RATE

<i>Loan Terms</i>	<i>Monthly Loan Charges</i>
Age of youngest borrower:	Servicing fee:
Appraised property value:	<i>Other Charges</i>
Interest rate:	Mortgage insurance:
Monthly advance:	Shared appreciation:
Initial draw:	<i>Repayment Limits</i>
Line of credit:	

*Initial Loan Charges*

Closing costs:  
Mortgage insurance premium:  
Annuity cost:

<i>Assumed Annual Appreciation</i>	<i>Total-Annual-Loan-Cost Rate</i>			
	<i>2-year loan term</i>	<i>[[ ]-year loan term]</i>	<i>[ ]-year loan term</i>	<i>[ ]-year loan term</i>
0%		[ ]		
4%		[ ]		
8%		[ ]		

The cost of any reverse-mortgage loan depends on how long you keep the loan and how much your house appreciates in value. Generally, the longer you keep a reverse mortgage, the lower the total-annual-loan-cost rate will be.

This table shows the estimated cost of your reverse-mortgage loan, expressed as an annual rate. It illustrates the cost for three [four] loan terms: 2 years, [half of life expectancy for someone your age,] that life expectancy, and 1.4 times that life expectancy. The table also shows the cost of the loan, assuming the value of your home appreciates at three different rates: 0%, 4%, and 8%.

The total-annual-loan-cost rates in this table are based on the total charges associated with this loan. These charges typically include principal, interest, closing costs, mortgage insurance premiums, annuity costs, and servicing costs (but not costs when you sell the home).

The rates in this table are estimates. Your actual cost may differ if, for example, the amount of your loan advances varies or the interest rate on your mortgage changes.

**SIGNING AN APPLICATION OR RECEIVING THESE DISCLOSURES DOES NOT REQUIRE YOU TO COMPLETE THIS LOAN**

(2) *Sample Form.*

## TOTAL-ANNUAL-LOAN-COST RATE

<i>Loan Terms</i>		<i>Monthly Loan Charges</i>	
Age of youngest borrower:	75	Servicing fee:	None
Appraised property value:	\$100,000	<i>Other Charges</i>	
Interest rate:	9%	Mortgage insurance:	None
Monthly advance:	\$301.80	Shared appreciation:	None
Initial draw:	\$1,000		
Line of credit:	\$4,000		
<i>Initial Loan Charges</i>		<i>Repayment Limits</i>	
Closing costs:	\$5,000	Net proceeds estimated at	
Mortgage insurance premium:	None	93% of projected home sale	
Annuity cost:	None		

<i>Assumed Annual Appreciation</i>	<i>Total-Annual-Loan-Cost Rate</i>			
	<i>2-year loan term</i>	<i>[6-year loan term]</i>	<i>12-year loan term</i>	<i>17-year loan term</i>
0%	39.00%	[14.94%]	9.86%	3.87%
4%	39.00%	[14.94%]	11.03%	10.14%
8%	39.00%	[14.94%]	11.03%	10.20%

The cost of any reverse-mortgage loan depends on how long you keep the loan and how much your house appreciates in value. Generally, the longer you keep a reverse mortgage, the lower the total-annual-loan-cost rate will be.

This table shows the estimated cost of your reverse-mortgage loan, expressed as an annual rate. It illustrates the cost for three [four] loan terms: 2 years, [half of life expectancy for someone your age,] that life expectancy, and 1.4 times that life expectancy. The table also shows the cost of the loan, assuming the value of your home appreciates at three different rates: 0%, 4%, and 8%.

The total-annual-loan-cost rates in this table are based on the total charges associated with this loan. These charges typically include principal, interest, closing costs, mortgage insurance premiums, annuity costs, and servicing costs (but not disposition costs—costs when you sell the home).

The rates in this table are estimates. Your actual cost may differ if, for example, the amount of your loan advances varies or the interest rate on your mortgage changes.

**SIGNING AN APPLICATION OR RECEIVING THESE DISCLOSURES DOES NOT REQUIRE YOU TO COMPLETE THIS LOAN**

**APPENDIX L—Assumed Loan Periods  
for Computations of Total-Annual-Loan-  
Cost Rates**

(a) *Required tables.* In calculating the total-annual-loan-cost rates in accordance with appendix K of this part, creditors shall assume three loan periods, as determined by the following table.

(b) *Loan periods.*

(1) Loan Period 1 is a two-year loan period.

(2) Loan Period 2 is the life expectancy in years of the youngest borrower to become obligated on the reverse-mortgage loan, as shown in the U.S. Decennial Life Tables for 1979–1981 for females, rounded to the nearest whole year.

(3) Loan Period 3 is the life expectancy figure in Loan Period 2, multiplied by 1.4 and rounded to the nearest full year (life expectancy figures 0.5 have been rounded up to 1).

(4) At the creditor's option, an additional period may be included, which is the life-expectancy figure in Loan Period 2, multiplied by 0.5 and rounded to the nearest full year (life expectancy figures at 0.5 have been rounded up to 1).

<i>Age of Youngest Borrower</i>	<i>Loan Period 1 (in Years)</i>	<i>[Optional Loan Period (in Years)]</i>	<i>Loan Period 2 (Life Expectancy) (in Years)</i>	<i>Loan Period 3 (in Years)</i>
62	2	[11]	21	29
63	2	[10]	20	28
64	2	[10]	19	27
65	2	[9]	18	25
66	2	[9]	18	25
67	2	[9]	17	24
68	2	[8]	16	22
69	2	[8]	16	22
70	2	[8]	15	21
71	2	[7]	14	20
72	2	[7]	13	18
73	2	[7]	13	18
74	2	[6]	12	17
75	2	[6]	12	17
76	2	[6]	11	15
77	2	[5]	10	14
78	2	[5]	10	14
79	2	[5]	9	13
80	2	[5]	9	13
81	2	[4]	8	11
82	2	[4]	8	11
83	2	[4]	7	10
84	2	[4]	7	10
85	2	[3]	6	8
86	2	[3]	6	8
87	2	[3]	6	8
88	2	[3]	5	7
89	2	[3]	5	7
90	2	[3]	5	7
91	2	[2]	4	6
92	2	[2]	4	6
93	2	[2]	4	6
94	2	[2]	4	6
95 and over	2	[2]	3	4



# Truth in Lending Act

15 USC 1601 et seq.; 82 Stat. 146; Pub. L. 90-321 (May 29, 1968)

*Public Law 90-321 (as amended), Title I  
(Chapters 1 through 4)*

## CHAPTER 1—GENERAL PROVISIONS

### Section

- 101 Short title
- 102 Findings and declaration of purpose
- 103 Definitions and rules of construction
- 104 Exempted transactions
- 105 Regulations
- 106 Determination of finance charge
- 107 Determination of annual percentage rate
- 108 Administrative enforcement
- 109 Views of other agencies
- 110 [Repealed]
- 111 Effect on other laws
- 112 Criminal liability for willful and knowing violation
- 113 Effect on governmental agencies
- 114 Reports by Board and Attorney General
- 115 [Repealed]

### SECTION 101—Short Title

This title may be cited as the Truth in Lending Act.

[15 USC 1601 note.]

### SECTION 102—Findings and Declaration of Purpose

(a) The Congress finds that economic stabilization would be enhanced and the competition among the various financial institutions and other firms engaged in the extension of consumer credit would be strengthened by the informed use of credit. The informed use of credit results from an awareness of the cost thereof by consumers. It is the purpose of this title to assure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit

terms available to him and avoid the uninformed use of credit, and to protect the consumer against inaccurate and unfair credit billing and credit card practices.

(b) The Congress also finds that there has been a recent trend toward leasing automobiles and other durable goods for consumer use as an alternative to instalment credit sales and that these leases have been offered without adequate cost disclosures. It is the purpose of this title to assure a meaningful disclosure of the terms of leases of personal property for personal, family, or household purposes so as to enable the lessee to compare more readily the various lease terms available to him, limit balloon payments in consumer leasing, enable comparison of lease terms with credit terms where appropriate, and to assure meaningful and accurate disclosures of lease terms in advertisements.

[15 USC 1601. As amended by acts of Oct. 28, 1974 (88 Stat. 1511); March 23, 1976 (90 Stat. 257); and Dec. 26, 1981 (95 Stat. 1515).]

### SECTION 103—Definitions and Rules of Construction

(a) The definitions and rules of construction set forth in this section are applicable for the purposes of this title.

(b) The term "*Board*" refers to the Board of Governors of the Federal Reserve System.

(c) The term "*organization*" means a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

(d) The term "*person*" means a natural person or an organization.

(e) The term "*credit*" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(f) The term "*creditor*" refers only to a person who both (1) regularly extends, whether in connection with loans, sales of property or

services, or otherwise, consumer credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required, and (2) is the person to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the preceding sentence, in the case of an open-end credit plan involving a credit card, the card issuer and any person who honors the credit card and offers a discount which is a finance charge are creditors. For the purposes of the requirements imposed under chapter 4 and sections 127(a)(5), 127(a)(6), 127(a)(7), 127(b)(1), 127(b)(2), 127(b)(3), 127(b)(8), and 127(b)(10) of chapter 2 of this title, the term "creditor" shall also include card issuers whether or not the amount due is payable by agreement in more than four installments or the payment of a finance charge is or may be required, and the Board shall, by regulation, apply these requirements to such card issuers, to the extent appropriate, even though the requirements are by their terms applicable only to creditors offering open-end credit plans. Any person who originates 2 or more mortgages referred to in subsection (aa) in any 12-month period or any person who originates 1 or more such mortgages through a mortgage broker shall be considered to be a creditor for purposes of this title.

(g) The term "*credit sale*" refers to any sale in which the seller is a creditor. The term includes any contract in the form of a bailment or lease if the bailee or lessee contracts to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the property and services involved and it is agreed that the bailee or lessee will become, or for no other or a nominal consideration has the option to become, the owner of the property upon full compliance with his obligations under the contract.

(h) The adjective "*consumer*", used with reference to a credit transaction, characterizes the transaction as one in which the party to whom credit is offered or extended is a natural person, and the money, property, or services which are the subject of the transaction are

primarily for personal, family, or household purposes.

(i) The term "*open end credit plan*" means a plan under which the creditor reasonably contemplates repeated transactions, which prescribes the terms of such transactions, and which provides for a finance charge which may be computed from time to time on the outstanding unpaid balance. A credit plan which is an open end credit plan within the meaning of the preceding sentence is an open end credit plan even if credit information is verified from time to time.

(j) The term "*adequate notice*", as used in section 133, means a printed notice to a cardholder which sets forth the pertinent facts clearly and conspicuously so that a person against whom it is to operate could reasonably be expected to have noticed it and understood its meaning. Such notice may be given to a cardholder by printing the notice on any credit card, or on each periodic statement of account, issued to the cardholder, or by any other means reasonably assuring the receipt thereof by the cardholder.

(k) The term "*credit card*" means any card, plate, coupon book or other credit device existing for the purpose of obtaining money, property, labor, or services on credit.

(l) The term "*accepted credit card*" means any credit card which the cardholder has requested and received or has signed or has used, or authorized another to use, for the purpose of obtaining money, property, labor, or services on credit.

(m) The term "*cardholder*" means any person to whom a credit card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a credit card to another person.

(n) The term "*card issuer*" means any person who issues a credit card, or the agent of such person with respect to such card.

(o) The term "*unauthorized use*", as used in section 133, means a use of a credit card by a person other than the cardholder who does not have actual, implied, or apparent authority for

such use and from which the cardholder receives no benefit.

(p) The term “*discount*” as used in section 167 means a reduction made from the regular price. The term “*discount*” as used in section 167 shall not mean a surcharge.

(q) The term “*surcharge*” as used in section 103 and section 167 means any means of increasing the regular price to a cardholder which is not imposed upon customers paying by cash, check, or similar means.

(r) The term “*State*” refers to any State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States.

(s) The term “*agricultural purposes*” includes the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures those agricultural products, including but not limited to the acquisition of farmland, real property with a farm residence, and personal property and services used primarily in farming.

(t) The term “*agricultural products*” includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof.

(u) The term “*material disclosures*” means the disclosure, as required by this title, of the annual percentage rate, the method of determining the finance charge and the balance upon which a finance charge will be imposed, the amount of the finance charge, the amount to be financed, the total of payments, the number and amount of payments, the due dates or periods of payments scheduled to repay the indebtedness, and the disclosures required by section 129(a).

(v) The term “*dwelling*” means a residential structure or mobile home which contains one to four family housing units, or individual units of condominiums or cooperatives.

(w) The term “*residential mortgage transac-*

*tion*” means a transaction in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained against the consumer’s dwelling to finance the acquisition or initial construction of such dwelling.

(x) As used in this section and section 167, the term “*regular price*” means the tag or posted price charged for the property or service if a single price is tagged or posted, or the price charged for the property or service when payment is made by use of an open-end credit plan or a credit card if either (1) no price is tagged or posted, or (2) two prices are tagged or posted, one of which is charged when payment is made by use of an open-end credit plan or a credit card and the other when payment is made by use of cash, check, or similar means. For purposes of this definition, payment by check, draft, or other negotiable instrument which may result in the debiting of an open-end credit plan or a credit cardholder’s open-end account shall not be considered payment made by use of the plan or the account.

(y) Any reference to any requirement imposed under this title or any provision thereof includes reference to the regulations of the Board under this title or the provision thereof in question.

(z) The disclosure of an amount or percentage which is greater than the amount or percentage required to be disclosed under this title does not in itself constitute a violation of this title.

(aa)(1) A *mortgage* referred to in this subsection means a consumer credit transaction that is secured by the consumer’s principal dwelling, other than a residential mortgage transaction, a reverse mortgage transaction, or a transaction under an open end credit plan, if—

(A) the annual percentage rate at consummation of the transaction will exceed by more than 10 percentage points the yield on Treasury securities having comparable periods of maturity on the fifteenth day of the month immediately preceding the month in which the

application for the extension of credit is received by the creditor; or

(B) the total points and fees payable by the consumer at or before closing will exceed the greater of—

- (i) 8 percent of the total loan amount; or
- (ii) \$400.

(2)(A) After the 2-year period beginning on the effective date of the regulations promulgated under section 155 of the Riegle Community Development and Regulatory Improvement Act of 1994, and no more frequently than biennially after the first increase or decrease under this subparagraph, the Board may by regulation increase or decrease the number of percentage points specified in paragraph (1)(A), if the Board determines that the increase or decrease is—

- (i) consistent with the consumer protections against abusive lending provided by the amendments made by subtitle B of title I of the Riegle Community Development and Regulatory Improvement Act of 1994; and
- (ii) warranted by the need for credit.

(B) An increase or decrease under subparagraph (A) may not result in the number of percentage points referred to in subparagraph (A) being—

- (i) less than 8 percentage points; or
- (ii) greater than 12 percentage points.

(C) In determining whether to increase or decrease the number of percentage points referred to in subparagraph (A), the Board shall consult with representatives of consumers, including low-income consumers, and lenders.

(3) The amount specified in paragraph (1)(B)(ii) shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index, as reported on June 1 of the year preceding such adjustment.

(4) For purposes of paragraph (1)(B), points and fees shall include—

- (A) all items included in the finance charge, except interest or the time-price differential;
- (B) all compensation paid to mortgage brokers;

(C) each of the charges listed in section 106(e) (except an escrow for future payment of taxes), unless—

- (i) the charge is reasonable;
- (ii) the creditor receives no direct or indirect compensation; and
- (iii) the charge is paid to a third party unaffiliated with the creditor; and

(D) such other charges as the Board determines to be appropriate.

(5) This subsection shall not be construed to limit the rate of interest or the finance charge that a person may charge a consumer for any extension of credit.

(bb) The term “*reverse mortgage transaction*” means a nonrecourse transaction in which a mortgage, deed of trust, or equivalent consensual security interest is created against the consumer’s principal dwelling—

- (1) securing one or more advances; and
- (2) with respect to which the payment of any principal, interest, and shared appreciation or equity is due and payable (other than in the case of default) only after—
  - (A) the transfer of the dwelling;
  - (B) the consumer ceases to occupy the dwelling as a principal dwelling; or
  - (C) the death of the consumer.

[15 USC 1602. As amended by acts of Oct. 26, 1970 (84 Stat. 1126); Oct. 28, 1974 (88 Stat. 1511); Feb. 27, 1976 (90 Stat. 197); July 27, 1981 (95 Stat. 144); Oct. 15, 1982 (96 Stat. 1538); and Sept. 23, 1994 (108 Stat. 2190, 2191, 2196).]

## SECTION 104—Exempted Transactions

This title does not apply to the following:

- (1) Credit transactions involving extensions of credit primarily for business, commercial, or agricultural purposes, or to government or governmental agencies or instrumentalities, or to organizations.
- (2) Transactions in securities or commodities accounts by a broker-dealer registered with the Securities and Exchange Commission.
- (3) Credit transactions, other than those in which a security interest is or will be acquired in real property, or in personal property used or expected to be used as the principal dwelling of the consumer, in

which the total amount financed exceeds \$25,000.

(4) Transactions under public utility tariffs, if the Board determines that a State regulatory body regulates the charges for the public utility services involved, the charges for delayed payment, and any discount allowed for early payment.

(5) [Repealed]

(6) Loans made, insured, or guaranteed pursuant to a program authorized by title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

[15 USC 1603. As amended by acts of Oct. 28, 1974 (88 Stat. 1517); March 31, 1980 (94 Stat. 169); Dec. 26, 1981 (95 Stat. 1515); and Oct. 15, 1982 (96 Stat. 1538).

Section 701 (b) and (c) of the Garn-St Germain Depository Institutions Act of 1982 (20 USC 1099 and 15 USC 1603 note) provides:

(b) Loans made, insured, or guaranteed pursuant to a program authorized by title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) shall not be subject to any disclosure requirements of any State law.

(c) The amendment made by subsection (a) and subsection (b) shall be effective with respect to loans made prior to, on, and after the date of enactment of this Act [October 15, 1982].

Subsection (a) added paragraph (6) to section 104 of the Truth in Lending Act.]

## SECTION 105—Regulations

(a) The Board shall prescribe regulations to carry out the purposes of this title. Except in the case of a mortgage referred to in section 103(aa), these regulations may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(b) The Board shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this title and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising such forms, the Board shall consider the use by creditors or

lessors of data processing or similar automated equipment. Nothing in this title may be construed to require a creditor or lessor to use any such model form or clause prescribed by the Board under this section. A creditor or lessor shall be deemed to be in compliance with the disclosure provisions of this title with respect to other than numerical disclosures if the creditor or lessor (1) uses any appropriate model form or clause as published by the Board, or (2) uses any such model form or clause and changes it by (A) deleting any information which is not required by this title, or (B) rearranging the format, if in making such deletion or rearranging the format, the creditor or lessor does not affect the substance, clarity, or meaningful sequence of the disclosure.

(c) Model disclosure forms and clauses shall be adopted by the Board after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

(d) Any regulation of the Board, or any amendment or interpretation thereof, requiring any disclosure which differs from the disclosures previously required by this chapter, chapter 4, or chapter 5, or by any regulation of the Board promulgated thereunder shall have an effective date of that October 1 which follows by at least six months the date of promulgation, except that the Board may at its discretion take interim action by regulation, amendment, or interpretation to lengthen the period of time permitted for creditors or lessors to adjust their forms to accommodate new requirements or shorten the length of time for creditors or lessors to make such adjustments when it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive disclosure practices. Notwithstanding the previous sentence, any creditor or lessor may comply with any such newly promulgated disclosure requirements prior to the effective date of the requirements.

[15 USC 1604. As amended by acts of March 31, 1980 (94 Stat. 170); Dec. 26, 1981 (95 Stat. 1515); and Sept. 23, 1994 (108 Stat. 2194).]

### SECTION 106—Determination of Finance Charge

(a) Except as otherwise provided in this section, the amount of the finance charge in connection with any consumer credit transaction shall be determined as the sum of all charges, payable directly or indirectly by the person to whom the credit is extended, and imposed directly or indirectly by the creditor as an incident to the extension of credit. The finance charge does not include charges of a type payable in a comparable cash transaction. Examples of charges which are included in the finance charge include any of the following types of charges which are applicable.

- (1) Interest, time price differential, and any amount payable under a point, discount, or other system of additional charges.
- (2) Service or carrying charge.
- (3) Loan fee, finder's fee, or similar charge.
- (4) Fee for an investigation or credit report.
- (5) Premium or other charge for any guarantee or insurance protecting the creditor against the obligor's default or other credit loss.

(b) Charges or premiums for credit life, accident, or health insurance written in connection with any consumer credit transaction shall be included in the finance charge unless

- (1) the coverage of the debtor by the insurance is not a factor in the approval by the creditor of the extension of credit, and this fact is clearly disclosed in writing to the person applying for or obtaining the extension of credit; and
- (2) in order to obtain the insurance in connection with the extension of credit, the person to whom the credit is extended must give specific affirmative written indication of his desire to do so after written disclosure to him of the cost thereof.

(c) Charges or premiums for insurance, written in connection with any consumer credit transaction, against loss of or damage to property or against liability arising out of the ownership or use of property, shall be included in the finance charge unless a clear and specific statement in writing is furnished by the creditor to the person to whom the credit is extended, setting forth the cost of the insurance

if obtained from or through the creditor, and stating that the person to whom the credit is extended may choose the person through which the insurance is to be obtained.

(d) If any of the following items is itemized and disclosed in accordance with the regulations of the Board in connection with any transaction, then the creditor need not include that item in the computation of the finance charge with respect to that transaction:

- (1) Fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting or releasing or satisfying any security related to the credit transaction.
- (2) The premium payable for any insurance in lieu of perfecting any security interest otherwise required by the creditor in connection with the transaction, if the premium does not exceed the fees and charges described in paragraph (1) which would otherwise be payable.

(e) The following items, when charged in connection with any extension of credit secured by an interest in real property, shall not be included in the computation of the finance charge with respect to that transaction:

- (1) Fees or premiums for title examination, title insurance, or similar purposes.
- (2) Fees for preparation of a deed, settlement statement, or other documents.
- (3) Escrows for future payments of taxes and insurance.
- (4) Fees for notarizing deeds and other documents.
- (5) Appraisal fees.
- (6) Credit reports.

[15 USC 1605. As amended by acts of March 31, 1980 (94 Stat. 170) and Dec. 26, 1981 (95 Stat. 1515).]

### SECTION 107—Determination of Annual Percentage Rate

(a) The annual percentage rate applicable to any extension of consumer credit shall be determined, in accordance with the regulations of the Board,

- (1) in the case of any extension of credit other than under an open end credit plan, as
  - (A) that nominal annual percentage rate

which will yield a sum equal to the amount of the finance charge when it is applied to the unpaid balances of the amount financed, calculated according to the actuarial method of allocating payments made on a debt between the amount financed and the amount of the finance charge, pursuant to which a payment is applied first to the accumulated finance charge and the balance is applied to the unpaid amount financed; or

(B) the rate determined by any method prescribed by the Board as a method which materially simplifies computation while retaining reasonable accuracy as compared with the rate determined under subparagraph (A).

(2) in the case of any extension of credit under an open end credit plan, as the quotient (expressed as a percentage) of the total finance charge for the period to which it relates divided by the amount upon which the finance charge for that period is based, multiplied by the number of such periods in a year.

(b) Where a creditor imposes the same finance charge for balances within a specified range, the annual percentage rate shall be computed on the median balance within the range, except that if the Board determines that a rate so computed would not be meaningful, or would be materially misleading, the annual percentage rate shall be computed on such other basis as the Board may by regulation require.

(c) The disclosure of an annual percentage rate is accurate for the purpose of this title if the rate disclosed is within a tolerance not greater than one-eighth of 1 per centum more or less than the actual rate or rounded to the nearest one-fourth of 1 per centum. The Board may allow a greater tolerance to simplify compliance where irregular payments are involved.

(d) The Board may authorize the use of rate tables or charts which may provide for the disclosure of annual percentage rates which vary from the rate determined in accordance with subsection (a)(1)(A) by not more than such tolerances as the Board may allow. The

Board may not allow a tolerance greater than 8 per centum of that rate except to simplify compliance where irregular payments are involved.

(e) In the case of creditors determining the annual percentage rate in a manner other than as described in subsection (d), the Board may authorize other reasonable tolerances.

[15 USC 1606. As amended by acts of March 31, 1980 (94 Stat. 170) and Dec. 26, 1981 (95 Stat. 1515).]

## SECTION 108—Administrative Enforcement

(a) Compliance with the requirements imposed under this title shall be enforced under

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act, by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation.

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union.

(4) the Federal Aviation Act of 1958, by the Secretary of Transportation with respect

to any air carrier or foreign air carrier subject to that Act.

(5) the Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

(6) the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(c) Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

(d) The authority of the Board to issue regulations under this title does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this title.

(e) (1) In carrying out its enforcement activities under this section, each agency referred to in subsection (a) or (c), in cases where an annual percentage rate or finance charge was inaccurately disclosed, shall notify the creditor of such disclosure error and is authorized in accordance with the provisions of this subsection to require the creditor to make an adjustment to the account of the person to whom credit was extended, to assure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower. For the purposes of this subsection, except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, in determining whether a disclosure error has occurred and in calculating any adjustment, (A) each agency shall apply (i) with respect to the annual percentage rate, a tolerance of one-quarter of 1 percent more or less than the actual rate, determined without regard to section 107(c) of this title, and (ii) with respect to the finance charge, a corresponding numerical tolerance as generated by the tolerance provided under this subsection for the annual percentage rate; except that (B) with respect to transactions consummated after two years following the effective date of section 608 of the Truth in Lending Simplification and Reform Act, each agency shall apply (i) for transactions that have a scheduled amortization of ten years or less, with respect to the annual percentage rate, a tolerance not to exceed one-quarter of 1 percent more or less than the actual rate, determined without regard to section 107(c) of this title, but in no event a tolerance of less than the tolerances allowed under section 107(c), (ii) for transactions that have a scheduled amortization of more than ten years, with respect to

the annual percentage rate, only such tolerances as are allowed under section 107(c) of this title, and (iii) for all transactions, with respect to the finance charge, a corresponding numerical tolerance as generated by the tolerances provided under this subsection for the annual percentage rate.

(2) Each agency shall require such an adjustment when it determines that such disclosure error resulted from (A) a clear and consistent pattern or practice of violations, (B) gross negligence, or (C) a willful violation which was intended to mislead the person to whom the credit was extended. Notwithstanding the preceding sentence, except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, an agency need not require such an adjustment if it determines that such disclosure error—

- (A) resulted from an error involving the disclosure of a fee or charge that would otherwise be excludable in computing the finance charge, including but not limited to violations involving the disclosures described in sections 106(b), (c) and (d) of this title, in which event the agency may require such remedial action as it determines to be equitable, except that for transactions consummated after two years after the effective date of section 608 of the Truth in Lending Simplification and Reform Act, such an adjustment shall be ordered for violations of section 106(b);
- (B) involved a disclosed amount which was 10 per centum or less of the amount that should have been disclosed and (i) in cases where the error involved a disclosed finance charge, the annual percentage rate was disclosed correctly, and (ii) in cases where the error involved a disclosed annual percentage rate, the finance charge was disclosed correctly; in which event the agency may require such adjustment as it determines to be equitable;
- (C) involved a total failure to disclose either the annual percentage rate or the finance charge, in which event the agency may require such adjustment as it determines to be equitable; or
- (D) resulted from any other unique cir-

cumstance involving clearly technical and nonsubstantive disclosure violations that do not adversely affect information provided to the consumer and that have not misled or otherwise deceived the consumer.

In the case of other such disclosure errors, each agency may require such an adjustment.

(3) Notwithstanding paragraph (2), no adjustment shall be ordered (A) if it would have a significantly adverse impact upon the safety or soundness of the creditor, but in any such case, the agency may require a partial adjustment in an amount which does not have such an impact except that with respect to any transaction consummated after the effective date of section 608 of the Truth in Lending Simplification and Reform Act, the agency shall require the full adjustment, but permit the creditor to make the required adjustment in partial payments over an extended period of time which the agency considers to be reasonable, (B) if the amount of the adjustment would be less than \$1, except that if more than one year has elapsed since the date of the violation, the agency may require that such amount be paid into the Treasury of the United States, or (C) except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, in the case of an open-end credit plan, more than two years after the violation, or in the case of any other extension of credit, as follows:

- (i) with respect to creditors that are subject to examination by the agencies referred to in paragraphs (1) through (3) of section 108(a) of this title, except in connection with violations arising from practices identified in the current examination and only in connection with transactions that are consummated after the date of the immediately preceding examination, except that where practices giving rise to violations identified in earlier examinations have not been corrected, adjustments for those violations shall be required in connection with transactions consummated after the date of the ex-

amination in which such practices were first identified;

(ii) with respect to creditors that are not subject to examination by such agencies, except in connection with transactions that are consummated after May 10, 1978; and

(iii) in no event after the later of (I) the expiration of the life of the credit extension, or (II) two years after the agreement to extend credit was consummated.

(4) (A) Notwithstanding any other provision of this section, an adjustment under this subsection may be required by an agency referred to in subsection (a) or (c) only by an order issued in accordance with cease and desist procedures provided by the provision of law referred to in such subsections.

(B) In the case of an agency which is not authorized to conduct cease and desist proceedings, such an order may be issued after an agency hearing on the record conducted at least thirty but not more than sixty days after notice of the alleged violation is served on the creditor. Such a hearing shall be deemed to be a hearing which is subject to the provisions of section 8(h) of the Federal Deposit Insurance Act and shall be subject to judicial review as provided therein.

(5) Except as otherwise specifically provided in this subsection and notwithstanding any provision of law referred to in subsection (a) or (c), no agency referred to in subsection (a) or (c) may require a creditor to make dollar adjustments for errors in any requirements under this title, except with regard to the requirements of section 165.

(6) A creditor shall not be subject to an order to make an adjustment, if within sixty days after discovering a disclosure error, whether pursuant to a final written examination report or through the creditor's own procedures, the creditor notifies the person concerned of the error and adjusts the account so as to assure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual

percentage rate actually disclosed, whichever is lower.

(7) Notwithstanding the second sentence of subsection (e)(1), subsection (e)(3) (C)(i), and subsection (e)(3)(C)(ii), each agency referred to in subsection (a) or (c) shall require an adjustment for an annual percentage rate disclosure error that exceeds a tolerance of one quarter of one percent less than the actual rate, determined without regard to section 107(c) of this title, with respect to any transaction consummated between January 1, 1977, and the effective date of section 608 of the Truth in Lending Simplification and Reform Act.

[15 USC 1607. As amended by acts of March 10, 1970 (84 Stat. 49); Oct. 28, 1974 (88 Stat. 1517); March 31, 1980 (94 Stat. 171, 173); Oct. 4, 1984 (98 Stat. 1708); Aug. 9, 1989 (103 Stat. 439); Dec. 19, 1991 (105 Stat. 2299); and Oct. 28, 1992 (106 Stat. 4082).]

#### SECTION 109—Views of Other Agencies

In the exercise of its functions under this title, the Board may obtain upon request the views of any other Federal agency which, in the judgment of the Board, exercises regulatory or supervisory functions with respect to any class of creditors subject to this title.

[15 USC 1608. As amended by act of Oct. 3, 1984 (98 Stat. 1708).]

#### SECTION 110—[Repealed]

#### SECTION 111—Effect on Other Laws

(a) (1) Except as provided in subsection (e), chapters 1, 2, and 3 do not annul, alter, or affect the laws of any State relating to the disclosure of information in connection with credit transactions, except to the extent that those laws are inconsistent with the provisions of this title, and then only to the extent of the inconsistency. Upon its own motion or upon the request of any creditor, State, or other interested party which is submitted in accordance with procedures prescribed in regulations of the Board, the Board shall determine whether any such in-

consistency exists. If the Board determines that a State-required disclosure is inconsistent, creditors located in that State may not make disclosures using the inconsistent term or form, and shall incur no liability under the law of that State for failure to use such term or form, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(2) Upon its own motion or upon the request of any creditor, State, or other interested party which is submitted in accordance with procedures prescribed in regulations of the Board, the Board shall determine whether any disclosure required under the law of any State is substantially the same in meaning as a disclosure required under this title. If the Board determines that a State-required disclosure is substantially the same in meaning as a disclosure required by this title, then creditors located in that State may make such disclosure in compliance with such State law in lieu of the disclosure required by this title, except that the annual percentage rate and finance charge shall be disclosed as required by section 122, and such State-required disclosure may not be made in lieu of the disclosures applicable to certain mortgages under section 129.

(b) Except as provided in section 129, this title does not otherwise annul, alter or affect in any manner the meaning, scope or applicability of the laws of any State, including, but not limited to, laws relating to the types, amounts or rates of charges, or any element or elements of charges, permissible under such laws in connection with the extension or use of credit, nor does this title extend the applicability of those laws to any class of persons or transactions to which they would not otherwise apply. The provisions of section 129 do not annul, alter, or affect the applicability of the laws of any State or exempt any person subject to the provisions of section 129 from complying with the laws of any State, with respect to the requirements for mortgages referred to in section 103(aa), except to the extent that those State laws are inconsistent with

any provisions of section 129 and then only to the extent of the inconsistency.

(c) In any action or proceeding in any court involving a consumer credit sale, the disclosure of the annual percentage rate as required under this title in connection with that sale may not be received as evidence that the sale was a loan or any type of transaction other than a credit sale.

(d) Except as specified in sections 125, 130, and 166, this title and the regulations issued thereunder do not affect the validity or enforceability of any contract or obligation under State or Federal law.

(e) The provisions of subsection (c) of section 122 and subsections (c), (d), (e), and (f) of section 127 shall supersede any provision of the law of any State relating to the disclosure of information in any credit or charge card application or solicitation which is subject to the requirements of section 127(c) or any renewal notice which is subject to the requirements of section 127(d), except that any State may employ or establish State laws for the purpose of enforcing the requirements of such sections.

[15 USC 1610. As amended by acts of Oct. 28, 1974 (88 Stat. 1516); March 31, 1980 (94 Stat. 173); Dec. 26, 1981 (95 Stat. 1515); Nov. 3, 1988 (102 Stat. 2967); and Sept. 23, 1994 (108 Stat. 2194).]

## SECTION 112—Criminal Liability for Willful and Knowing Violation

Whoever willfully and knowingly

(1) gives false or inaccurate information or fails to provide information which he is required to disclose under the provisions of this title or any regulation issued thereunder,

(2) uses any chart or table authorized by the Board under section 107 in such a manner as to consistently understate the annual percentage rate determined under section 107(a)(1)(A), or

(3) otherwise fails to comply with any requirement imposed under this title, shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

[15 USC 1611.]

### SECTION 113—Effect on Governmental Agencies

(a) Any department or agency of the United States which administers a credit program in which it extends, insures, or guarantees consumer credit and in which it provides instruments to a creditor which contain any disclosures required by this title shall, prior to the issuance or continued use of such instruments, consult with the Board to assure that such instruments comply with this title.

(b) No civil or criminal penalty provided under this title for any violation thereof may be imposed upon the United States or any department or agency thereof, or upon any State or political subdivision thereof, or any agency of any State or political subdivision.

(c) A creditor participating in a credit program administered, insured, or guaranteed by any department or agency of the United States shall not be held liable for a civil or criminal penalty under this title in any case in which the violation results from the use of an instrument required by any such department or agency.

(d) A creditor participating in a credit program administered, insured, or guaranteed by any department or agency of the United States shall not be held liable for a civil or criminal penalty under the laws of any State (other than laws determined under section 111 to be inconsistent with this title) for any technical or procedural failure, such as a failure to use a specific form, to make information available at a specific place on an instrument, or to use a specific typeface, as required by State law, which is caused by the use of an instrument required to be used by such department or agency.

[15 USC 1612. As amended by acts of March 31, 1980 (94 Stat. 184) and Dec. 26, 1981 (95 Stat. 1515).]

### SECTION 114—Reports by Board and Attorney General

Each year the Board shall make a report to the Congress concerning the administration of its functions under this title, including such

recommendations as the Board deems necessary or appropriate. In addition, each report of the Board shall include its assessment of the extent to which compliance with the requirements imposed under this title is being achieved.

[15 USC 1613. As amended by acts of March 31, 1980 (94 Stat. 174); Dec. 26, 1981 (95 Stat. 1515); and Dec. 21, 1982 (96 Stat. 1825).]

### SECTION 115—[Repealed]

## CHAPTER 2—CREDIT TRANSACTIONS

### Section

- |      |   |
|------|---|
| 121  | General requirement of disclosure   |
| 122  | Form of disclosure; additional information  |
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### SECTION 121—General Requirement of Disclosure

(a) Subject to subsection (b), a creditor or lessor shall disclose to the person who is obli-

gated on a consumer lease or a consumer credit transaction the information required under this title. In a transaction involving more than one obligor, a creditor or lessor, except in a transaction under section 125, need not disclose to more than one of such obligors if the obligor given disclosure is a primary obligor.

(b) If a transaction involves one creditor as defined in section 103(f), or one lessor as defined in section 181(3), such creditor or lessor shall make the disclosures. If a transaction involves more than one creditor or lessor, only one creditor or lessor shall be required to make the disclosures. The Board shall by regulation specify which creditor or lessor shall make the disclosures.

(c) The Board may provide by regulation that any portion of the information required to be disclosed by this title may be given in the form of estimates where the provider of such information is not in a position to know exact information.

(d) The Board shall determine whether tolerances for numerical disclosures other than the annual percentage rate are necessary to facilitate compliance with this title, and if it determines that such tolerances are necessary to facilitate compliance, it shall by regulation permit disclosures within such tolerances. The Board shall exercise its authority to permit tolerances for numerical disclosures other than the annual percentage rate so that such tolerances are narrow enough to prevent such tolerances from resulting in misleading disclosures or disclosures that circumvent the purposes of this title.

[15 USC 1631. As amended by acts of Oct. 28, 1974 (88 Stat. 1516); Jan. 2, 1976 (89 Stat. 1159); March 31, 1980 (94 Stat. 174); and Dec. 26, 1981 (95 Stat. 1515).]

### SECTION 122—Form of Disclosure; Additional Information

(a) Information required by this title shall be disclosed clearly and conspicuously, in accordance with regulations of the Board. The terms 'annual percentage rate' and 'finance charge' shall be disclosed more conspicuously than other terms, data, or information pro-

vided in connection with a transaction, except information relating to the identity of the creditor. Except as provided in subsection (c), regulations of the Board need not require that disclosures pursuant to this title be made in the order set forth in this title and, except as otherwise provided, may permit the use of terminology different from that employed in this title if it conveys substantially the same meaning.

(b) Any creditor or lessor may supply additional information or explanation with any disclosures required under chapters 4 and 5 and, except as provided in sections 127A(b)(3) and 128(b)(1), under this chapter.

(c) (1) The information described in paragraphs (1)(A), (3)(B)(i)(I), (4)(A), and (4)(C)(i)(I) of section 127(c) shall be—

(A) disclosed in the form and manner which the Board shall prescribe by regulations; and

(B) placed in a conspicuous and prominent location on or with any written application, solicitation, or other document or paper with respect to which such disclosure is required.

(2) (A) In the regulations prescribed under paragraph (1)(A) of this subsection, the Board shall require that the disclosure of such information shall, to the extent the Board determines to be practicable and appropriate, be in the form of a table which—

(i) contains clear and concise headings for each item of such information; and  
(ii) provides a clear and concise form for stating each item of information required to be disclosed under each heading.

(B) In prescribing the form of the table under subparagraph (A), the Board may—

(i) list the items required to be included in the table in a different order than the order in which such items are set forth in paragraph (1)(A) or (4)(A) of section 127(c); and

(ii) subject to subparagraph (C), employ terminology which is different than the terminology which is employed in section 127(c) if such termi-

nology conveys substantially the same meaning.

(C) Either the heading or the statement under the heading which relates to the time period referred to in section 127(c)(1)(A)(iii) shall contain the term "grace period".

[15 USC 1632. As amended by acts of Oct. 28, 1974 (88 Stat. 1516); March 31, 1980 (94 Stat. 174); Dec. 26, 1981 (95 Stat. 1515); Nov. 3, 1988 (102 Stat. 2966); and Nov. 23, 1988 (102 Stat. 4731).]

### SECTION 123—Exemption for State-Regulated Transactions

The Board shall by regulation exempt from the requirements of this chapter any class of credit transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this chapter, and that there is adequate provision for enforcement.

[15 USC 1633.]

### SECTION 124—Effect of Subsequent Occurrence

If information disclosed in accordance with this chapter is subsequently rendered inaccurate as the result of any act, occurrence, or agreement subsequent to the delivery of the required disclosures, the inaccuracy resulting therefrom does not constitute a violation of this chapter.

[15 USC 1634.]

### SECTION 125—Right of Rescission as to Certain Transactions

(a) Except as otherwise provided in this section, in the case of any consumer credit transaction (including opening or increasing the credit limit for an open end credit plan) in which a security interest, including any such interest arising by operation of law, is or will be retained or acquired in any property which is used as the principal dwelling of the person to whom credit is extended, the obligor shall

have the right to rescind the transaction until midnight of the third business day following the consummation of the transaction or the delivery of the information and rescission forms required under this section together with a statement containing the material disclosures required under this title, whichever is later, by notifying the creditor, in accordance with regulations of the Board, of his intention to do so. The creditor shall clearly and conspicuously disclose, in accordance with regulations of the Board, to any obligor in a transaction subject to this section the rights of the obligor under this section. The creditor shall also provide, in accordance with regulations of the Board, appropriate forms for the obligor to exercise his right to rescind any transaction subject to this section.

(b) When an obligor exercises his right to rescind under subsection (a), he is not liable for any finance or other charge, and any security interest given by the obligor, including any such interest arising by operation of law, becomes void upon such a rescission. Within 20 days after receipt of a notice of rescission, the creditor shall return to the obligor any money or property given as earnest money, downpayment, or otherwise, and shall take any action necessary or appropriate to reflect the termination of any security interest created under the transaction. If the creditor has delivered any property to the obligor, the obligor may retain possession of it. Upon the performance of the creditor's obligations under this section, the obligor shall tender the property to the creditor, except that if return of the property in kind would be impracticable or inequitable, the obligor shall tender its reasonable value. Tender shall be made at the location of the property or at the residence of the obligor, at the option of the obligor. If the creditor does not take possession of the property within 20 days after tender by the obligor, ownership of the property vests in the obligor without obligation on his part to pay for it. The procedures prescribed by this subsection shall apply except when otherwise ordered by a court.

(c) Notwithstanding any rule of evidence, written acknowledgment of receipt of any disclosures required under this title by a person to whom information, forms, and a statement

is required to be given pursuant to this section does no more than create a rebuttable presumption of delivery thereof.

(d) The Board may, if it finds that such action is necessary in order to permit homeowners to meet bona fide personal financial emergencies, prescribe regulations authorizing the modification or waiver of any rights created under this section to the extent and under the circumstances set forth in those regulations.

(e) This section does not apply to—

(1) a residential mortgage transaction as defined in section 103(w);

(2) a transaction which constitutes a refinancing or consolidation (with no new advances) of the principal balance then due and any accrued and unpaid finance charges of an existing extension of credit by the same creditor secured by an interest in the same property;

(3) a transaction in which an agency of a State is the creditor; or

(4) advances under a preexisting open end credit plan if a security interest has already been retained or acquired and such advances are in accordance with a previously established credit limit for such plan.

(f) An obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the sale of the property, whichever occurs first, notwithstanding the fact that the information and forms required under this section or any other disclosures required under this chapter have not been delivered to the obligor, except that if

(1) any agency empowered to enforce the provisions of this title institutes a proceeding to enforce the provisions of this section within three years after the date of consummation of the transaction, (2) such agency finds a violation of section 125, and (3) the obligor's right to rescind is based in whole or in part on any matter involved in such proceeding, then the obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the earlier sale of the property, or upon the expiration of one year following the conclusion of the proceeding, or any judicial review or period for judicial review thereof, whichever is later.

(g) In any action in which it is determined that a creditor has violated this section, in addition to rescission the court may award relief under section 130 for violations of this title not relating to the right to rescind.

[15 USC 1635. As amended by acts of Oct. 28, 1974 (88 Stat. 1517, 1519); March 31, 1980 (94 Stat. 175); Dec. 26, 1981 (95 Stat. 1515); and Oct. 17, 1984 (98 Stat. 2234).]

## SECTION 126—[Repealed]

## SECTION 127—Open End Consumer Credit Plans

(a) Before opening any account under an open end consumer credit plan, the creditor shall disclose to the person to whom credit is to be extended each of the following items, to the extent applicable:

(1) The conditions under which a finance charge may be imposed, including the time period (if any) within which any credit extended may be repaid without incurring a finance charge, except that the creditor may, at his election and without disclosure, impose no such finance charge if payment is received after the termination of such time period. If no such time period is provided, the creditor shall disclose such fact.

(2) The method of determining the balance upon which a finance charge will be imposed.

(3) The method of determining the amount of the finance charge, including any minimum or fixed amount imposed as a finance charge.

(4) Where one or more periodic rates may be used to compute the finance charge, each such rate, the range of balances to which it is applicable, and the corresponding nominal annual percentage rate determined by multiplying the periodic rate by the number of periods in a year.

(5) Identification of other charges which may be imposed as part of the plan, and their method of computation, in accordance with regulations of the Board.

(6) In cases where the credit is or will be secured, a statement that a security interest has been or will be taken in (A) the prop-

erty purchased as part of the credit transaction, or (B) property not purchased as part of the credit transaction identified by item or type.

(7) A statement, in a form prescribed by regulations of the Board of the protection provided by sections 161 and 170 to an obligor and the creditor's responsibilities under sections 162 and 170. With respect to one billing cycle per calendar year, at intervals of not less than six months or more than eighteen months, the creditor shall transmit such statement to each obligor to whom the creditor is required to transmit a statement pursuant to section 127(b) for such billing cycle.

(8) In the case of any account under an open end consumer credit plan which provides for any extension of credit which is secured by the consumer's principal dwelling, any information which—

(A) is required to be disclosed under section 127A(a); and

(B) the Board determines is not described in any other paragraph of this subsection.

(b) The creditor of any account under an open end consumer credit plan shall transmit to the obligor, for each billing cycle at the end of which there is an outstanding balance in that account or with respect to which a finance charge is imposed, a statement setting forth each of the following items to the extent applicable:

(1) The outstanding balance in the account at the beginning of the statement period.

(2) The amount and date of each extension of credit during the period, and a brief identification, on or accompanying the statement of each extension of credit in a form prescribed by the Board sufficient to enable the obligor either to identify the transaction or to relate it to copies of sales vouchers or similar instruments previously furnished, except that a creditor's failure to disclose such information in accordance with this paragraph shall not be deemed a failure to comply with this chapter or this title if (A) the creditor maintains procedures reasonably adapted to procure and provide such information, and (B) the creditor responds to

and treats any inquiry for clarification or documentation as a billing error and an erroneously billed amount under section 161. In lieu of complying with the requirements of the previous sentence, in the case of any transaction in which the creditor and seller are the same person, as defined by the Board, and such person's open end credit plan has fewer than 15,000 accounts, the creditor may elect to provide only the amount and date of each extension of credit during the period and the seller's name and location where the transaction took place if (A) a brief identification of the transaction has been previously furnished, and (B) the creditor responds to and treats any inquiry for clarification or documentation as a billing error and an erroneously billed amount under section 161.

(3) The total amount credited to the account during the period.

(4) The amount of any finance charge added to the account during the period, itemized to show the amounts, if any, due to the application of percentage rates and the amount, if any, imposed as a minimum or fixed charge.

(5) Where one or more periodic rates may be used to compute the finance charge, each such rate, the range of balances to which it is applicable, and, unless the annual percentage rate (determined under section 107(a)(2)) is required to be disclosed pursuant to paragraph (6), the corresponding nominal annual percentage rate determined by multiplying the periodic rate by the number of periods in a year.

(6) Where the total finance charge exceeds 50 cents for a monthly or longer billing cycle, or the pro rata part of 50 cents for a billing cycle shorter than monthly, the total finance charge expressed as an annual percentage rate (determined under section 107(a)(2)), except that if the finance charge is the sum of two or more products of a rate times a portion of the balance, the creditor may, in lieu of disclosing a single rate for total charge, disclose each such rate expressed as an annual percentage rate, and the part of the balance to which it is applicable.

(7) The balance on which the finance

charge was computed and a statement of how the balance was determined. If the balance is determined without first deducting all credits during the period, that fact and the amount of such payments shall also be disclosed.

(8) The outstanding balance in the account at the end of the period.

(9) The date by which or the period (if any) within which payment must be made to avoid additional finance charges, except that the creditor may, at his election and without disclosure, impose no such additional finance charge if payment is received after such date or the termination of such period.

(10) The address to be used by the creditor for the purpose of receiving billing inquiries from the obligor.

(c) (1) (A) Any application to open a credit card account for any person under an open end consumer credit plan, or a solicitation to open such an account without requiring an application, that is mailed to consumers shall disclose the following information, subject to subsection (e) and section 122(c):

(i) (I) Each annual percentage rate applicable to extensions of credit under such credit plan.

(II) Where an extension of credit is subject to a variable rate, the fact that the rate is variable, the annual percentage rate in effect at the time of the mailing, and how the rate is determined.

(III) Where more than one rate applies, the range of balances to which each rate applies.

(ii) (I) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of a credit card, including any account maintenance fee or other charge imposed based on activity or inactivity for the account during the billing cycle.

(II) Any minimum finance charge imposed for each period during which any extension of credit which

is subject to a finance charge is outstanding.

(III) Any transaction charge imposed in connection with use of the card to purchase goods or services.

(iii) (I) The date by which or the period within which any credit extended under such credit plan for purchases of goods or services must be repaid to avoid incurring a finance charge, and, if no such period is offered, such fact shall be clearly stated.

(II) If the length of such "grace period" varies, the card issuer may disclose the range of days in the grace period, the minimum number of days in the grace period, or the average age number of days in the grace period, if the disclosure is identified as such.

(iv) (I) The name of the balance calculation method used in determining the balance on which the finance charge is computed if the method used has been defined by the Board, or a detailed explanation of the balance calculation method used if the method has not been so defined.

(II) In prescribing regulations to carry out this clause, the Board shall define and name not more than the 5 balance calculation methods determined by the Board to be the most commonly used methods.

(B) In addition to the information required to be disclosed under subparagraph (A), each application or solicitation to which such subparagraph applies shall disclose clearly and conspicuously the following information, subject to subsections (e) and (f):

(i) Any fee imposed for an extension of credit in the form of cash.

(ii) Any fee imposed for a late payment.

(iii) Any fee imposed in connection with an extension of credit in excess of the amount of credit authorized to be extended with respect to such account.

(2) (A) In any telephone solicitation to open a credit card account for any person

under an open end consumer credit plan, the person making the solicitation shall orally disclose the information described in paragraph (1)(A).

(B) Subparagraph (A) shall not apply to any telephone solicitation if—

(i) the credit card issuer—

(I) does not impose any fee described in paragraph (1)(A)(ii)(I); or  
(II) does not impose any fee in connection with telephone solicitations unless the consumer signifies acceptance by using the card;

(ii) the card issuer discloses clearly and conspicuously in writing the information described in paragraph (1) within 30 days after the consumer requests the card, but in no event later than the date of delivery of the card; and

(iii) the card issuer discloses clearly and conspicuously that the consumer is not obligated to accept the card or account and the consumer will not be obligated to pay any of the fees or charges disclosed unless the consumer elects to accept the card or account by using the card.

(3) (A) Any application to open a credit card account for any person under an open end consumer credit plan, and any solicitation to open such an account without requiring an application, that is made available to the public or contained in catalogs, magazines, or other publications shall meet the disclosure requirements of subparagraph (B), (C), or (D).

(B) An application or solicitation described in subparagraph (A) meets the requirement of this subparagraph if such application or solicitation contains —

(i) the information—

(I) described in paragraph (1)(A) in the form required under section 122(c) of this chapter, subject to subsection (e), and

(II) described in paragraph (1)(B) in a clear and conspicuous form, subject to subsections (e) and (f);

(ii) a statement, in a conspicuous and prominent location on the application or solicitation, that—

(I) the information is accurate as of the date the application or solicitation was printed;

(II) the information contained in the application or solicitation is subject to change after such date; and

(III) the applicant should contact the creditor for information on any change in the information contained in the application or solicitation since it was printed;

(iii) a clear and conspicuous disclosure of the date the application or solicitation was printed; and

(iv) a disclosure, in a conspicuous and prominent location on the application or solicitation, of a toll free telephone number or a mailing address at which the applicant may contact the creditor to obtain any change in the information provided in the application or solicitation since it was printed.

(C) An application or solicitation described in subparagraph (A) meets the requirement of this subparagraph if such application or solicitation—

(i) contains a statement, in a conspicuous and prominent location on the application or solicitation, that—

(I) there are costs associated with the use of credit cards; and

(II) the applicant may contact the creditor to request disclosure of specific information of such costs by calling a toll free telephone number or by writing to an address, specified in the application;

(ii) contains a disclosure, in a conspicuous and prominent location on the application or solicitation, of a toll free telephone number and a mailing address at which the applicant may contact the creditor to obtain such information; and

(iii) does not contain any of the items described in paragraph (1).

(D) An application or solicitation meets the requirement of this subparagraph if it contains, or is accompanied by—

(i) the disclosures required by paragraphs (1) through (6) of subsection (a);

- (ii) the disclosures required by subparagraphs (A) and (B) of paragraph (1) of this subsection included clearly and conspicuously (except that the provisions of section 122(c) shall not apply); and
- (iii) a toll free telephone number or a mailing address at which the applicant may contact the creditor to obtain any change in the information provided.
- (E) Upon receipt of a request for any of the information referred to in subparagraph (B), (C), or (D), the card issuer or the agent of such issuer shall promptly disclose all of the information described in paragraph (1).
- (4) (A) Any application or solicitation to open a charge card account shall disclose clearly and conspicuously the following information in the form required by section 122(c) of this chapter, subject to subsection (e):
- (i) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of the charge card, including any account maintenance fee or other charge imposed based on activity or inactivity for the account during the billing cycle.
  - (ii) Any transaction charge imposed in connection with use of the card to purchase goods or services.
  - (iii) A statement that charges incurred by use of the charge card are due and payable upon receipt of a periodic statement rendered for such charge card account.
- (B) In addition to the information required to be disclosed under subparagraph (A), each written application or solicitation to which such subparagraph applies shall disclose clearly and conspicuously the following information, subject to subsections (e) and (f):
- (i) Any fee imposed for an extension of credit in the form of cash.
  - (ii) Any fee imposed for a late payment.
  - (iii) Any fee imposed in connection with an extension of credit in excess of the amount of credit authorized to be extended with respect to such account.
- (C) Any application to open a charge card account, and any solicitation to open such an account without requiring an application, that is made available to the public or contained in catalogs, magazines, or other publications shall contain—
- (i) the information—
    - (I) described in subparagraph (A) in the form required under section 122(c) of this chapter, subject to subsection (e), and
    - (II) described in subparagraph (B) in a clear and conspicuous form, subject to subsections (e) and (f);
  - (ii) a statement, in a conspicuous and prominent location on the application or solicitation, that—
    - (I) the information is accurate as of the date the application or solicitation was printed;
    - (II) the information contained in the application or solicitation is subject to change after such date; and
    - (III) the applicant should contact the creditor for information on any change in the information contained in the application or solicitation since it was printed;
  - (iii) a clear and conspicuous disclosure of the date the application or solicitation was printed; and
  - (iv) a disclosure, in a conspicuous and prominent location on the application or solicitation, of a toll free telephone number or a mailing address at which the applicant may contact the creditor to obtain any change in the information provided in the application or solicitation since it was printed.
- (D) If a charge card permits the card holder to receive an extension of credit under an open end consumer credit plan, which is not maintained by the charge card issuer, the charge card issuer may provide the information described in subparagraphs (A) and (B) in the form required by such subparagraphs in lieu of the information required to be provided under paragraph (1), (2), or (3) with respect to any credit extended under such plan, if the charge card issuer discloses

clearly and conspicuously to the consumer in the application or solicitation that—

- (i) the charge card issuer will make an independent decision as to whether to issue the card;
- (ii) the charge card may arrive before the decision is made with respect to an extension of credit under an open end consumer credit plan; and
- (iii) approval by the charge card issuer does not constitute approval by the issuer of the extension of credit.

The information required to be disclosed under paragraph (1) shall be provided to the charge card holder by the creditor which maintains such open end consumer credit plan before the first extension of credit under such plan.

(E) For the purposes of this subsection, the term “charge card” means a card, plate, or other single credit device that may be used from time to time to obtain credit which is not subject to a finance charge.

(5) The Board may, by regulation, require the disclosure of information in addition to that otherwise required by this subsection or subsection (d), and modify any disclosure of information required by this subsection or subsection (d), in any application to open a credit card account for any person under an open end consumer credit plan or any application to open a charge card account for any person, or a solicitation to open any such account without requiring an application, if the Board determines that such action is necessary to carry out the purposes of, or prevent evasions of, any paragraph of this subsection.

(d) (1) Except as provided in paragraph (2), a card issuer that imposes any fee described in subsection (c)(1)(A)(ii)(I) or (c)(4)(A)(i) shall transmit to a consumer at least 30 days prior to the scheduled renewal date of the consumer’s credit or charge card account a clear and conspicuous disclosure of—

(A) the date by which, the month by which, or the billing period at the close

of which, the account will expire if not renewed;

(B) the information described in subsection (c)(1)(A) or (c)(4)(A) that would apply if the account were renewed, subject to subsection (e); and

(C) the method by which the consumer may terminate continued credit availability under the account.

(2) (A) The disclosures required by this subsection may be provided—

(i) prior to posting a fee described in subsection (c)(1)(A)(ii)(I) or (c)(4)(A)(i) to the account, or

(ii) with the periodic billing statement first disclosing that the fee has been posted to the account.

(B) Disclosures may be provided under subparagraph (A) only if—

(i) the consumer is given a 30-day period to avoid payment of the fee or to have the fee credited to the account in any case where the consumer does not wish to continue the availability of the credit; and

(ii) the consumer is permitted to use the card during such period without incurring an obligation to pay such fee.

(3) The Board may by regulation provide for fewer disclosures than are required by paragraph (1) in the case of an account which is renewable for a period of less than 6 months.

(e) (1) If the amount of any fee required to be disclosed under subsection (c) or (d) is determined on the basis of a percentage of another amount, the percentage used in making such determination and the identification of the amount against which such percentage is applied shall be disclosed in lieu of the amount of such fee.

(2) If a credit or charge card issuer does not impose any fee required to be disclosed under any provision of subsection (c) or (d), such provision shall not apply with respect to such issuer.

(f) If the amount of any fee required to be disclosed by a credit or charge card issuer under paragraph (1)(B), (3)(B)(i)(II), (4)(B), or (4)(C)(i)(II) of subsection (c) varies from

State to State, the card issuer may disclose the range of such fees for purposes of subsection (c) in lieu of the amount for each applicable State, if such disclosure includes a statement that the amount of such fee varies from State to State.

(g)(1) Whenever a card issuer that offers any guarantee or insurance for repayment of all or part of the outstanding balance of an open end credit card plan proposes to change the person providing that guarantee or insurance, the card issuer shall send each insured consumer written notice of the proposed change not less than 30 days prior to the change, including notice of any increase in the rate or substantial decrease in coverage or service which will result from such change. Such notice may be included on or with the monthly statement provided to the consumer prior to the month in which the proposed change would take effect.

(2) In any case in which a proposed change described in paragraph (1) occurs, the insured consumer shall be given the name and address of the new guarantor or insurer and a copy of the policy or group certificate containing the basic terms and conditions, including the premium rate to be charged.

(3) The notices required under paragraphs (1) and (2) shall each include a statement that the consumer has the option to discontinue the insurance or guarantee.

(4) No provision of this subsection shall be construed as superseding any provision of State law which is applicable to the regulation of insurance.

(5) The Board shall define, in regulations, what constitutes a "substantial decrease in coverage or service" for purposes of paragraph (1).

[15 USC 1637. As amended by acts of Oct. 28, 1974 (88 Stat. 1511, 1519, 1521); March 31, 1980 (94 Stat. 176); Dec. 26, 1981 (95 Stat. 1515); Nov. 3, 1988 (102 Stat. 2960, 2968; and Nov. 23, 1988 (102 Stat. 4729).]

#### SECTION 127A—Disclosure Requirements for Open End Consumer Credit Plans Secured by the Consumer's Principal Dwelling

(a) In the case of any open end consumer

credit plan which provides for any extension of credit which is secured by the consumer's principal dwelling, the creditor shall make the following disclosures in accordance with subsection (b):

(1) Each annual percentage rate imposed in connection with extensions of credit under the plan and a statement that such rate does not include costs other than interest.

(2) In the case of a plan which provides for variable rates of interest on credit extended under the plan—

(A) a description of the manner in which such rate will be computed and a statement that such rate does not include costs other than interest;

(B) a description of the manner in which any changes in the annual percentage rate will be made, including—

(i) any negative amortization and interest rate carryover;

(ii) the timing of any such changes;

(iii) any index or margin to which such changes in the rate are related; and

(iv) a source of information about any such index;

(C) if an initial annual percentage rate is offered which is not based on an index—

(i) a statement of such rate and the period of time such initial rate will be in effect; and

(ii) a statement that such rate does not include costs other than interest;

(D) a statement that the consumer should ask about the current index value and interest rate;

(E) a statement of the maximum amount by which the annual percentage rate may change in any 1-year period or a statement that no such limit exists;

(F) a statement of the maximum annual percentage rate that may be imposed at any time under the plan;

(G) subject to subsection (b)(3), a table, based on a \$10,000 extension of credit,

showing how the annual percentage rate and the minimum periodic payment amount under each repayment option of the plan would have been affected during the preceding 15-year period by changes in any index used to compute such rate;

(H) a statement of—

(i) the maximum annual percentage rate which may be imposed under each repayment option of the plan;

(ii) the minimum amount of any periodic payment which may be required, based on a \$10,000 outstanding balance, under each such option when such maximum annual percentage rate is in effect; and

(iii) the earliest date by which such maximum annual interest rate may be imposed; and

(I) a statement that interest rate information will be provided on or with each periodic statement.

(3) An itemization of any fees imposed by the creditor in connection with the availability or use of credit under such plan, including annual fees, application fees, transaction fees, and closing costs (including costs commonly described as “points”), and the time when such fees are payable.

(4) (A) An estimate, based on the creditor’s experience with such plans and stated as a single amount or as a reasonable range, of the aggregate amount of additional fees that may be imposed by third parties (such as governmental authorities, appraisers, and attorneys) in connection with opening an account under the plan.

(B) A statement that the consumer may ask the creditor for a good faith estimate by the creditor of the fees that may be imposed by third parties.

(5) A statement that—

(A) any extension of credit under the plan is secured by the consumer’s dwelling; and

(B) in the event of any default, the consumer risks the loss of the dwelling.

(6) (A) A clear and conspicuous statement—

(i) of the time by which an application must be submitted to obtain the terms disclosed; or

(ii) if applicable, that the terms are subject to change.

(B) A statement that—

(i) the consumer may elect not to enter into an agreement to open an account under the plan if any term changes (other than a change contemplated by a variable feature of the plan) before any such agreement is final; and

(ii) if the consumer makes an election described in clause (i), the consumer is entitled to a refund of all fees paid in connection with the application.

(C) A statement that the consumer should make or otherwise retain a copy of information disclosed under this subparagraph.

(7) A statement that—

(A) under certain conditions, the creditor may terminate any account under the plan and require immediate repayment of any outstanding balance, prohibit any additional extension of credit to the account, or reduce the credit limit applicable to the account; and

(B) the consumer may receive, upon request, more specific information about the conditions under which the creditor may take any action described in subparagraph (A).

(8) The repayment options under the plan, including—

(A) if applicable, any differences in repayment options with regard to —

(i) any period during which additional extensions of credit may be obtained; and

(ii) any period during which repayment is required to be made and no additional extensions of credit may be obtained;

(B) the length of any repayment period, including any differences in the length of any repayment period with regard to the periods described in clauses (i) and (ii) of subparagraph (A); and

(C) an explanation of how the amount of any minimum monthly or periodic payment will be determined under each such option, including any differences in the determination of any such amount with

regard to the periods described in clauses (i) and (ii) of subparagraph (A).

(9) An example, based on a \$10,000 outstanding balance and the interest rate (other than a rate not based on the index under the plan) which is, or was recently, in effect under such plan, showing the minimum monthly or periodic payment, and the time it would take to repay the entire \$10,000 if the consumer paid only the minimum periodic payments and obtained no additional extensions of credit.

(10) If, under any repayment option of the plan, the payment of not more than the minimum periodic payments required under such option over the length of the repayment period—

(A) would not repay any of the principal balance; or

(B) would repay less than the outstanding balance by the end of such period, as the case may be, a statement of such fact, including an explicit statement that at the end of such repayment period a balloon payment (as defined in section 147(f)) would result which would be required to be paid in full at that time.

(11) If applicable, a statement that—

(A) any limitation in the plan on the amount of any increase in the minimum payments may result in negative amortization;

(B) negative amortization increases the outstanding principal balance of the account; and

(C) negative amortization reduces the consumer's equity in the consumer's dwelling.

(12) (A) Any limitation contained in the plan on the number of extensions of credit and the amount of credit which may be obtained during any month or other defined time period.

(B) Any requirement which establishes a minimum amount for—

(i) the initial extension of credit to an account under the plan;

(ii) any subsequent extension of credit to an account under the plan; or

(iii) any outstanding balance of an account under the plan.

(13) A statement that the consumer should

consult a tax advisor regarding the deductibility of interest and charges under the plan.

(14) Any other term which the Board requires, in regulations, to be disclosed.

(b) (1) (A) The disclosures required under subsection (a) with respect to any open end consumer credit plan which provides for any extension of credit which is secured by the consumer's principal dwelling and the pamphlet required under subsection (e) shall be provided to any consumer at the time the creditor distributes an application to establish an account under such plan to such consumer.

(B) In the case of telephone applications, applications contained in magazines or other publications, or applications provided by a third party, the disclosures required under subsection (a) and the pamphlet required under subsection (e) shall be provided by the creditor before the end of the 3-day period beginning on the date the creditor receives a completed application from a consumer.

(2) (A) Except as provided in paragraph (1)(B), the disclosures required under subsection (a) shall be provided on or with any application to establish an account under an open end consumer credit plan which provides for any extension of credit which is secured by the consumer's principal dwelling.

(B) The disclosures required under subsection (a) shall be conspicuously segregated from all other terms, data, or additional information provided in connection with the application, either by grouping the disclosures separately on the application form or by providing the disclosures on a separate form, in accordance with regulations of the Board.

(C) The disclosures required by paragraphs (5), (6), and (7) of subsection (a) shall precede all of the other required disclosures.

(D) Whether or not the disclosures required under subsection (a) are provided on the application form, the variable rate information described in subsection (a)(2) may be provided separately from the

other information required to be disclosed.

(3) In preparing the table required under subsection (a)(2)(G), the creditor shall consistently select one rate of interest for each year and the manner of selecting the rate from year to year shall be consistent with the plan.

(c) In the case of an application to open an account under any open end consumer credit plan described in subsection (a) which is provided to a consumer by any person other than the creditor—

(1) such person shall provide such consumer with—

(A) the disclosures required under subsection (a) with respect to such plan, in accordance with subsection (b); and

(B) the pamphlet required under subsection (e); or

(2) if such person cannot provide specific terms about the plan because specific information about the plan terms is not available, no nonrefundable fee may be imposed in connection with such application before the end of the 3-day period beginning on the date the consumer receives the disclosures required under subsection (a) with respect to the application.

(d) For purposes of this section and sections 137 and 147, the term “principal dwelling” includes any second or vacation home of the consumer.

(e) In addition to the disclosures required under subsection (a) with respect to an application to open an account under any open end consumer credit plan described in such subsection, the creditor or other person providing such disclosures to the consumer shall provide—

(1) a pamphlet published by the Board pursuant to section 4 of the Home Equity Consumer Protection Act of 1988; or

(2) any pamphlet which provides substantially similar information to the information described in such section, as determined by the Board.

## SECTION 128—Consumer Credit Not Under Open End Credit Plans

(a) For each consumer credit transaction other than under an open end credit plan, the creditor shall disclose each of the following items, to the extent applicable:

(1) The identity of the creditor required to make disclosure.

(2) (A) The “amount financed”, using that term, which shall be the amount of credit of which the consumer has actual use. This amount shall be computed as follows, but the computations need not be disclosed and shall not be disclosed with the disclosures conspicuously segregated in accordance with subsection (b)(1):

(i) take the principal amount of the loan or the cash price less downpayment and trade-in;

(ii) add any charges which are not part of the finance charge or of the principal amount of the loan and which are financed by the consumer, including the cost of any items excluded from the finance charge pursuant to section 106; and

(iii) subtract any charges which are part of the finance charge but which will be paid by the consumer before or at the time of the consummation of the transaction, or have been withheld from the proceeds of the credit.

(B) In conjunction with the disclosure of the amount financed, a creditor shall provide a statement of the consumer’s right to obtain, upon a written request, a written itemization of the amount financed. The statement shall include spaces for a “yes” and “no” indication to be initialed by the consumer to indicate whether the consumer wants a written itemization of the amount financed. Upon receiving an affirmative indication, the creditor shall provide, at the time other disclosures are required to be furnished, a written itemization of the amount financed. For the purposes of this subparagraph, ‘itemization of the amount financed’ means a disclosure of the following items, to the extent applicable:

[15 USC 1637a. As added by act of Nov. 23, 1988 (102 Stat. 4725). ]

- (i) the amount that is or will be paid directly to the consumer;
  - (ii) the amount that is or will be credited to the consumer's account to discharge obligations owed to the creditor;
  - (iii) each amount that is or will be paid to third persons by the creditor on the consumer's behalf, together with an identification of or reference to the third person; and
  - (iv) the total amount of any charges described in the preceding subparagraph (A)(iii).
- (3) The "finance charge", not itemized, using that term.
- (4) The finance charge expressed as an "annual percentage rate", using that term. This shall not be required if the amount financed does not exceed \$75 and the finance charge does not exceed \$5, or if the amount financed exceeds \$75 and the finance charge does not exceed \$7.50.
- (5) The sum of the amount financed and the finance charge, which shall be termed the "total of payments".
- (6) The number, amount, and due dates or period of payments scheduled to repay the total of payments.
- (7) In a sale of property or services in which the seller is the creditor required to disclose pursuant to section 121(b), the "total sale price", using that term, which shall be the total of the cash price of the property or services, additional charges, and the finance charge.
- (8) Descriptive explanations of the terms "amount financed", "finance charge", "annual percentage rate", "total of payments", and "total sale price" as specified by the Board. The descriptive explanation of "total sale price" shall include reference to the amount of the downpayment.
- (9) Where the credit is secured, a statement that a security interest has been taken in (A) the property which is purchased as part of the credit transaction, or (B) property not purchased as part of the credit transaction identified by item or type.
- (10) Any dollar charge or percentage amount which may be imposed by a credi-

tor solely on account of a late payment, other than a deferral or extension charge.

(11) A statement indicating whether or not the consumer is entitled to a rebate of any finance charge upon refinancing or prepayment in full pursuant to acceleration or otherwise, if the obligation involves a precomputed finance charge. A statement indicating whether or not a penalty will be imposed in those same circumstances if the obligation involves a finance charge computed from time to time by application of a rate to the unpaid principal balance.

(12) A statement that the consumer should refer to the appropriate contract document for any information such document provides about nonpayment, default, the right to accelerate the maturity of the debt, and prepayment rebates and penalties.

(13) In any residential mortgage transaction, a statement indicating whether a subsequent purchaser or assignee of the consumer may assume the debt obligation on its original terms and conditions.

(b) (1) Except as otherwise provided in this chapter, the disclosures required under subsection (a) shall be made before the credit is extended. Except for the disclosures required by subsection (a)(1) of this section, all disclosures required under subsection (a) and any disclosure provided for in subsection (b), (c), or (d) of section 106 shall be conspicuously segregated from all other terms, data, or information provided in connection with a transaction, including any computations or itemization.

(2) In the case of a residential mortgage transaction, as defined in section 103(w), which is also subject to the Real Estate Settlement Procedures Act, good faith estimates of the disclosures required under subsection (a) shall be made in accordance with regulations of the Board under section 121(c) before the credit is extended, or shall be delivered or placed in the mail not later than three business days after the creditor receives the consumer's written application, whichever is earlier. If the disclosure statement furnished within three days of the written application contains an annual percentage rate which is subsequently rendered

inaccurate within the meaning of section 107(c), the creditor shall furnish another statement at the time of settlement or consummation.

(c) (1) If a creditor receives a purchase order by mail or telephone without personal solicitation, and the cash price and the total sale price and the terms of financing, including the annual percentage rate, are set forth in the creditor's catalog or other printed material distributed to the public, then the disclosures required under subsection (a) may be made at any time not later than the date the first payment is due.

(2) If a creditor receives a request for a loan by mail or telephone without personal solicitation and the terms of financing, including the annual percentage rate for representative amounts of credit, are set forth in the creditor's printed material distributed to the public, or in the contract of loan or other printed material delivered to the obligor, then the disclosures required under subsection (a) may be made at any time not later than the date the first payment is due.

(d) If a consumer credit sale is one of a series of consumer credit sales transactions made pursuant to an agreement providing for the addition of the deferred payment price of that sale to an existing outstanding balance, and the person to whom the credit is extended has approved in writing both the annual percentage rate or rates and the method of computing the finance charge or charges, and the creditor retains no security interest in any property as to which he has received payments aggregating the amount of the sales price including any finance charges attributable thereto, then the disclosure required under subsection (a) for the particular sale may be made at any time not later than the date the first payment for that sale is due. For the purposes of this subsection, in the case of items purchased on different dates, the first purchased shall be deemed first paid for, and in the case of items purchased on the same date, the lowest priced shall be deemed first paid for.

[15 USC 1638. As amended by acts of March 31, 1980 (94 Stat. 178) and Dec. 26, 1981 (95 Stat. 1515).]

## SECTION 129—Requirements for Certain Mortgages

### (a) *Disclosures.*

(1) In addition to other disclosures required under this title, for each mortgage referred to in section 103(aa), the creditor shall provide the following disclosures in conspicuous type size:

(A) "You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application."

(B) "If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan."

(2) In addition to the disclosures required under paragraph (1), the creditor shall disclose—

(A) in the case of a credit transaction with a fixed rate of interest, the annual percentage rate and the amount of the regular monthly payment; or

(B) in the case of any other credit transaction, the annual percentage rate of the loan, the amount of the regular monthly payment, a statement that the interest rate and monthly payment may increase, and the amount of the maximum monthly payment, based on the maximum interest rate allowed pursuant to section 1204 of the Competitive Equality Banking Act of 1987.

### (b) *Time of disclosures.*

(1) The disclosures required by this section shall be given not less than 3 business days prior to consummation of the transaction.

(2) (A) After providing the disclosures required by this section, a creditor may not change the terms of the extension of credit if such changes make the disclosures inaccurate, unless new disclosures are provided that meet the requirements of this section.

(B) A creditor may provide new disclosures pursuant to subparagraph (A) by telephone, if—

(i) the change is initiated by the consumer; and

(ii) at the consummation of the transaction under which the credit is extended—

(I) the creditor provides to the consumer the new disclosures, in writing; and

(II) the creditor and consumer certify in writing that the new disclosures were provided by telephone, by not later than 3 days prior to the date of consummation of the transaction.

(3) The Board may, if it finds that such action is necessary to permit homeowners to meet bona fide personal financial emergencies, prescribe regulations authorizing the modification or waiver of rights created under this subsection, to the extent and under the circumstances set forth in those regulations.

(c) *No prepayment penalty.*

(1) (A) A mortgage referred to in section 103(aa) may not contain terms under which a consumer must pay a prepayment penalty for paying all or part of the principal before the date on which the principal is due.

(B) For purposes of this subsection, any method of computing a refund of unearned scheduled interest is a prepayment penalty if it is less favorable to the consumer than the actuarial method (as that term is defined in section 933(d) of the Housing and Community Development Act of 1992).

(2) Notwithstanding paragraph (1), a mortgage referred to in section 103(aa) may contain a prepayment penalty (including terms calculating a refund by a method that is not prohibited under section 933(b) of the Housing and Community Development Act of 1992 for the transaction in question) if —

(A) at the time the mortgage is consummated—

(i) the consumer is not liable for an amount of monthly indebtedness payments (including the amount of credit extended or to be extended under the transaction) that is greater than 50 per-

cent of the monthly gross income of the consumer; and

(ii) the income and expenses of the consumer are verified by a financial statement signed by the consumer, by a credit report, and in the case of employment income, by payment records or by verification from the employer of the consumer (which verification may be in the form of a copy of a pay stub or other payment record supplied by the consumer);

(B) the penalty applies only to a prepayment made with amounts obtained by the consumer by means other than a refinancing by the creditor under the mortgage, or an affiliate of that creditor;

(C) the penalty does not apply after the end of the 5-year period beginning on the date on which the mortgage is consummated; and

(D) the penalty is not prohibited under other applicable law.

(d) *Limitations after default.* A mortgage referred to in section 103(aa) may not provide for an interest rate applicable after default that is higher than the interest rate that applies before default. If the date of maturity of a mortgage referred to in subsection 103(aa) is accelerated due to default and the consumer is entitled to a rebate of interest, that rebate shall be computed by any method that is not less favorable than the actuarial method (as that term is defined in section 933(d) of the Housing and Community Development Act of 1992).

(e) *No balloon payments.* A mortgage referred to in section 103(aa) having a term of less than 5 years may not include terms under which the aggregate amount of the regular periodic payments would not fully amortize the outstanding principal balance.

(f) *No negative amortization.* A mortgage referred to in section 103(aa) may not include terms under which the outstanding principal balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of interest due.

(g) *No prepaid payments.* A mortgage re-

ferred to in section 103(aa) may not include terms under which more than 2 periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the consumer.

(h) *Prohibition on extending credit without regard to payment ability of consumer.* A creditor shall not engage in a pattern or practice of extending credit to consumers under mortgages referred to in section 103(aa) based on the consumers' collateral without regard to the consumers' repayment ability, including the consumers' current and expected income, current obligations, and employment.

(i) *Requirements for payments under home improvement contracts.* A creditor shall not make a payment to a contractor under a home improvement contract from amounts extended as credit under a mortgage referred to in section 103(aa), other than—

(1) in the form of an instrument that is payable to the consumer or jointly to the consumer and the contractor; or

(2) at the election of the consumer, by a third party escrow agent in accordance with terms established in a written agreement signed by the consumer, the creditor, and the contractor before the date of payment.

(j) *Consequence of failure to comply.* Any mortgage that contains a provision prohibited by this section shall be deemed a failure to deliver the material disclosures required under this title, for the purpose of section 125.

(k) *Definition.* For purposes of this section, the term "affiliate" has the same meaning as in section 2(k) of the Bank Holding Company Act of 1956.

(l) *Discretionary regulatory authority of board.*

(1) The Board may, by regulation or order, exempt specific mortgage products or categories of mortgages from any or all of the prohibitions specified in subsections (c) through (i), if the Board finds that the exemption—

(A) is in the interest of the borrowing public; and

(B) will apply only to products that

maintain and strengthen home ownership and equity protection.

(2) The Board, by regulation or order, shall prohibit acts or practices in connection with—

(A) mortgage loans that the Board finds to be unfair, deceptive, or designed to evade the provisions of this section; and  
(B) refinancing of mortgage loans that the Board finds to be associated with abusive lending practices, or that are otherwise not in the interest of the borrower.

[15 USC 1639. As added by act of Sept. 23, 1994 (108 Stat. 2191). ]

### SECTION 130—Civil Liability\*

(a) Except as otherwise provided in this section, any creditor who fails to comply with any requirement imposed under this chapter, including any requirement under section 125, or chapter 4 or 5 of this title with respect to any person is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2) (A) (i) in the case of an individual action twice the amount of any finance charge in connection with the transaction, or (ii) in the case of an individual action relating to a consumer lease under chapter 5 of this title, 25 per centum of the total amount of monthly payments under the lease, except that the liability under this subparagraph shall not be less than \$100 nor greater than \$1,000; or

(B) in the case of a class action, such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same creditor shall not be more than the lesser of \$500,000 or 1 per centum of the net worth of the creditor;

\* Creditors choosing to comply with the amended statute and implementing regulations prior to October 1, 1982 are subject to the amended civil liability provisions. (Pub. L. 97-25 § 301).

(3) in the case of any successful action to enforce the foregoing liability or in any action in which a person is determined to have a right of rescission under section 125, the costs of the action, together with a reasonable attorney's fee as determined by the court. In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional. In connection with the disclosures referred to in subsections (a) and (b) of section 127, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125, section 127(a), or of paragraph (4), (5), (6), (7), (8), (9), or (10) of section 127(b) or for failing to comply with disclosure requirements under State law for any term or item which the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms or items referred to in section 127(a) or any of those paragraphs of section 127(b). In connection with the disclosures referred to in subsection (c) or (d) of section 127, a card issuer shall have a liability under this section only to a cardholder who pays a fee described in section 127(c)(1)(A)(ii)(I) or section 127(c)(4)(A)(i) or who uses the credit card or charge card. In connection with the disclosures referred to in section 128, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125 or of paragraph (2) (insofar as it requires a disclosure of the 'amount financed'), (3), (4), (5), (6), or (9) of section 128(a), or for failing to comply with disclosure requirements under State law for any term which the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms referred to in any of those paragraphs of section 128(a). With respect to any failure to make disclosures required under this chapter or chapter 4 or 5 of this title, liability shall be im-

posed only upon the creditor required to make disclosure, except as provided in section 131; and

(4) in the case of a failure to comply with any requirement under section 129, an amount equal to the sum of all finance charges and fees paid by the consumer, unless the creditor demonstrates that the failure to comply is not material.

(b) A creditor or assignee has no liability under this section or section 108 or section 112 for any failure to comply with any requirement imposed under this chapter or chapter 5, if within sixty days after discovering an error, whether pursuant to a final written examination report or notice issued under section 108(e)(1) or through the creditor's or assignee's own procedures, and prior to the institution of an action under this section or the receipt of written notice of the error from the obligor, the creditor or assignee notifies the person concerned of the error and makes whatever adjustments in the appropriate account are necessary to assure that the person will not be required to pay an amount in excess of the charge actually disclosed, or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

(c) A creditor or assignee may not be held liable in any action brought under this section or section 125 for a violation of this title if the creditor or assignee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Examples of a bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programing, and printing errors, except that an error of legal judgment with respect to a person's obligations under this title is not a bona fide error.

(d) When there are multiple obligors in a consumer credit transaction or consumer lease, there shall be no more than one recovery of damages under subsection (a)(2) for a violation of this title.

(e) Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction,

within one year from the date of the occurrence of the violation. This subsection does not bar a person from asserting a violation of this title in an action to collect the debt which was brought more than one year from the date of the occurrence of the violation as a matter of defense by recoupment or set-off in such action, except as otherwise provided by State law. An action to enforce a violation of section 129 may also be brought by the appropriate State attorney general in any appropriate United States district court, or any other court of competent jurisdiction, not later than 3 years after the date on which the violation occurs. The State attorney general shall provide prior written notice of any such civil action to the Federal agency responsible for enforcement under section 108 and shall provide the agency with a copy of the complaint. If prior notice is not feasible, the State attorney general shall provide notice to such agency immediately upon instituting the action. The Federal agency may—

- (1) intervene in the action;
- (2) upon intervening—
  - (A) remove the action to the appropriate United States district court, if it was not originally brought there; and
  - (B) be heard on all matters arising in the action; and
- (3) file a petition for appeal.

(f) No provision of this section, section 108(b), section 108(c), section 108(e), or section 112 imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(g) The multiple failure to disclose to any person any information required under this chapter or chapter 4 or 5 of this title to be disclosed in connection with a single account

under an open end consumer credit plan, other single consumer credit sale, consumer loan, consumer lease, or other extension of consumer credit, shall entitle the person to a single recovery under this section but continued failure to disclose after a recovery has been granted shall give rise to rights to additional recoveries. This subsection does not bar any remedy permitted by section 125.

(h) A person may not take any action to offset any amount for which a creditor or assignee is potentially liable to such person under subsection (a)(2) against any amount owed by such person, unless the amount of the creditor's or assignee's liability under this title has been determined by judgment of a court of competent jurisdiction in an action of which such person was a party. This subsection does not bar a consumer then in default on the obligation from asserting a violation of this title as an original action, or as a defense or counterclaim to an action to collect amounts owed by the consumer brought by a person liable under this title.

[15 USC 1640. As amended by acts of Oct. 28, 1974 (88 Stat. 1518); Feb. 27, 1976 (90 Stat. 197); March 23, 1976 (90 Stat. 260); Nov. 3, 1988 (102 Stat. 2966); and Sept. 23, 1994 (108 Stat. 2195).]

#### SECTION 131—Liability of Assignees\*

(a) Except as otherwise specifically provided in this title, any civil action for a violation of this title or proceeding under section 108 which may be brought against a creditor may be maintained against any assignee of such creditor only if the violation for which such action or proceeding is brought is apparent on the face of the disclosure statement, except where the assignment was involuntary. For the purpose of this section, a violation apparent on the face of the disclosure statement includes, but is not limited to (1) a disclosure which can be determined to be incomplete or inaccurate from the face of the disclosure statement or other documents assigned, or (2)

\* Assignees of creditors choosing to comply with the amended statute and implementing regulations prior to October 1, 1982 are subject to the amended civil liability provisions (Pub. L. 97-25 § 301).

a disclosure which does not use the terms required to be used by this title.

(b) Except as provided in section 125(c), in any action or proceeding by or against any subsequent assignee of the original creditor without knowledge to the contrary by the assignee when he acquires the obligation, written acknowledgement of receipt by a person to whom a statement is required to be given pursuant to this title shall be conclusive proof of the delivery thereof and, except as provided in subsection (a), of compliance with this chapter. This section does not affect the rights of the obligor in any action against the original creditor.

(c) Any consumer who has the right to rescind a transaction under section 125 may rescind the transaction as against any assignee of the obligation.

(d) *Rights upon assignment of certain mortgages.*

(1) Any person who purchases or is otherwise assigned a mortgage referred to in section 103(aa) shall be subject to all claims and defenses with respect to that mortgage that the consumer could assert against the creditor of the mortgage, unless the purchaser or assignee demonstrates, by a preponderance of the evidence, that a reasonable person exercising ordinary due diligence, could not determine, based on the documentation required by this title, the itemization of the amount financed, and other disclosure of disbursements that the mortgage was a mortgage referred to in section 103(aa). The preceding sentence does not affect rights of a consumer under subsection (a), (b), or (c) of this section or any other provision of this title.

(2) Notwithstanding any other provision of law, relief provided as a result of any action made permissible by paragraph (1) may not exceed—

(A) with respect to actions based upon a violation of this title, the amount specified in section 130; and

(B) with respect to all other causes of action, the sum of—

(i) the amount of all remaining indebtedness; and

(ii) the total amount paid by the consumer in connection with the transaction.

(3) The amount of damages that may be awarded under paragraph (2)(B) shall be reduced by the amount of any damages awarded under paragraph (2)(A).

(4) Any person who sells or otherwise assigns a mortgage referred to in section 103(aa) shall include a prominent notice of the potential liability under this subsection as determined by the Board.

[15 USC 1641. As amended by acts of March 31, 1980 (94 Stat. 182); Dec. 26, 1981 (95 Stat. 1515); and Sept. 23, 1994 (108 Stat. 2195).]

### SECTION 132—Issuance of Credit Cards

No credit card shall be issued except in response to a request or application therefor. This prohibition does not apply to the issuance of a credit card in renewal of, or in substitution for, an accepted credit card.

[15 USC 1642. As amended by act of Oct. 26, 1970 (84 Stat. 1126).]

### SECTION 133—Liability of Holder of Credit Card

(a) (1) A cardholder shall be liable for the unauthorized use of a credit card only if—

(A) the card is an accepted credit card;

(B) the liability is not in excess of \$50;

(C) the card issuer gives adequate notice to the cardholder of the potential liability;

(D) the card issuer has provided the cardholder with a description of a means by which the card issuer may be notified of loss or theft of the card, which description may be provided on the face or reverse side of the statement required by section 127(b) or on a separate notice accompanying such statement;

(E) the unauthorized use occurs before the card issuer has been notified that an unauthorized use of the credit card has occurred or may occur as the result of loss, theft, or otherwise; and

(F) the card issuer has provided a

method whereby the user of such card can be identified as the person authorized to use it.

(2) For purposes of this section, a card issuer has been notified when such steps as may be reasonably required in the ordinary course of business to provide the card issuer with the pertinent information have been taken, whether or not any particular officer, employee, or agent of the card issuer does in fact receive such information.

(b) In any action by a card issuer to enforce liability for the use of a credit card, the burden of proof is upon the card issuer to show that the use was authorized or, if the use was unauthorized, then the burden of proof is upon the card issuer to show that the conditions of liability for the unauthorized use of a credit card, as set forth in subsection (a), have been met.

(c) Nothing in this section imposes liability upon a cardholder for the unauthorized use of a credit card in excess of his liability for such use under other applicable law or under any agreement with the card issuer.

(d) Except as provided in this section, a cardholder incurs no liability from the unauthorized use of a credit card.

[15 USC 1643. As added by act of Oct. 26, 1970 (84 Stat. 1126) and amended by acts of March 31, 1980 (94 Stat. 182) and Dec. 26, 1981 (95 Stat. 1515).]

#### SECTION 134—Fraudulent Use of Credit Card

(a) Whoever knowingly in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card to obtain money, goods, services, or anything else of value which within any one-year period has a value aggregating \$1,000 or more; or

(b) Whoever, with unlawful or fraudulent intent, transports or attempts or conspires to transport in interstate or foreign commerce a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, al-

tered, forged, lost, stolen, or fraudulently obtained; or

(c) Whoever, with unlawful or fraudulent intent, uses any instrumentality of interstate or foreign commerce to sell or transport a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

(d) Whoever knowingly receives, conceals, uses, or transports money, goods, services, or anything else of value (except tickets for interstate or foreign transportation) which (1) within any one-year period has a value aggregating \$1,000 or more, (2) has moved in or is part of, or which constitutes interstate or foreign commerce, and (3) has been obtained with a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card; or

(e) Whoever knowingly receives, conceals, uses, sells, or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation, which (1) within any one-year period have a value aggregating \$500 or more, and (2) have been purchased or obtained with one or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit cards; or

(f) Whoever in a transaction affecting interstate or foreign commerce furnishes money, property, services, or anything else of value, which within any one-year period has a value aggregating \$1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained—

shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

[15 USC 1644. As amended by acts of Oct. 26, 1970 (84 Stat. 1127) and Oct. 28, 1974 (88 Stat. 1520).]

#### SECTION 135—Business Credit Cards

The exemption provided by section 104(1)

does not apply to the provisions of sections 132, 133, and 134, except that a card issuer and a business or other organization which provides credit cards issued by the same card issuer to ten or more of its employees may by contract agree as to liability of the business or other organization with respect to unauthorized use of such credit cards without regard to the provisions of section 133, but in no case may such business or other organization or card issuer impose liability upon any employee with respect to unauthorized use of such a credit card except in accordance with and subject to the limitations of section 133.

[15 USC 1645. As added by act of Oct. 28, 1974 (88 Stat. 1519).]

### SECTION 136—Dissemination of Annual Percentage Rates

(a) The Board shall collect, publish, and disseminate to the public, on a demonstration basis in a number of standard metropolitan statistical areas to be determined by the Board, the annual percentage rates charged for representative types of nonsale credit by creditors in such areas. For the purpose of this section, the Board is authorized to require creditors in such areas to furnish information necessary for the Board to collect, publish, and disseminate such information.

(b) (1) The Board shall collect, on a semiannual basis, credit card price and availability information, including the information required to be disclosed under section 127(c) of this chapter, from a broad sample of financial institutions which offer credit card services.

(2) The broad sample of financial institutions required under paragraph (1) shall include—

(A) the 25 largest issuers of credit cards; and

(B) not less than 125 additional financial institutions selected by the Board in a manner that ensures—

(i) an equitable geographical distribution within the sample; and

(ii) the representation of a wide spectrum of institutions within the sample.

(3) Each financial institution in the broad sample established pursuant to paragraph (2) shall report the information to the Board in accordance with such regulations or orders as the Board may prescribe.

(4) The Board shall—

(A) make the information collected pursuant to this subsection available to the public upon request; and

(B) report such information semiannually to Congress.

(c) The Board is authorized to enter into contracts or other arrangements with appropriate persons, organizations, or State agencies to carry out its functions under subsections (a) and (b) and to furnish financial assistance in support thereof.

[15 USC 1646. As amended by acts of March 31, 1980 (94 Stat. 183); Dec. 26, 1981 (95 Stat. 1515); and Nov. 3, 1988 (102 Stat. 2967).]

### SECTION 137—Home Equity Plans

(a) In the case of extensions of credit under an open end consumer credit plan which are subject to a variable rate and are secured by a consumer's principal dwelling, the index or other rate of interest to which changes in the annual percentage rate are related shall be based on an index or rate of interest which is publicly available and is not under the control of the creditor.

(b) A creditor may not unilaterally terminate any account under an open end consumer credit plan under which extensions of credit are secured by a consumer's principal dwelling and require the immediate repayment of any outstanding balance at such time, except in the case of—

(1) fraud or material misrepresentation on the part of the consumer in connection with the account;

(2) failure by the consumer to meet the repayment terms of the agreement for any outstanding balance; or

(3) any other action or failure to act by the consumer which adversely affects the creditor's security for the account or any right of the creditor in such security.

This subsection does not apply to reverse mortgage transactions.

(c) (1) No open end consumer credit plan under which extensions of credit are secured by a consumer's principal dwelling may contain a provision which permits a creditor to change unilaterally any term required to be disclosed under section 127A(a) or any other term, except a change in insignificant terms such as the address of the creditor for billing purposes.

(2) Notwithstanding the provisions of subsection (1), a creditor may make any of the following changes:

(A) Change the index and margin applicable to extensions of credit under such plan if the index used by the creditor is no longer available and the substitute index and margin would result in a substantially similar interest rate.

(B) Prohibit additional extensions of credit or reduce the credit limit applicable to an account under the plan during any period in which the value of the consumer's principal dwelling which secures any outstanding balance is significantly less than the original appraisal value of the dwelling.

(C) Prohibit additional extensions of credit or reduce the credit limit applicable to the account during any period in which the creditor has reason to believe that the consumer will be unable to comply with the repayment requirements of the account due to a material change in the consumer's financial circumstances.

(D) Prohibit additional extensions of credit or reduce the credit limit applicable to the account during any period in which the consumer is in default with respect to any material obligation of the consumer under the agreement.

(E) Prohibit additional extensions of credit or reduce the credit limit applicable to the account during any period in which—

(i) the creditor is precluded by government action from imposing the annual percentage rate provided for in the account agreement; or

(ii) any government action is in effect

which adversely affects the priority of the creditor's security interest in the account to the extent that the value of the creditor's secured interest in the property is less than 120 percent of the amount of the credit limit applicable to the account.

(F) Any change that will benefit the consumer.

(3) Upon the request of the consumer and at the time an agreement is entered into by a consumer to open an account under an open end consumer credit plan under which extensions of credit are secured by the consumer's principal dwelling, the consumer shall be given a list of the categories of contract obligations which are deemed by the creditor to be material obligations of the consumer under the agreement for purposes of paragraph (2)(D).

(4) (A) For purposes of paragraph (2)(F), a change shall be deemed to benefit the consumer if the change is unequivocally beneficial to the borrower and the change is beneficial through the entire term of the agreement.

(B) The Board may, by regulation, determine categories of changes that benefit the consumer.

(d) If any term or condition described in section 127A(a) which is disclosed to a consumer in connection with an application to open an account under an open end consumer credit plan described in such section (other than a variable feature of the plan) changes before the account is opened, and if, as a result of such change, the consumer elects not to enter into the plan agreement, the creditor shall refund all fees paid by the consumer in connection with such application.

(e) (1) No nonrefundable fee may be imposed by a creditor or any other person in connection with any application by a consumer to establish an account under any open end consumer credit plan which provides for extensions of credit which are secured by a consumer's principal dwelling before the end of the 3-day period beginning on the date such consumer receives the disclosure required under section 127A(a) and the

pamphlet required under section 127A(e) with respect to such application.

(2) For purposes of determining when a nonrefundable fee may be imposed in accordance with this subsection if the disclosures and pamphlet referred to in paragraph (1) are mailed to the consumer, the date of the receipt of the disclosures by such consumer shall be deemed to be 3 business days after the date of mailing by the creditor.

[15 USC 1647. As added by act of Nov. 23, 1988 (102 Stat. 4731) and amended by act of Sept. 23, 1994 (108 Stat. 2197).]

### SECTION 138—Reverse Mortgages

(a) *In general.* In addition to the disclosures required under this title, for each reverse mortgage, the creditor shall, not less than 3 days prior to consummation of the transaction, disclose to the consumer in conspicuous type a good faith estimate of the projected total cost of the mortgage to the consumer expressed as a table of annual interest rates. Each annual interest rate shall be based on a projected total future credit extension balance under a projected appreciation rate for the dwelling and a term for the mortgage. The disclosure shall include—

(1) statements of the annual interest rates for not less than 3 projected appreciation rates and not less than 3 credit transaction periods, as determined by the Board, including—

- (A) a short-term reverse mortgage;
- (B) a term equaling the actuarial life expectancy of the consumer; and
- (C) such longer term as the Board deems appropriate; and

(2) a statement that the consumer is not obligated to complete the reverse mortgage transaction merely because the consumer has received the disclosure required under this section or has signed an application for the reverse mortgage.

(b) *Projected total cost.* In determining the projected total cost of the mortgage to be disclosed to the consumer under subsection (a), the creditor shall take into account—

(1) any shared appreciation or equity that

the lender will, by contract, be entitled to receive;

(2) all costs and charges to the consumer, including the costs of any associated annuity that the consumer elects or is required to purchase as part of the reverse mortgage transaction;

(3) all payments to and for the benefit of the consumer, including, in the case in which an associated annuity is purchased (whether or not required by the lender as a condition of making the reverse mortgage), the annuity payments received by the consumer and financed from the proceeds of the loan, instead of the proceeds used to finance the annuity; and

(4) any limitation on the liability of the consumer under reverse mortgage transactions (such as nonrecourse limits and equity conservation agreements).

[15 USC 1648. As added by act of Sept. 23, 1994 (108 Stat. 2196).]

## CHAPTER 3—CREDIT ADVERTISING

### Section

- 141 Catalogs and multiple-page advertisements
- 142 Advertising of downpayments and installments
- 143 Advertising of open end credit plans
- 144 Advertising of credit other than open end plans
- 145 Nonliability of media
- 146 Use of annual percentage rate in oral disclosures
- 147 Advertising of open end consumer credit plans secured by the consumer's principal dwelling

### SECTION 141—Catalogs and Multiple-Page Advertisements

For the purposes of this chapter, a catalog or other multiple-page advertisement shall be considered a single advertisement if it clearly and conspicuously displays a credit terms table on which the information required to be stated under this chapter is clearly set forth.

[15 USC 1661.]

### SECTION 142—Advertising of Downpayments and Installments

No advertisement to aid, promote, or assist directly or indirectly any extension of consumer credit may state

- (1) that a specific periodic consumer credit amount or installment amount can be arranged, unless the creditor usually and customarily arranges credit payments or installments for that period and in that amount.
- (2) that a specified downpayment is required in connection with any extension of consumer credit, unless the creditor usually and customarily arranges downpayments in that amount.

[15 USC 1662.]

### SECTION 143—Advertising of Open End Credit Plans

No advertisement to aid, promote, or assist directly or indirectly the extension of consumer credit under an open end credit plan may set forth any of the specific terms of that plan unless it also clearly and conspicuously sets forth all of the following items:

- (1) Any minimum or fixed amount which could be imposed.
- (2) In any case in which periodic rates may be used to compute the finance charge, the periodic rates expressed as annual percentage rates.
- (3) Any other term that the Board may by regulation require to be disclosed.

[15 USC 1663. As amended by acts of March 31, 1980 (94 Stat. 177) and Dec. 26, 1981 (95 Stat. 1515).]

### SECTION 144—Advertising of Credit Other Than Open End Plans

(a) Except as provided in subsection (b), this section applies to any advertisement to aid, promote, or assist directly or indirectly any consumer credit sale, loan, or other extension of credit subject to the provisions of this title, other than an open end credit plan.

(b) The provisions of this section do not apply to advertisements of residential real estate

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except to the extent that the Board may by regulation require.

(c) If any advertisement to which this section applies states the rate of a finance charge, the advertisement shall state the rate of that charge expressed as an annual percentage rate.

(d) If any advertisement to which this section applies states the amount of the downpayment, if any, the amount of any installment payment, the dollar amount of any finance charge, or the number of installments or the period of repayment, then the advertisement shall state all of the following items:

- (1) The downpayment, if any.
- (2) The terms of repayment.
- (3) The rate of the finance charge expressed as an annual percentage rate.

[15 USC 1664. As amended by acts of March 31, 1980 (94 Stat. 183) and Dec. 26, 1981 (95 Stat. 1515).]

### SECTION 145—Nonliability of Media

There is no liability under this chapter on the part of any owner or personnel, as such, of any medium in which an advertisement appears or through which it is disseminated.

[15 USC 1665.]

### SECTION 146—Use of Annual Percentage Rate in Oral Disclosures

In responding orally to any inquiry about the cost of credit, a creditor, regardless of the method used to compute finance charges, shall state rates only in terms of the annual percentage rate, except that in the case of an open end credit plan, the periodic rate also may be stated and, in the case of an other than open end credit plan where a major component of the finance charge consists of interest computed at a simple annual rate, the simple annual rate also may be stated. The Board may, by regulation, modify the requirements of this section or provide an exception from this section for a transaction or class of transactions for which the creditor cannot determine in advance the applicable annual percentage rate.

[15 USC 1665a. As added by act of Oct. 28, 1974 (88 Stat. 1517) and amended by acts of March 31, 1980 (94 Stat. 185) and Dec. 26, 1981 (95 Stat. 1515).]

### SECTION 147—Advertising of Open End Consumer Credit Plans Secured by the Consumer's Principal Dwelling

(a) If any advertisement to aid, promote, or assist, directly or indirectly, the extension of consumer credit through an open end consumer credit plan under which extensions of credit are secured by the consumer's principal dwelling states, affirmatively or negatively, any of the specific terms of the plan, including any periodic payment amount required under such plan, such advertisement shall also clearly and conspicuously set forth the following information, in such form and manner as the Board may require:

(1) Any loan fee the amount of which is determined as a percentage of the credit limit applicable to an account under the plan and an estimate of the aggregate amount of other fees for opening the account, based on the creditor's experience with the plan and stated as a single amount or as a reasonable range.

(2) In any case in which periodic rates may be used to compute the finance charge, the periodic rates expressed as an annual percentage rate.

(3) The highest annual percentage rate which may be imposed under the plan.

(4) Any other information the Board may by regulation require.

(b) If any advertisement described in subsection (a) contains a statement that any interest expense incurred with respect to the plan is or may be tax deductible, the advertisement shall not be misleading with respect to such deductibility.

(c) No advertisement described in subsection (a) with respect to any home equity account may refer to such loan as "free money" or use other terms determined by the Board by regulation to be misleading.

(d) (1) If any advertisement described in subsection (a) includes an initial annual percentage rate that is not determined by the

index or formula used to make later interest rate adjustments, the advertisement shall also state with equal prominence the current annual percentage rate that would have been applied using the index or formula if such initial rate had not been offered.

(2) The annual percentage rate required to be disclosed under the paragraph (1) rate must be current as of a reasonable time given the media involved.

(3) Any advertisement to which paragraph (1) applies shall also state the period of time during which the initial annual percentage rate referred to in such paragraph will be in effect.

(e) If any advertisement described in subsection (a) contains a statement regarding the minimum monthly payment under the plan, the advertisement shall also disclose, if applicable, the fact that the plan includes a balloon payment.

(f) For purposes of this section and section 127A, the term "balloon payment" means, with respect to any open end consumer credit plan under which extensions of credit are secured by the consumer's principal dwelling, any repayment option under which—

(1) the account holder is required to repay the entire amount of any outstanding balance as of a specified date or at the end of a specified period of time, as determined in accordance with the terms of the agreement pursuant to which such credit is extended, and

(2) the aggregate amount of the minimum periodic payments required would not fully amortize such outstanding balance by such date or at the end of such period.

[15 USC 1665b. As added by act of Nov. 23, 1988 (102 Stat. 4730). ]

## CHAPTER 4—CREDIT BILLING

### Section

- 161 Correction of billing errors
- 162 Regulation of credit reports
- 163 Length of billing period
- 164 Prompt crediting of payments
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- 167 Use of cash discounts
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### SECTION 161—Correction of Billing Errors

(a) If a creditor, within sixty days after having transmitted to an obligor a statement of the obligor's account in connection with an extension of consumer credit, receives at the address disclosed under section 127(b)(10) a written notice (other than notice on a payment stub or other payment medium supplied by the creditor if the creditor so stipulates with the disclosure required under section 127(a)(7) from the obligor in which the obligor—

- (1) sets forth or otherwise enables the creditor to identify the name and account number (if any) of the obligor,
- (2) indicates the obligor's belief that the statement contains a billing error and the amount of such billing error, and
- (3) sets forth the reasons for the obligor's belief (to the extent applicable) that the statement contains a billing error,

the creditor shall, unless the obligor has, after giving such written notice and before the expiration of the time limits herein specified, agreed that the statement was correct—

- (A) not later than thirty days after the receipt of the notice, send a written acknowledgment thereof to the obligor, unless the action required in subparagraph (B) is taken within such thirty-day period, and
- (B) not later than two complete billing cycles of the creditor (in no event later than ninety days) after the receipt of the notice and prior to taking any action to collect the amount, or any part thereof, indicated by the obligor under paragraph (2) either—

- (i) make appropriate corrections in the account of the obligor, including the crediting of any finance charges on amounts erroneously billed, and transmit to the obligor a notification of such corrections and the creditor's ex-

planation of any change in the amount indicated by the obligor under paragraph (2) and, if any such change is made and the obligor so requests, copies of documentary evidence of the obligor's indebtedness; or

- (ii) send a written explanation or clarification to the obligor, after having conducted an investigation, setting forth to the extent applicable the reasons why the creditor believes the account of the obligor was correctly shown in the statement and, upon request of the obligor, provide copies of documentary evidence of the obligor's indebtedness. In the case of a billing error where the obligor alleges that the creditor's billing statement reflects goods not delivered to the obligor or his designee in accordance with the agreement made at the time of the transaction, a creditor may not construe such amount to be correctly shown unless he determines that such goods were actually delivered, mailed, or otherwise sent to the obligor and provides the obligor with a statement of such determination.

After complying with the provisions of this subsection with respect to an alleged billing error, a creditor has no further responsibility under this section if the obligor continues to make substantially the same allegation with respect to such error.

(b) For the purpose of this section, a "billing error" consists of any of the following:

- (1) A reflection on a statement of an extension of credit which was not made to the obligor or, if made, was not in the amount reflected on such statement.
- (2) A reflection on a statement of an extension of credit for which the obligor requests additional clarification including documentary evidence thereof.
- (3) A reflection on a statement of goods or services not accepted by the obligor or his designee or not delivered to the obligor or his designee in accordance with the agreement made at the time of a transaction.
- (4) The creditor's failure to reflect properly

on a statement a payment made by the obligor or a credit issued to the obligor.

(5) A computation error or similar error of an accounting nature of the creditor on a statement.

(6) Failure to transmit the statement required under section 127(b) of this Act to the last address of the obligor which has been disclosed to the creditor, unless that address was furnished less than twenty days before the end of the billing cycle for which the statement is required.

(7) Any other error described in regulations of the Board.

(c) For the purposes of this section, "action to collect the amount, or any part thereof, indicated by an obligor under paragraph (2)" does not include the sending of statements of account, which may include finance charges on amounts in dispute, to the obligor following written notice from the obligor as specified under subsection (a), if—

(1) the obligor's account is not restricted or closed because of the failure of the obligor to pay the amount indicated under paragraph (2) of subsection (a), and

(2) the creditor indicates the payment of such amount is not required pending the creditor's compliance with this section. Nothing in this section shall be construed to prohibit any action by a creditor to collect any amount which has not been indicated by the obligor to contain a billing error.

(d) Pursuant to regulations of the Board, a creditor operating an open end consumer credit plan may not, prior to the sending of the written explanation or clarification required under paragraph (B)(ii), restrict or close an account with respect to which the obligor has indicated pursuant to subsection (a) that he believes such account to contain a billing error solely because of the obligor's failure to pay the amount indicated to be in error. Nothing in this subsection shall be deemed to prohibit a creditor from applying against the credit limit on the obligor's account the amount indicated to be in error.

(e) Any creditor who fails to comply with the requirements of this section or section 162

forfeits any right to collect from the obligor the amount indicated by the obligor under paragraph (2) of subsection (a) of this section, and any finance charges thereon, except that the amount required to be forfeited under this subsection may not exceed \$50.

[15 USC 1666. As added by act of Oct. 28, 1974 (88 Stat. 1512) and amended by acts of March 31, 1980 (94 Stat. 177, 184) and Dec. 26, 1981 (95 Stat. 1515).]

### SECTION 162—Regulation of Credit Reports

(a) After receiving a notice from an obligor as provided in section 161(a), a creditor or his agent may not directly or indirectly threaten to report to any person adversely on the obligor's credit rating or credit standing because of the obligor's failure to pay the amount indicated by the obligor under section 161(a)(2), and such amount may not be reported as delinquent to any third party until the creditor has met the requirements of section 161 and has allowed the obligor the same number of days (not less than ten) thereafter to make payment as is provided under the credit agreement with the obligor for the payment of undisputed amounts.

(b) If a creditor receives a further written notice from an obligor that an amount is still in dispute within the time allowed for payment under subsection (a) of this section, a creditor may not report to any third party that the amount of the obligor is delinquent because the obligor has failed to pay an amount which he has indicated under section 161(a)(2), unless the creditor also reports that the amount is in dispute and, at the same time, notifies the obligor of the name and address of each party to whom the creditor is reporting information concerning the delinquency.

(c) A creditor shall report any subsequent resolution of any delinquencies reported pursuant to subsection (b) to the parties to whom such delinquencies were initially reported.

[15 USC 1666a. As added by act of Oct. 28, 1974 (88 Stat. 1513). ]

### SECTION 163—Length of Billing Period

(a) If an open end consumer credit plan provides a time period within which an obligor may repay any portion of the credit extended without incurring an additional finance charge, such additional finance charge may not be imposed with respect to such portion of the credit extended for the billing cycle of which such period is a part unless a statement which includes the amount upon which the finance charge for that period is based was mailed at least fourteen days prior to the date specified in the statement by which payment must be made in order to avoid imposition of that finance charge.

(b) Subsection (a) does not apply in any case where a creditor has been prevented, delayed, or hindered in making timely mailing or delivery of such periodic statement within the time period specified in such subsection because of an act of God, war, natural disaster, strike, or other excusable or justifiable cause, as determined under regulations of the Board.

[15 USC 1666b. As added by act of Oct. 28, 1974 (88 Stat. 1514). ]

### SECTION 164—Prompt Crediting of Payments

Payments received from an obligor under an open end consumer credit plan by the creditor shall be posted promptly to the obligor's account as specified in regulations of the Board. Such regulation shall prevent a finance charge from being imposed on any obligor if the creditor has received the obligor's payment in readily identifiable form in the amount, manner, location, and time indicated by the creditor to avoid the imposition thereof.

[15 USC 1666c. As added by act of Oct. 28, 1974 (88 Stat. 1514). ]

### SECTION 165—Treatment of Credit Balances

Whenever a credit balance in excess of \$1 is created in connection with a consumer credit transaction through (1) transmittal of funds to

a creditor in excess of the total balance due on an account, (2) rebates of unearned finance charges or insurance premiums, or (3) amounts otherwise owed to or held for the benefit of an obligor, the creditor shall—

(A) credit the amount of the credit balance to the consumer's account;

(B) refund any part of the amount of the remaining credit balance, upon request of the consumer; and

(C) make a good faith effort to refund to the consumer by cash, check, or money order any part of the amount of the credit balance remaining in the account for more than six months, except that no further action is required in any case in which the consumer's current location is not known by the creditor and cannot be traced through the consumer's last known address or telephone number.

[15 USC 1666d. As added by act of Oct. 28, 1974 (88 Stat. 1514) and amended by acts of March 31, 1980 (94 Stat. 185) and Dec. 26, 1981 (95 Stat. 1515).]

### SECTION 166—Prompt Notification of Returns

With respect to any sales transaction where a credit card has been used to obtain credit, where the seller is a person other than the card issuer, and where the seller accepts or allows a return of the goods or forgiveness of a debit for services which were the subject of such sale, the seller shall promptly transmit to the credit card issuer, a credit statement with respect thereto and the credit card issuer shall credit the account of the obligor for the amount of the transaction.

[15 USC 1666e. As added by act of Oct. 28, 1974 (88 Stat. 1514). ]

### SECTION 167—Use of Cash Discounts

(a) With respect to credit card which may be used for extensions of credit in sales transactions in which the seller is a person other than the card issuer, the card issuer may not, by contract or otherwise, prohibit any such seller from offering a discount to a cardholder to

induce the cardholder to pay by cash, check, or similar means rather than use a credit card.

(b) With respect to any sales transaction, any discount from the regular price offered by the seller for the purpose of inducing payment by cash, checks, or other means not involving the use of an open-end credit plan or a credit card shall not constitute a finance charge as determined under section 106 if such discount is offered to all prospective buyers and its availability is disclosed clearly and conspicuously.

[15 USC 1666f. As added by act of Oct 28, 1974 (88 Stat. 1515) and amended by acts of Feb. 17, 1976 (90 Stat. 197) and July 27, 1981 (95 Stat. 144).]

### SECTION 168—Prohibition of Tie-In Services

Notwithstanding any agreement to the contrary, a card issuer may not require a seller, as a condition to participating in a credit card plan, to open an account with or procure any other service from the card issuer or its subsidiary or agent.

[15 USC 1666g. As added by act of Oct. 28, 1974 (88 Stat. 1515). ]

### SECTION 169—Prohibition of Offsets

(a) A card issuer may not take any action to offset a cardholder's indebtedness arising in connection with a consumer credit transaction under the relevant credit card plan against funds of the cardholder held on deposit with the card issuer unless—

(1) such action was previously authorized in writing by the cardholder in accordance with a credit plan whereby the cardholder agrees periodically to pay debts incurred in his open end credit account by permitting the card issuer periodically to deduct all or a portion of such debt from the cardholder's deposit account, and

(2) such action with respect to any outstanding disputed amount not be taken by the card issuer upon request of the cardholder.

In the case of any credit card account in existence on the effective date of this section, the previous written authorization referred to in

clause (1) shall not be required until the date (after such effective date) when such account is renewed, but in no case later than one year after such effective date. Such written authorization shall be deemed to exist if the card issuer has previously notified the cardholder that the use of his credit card account will subject any funds which the card issuer holds in deposit accounts of such cardholder to offset against any amounts due and payable on his credit card account which have not been paid in accordance with the terms of the agreement between the card issuer and the cardholder.

(b) This section does not alter or affect the right under State law of a card issuer to attach or otherwise levy upon funds of a cardholder held on deposit with the card issuer if that remedy is constitutionally available to creditors generally.

[15 USC 1666h. As added by acts of Oct. 28, 1974 (88 Stat. 1515). ]

### SECTION 170—Rights of Credit Card Customers

(a) Subject to the limitation contained in subsection (b), a card issuer who has issued a credit card to a cardholder pursuant to an open end consumer credit plan shall be subject to all claims (other than tort claims) and defenses arising out of any transaction in which the credit card is used as a method of payment or extension of credit if (1) the obligor has made a good faith attempt to obtain satisfactory resolution of a disagreement or problem relative to the transaction from the person honoring the credit card; (2) the amount of the initial transaction exceeds \$50; and (3) the place where the initial transaction occurred was in the same State as the mailing address previously provided by the cardholder or was within 100 miles from such address, except that the limitations set forth in clauses (2) and (3) with respect to an obligor's right to assert claims and defenses against a card issuer shall not be applicable to any transaction in which the person honoring the credit card (A) is the same person as the card issuer, (B) is controlled by the card issuer, (C) is

under direct or indirect common control with the card issuer, (D) is a franchised dealer in the card issuer's products or services, or (E) has obtained the order for such transaction through a mail solicitation made by or participated in by the card issuer in which the cardholder is solicited to enter into such transaction by using the credit card issued by the card issuer.

(b) the amount of claims or defenses asserted by the cardholder may not exceed the amount of credit outstanding with respect to such transaction at the time the cardholder first notifies the card issuer or the person honoring the credit card of such claim or defense. For the purpose of determining the amount of credit outstanding in the preceding sentence, payments and credits to the cardholder's account are deemed to have been applied, in the order indicated, to the payment of: (1) late charges in the order of their entry to the account; (2) finance charges in order of their entry to the account; and (3) debits to the account other than those set forth above, in the order in which each debit entry to the account was made.

[15 USC 1666i. As added by act of Oct. 28, 1974 (88 Stat. 1515). ]

#### SECTION 171—Relation to State Laws

(a) This chapter does not annul, alter, or affect, or exempt any person subject to the pro-

visions of this chapter from complying with the laws of any State with respect to credit billing practices, except to the extent that those laws are inconsistent with any provision of this chapter, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board may not determine that any State law is inconsistent with any provision of this chapter if the Board determines that such law gives greater protection to the consumer.

(b) The Board shall by regulation exempt from the requirements of this chapter any class of credit transactions within any State if it determines that under the law of the State that class of transactions is subject to requirements substantially similar to those imposed under this chapter or that such law gives greater protection to the consumer, and that there is adequate provision for enforcement.

(c) Notwithstanding any other provisions of this title, any discount offered under section 167(b) of this title shall not be considered a finance charge or other charge for credit under the usury laws of any State or under the laws of any State relating to disclosure of information in connection with credit transactions, or relating to the types, amounts or rates of charges, or to any element or elements of charges permissible under such laws in connection with the extension or use of credit.

[15 USC 1666j. As added act of Oct. 28, 1974 (88 Stat. 1516) and amended by act of Feb. 27, 1976 (90 Stat. 198).]

# Competitive Equality Banking Act of 1987

## Section 1204

12 USC 3806; 101 Stat. 662; Pub. L. 100-86 (August 10, 1987)

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### SECTION 1204—Adjustable Rate Mortgage Caps

(a) Any adjustable rate mortgage loan originated by a creditor shall include a limitation on the maximum interest rate that may apply during the term of the mortgage loan.

(b) The Board of Governors of the Federal Reserve System shall prescribe regulations to carry out the purposes of this section.

(c) Any violation of this section shall be treated as a violation of the Truth in Lending Act and shall be subject to administrative enforcement under section 108 or civil damages under section 130 of such Act, or both.

(d) For purpose of this section—

(1) the term “creditor” means a person who regularly extends credit for personal, family, or household purposes; and

(2) the term “adjustable rate mortgage loan” means any consumer loan secured by a lien on a one- to four-family dwelling unit, including a condominium unit, cooperative housing unit, or mobile home, where the loan is made pursuant to an agreement under which the creditor may, from time to time, adjust the rate of interest.

(e) This section shall take effect upon the expiration of 120 days after the date of enactment of this Act.

[12 USC 3806. As amended by act of Oct. 28, 1992 (106 Stat. 3893). ]

# Regulation BB Community Reinvestment

12 CFR 228; as amended effective July 1, 1995



Any inquiry relating to this regulation should be addressed to the Federal Reserve Bank of the Federal Reserve District in which the inquiry arises.

July 1995

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# Regulation BB Community Reinvestment

12 CFR 228,\* as amended effective July 1, 1995†

## SECTION 228.3—Delineation of Community

(a) Each state member bank shall prepare, and at least annually review, a delineation of the local community or communities that comprise its entire community, without excluding low- and moderate-income neighborhoods. Maps shall be used to portray community delineations. The reasonableness of the delineations will be reviewed by Federal Reserve System examiners.

(b) Except as provided in paragraph (c) of this section, a local community consists of the contiguous areas surrounding each office or group of offices, including any low- and moderate-income neighborhoods in those areas. More than one office of a state member bank may be included in the same local community. Unless the Board determines otherwise, a community delineation need not take account of an off-premises electronic facility that receives deposits for more than one depository institution. In preparing its delineation, a bank may use any one of the three bases set forth below.

- (1) Existing boundaries such as those of standard metropolitan statistical areas (SMSAs) or counties in which the bank's office or offices are located may be used to delineate a local community. Where appropriate, portions of adjacent areas should be included. The bank may make adjustments in the case of areas divided by state borders or significant geographic barriers, or areas that are extremely large or of unusual configuration. In addition, a small bank may delineate those portions of SMSAs or counties it reasonably may be expected to serve.
- (2) A bank may use its effective lending territory, which is defined as that local area or areas around each office or group of offices where it makes a substantial portion of

its loans and all other areas equidistant from its offices as those areas. Adjustments such as those indicated in paragraph (b)(1) of this section may be made.

(3) A bank may use any other reasonably delineated local area that meets the purposes of the Community Reinvestment Act (CRA) and does not exclude low- and moderate-income neighborhoods.

(c) A state member bank whose business predominantly consists of serving persons who are active duty or retired military personnel or their dependents and who are located outside of its local community or communities, may delineate a "military community" for those customers, in addition to its local community or communities. Provisions of this part concerning local communities shall also apply to military communities, except that military communities shall be delineated by a written description rather than a map.

## SECTION 228.4—Community Reinvestment Act Statement

(a) Within 90 days after the effective date of this part, the board of directors of each state member bank shall adopt a Community Reinvestment Act (CRA) statement for each delineated local community.

(b) Each CRA statement shall include at least the following:

- (1) The delineation of the local community;
- (2) A list of specific types of credit within certain categories, such as residential loans for one- to four-dwelling units, residential loans for five-dwelling units and over, housing rehabilitation loans, home improvement loans, small business loans, farm loans, community development loans, commercial loans, and consumer loans, that the bank is prepared to extend within the local community; and
- (3) A copy of the Community Reinvestment Act notice provided for in section 228.6.

\* The words "this part," as used herein, mean Regulation BB (Code of Federal Regulations, title 12, chapter II, part 228).

† See section 228.51(c) for the effective dates of each section.

(c) Each state member bank is encouraged to include the following in each CRA statement:

- (1) A description of how its current efforts, including special credit-related programs, help to meet community credit needs;
- (2) A periodic report regarding its record of helping to meet community credit needs; and
- (3) A description of its efforts to ascertain the credit needs of its community, including efforts to communicate with members of its community regarding credit services.

(d) Each state member bank's board of directors shall review each CRA statement at least annually and shall act upon any material change made in the interim at its first regular meeting after the change. Such actions shall be noted in its minutes.

(e) Each current CRA statement shall be readily available for public inspection:

- (1) At the head office of the bank; and
- (2) At each office of the bank in the local community delineated in the statement, except off-premises electronic deposit facilities.

(f) Copies of each current CRA statement shall be provided to the public upon request. A state member bank may charge a reasonable fee not to exceed the cost of reproduction and mailing (if applicable).

#### SECTION 228.5—Files of Public Comments and Recent CRA Statements

(a) Each state member bank shall maintain files that are readily available for public inspection consisting of:

- (1) Any signed, written comments received from the public within the past two years that specifically relate to any CRA statement or to the bank's performance in helping to meet the credit needs of its community or communities;
- (2) A copy of the public section of the most recent CRA Performance Evaluation prepared by the appropriate Federal Reserve Bank on behalf of the Board of Governors of the Federal Reserve System (the format and content of the bank's CRA performance evaluation, as prepared and transmitted to

the state member bank by the appropriate Federal Reserve Bank, may not be altered or abridged in any manner). The state member bank must place this copy in the public file within 30 business days after its receipt from the appropriate Federal Reserve Bank.

- (3) Any response to the comments under paragraph (a)(1) of this section that the bank wishes to make; and
- (4) Any CRA statements in effect during the past two years.

(b) These files shall not contain any comments or responses that reflect adversely upon the good name or reputation of any person other than the bank, or publication of which would violate specific provisions of law.

(c) These files shall be maintained by each state member bank as follows:

- (1) All materials at the head office;
- (2) Materials relating to each local community, at a designated office in that community; and
- (3) The most recent CRA performance evaluation shall, at a minimum, be available at the head office and at an office in each local community so designated under paragraph (c)(2) of this section. The bank may respond to the CRA performance evaluation and may make the response available in the same manner as the CRA performance evaluation.

(d) State member banks shall provide copies of the public section of their most recent CRA performance evaluation to the public upon request. A state member bank may charge a reasonable fee not to exceed the cost of reproduction and mailing (if applicable).

#### SECTION 228.6—Public Notice

(a) Each state member bank shall provide, in the public lobby of its offices other than off-premises electronic deposit facilities, the public notice set forth below. Bracketed material shall be used only by banks having more than one local community. The last item shall be included only if the state member bank is a subsidiary of a holding company that is not prevented by statute from acquiring additional banks.

## COMMUNITY REINVESTMENT ACT NOTICE

The Federal Community Reinvestment Act (CRA) requires the Federal Reserve Board to evaluate our performance in helping to meet the credit needs of this community, and to take this evaluation into account when the Board decides on certain applications submitted by us. Your involvement is encouraged.

You should know that:

- You may obtain our current CRA statement for this community in this office. [Current CRA statements for other communities served by us are available at our head office, located at (address).]
- You may send signed, written comments about our CRA statement[s] or our performance in helping to meet community credit needs to (title and address of state member bank official) and to Community Reinvestment Officer, Federal Reserve Bank of \_\_\_\_\_(address). Your letter, together with any response by us, may be made public.
- You may look at a file of all signed, written comments received by us within the past two years, any responses we have made to the comments, and all CRA statements in effect during the past two years at our office located at (address). [You also may look at the file about this community at (name and address of designated office).]
- You may ask to look at any comments received by the Federal Reserve Bank of \_\_\_\_\_.
- You also may request from the Federal Reserve Bank of \_\_\_\_\_ an announcement of applications covered by the CRA filed with the Federal Reserve System.
- We are a subsidiary of (name of holding company), a bank holding company. Applications filed by bank holding companies that are covered by the CRA are included in the Federal Reserve announcement of applications referred to in the previous paragraph.

(b) Within 30 business days of receipt of its first publicly available, written CRA performance evaluation, each state member bank shall add language to the public CRA notice as follows:

- You may obtain the public section of our most recent CRA performance evaluation, which was prepared by the Federal Reserve Bank of \_\_\_\_\_ at (address of head office) [if the state member bank has more than one local community, each office (other than off-premises electronic deposit facilities) in that community shall include the address of the designated office for that community].

## SECTION 228.7—Assessing the Record of Performance

In connection with its examination of a state member bank, the Board shall assess the record of performance of the bank in helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operation of the bank. The Board will review the bank's CRA statement(s) and any signed, written comments retained by the state member bank or the Federal Reserve Bank. In addition, the Board will consider the following factors in assessing a bank's record of performance:

- (a) Activities conducted by the state member bank to ascertain the credit needs of its community, including the extent of the bank's efforts to communicate with members of its community regarding the credit services being provided by the bank;
- (b) The extent of the state member bank's marketing and special credit-related programs to make members of the community aware of the credit services offered by the bank;
- (c) The extent of participation by the state member bank's board of directors in formulating the bank's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act;
- (d) Any practices intended to discourage applications for types of credit set forth in the state member bank's CRA statement(s);
- (e) The geographic distribution of the state member bank's credit extensions, credit applications, and credit denials;
- (f) Evidence of prohibited discriminatory or other illegal credit practices;
- (g) The state member bank's record of opening and closing offices and providing services at offices;
- (h) The state member bank's participation, including investments, in local community development and redevelopment projects or programs;
- (i) The state member bank's origination of residential mortgage loans, housing rehabilita-

tion loans, home improvement loans, and small business or small farm loans within its community, or the purchase of such loans originated in its community;

(j) The state member bank's participation in governmentally insured, guaranteed, or subsidized loan programs for housing, small businesses, or small farms;

(k) The state member bank's ability to meet various community credit needs based on its financial condition and size, and legal impediments, local economic conditions, and other factors; and

(l) Other factors that, in the Board's judgment, reasonably bear upon the extent to which a state member bank is helping to meet the credit needs of its entire community.

## SUBPART A—GENERAL

### SECTION 228.11—Authority, Purposes, and Scope

(a) *Authority.* The Board of Governors of the Federal Reserve System (the Board) issues this part to implement the Community Reinvestment Act (12 USC 2901 et seq.) (CRA). The regulations comprising this part are issued under the authority of the CRA and under the provisions of the United States Code authorizing the Board—

- (1) to conduct examinations of state-chartered banks that are members of the Federal Reserve System (12 USC 325);
- (2) to conduct examinations of bank holding companies and their subsidiaries (12 USC 1844); and
- (3) to consider applications for—
  - (i) domestic branches by state member banks (12 USC 321);
  - (ii) mergers in which the resulting bank would be a state member bank (12 USC 1828(c));
  - (iii) formations of, acquisitions of banks by, and mergers of, bank holding companies (12 USC 1842); and
  - (iv) the acquisition of savings associations by bank holding companies (12 USC 1843).

(b) *Purposes.* In enacting the CRA, the Congress required each appropriate federal financial supervisory agency to assess an institution's record of helping to meet the credit needs of the local communities in which the institution is chartered, consistent with the safe and sound operation of the institution, and to take this record into account in the agency's evaluation of an application for a deposit facility by the institution. This part is intended to carry out the purposes of the CRA by—

- (1) establishing the framework and criteria by which the Board assesses a bank's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank; and
- (2) providing that the Board takes that record into account in considering certain applications.

(c) *Scope.*

(1) *General.* This part applies to all banks except as provided in paragraph (c)(3) of this section.

(2) *Foreign bank acquisitions.* This part also applies to an uninsured state branch (other than a limited branch) of a foreign bank that results from an acquisition described in section 5(a)(8) of the International Banking Act of 1978 (12 USC 3103(a)(8)). The terms "state branch" and "foreign bank" have the same meanings as in section 1(b) of the International Banking Act of 1978 (12 USC 3101 et seq.); the term "uninsured state branch" means a state branch the deposits of which are not insured by the Federal Deposit Insurance Corporation; the term "limited branch" means a state branch that accepts only deposits that are permissible for a corporation organized under section 25A of the Federal Reserve Act (12 USC 611 et seq.).

(3) *Certain special-purpose banks.* This part does not apply to special-purpose banks that do not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, other than as incident to their specialized operations. These banks include

banker's banks, as defined in 12 USC 24 (Seventh), and banks that engage only in one or more of the following activities: providing cash-management controlled-disbursement services or serving as correspondent banks, trust companies, or clearing agents.

### SECTION 228.12—Definitions

For purposes of this part, the following definitions apply:

(a) *Affiliate* means any company that controls, is controlled by, or is under common control with another company. The term "control" has the meaning given to that term in 12 USC 1841(a)(2), and a company is under common control with another company if both companies are directly or indirectly controlled by the same company.

(b) *Area median income* means—

- (1) the median family income for the MSA, if a person or geography is located in an MSA; or
- (2) the statewide nonmetropolitan median family income, if a person or geography is located outside an MSA.

(c) *Assessment area* means a geographic area delineated in accordance with section 228.41.

(d) *Automated teller machine (ATM)* means an automated, unstaffed banking facility owned or operated by, or operated exclusively for, the bank at which deposits are received, cash dispersed, or money lent.

(e) *Bank* means a state member bank as that term is defined in section 3(d)(2) of the Federal Deposit Insurance Act (12 USC 1813(d)(2)), except as provided in section 228.11(c)(3), and includes an uninsured state branch (other than a limited branch) of a foreign bank described in section 228.11(c)(2).

(f) *Branch* means a staffed banking facility approved as a branch, whether shared or unshared, including, for example, a minibranch in a grocery store or a branch operated in conjunction with any other local business or nonprofit organization.

(g) *CMSA* means a consolidated metropolitan

statistical area as defined by the director of the Office of Management and Budget.

(h) *Community development* means—

- (1) affordable housing (including multifamily rental housing) for low- or moderate-income individuals;
- (2) community services targeted to low- or moderate-income individuals;
- (3) activities that promote economic development by financing businesses or farms that meet the size eligibility standards of 13 CFR 121.802(a)(2) or have gross annual revenues of \$1 million or less; or
- (4) activities that revitalize or stabilize low- or moderate-income geographies.

(i) *Community development loan* means a loan that—

- (1) has as its primary purpose community development; and
- (2) except in the case of a wholesale or limited-purpose bank—
  - (i) has not been reported or collected by the bank or an affiliate for consideration in the bank's assessment as a home mortgage, small business, small farm, or consumer loan, unless it is a multifamily dwelling loan (as described in appendix A to part 203 of this chapter); and
  - (ii) benefits the bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

(j) *Community development service* means a service that—

- (1) has as its primary purpose community development;
- (2) is related to the provision of financial services; and
- (3) has not been considered in the evaluation of the bank's retail banking services under section 228.24(d).

(k) *Consumer loan* means a loan to one or more individuals for household, family, or other personal expenditures. A consumer loan does not include a home mortgage, small business, or small farm loan. Consumer loans include the following categories of loans:

- (1) *Motor vehicle loan*, which is a consumer loan extended for the purchase of and secured by a motor vehicle;

(2) *Credit card loan*, which is a line of credit for household, family, or other personal expenditures that is accessed by a borrower's use of a "credit card," as this term is defined in section 226.2 of this chapter;

(3) *Home-equity loan*, which is a consumer loan secured by a residence of the borrower;

(4) *Other secured consumer loan*, which is a secured consumer loan that is not included in one of the other categories of consumer loans; and

(5) *Other unsecured consumer loan*, which is an unsecured consumer loan that is not included in one of the other categories of consumer loans.

(l) *Geography* means a census tract or a block numbering area delineated by the United States Bureau of the Census in the most recent decennial census.

(m) *Home mortgage loan* means a "home-improvement loan" or a "home-purchase loan" as defined in section 203.2 of this chapter.

(n) *Income level* includes:

(1) *Low-income*, which means an individual income that is less than 50 percent of the area median income, or a median family income that is less than 50 percent, in the case of a geography.

(2) *Moderate-income*, which means an individual income that is at least 50 percent and less than 80 percent of the area median income, or a median family income that is at least 50 and less than 80 percent, in the case of a geography.

(3) *Middle-income*, which means an individual income that is at least 80 percent and less than 120 percent of the area median income, or a median family income that is at least 80 and less than 120 percent, in the case of a geography.

(4) *Upper-income*, which means an individual income that is 120 percent or more of the area median income, or a median family income that is 120 percent or more, in the case of a geography.

(o) *Limited-purpose bank* means a bank that offers only a narrow product line (such as

credit card or motor vehicle loans) to a regional or broader market and for which a designation as a limited-purpose bank is in effect, in accordance with section 228.25(b).

(p) *Loan location*. A loan is located as follows:

(1) a consumer loan is located in the geography where the borrower resides;

(2) a home mortgage loan is located in the geography where the property to which the loan relates is located; and

(3) a small-business or small-farm loan is located in the geography where the main business facility or farm is located or where the loan proceeds otherwise will be applied, as indicated by the borrower.

(q) *Loan production office* means a staffed facility, other than a branch, that is open to the public and that provides lending-related services, such as loan information and applications.

(r) *MSA* means a metropolitan statistical area or a primary metropolitan statistical area as defined by the director of the Office of Management and Budget.

(s) *Qualified investment* means a lawful investment, deposit, membership share, or grant that has as its primary purpose community development.

(t) *Small bank* means a bank that, as of December 31 of either of the prior two calendar years, had total assets of less than \$250 million and was independent or an affiliate of a holding company that, as of December 31 of either of the prior two calendar years, had total banking and thrift assets of less than \$1 billion.

(u) *Small-business loan* means a loan included in "loans to small businesses" as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

(v) *Small-farm loan* means a loan included in "loans to small farms" as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

(w) *Wholesale bank* means a bank that is not in the business of extending home mortgage, small-business, small-farm, or consumer loans

to retail customers, and for which a designation as a wholesale bank is in effect, in accordance with section 228.25(b).

## SUBPART B—STANDARDS FOR ASSESSING PERFORMANCE

### SECTION 228.21—Performance Tests, Standards, and Ratings, in General

(a) *Performance tests and standards.* The Board assesses the CRA performance of a bank in an examination as follows:

(1) *Lending, investment, and service tests.* The Board applies the lending, investment, and service tests, as provided in sections 228.22 through 228.24, in evaluating the performance of a bank, except as provided in paragraphs (a)(2), (a)(3), and (a)(4) of this section.

(2) *Community development test for wholesale or limited-purpose banks.* The Board applies the community development test for a wholesale or limited-purpose bank, as provided in section 228.25, except as provided in paragraph (a)(4) of this section.

(3) *Small-bank performance standards.* The Board applies the small-bank performance standards as provided in section 228.26 in evaluating the performance of a small bank or a bank that was a small bank during the prior calendar year, unless the bank elects to be assessed as provided in paragraphs (a)(1), (a)(2), or (a)(4) of this section. The bank may elect to be assessed as provided in paragraph (a)(1) of this section only if it collects and reports the data required for other banks under section 228.42.

(4) *Strategic plan.* The Board evaluates the performance of a bank under a strategic plan if the bank submits, and the Board approves, a strategic plan as provided in section 228.27.

(b) *Performance context.* The Board applies the tests and standards in paragraph (a) of this section and also considers whether to approve a proposed strategic plan in the context of—

(1) demographic data on median income levels, distribution of household income, nature of housing stock, housing costs, and

other relevant data pertaining to a bank's assessment area(s);

(2) any information about lending, investment, and service opportunities in the bank's assessment area(s) maintained by the bank or obtained from community organizations, state, local, and tribal governments, economic-development agencies, or other sources;

(3) the bank's product offerings and business strategy as determined from data provided by the bank;

(4) institutional capacity and constraints, including the size and financial condition of the bank, the economic climate (national, regional, and local), safety-and-soundness limitations, and any other factors that significantly affect the bank's ability to provide lending, investments, or services in its assessment area(s);

(5) the bank's past performance and the performance of similarly situated lenders;

(6) the bank's public file, as described in section 228.43, and any written comments about the bank's CRA performance submitted to the bank or the Board; and

(7) any other information deemed relevant by the Board.

(c) *Assigned ratings.* The Board assigns to a bank one of the following four ratings pursuant to section 228.28 and appendix A of this part: "outstanding"; "satisfactory"; "needs to improve"; or "substantial noncompliance" as provided in 12 USC 2906(b)(2). The rating assigned by the Board reflects the bank's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank.

(d) *Safe and sound operations.* This part and the CRA do not require a bank to make loans or investments or to provide services that are inconsistent with safe and sound operations. To the contrary, the Board anticipates banks can meet the standards of this part with safe and sound loans, investments, and services on which the banks expect to make a profit. Banks are permitted and encouraged to develop and apply flexible underwriting standards for loans that benefit low- or moderate-

income geographies or individuals, only if consistent with safe and sound operations.

## SECTION 228.22—Lending Test

### (a) *Scope of test.*

(1) The lending test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) through its lending activities by considering a bank's home mortgage, small-business, small-farm, and community-development lending. If consumer lending constitutes a substantial majority of a bank's business, the Board will evaluate the bank's consumer lending in one or more of the following categories: motor vehicle, credit card, home-equity, other secured, and other unsecured loans. In addition, at a bank's option, the Board will evaluate one or more categories of consumer lending, if the bank has collected and maintained, as required in section 228.42(c)(1), the data for each category that the bank elects to have the Board evaluate.

(2) The Board considers originations and purchases of loans. The Board will also consider any other loan data the bank may choose to provide, including data on loans outstanding, commitments, and letters of credit.

(3) A bank may ask the Board to consider loans originated or purchased by consortia in which the bank participates or by third parties in which the bank has invested only if the loans meet the definition of community development loans and only in accordance with paragraph (d) of this section. The Board will not consider these loans under any criterion of the lending test except the community development lending criterion.

(b) *Performance criteria.* The Board evaluates a bank's lending performance pursuant to the following criteria:

(1) *Lending activity.* The number and amount of the bank's home mortgage, small-business, small-farm, and consumer loans, if applicable, in the bank's assessment area(s);

(2) *Geographic distribution.* The geographic distribution of the bank's home

mortgage, small-business, small-farm, and consumer loans, if applicable, based on the loan location, including—

(i) the proportion of the bank's lending in the bank's assessment area(s);

(ii) the dispersion of lending in the bank's assessment area(s); and

(iii) the number and amount of loans in low-, moderate-, middle-, and upper-income geographies in the bank's assessment area(s);

(3) *Borrower characteristics.* The distribution, particularly in the bank's assessment area(s), of the bank's home mortgage, small-business, small-farm, and consumer loans, if applicable, based on borrower characteristics, including the number and amount of—

(i) home mortgage loans to low-, moderate-, middle-, and upper-income individuals;

(ii) small-business and small-farm loans to businesses and farms with gross annual revenues of \$1 million or less;

(iii) small-business and small-farm loans by loan amount at origination; and

(iv) consumer loans, if applicable, to low-, moderate-, middle-, and upper-income individuals;

(4) *Community development lending.* The bank's community development lending, including the number and amount of community development loans, and their complexity and innovativeness; and

(5) *Innovative or flexible lending practices.* The bank's use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies.

### (c) *Affiliate lending.*

(1) At a bank's option, the Board will consider loans by an affiliate of the bank, if the bank provides data on the affiliate's loans pursuant to section 228.42.

(2) The Board considers affiliate lending subject to the following constraints:

(i) no affiliate may claim a loan origination or loan purchase if another institution claims the same loan origination or purchase; and

(ii) if a bank elects to have the Board consider loans within a particular lending category made by one or more of the bank's affiliates in a particular assessment area, the bank shall elect to have the Board consider, in accordance with paragraph (c)(1) of this section, all the loans within that lending category in that particular assessment area made by all of the bank's affiliates.

(3) The Board does not consider affiliate lending in assessing a bank's performance under paragraph (b)(2)(i) of this section.

(d) *Lending by a consortium or a third party.* Community development loans originated or purchased by a consortium in which the bank participates or by a third party in which the bank has invested—

(1) will be considered, at the bank's option, if the bank reports the data pertaining to these loans under section 228.42(b)(2); and  
(2) may be allocated among participants or investors, as they choose, for purposes of the lending test, except that no participant or investor—

(i) may claim a loan origination or loan purchase if another participant or investor claims the same loan origination or purchase; or

(ii) may claim loans accounting for more than its percentage share (based on the level of its participation or investment) of the total loans originated by the consortium or third party.

(e) *Lending-performance rating.* The Board rates a bank's lending performance as provided in appendix A of this part.

#### SECTION 228.23—Investment Test

(a) *Scope of test.* The investment test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) through qualified investments that benefit its assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

(b) *Exclusion.* Activities considered under the lending or service tests may not be considered under the investment test.

(c) *Affiliate investment.* At a bank's option, the Board will consider, in its assessment of a bank's investment performance, a qualified investment made by an affiliate of the bank, if the qualified investment is not claimed by any other institution.

(d) *Disposition of branch premises.* Donating, selling on favorable terms, or making available on a rent-free basis a branch of the bank that is located in a predominantly minority neighborhood to a minority depository institution or women's depository institution (as these terms are defined in 12 USC 2907(b)) will be considered as a qualified investment.

(e) *Performance criteria.* The Board evaluates the investment performance of a bank pursuant to the following criteria:

(1) the dollar amount of qualified investments;

(2) the innovativeness or complexity of qualified investments;

(3) the responsiveness of qualified investments to credit and community development needs; and

(4) the degree to which the qualified investments are not routinely provided by private investors.

(f) *Investment-performance rating.* The Board rates a bank's investment performance as provided in appendix A of this part.

#### SECTION 228.24—Service Test

(a) *Scope of test.* The service test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) by analyzing both the availability and effectiveness of a bank's systems for delivering retail banking services and the extent and innovativeness of its community development services.

(b) *Area(s) benefitted.* Community development services must benefit a bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

(c) *Affiliate service.* At a bank's option, the Board will consider, in its assessment of a bank's service performance, a community development service provided by an affiliate of

the bank, if the community development service is not claimed by any other institution.

(d) *Performance criteria—retail banking services.* The Board evaluates the availability and effectiveness of a bank's systems for delivering retail banking services, pursuant to the following criteria:

- (1) the current distribution of the bank's branches among low-, moderate-, middle-, and upper-income geographies;
- (2) in the context of its current distribution of the bank's branches, the bank's record of opening and closing branches, particularly branches located in low- or moderate-income geographies or primarily serving low- or moderate-income individuals;
- (3) the availability and effectiveness of alternate systems for delivering retail banking services (e.g., ATMs, ATMs not owned or operated by or exclusively for the bank, banking by telephone or computer, loan production offices, and bank-at-work or bank-by-mail programs) in low- and moderate-income geographies and to low- and moderate-income individuals; and
- (4) the range of services provided in low-, moderate-, middle-, and upper-income geographies and the degree to which the services are tailored to meet the needs of those geographies.

(e) *Performance criteria—community development services.* The Board evaluates community development services pursuant to the following criteria:

- (1) the extent to which the bank provides community development services; and
- (2) the innovativeness and responsiveness of community development services.

(f) *Service-performance rating.* The Board rates a bank's service performance as provided in appendix A of this part.

#### SECTION 228.25—Community Development Test for Wholesale or Limited-Purpose Bank

(a) *Scope of test.* The Board assesses a wholesale or limited-purpose bank's record of helping to meet the credit needs of its assessment area(s) under the community develop-

ment test through its community development lending, qualified investments, or community development services.

(b) *Designation as a wholesale or limited-purpose bank.* In order to receive a designation as a wholesale or limited-purpose bank, a bank shall file a request, in writing, with the Board, at least three months prior to the proposed effective date of the designation. If the Board approves the designation, it remains in effect until the bank requests revocation of the designation or until one year after the Board notifies the bank that the Board has revoked the designation on its own initiative.

(c) *Performance criteria.* The Board evaluates the community development performance of a wholesale or limited-purpose bank pursuant to the following criteria:

- (1) the number and amount of community development loans (including originations and purchases of loans and other community development loan data provided by the bank, such as data on loans outstanding, commitments, and letters of credit), qualified investments, or community development services;
- (2) the use of innovative or complex qualified investments, community development loans, or community development services and the extent to which the investments are not routinely provided by private investors; and
- (3) the bank's responsiveness to credit and community development needs.

(d) *Indirect activities.* At a bank's option, the Board will consider in its community development performance assessment:

- (1) qualified investments or community development services provided by an affiliate of the bank, if the investments or services are not claimed by any other institution; and
- (2) community development lending by affiliates, consortia and third parties, subject to the requirements and limitations in section 228.22(c) and (d).

(e) *Benefit to assessment area(s).*

- (1) *Benefit inside assessment area(s).* The Board considers all qualified investments, community development loans, and commu-

nity development services that benefit areas within the bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

(2) *Benefit outside assessment area(s).* The Board considers the qualified investments, community development loans, and community development services that benefit areas outside the bank's assessment area(s), if the bank has adequately addressed the needs of its assessment area(s).

(f) *Community development performance rating.* The Board rates a bank's community development performance as provided in appendix A of this part.

#### SECTION 228.26—Small-Bank Performance Standards

(a) *Performance criteria.* The Board evaluates the record of a small bank, or a bank that was a small bank during the prior calendar year, of helping to meet the credit needs of its assessment area(s) pursuant to the following criteria:

(1) the bank's loan-to-deposit ratio, adjusted for seasonal variation and, as appropriate, other lending-related activities, such as loan originations for sale to the secondary markets, community development loans, or qualified investments;

(2) the percentage of loans and, as appropriate, other lending-related activities located in the bank's assessment area(s);

(3) the bank's record of lending to and, as appropriate, engaging in other lending-related activities for borrowers of different income levels and businesses and farms of different sizes;

(4) the geographic distribution of the bank's loans; and

(5) the bank's record of taking action, if warranted, in response to written complaints about its performance in helping to meet credit needs in its assessment area(s).

(b) *Small-bank performance rating.* The Board rates the performance of a bank evaluated under this section as provided in appendix A of this part.

#### SECTION 228.27—Strategic Plan

(a) *Alternative election.* The Board will assess a bank's record of helping to meet the credit needs of its assessment area(s) under a strategic plan if—

(1) the bank has submitted the plan to the Board as provided for in this section;

(2) the Board has approved the plan;

(3) the plan is in effect; and

(4) the bank has been operating under an approved plan for at least one year.

(b) *Data reporting.* The Board's approval of a plan does not affect the bank's obligation, if any, to report data as required by section 228.42.

(c) *Plans in general.*

(1) *Term.* A plan may have a term of no more than five years, and any multiyear plan must include annual interim measurable goals under which the Board will evaluate the bank's performance.

(2) *Multiple assessment areas.* A bank with more than one assessment area may prepare a single plan for all of its assessment areas or one or more plans for one or more of its assessment areas.

(3) *Treatment of affiliates.* Affiliated institutions may prepare a joint plan if the plan provides measurable goals for each institution. Activities may be allocated among institutions at the institutions' option, provided that the same activities are not considered for more than one institution.

(d) *Public participation in plan development.* Before submitting a plan to the Board for approval, a bank shall—

(1) informally seek suggestions from members of the public in its assessment area(s) covered by the plan while developing the plan;

(2) once the bank has developed a plan, formally solicit public comment on the plan for at least 30 days by publishing notice in at least one newspaper of general circulation in each assessment area covered by the plan; and

(3) during the period of formal public comment, make copies of the plan available for review by the public at no cost at all offices of the bank in any assessment area covered

by the plan and provide copies of the plan upon request for a reasonable fee to cover copying and mailing, if applicable.

(e) *Submission of plan.* The bank shall submit its plan to the Board at least three months prior to the proposed effective date of the plan. The bank shall also submit with its plan a description of its informal efforts to seek suggestions from members of the public, any written public comment received, and, if the plan was revised in light of the comment received, the initial plan as released for public comment.

(f) *Plan content.*

(1) *Measurable goals.*

(i) A bank shall specify in its plan measurable goals for helping to meet the credit needs of each assessment area covered by the plan, particularly the needs of low- and moderate-income geographies and low- and moderate-income individuals, through lending, investment, and services, as appropriate.

(ii) A bank shall address in its plan all three performance categories and, unless the bank has been designated as a whole-sale or limited-purpose bank, shall emphasize lending and lending-related activities. Nevertheless, a different emphasis, including a focus on one or more performance categories, may be appropriate if responsive to the characteristics and credit needs of its assessment area(s), considering public comment and the bank's capacity and constraints, product offerings, and business strategy.

(2) *Confidential information.* A bank may submit additional information to the Board on a confidential basis, but the goals stated in the plan must be sufficiently specific to enable the public and the Board to judge the merits of the plan.

(3) *Satisfactory and outstanding goals.* A bank shall specify in its plan measurable goals that constitute "satisfactory" performance. A plan may specify measurable goals that constitute "outstanding" performance. If a bank submits, and the Board approves, both "satisfactory" and "outstanding" performance goals, the Board will consider the

bank eligible for an "outstanding" performance rating.

(4) *Election if satisfactory goals not substantially met.* A bank may elect in its plan that, if the bank fails to meet substantially its plan goals for a satisfactory rating, the Board will evaluate the bank's performance under the lending, investment, and service tests, the community development test, or the small-bank performance standards, as appropriate.

(g) *Plan approval.*

(1) *Timing.* The Board will act upon a plan within 60 calendar days after the Board receives the complete plan and other material required under paragraph (d) of this section. If the Board fails to act within this time period, the plan shall be deemed approved unless the Board extends the review period for good cause.

(2) *Public participation.* In evaluating the plan's goals, the Board considers the public's involvement in formulating the plan, written public comment on the plan, and any response by the bank to public comment on the plan.

(3) *Criteria for evaluating plan.* The Board evaluates a plan's measurable goals using the following criteria, as appropriate:

(i) the extent and breadth of lending or lending-related activities, including, as appropriate, the distribution of loans among different geographies, businesses and farms of different sizes, and individuals of different income levels, the extent of community development lending, and the use of innovative or flexible lending practices to address credit needs;

(ii) the amount and innovativeness, complexity, and responsiveness of the bank's qualified investments; and

(iii) the availability and effectiveness of the bank's systems for delivering retail banking services and the extent and innovativeness of the bank's community development services.

(h) *Plan amendment.* During the term of a plan, a bank may request the Board to approve an amendment to the plan on grounds that there has been a material change in cir-

cumstances. The bank shall develop an amendment to a previously approved plan in accordance with the public participation requirements of paragraph (c) of this section.

(i) *Plan assessment.* The Board approves the goals and assesses performance under a plan as provided for in appendix A of this part.

#### SECTION 228.28—Assigned Ratings

(a) *Ratings in general.* Subject to paragraphs (b) and (c) of this section, the Board assigns to a bank a rating of “outstanding,” “satisfactory,” “needs to improve,” or “substantial noncompliance” based on the bank’s performance under the lending, investment, and service tests, the community development test, the small-bank performance standards, or an approved strategic plan, as applicable.

(b) *Lending, investment, and service tests.* The Board assigns a rating for a bank assessed under the lending, investment, and service tests in accordance with the following principles:

- (1) a bank that receives an “outstanding” rating on the lending test receives an assigned rating of at least “satisfactory”;
- (2) a bank that receives an “outstanding” rating on both the service test and the investment test and a rating of at least “high satisfactory” on the lending test receives an assigned rating of “outstanding”; and
- (3) no bank may receive an assigned rating of “satisfactory” or higher unless it receives a rating of at least “low satisfactory” on the lending test.

(c) *Effect of evidence of discriminatory or other illegal credit practices.* Evidence of discriminatory or other illegal credit practices adversely affects the Board’s evaluation of a bank’s performance. In determining the effect on the bank’s assigned rating, the Board considers the nature and extent of the evidence, the policies and procedures that the bank has in place to prevent discriminatory or other illegal credit practices, any corrective action that the bank has taken or has committed to take, particularly voluntary corrective action resulting from self-assessment, and other relevant information.

#### SECTION 228.29—Effect of CRA Performance on Applications

(a) *CRA performance.* Among other factors, the Board takes into account the record of performance under the CRA of—

- (1) each applicant bank for the—
  - (i) establishment of a domestic branch by a state member bank; and
  - (ii) merger, consolidation, acquisition of assets, or assumption of liabilities requiring approval under the Bank Merger Act (12 USC 1828(c)) if the acquiring, assuming, or resulting bank is to be a state member bank; and
- (2) each insured depository institution (as defined in 12 USC 1813) controlled by an applicant and subsidiary bank or savings association proposed to be controlled by an applicant—
  - (i) to become a bank holding company in a transaction that requires approval under section 3 of the Bank Holding Company Act (12 USC 1842);
  - (ii) to acquire ownership or control of shares or all or substantially all of the assets of a bank, to cause a bank to become a subsidiary of a bank holding company, or to merge or consolidate a bank holding company with any other bank holding company in a transaction that requires approval under section 3 of the Bank Holding Company Act (12 USC 1842); and
  - (iii) to own, control, or operate a savings association in a transaction that requires approval under section 4 of the Bank Holding Company Act (12 USC 1843).

(b) *Interested parties.* In considering CRA performance in an application described in paragraph (a) of this section, the Board takes into account any views expressed by interested parties that are submitted in accordance with the Board’s Rules of Procedure set forth in part 262 of this chapter.

(c) *Denial or conditional approval of application.* A bank’s record of performance may be the basis for denying or conditioning approval of an application listed in paragraph (a) of this section.

(d) *Definitions.* For purposes of paragraph

(a)(2) of this section, “bank,” “bank holding company,” “subsidiary,” and “savings association” have the meanings given to those terms in section 2 of the Bank Holding Company Act (12 USC 1841).

## SUBPART C—RECORDS, REPORTING, AND DISCLOSURE REQUIREMENTS

### SECTION 228.41—Assessment-Area Delineation

(a) *In general.* A bank shall delineate one or more assessment areas within which the Board evaluates the bank’s record of helping to meet the credit needs of its community. The Board does not evaluate the bank’s delineation of its assessment area(s) as a separate performance criterion, but the Board reviews the delineation for compliance with the requirements of this section.

(b) *Geographic area(s) for wholesale or limited-purpose banks.* The assessment area(s) for a wholesale or limited-purpose bank must consist generally of one or more MSAs (using the MSA boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns, in which the bank has its main office, branches, and deposit-taking ATMs.

(c) *Geographic area(s) for other banks.* The assessment area(s) for a bank other than a wholesale or limited-purpose bank must—

- (1) consist generally of one or more MSAs (using the MSA boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns; and
- (2) include the geographies in which the bank has its main office, its branches, and its deposit-taking ATMs, as well as the surrounding geographies in which the bank has originated or purchased a substantial portion of its loans (including home mortgage loans, small-business and small-farm loans,

and any other loans the bank chooses, such as those consumer loans on which the bank elects to have its performance assessed).

(d) *Adjustments to geographic area(s).* A bank may adjust the boundaries of its assessment area(s) to include only the portion of a political subdivision that it reasonably can be expected to serve. An adjustment is particularly appropriate in the case of an assessment area that otherwise would be extremely large, of unusual configuration, or divided by significant geographic barriers.

(e) *Limitations on the delineation of an assessment area.* Each bank’s assessment area(s)—

- (1) must consist only of whole geographies;
- (2) may not reflect illegal discrimination;
- (3) may not arbitrarily exclude low- or moderate-income geographies, taking into account the bank’s size and financial condition; and
- (4) may not extend substantially beyond a CMSA boundary or beyond a state boundary unless the assessment area is located in a multistate MSA. If a bank serves a geographic area that extends substantially beyond a state boundary, the bank shall delineate separate assessment areas for the areas in each state. If a bank serves a geographic area that extends substantially beyond a CMSA boundary, the bank shall delineate separate assessment areas for the areas inside and outside the CMSA.

(f) *Banks serving military personnel.* Notwithstanding the requirements of this section, a bank whose business predominantly consists of serving the needs of military personnel or their dependents who are not located within a defined geographic area may delineate its entire deposit-customer base as its assessment area.

(g) *Use of assessment area(s).* The Board uses the assessment area(s) delineated by a bank in its evaluation of the bank’s CRA performance unless the Board determines that the assessment area(s) do not comply with the requirements of this section.

## SECTION 228.42—Data Collection, Reporting, and Disclosure

(a) *Loan information required to be collected and maintained.* A bank, except a small bank, shall collect, and maintain in machine-readable form (as prescribed by the Board) until the completion of its next CRA examination, the following data for each small-business or small-farm loan originated or purchased by the bank:

- (1) a unique number or alphanumeric symbol that can be used to identify the relevant loan file;
- (2) the loan amount at origination;
- (3) the loan location; and
- (4) an indicator whether the loan was to a business or farm with gross annual revenues of \$1 million or less.

(b) *Loan information required to be reported.* A bank, except a small bank or a bank that was a small bank during the prior calendar year, shall report annually by March 1 to the Board in machine-readable form (as prescribed by the Board) the following data for the prior calendar year:

(1) *Small-business and small-farm loan data.* For each geography in which the bank originated or purchased a small-business or small-farm loan, the aggregate number and amount of loans—

- (i) with an amount at origination of \$100,000 or less;
- (ii) with amount at origination of more than \$100,000 but less than or equal to \$250,000;
- (iii) with an amount at origination of more than \$250,000; and
- (iv) to businesses and farms with gross annual revenues of \$1 million or less (using the revenues that the bank considered in making its credit decision);

(2) *Community development loan data.* The aggregate number and aggregate amount of community development loans originated or purchased; and

(3) *Home mortgage loans.* If the bank is subject to reporting under part 203 of this chapter, the location of each home mortgage loan application, origination, or purchase outside the MSAs in which the bank has a home or branch office (or

outside any MSA) in accordance with the requirements of part 203 of this chapter.

(c) *Optional data collection and maintenance.*

(1) *Consumer loans.* A bank may collect and maintain in machine-readable form (as prescribed by the Board) data for consumer loans originated or purchased by the bank for consideration under the lending test. A bank may maintain data for one or more of the following categories of consumer loans: motor vehicle, credit card, home-equity, other secured, and other unsecured. If the bank maintains data for loans in a certain category, it shall maintain data for all loans originated or purchased within that category. The bank shall maintain data separately for each category, including for each loan—

- (i) a unique number or alphanumeric symbol that can be used to identify the relevant loan file;
- (ii) the loan amount at origination or purchase;
- (iii) the loan location; and
- (iv) the gross annual income of the borrower that the bank considered in making its credit decision.

(2) *Other loan data.* At its option, a bank may provide other information concerning its lending performance, including additional loan-distribution data.

(d) *Data on affiliate lending.* A bank that elects to have the Board consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, shall collect, maintain, and report for those loans the data that the bank would have collected, maintained, and reported pursuant to paragraphs (a), (b), and (c) of this section had the loans been originated or purchased by the bank. For home mortgage loans, the bank shall also be prepared to identify the home mortgage loans reported under part 203 of this chapter by the affiliate.

(e) *Data on lending by a consortium or a third party.* A bank that elects to have the Board consider community development loans by a consortium or third party, for purposes of the lending or community development tests or an approved strategic plan, shall report for

those loans the data that the bank would have reported under paragraph (b)(2) of this section had the loans been originated or purchased by the bank.

(f) *Small banks electing evaluation under the lending, investment, and service tests.* A bank that qualifies for evaluation under the small-bank performance standards but elects evaluation under the lending, investment, and service tests shall collect, maintain, and report the data required for other banks pursuant to paragraphs (a) and (b) of this section.

(g) *Assessment-area data.* A bank, except a small bank or a bank that was a small bank during the prior calendar year, shall collect and report to the Board by March 1 of each year a list for each assessment area showing the geographies within the area.

(h) *CRA disclosure statement.* The Board prepares annually for each bank that reports data pursuant to this section a CRA disclosure statement that contains, on a state-by-state basis—

(1) for each county (and for each assessment area smaller than a county) with a population of 500,000 persons or fewer in which the bank reported a small-business or small-farm loan—

(i) the number and amount of small-business and small-farm loans reported as originated or purchased located in low-, moderate-, middle-, and upper-income geographies;

(ii) a list grouping each geography according to whether the geography is low-, moderate-, middle-, or upper-income;

(iii) a list showing each geography in which the bank reported a small-business or small-farm loan; and

(iv) the number and amount of small-business and small-farm loans to businesses and farms with gross annual revenues of \$1 million or less;

(2) for each county (and for each assessment area smaller than a county) with a population in excess of 500,000 persons in which the bank reported a small-business or small-farm loan—

(i) the number and amount of small-business and small-farm loans reported as

originated or purchased located in geographies with median income relative to the area median income of less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(ii) a list grouping each geography in the county or assessment area according to whether the median income in the geography relative to the area median income is less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, 120 percent or more;

(iii) a list showing each geography in which the bank reported a small-business or small-farm loan; and

(iv) the number and amount of small-business and small-farm loans to businesses and farms with gross annual revenues of \$1 million or less;

(3) the number and amount of small-business and small-farm loans located inside each assessment area reported by the bank and the number and amount of small-business and small-farm loans located outside the assessment area(s) reported by the bank; and

(4) the number and amount of community development loans reported as originated or purchased.

(i) *Aggregate disclosure statements.* The Board, in conjunction with the Office of the Comptroller of the Currency, the Federal De-

posit Insurance Corporation, and the Office of Thrift Supervision, prepares annually, for each MSA (including an MSA that crosses a state boundary) and the non-MSA portion of each state, an aggregate disclosure statement of small-business and small-farm lending by all institutions subject to reporting under this part or parts 25, 345, or 563e of this title. These disclosure statements indicate, for each geography, the number and amount of all small-business and small-farm loans originated or purchased by reporting institutions, except that the Board may adjust the form of the disclosure if necessary, because of special circumstances, to protect the privacy of a borrower or the competitive position of an institution.

(j) *Central data depositories.* The Board makes the aggregate disclosure statements, described in paragraph (i) of this section, and the individual bank CRA disclosure statements, described in paragraph (h) of this section, available to the public at central data depositories. The Board publishes a list of the depositories at which the statements are available.

#### SECTION 228.43—Content and Availability of Public File

(a) *Information available to the public.* A bank shall maintain a public file that includes the following information:

- (1) all written comments received from the public for the current year and each of the prior two calendar years that specifically relate to the bank's performance in helping to meet community credit needs, and any response to the comments by the bank, if neither the comments nor the responses contain statements that reflect adversely on the good name or reputation of any persons other than the bank or publication of which would violate specific provisions of law;
- (2) a copy of the public section of the bank's most recent CRA performance evaluation prepared by the Board. The bank shall place this copy in the public file within 30 business days after its receipt from the Board;
- (3) a list of the bank's branches, their street addresses, and geographies;

(4) a list of branches opened or closed by the bank during the current year and each of the prior two calendar years, their street addresses, and geographies;

(5) a list of services (including hours of operation, available loan and deposit products, and transaction fees) generally offered at the bank's branches and descriptions of material differences in the availability or cost of services at particular branches, if any. At its option, a bank may include information regarding the availability of alternative systems for delivering retail banking services (e.g., ATMs, ATMs not owned or operated by or exclusively for the bank, banking by telephone or computer, loan production offices, and bank-at-work or bank-by-mail programs);

(6) a map of each assessment area showing the boundaries of the area and identifying the geographies contained within the area, either on the map or in a separate list; and

(7) any other information the bank chooses.

(b) *Additional information available to the public.*

(1) *Banks other than small banks.* A bank, except a small bank or a bank that was a small bank during the prior calendar year, shall include in its public file the following information pertaining to the bank and its affiliates, if applicable, for each of the prior two calendar years:

(i) if the bank has elected to have one or more categories of its consumer loans considered under the lending test, for each of these categories, the number and amount of loans—

(A) to low-, moderate-, middle-, and upper-income individuals;

(B) located in low-, moderate-, middle-, and upper-income census tracts; and

(C) located inside the bank's assessment area(s) and outside the bank's assessment area(s); and

(ii) the bank's CRA disclosure statement. The bank shall place the statement in the public file within three business days of its receipt from the Board.

(2) *Banks required to report Home Mortgage Disclosure Act (HMDA) data.* A bank

required to report home mortgage loan data pursuant to part 203 of this chapter shall include in its public file a copy of the HMDA disclosure statement provided by the Federal Financial Institutions Examination Council pertaining to the bank for each of the prior two calendar years. In addition, a bank that elected to have the Board consider the mortgage lending of an affiliate for any of these years shall include in its public file the affiliate's HMDA disclosure statement for those years. The bank shall place the statement(s) in the public file within three business days after its receipt.

(3) *Small banks.* A small bank or a bank that was a small bank during the prior calendar year shall include in its public file—

(i) the bank's loan-to-deposit ratio for each quarter of the prior calendar year and, at its option, additional data on its loan-to-deposit ratio; and

(ii) the information required for other banks by paragraph (b)(1) of this section, if the bank has elected to be evaluated under the lending, investment, and service tests.

(4) *Banks with strategic plans.* A bank that has been approved to be assessed under a strategic plan shall include in its public file a copy of that plan. A bank need not include information submitted to the Board on a confidential basis in conjunction with the plan.

(5) *Banks with less than satisfactory ratings.* A bank that received a less than satisfactory rating during its most recent examination shall include in its public file a description of its current efforts to improve its performance in helping to meet the credit needs of its entire community. The bank shall update the description quarterly.

(c) *Location of public information.* A bank shall make available to the public for inspection upon request and at no cost the information required in this section as follows:

(1) at the main office and, if an interstate bank, at one branch office in each state, all information in the public file; and

(2) at each branch:

(i) a copy of the public section of the bank's most recent CRA performance

evaluation and a list of services provided by the branch; and

(ii) within five calendar days of the request, all the information in the public file relating to the assessment area in which the branch is located.

(d) *Copies.* Upon request, a bank shall provide copies, either on paper or in another form acceptable to the person making the request, of the information in its public file. The bank may charge a reasonable fee not to exceed the cost of copying and mailing (if applicable).

(e) *Updating.* Except as otherwise provided in this section, a bank shall ensure that the information required by this section is current as of April 1 of each year.

#### SECTION 228.44—Public Notice by Banks

A bank shall provide in the public lobby of its main office and each of its branches the appropriate public notice set forth in appendix B of this part. Only a branch of a bank having more than one assessment area shall include the bracketed material in the notice for branch offices. Only a bank that is an affiliate of a holding company shall include the next-to-the-last sentence of the notices. A bank shall include the last sentence of the notices only if it is an affiliate of a holding company that is not prevented by statute from acquiring additional banks.

#### SECTION 228.45—Publication of Planned Examination Schedule

The Board publishes at least 30 days in advance of the beginning of each calendar quarter a list of banks scheduled for CRA examinations in that quarter.

#### SUBPART D—TRANSITION RULES

##### SECTION 228.51—Transition Rules

(a) *Effective date.* Sections of this part be-

come applicable over a period of time in accordance with the schedule set forth in paragraph (c) of this section.

(b) *Data collection and reporting; strategic plan; performance tests and standards.*

(1) *Data collection and reporting.*

(i) On January 1, 1996, the data-collection requirements set forth in section 228.42 (except section 228.42(b) and (g)) become applicable.

(ii) On January 1, 1997, the data-reporting requirements set forth in section 228.42(b) and (g) become applicable.

(2) *Small banks.* Beginning January 1, 1996, the Board evaluates banks that qualify for the small-bank performance standards described in section 228.26 under that section.

(3) *Strategic plan.* Beginning January 1, 1996, a bank that elects to be evaluated under an approved strategic plan pursuant to section 228.27 may submit its strategic plan to the Board for approval.

(4) *Other performance tests.*

(i) Beginning January 1, 1996, a bank may elect to be evaluated under the pertinent revised performance tests described in sections 228.22, 228.23, 228.24, and 228.25, if the bank provides the necessary data to permit evaluation.

(ii) Beginning July 1, 1997, the Board evaluates all banks under the pertinent revised performance tests.

(c) *Schedule.*

(1) On July 1, 1995, sections 228.11, 228.12, 228.29, and 228.51 become applicable, and sections 228.1, 228.2, 228.8, and 228.100 expire.

(2) On January 1, 1996, section 228.41 and the pertinent provisions of subpart B of this part will apply to banks that elect to be evaluated under sections 228.22 through 228.25, banks that submit for approval strategic plans under section 228.27, and banks that qualify for the small-bank performance standards described in section 228.26.

(3) On January 1, 1996, sections 228.42 (except section 228.42(b) and (g)) and 228.45 become applicable.

(4) On January 1, 1997, sections 228.41 and 228.42(b) and (g) become applicable.

(5) On July 1, 1997, sections 228.21 through 228.28, 228.43, and 228.44 become applicable, and sections 228.3 through 228.7 and 228.51 expire.

## APPENDIX A—Ratings

(a) *Ratings in general.*

(1) In assigning a rating, the Board evaluates a bank's performance under the applicable performance criteria in this part, in accordance with section 228.21, and section 228.28, which provides for adjustments on the basis of evidence of discriminatory or other illegal credit practices.

(2) A bank's performance need not fit each aspect of a particular rating profile in order to receive that rating, and exceptionally strong performance with respect to some aspects may compensate for weak performance in others. The bank's overall performance, however, must be consistent with safe and sound banking practices and generally with the appropriate rating profile as follows.

(b) *Banks evaluated under the lending, investment, and service tests.*

(1) *Lending performance rating.* The Board assigns each bank's lending performance one of the five following ratings.

(i) *Outstanding.* The Board rates a bank's lending performance "outstanding" if, in general, it demonstrates—

(A) excellent responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small-business, small-farm, and consumer loans, if applicable, in its assessment area(s);

(B) a substantial majority of its loans are made in its assessment area(s);

(C) an excellent geographic distribution of loans in its assessment area(s);

(D) an excellent distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) an excellent record of serving the credit needs of highly economically

disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;

(F) extensive use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) it is a leader in making community development loans.

(ii) *High satisfactory.* The Board rates a bank's lending performance "high satisfactory" if, in general, it demonstrates—

(A) good responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small-business, small-farm, and consumer loans, if applicable, in its assessment area(s);

(B) a high percentage of its loans are made in its assessment area(s);

(C) a good geographic distribution of loans in its assessment area(s);

(D) a good distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) a good record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;

(F) use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) it has made a relatively high level of community development loans.

(iii) *Low satisfactory.* The Board rates a bank's lending performance "low satisfactory" if, in general, it demonstrates—

(A) adequate responsiveness to credit needs in its assessment area(s), taking

into account the number and amount of home mortgage, small-business, small-farm, and consumer loans, if applicable, in its assessment area(s);

(B) an adequate percentage of its loans are made in its assessment area(s);

(C) an adequate geographic distribution of loans in its assessment area(s);

(D) an adequate distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) an adequate record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;

(F) limited use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) it has made an adequate level of community development loans.

(iv) *Needs to improve.* The Board rates a bank's lending performance "needs to improve" if, in general, it demonstrates—

(A) poor responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small-business, small-farm, and consumer loans, if applicable, in its assessment area(s);

(B) a small percentage of its loans are made in its assessment area(s);

(C) a poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area(s);

(D) a poor distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) a poor record of serving the credit needs of highly economically disad-

vantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;

(F) little use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) it has made a low level of community development loans.

(v) *Substantial noncompliance.* The Board rates a bank's lending performance as being in "substantial noncompliance" if, in general, it demonstrates—

(A) a very poor responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small-business, small-farm, and consumer loans, if applicable, in its assessment area(s);

(B) a very small percentage of its loans are made in its assessment area(s);

(C) a very poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area(s);

(D) a very poor distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) a very poor record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;

(F) no use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) it has made few, if any, community development loans.

(2) *Investment-performance rating.* The

Board assigns each bank's investment performance one of the five following ratings.

(i) *Outstanding.* The Board rates a bank's investment performance "outstanding" if, in general, it demonstrates—

(A) an excellent level of qualified investments, particularly those that are not routinely provided by private investors, often in a leadership position;

(B) extensive use of innovative or complex qualified investments; and

(C) excellent responsiveness to credit and community development needs.

(ii) *High satisfactory.* The Board rates a bank's investment performance "high satisfactory" if, in general, it demonstrates—

(A) a significant level of qualified investments, particularly those that are not routinely provided by private investors, occasionally in a leadership position;

(B) significant use of innovative or complex qualified investments; and

(C) good responsiveness to credit and community development needs.

(iii) *Low satisfactory.* The Board rates a bank's investment performance "low satisfactory" if, in general, it demonstrates—

(A) an adequate level of qualified investments, particularly those that are not routinely provided by private investors, although rarely in a leadership position;

(B) occasional use of innovative or complex qualified investments; and

(C) adequate responsiveness to credit and community development needs.

(iv) *Needs to improve.* The Board rates a bank's investment performance "needs to improve" if, in general, it demonstrates—

(A) a poor level of qualified investments, particularly those that are not routinely provided by private investors;

(B) rare use of innovative or complex qualified investments; and

(C) poor responsiveness to credit and community development needs.

(v) *Substantial noncompliance.* The Board rates a bank's investment performance as being in "substantial noncompliance" if, in general, it demonstrates—

(A) few, if any, qualified investments,

particularly those that are not routinely provided by private investors;

(B) no use of innovative or complex qualified investments; and

(C) very poor responsiveness to credit and community development needs.

(3) *Service-performance rating.* The Board assigns each bank's service performance one of the five following ratings.

(i) *Outstanding.* The Board rates a bank's service performance "outstanding" if, in general, the bank demonstrates—

(A) its service-delivery systems are readily accessible to geographies and individuals of different income levels in its assessment area(s);

(B) to the extent changes have been made, its record of opening and closing branches has improved the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) its services (including, where appropriate, business hours) are tailored to the convenience and needs of its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) it is a leader in providing community development services.

(ii) *High satisfactory.* The Board rates a bank's service performance "high satisfactory" if, in general, the bank demonstrates—

(A) its service-delivery systems are accessible to geographies and individuals of different income levels in its assessment area(s);

(B) to the extent changes have been made, its record of opening and closing branches has not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals;

(C) its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income geographies and low- and moderate-income individuals; and

(D) it provides a relatively high level of community development services.

(iii) *Low satisfactory.* The Board rates a bank's service performance "low satisfactory" if, in general, the bank demonstrates—

(A) its service-delivery systems are reasonably accessible to geographies and individuals of different income levels in its assessment area(s);

(B) to the extent changes have been made, its record of opening and closing branches has generally not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals;

(C) its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income geographies and low- and moderate-income individuals; and

(D) it provides an adequate level of community development services.

(iv) *Needs to improve.* The Board rates a bank's service performance "needs to improve" if, in general, the bank demonstrates—

(A) its service-delivery systems are unreasonably inaccessible to portions of its assessment area(s), particularly to low- or moderate-income geographies or to low- or moderate-income individuals;

(B) to the extent changes have been made, its record of opening and closing branches has adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) its services (including, where appropriate, business hours) vary in a way that inconveniences its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) it provides a limited level of community development services.

(v) *Substantial noncompliance.* The

Board rates a bank's service performance as being in "substantial noncompliance" if, in general, the bank demonstrates—

(A) its service-delivery systems are unreasonably inaccessible to significant portions of its assessment area(s), particularly to low- or moderate-income geographies or to low- or moderate-income individuals;

(B) to the extent changes have been made, its record of opening and closing branches has significantly adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) its services (including, where appropriate, business hours) vary in a way that significantly inconveniences its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) it provides few, if any, community development services.

(c) *Wholesale or limited-purpose banks.* The Board assigns each wholesale or limited-purpose bank's community development performance one of the four following ratings.

(1) *Outstanding.* The Board rates a wholesale or limited-purpose bank's community development performance "outstanding" if, in general, it demonstrates—

(i) a high level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) extensive use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) excellent responsiveness to credit and community development needs in its assessment area(s).

(2) *Satisfactory.* The Board rates a wholesale or limited-purpose bank's community development performance "satisfactory" if, in general, it demonstrates—

(i) an adequate level of community development loans, community develop-

ment services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) occasional use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) adequate responsiveness to credit and community development needs in its assessment area(s).

(3) *Needs to improve.* The Board rates a wholesale or limited-purpose bank's community development performance as "needs to improve" if, in general, it demonstrates—

(i) a poor level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) rare use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) poor responsiveness to credit and community development needs in its assessment area(s).

(4) *Substantial noncompliance.* The Board rates a wholesale or limited-purpose bank's community development performance in "substantial noncompliance" if, in general, it demonstrates—

(i) few, if any, community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) no use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) very poor responsiveness to credit and community development needs in its assessment area(s).

(d) *Banks evaluated under the small-bank performance standards.* The Board rates the performance of each bank evaluated under the small-bank performance standards as follows.

(1) *Eligibility for a satisfactory rating.* The Board rates a bank's performance "satisfac-

tory” if, in general, the bank demonstrates—

(i) a reasonable loan-to-deposit ratio (considering seasonal variations) given the bank’s size, financial condition, the credit needs of its assessment area(s), and taking into account, as appropriate, lending-related activities such as loan originations for sale to the secondary markets and community development loans and qualified investments;

(ii) a majority of its loans and, as appropriate, other lending-related activities are in its assessment area(s);

(iii) a distribution of loans to and, as appropriate, other lending-related activities for individuals of different income levels (including low- and moderate-income individuals) and businesses and farms of different sizes that is reasonable given the demographics of the bank’s assessment area(s);

(iv) a record of taking appropriate action, as warranted, in response to written complaints, if any, about the bank’s performance in helping to meet the credit needs of its assessment area(s); and

(v) a reasonable geographic distribution of loans given the bank’s assessment area(s).

(2) *Eligibility for an outstanding rating.* A bank that meets each of the standards for a “satisfactory” rating under this paragraph and exceeds some or all of those standards may warrant consideration for an overall rating of “outstanding.” In assessing whether a bank’s performance is “outstanding,” the Board considers the extent to which the bank exceeds each of the performance standards for a “satisfactory” rating and its performance in making qualified investments and its performance in providing branches and other services and delivery systems that enhance credit availability in its assessment area(s).

(3) *“Needs to improve” or “substantial noncompliance” ratings.* A bank also may receive a rating of “needs to improve” or “substantial noncompliance” depending on the degree to which its performance has failed to meet the standards for a “satisfactory” rating.

(e) *Strategic-plan assessment and rating.*

(1) *Satisfactory goals.* The Board approves as “satisfactory” measurable goals that adequately help to meet the credit needs of the bank’s assessment area(s).

(2) *Outstanding goals.* If the plan identifies a separate group of measurable goals that substantially exceed the levels approved as “satisfactory,” the Board will approve those goals as “outstanding.”

(3) *Rating.* The Board assesses the performance of a bank operating under an approved plan to determine if the bank has met its plan goals:

(i) If the bank substantially achieves its plan goals for a satisfactory rating, the Board will rate the bank’s performance under the plan as “satisfactory.”

(ii) If the bank exceeds its plan goals for a satisfactory rating and substantially achieves its plan goals for an outstanding rating, the Board will rate the bank’s performance under the plan as “outstanding.”

(iii) If the bank fails to meet substantially its plan goals for a satisfactory rating, the Board will rate the bank as either “needs to improve” or “substantial noncompliance,” depending on the extent to which it falls short of its plan goals, unless the bank elected in its plan to be rated otherwise, as provided in section 228.27(f)(4).

## APPENDIX B—CRA Notice

(a) *Notice for main offices and, if an interstate bank, one branch office in each state.*

### COMMUNITY REINVESTMENT ACT NOTICE

Under the Federal Community Reinvestment Act (CRA), the Federal Reserve Board (Board) evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The Board also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the CRA, including, for example, information about our branches, such as their location and services provided at them; the public section of our most recent

CRA performance evaluation, prepared by the Federal Reserve Bank of \_\_\_\_\_ (Reserve Bank); and comments received from the public relating to our performance in helping to meet community credit needs, as well as our responses to those comments. You may review this information today.

At least 30 days before the beginning of each quarter, the Federal Reserve System publishes a list of the banks that are scheduled for CRA examination by the Reserve Bank in that quarter. This list is available from (title of responsible official), Federal Reserve Bank of \_\_\_\_\_ (address). You may send written comments about our performance in helping to meet community credit needs to (name and address of official at bank) and (title of responsible official), Federal Reserve Bank of \_\_\_\_\_ (address). Your letter, together with any response by us, will be considered by the Federal Reserve System in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the Reserve Bank. You may also request from the Reserve Bank an announcement of our applications covered by the CRA filed with the Reserve Bank. We are an affiliate of (name of holding company), a bank holding company. You may request from (title of responsible official), Federal Reserve Bank of \_\_\_\_\_ (address) an announcement of applications covered by the CRA filed by bank holding companies.

*(b) Notice for branch offices.*

COMMUNITY REINVESTMENT ACT NOTICE

Under the Federal Community Reinvestment Act (CRA), the Federal Reserve Board (Board) evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The Board also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the CRA. You may review today the public section of our most recent CRA evaluation, prepared by the Fed-

eral Reserve Bank of \_\_\_\_\_ (address), and a list of services provided at this branch. You may also have access to the following additional information, which we will make available to you at this branch within five calendar days after you make a request to us: (1) a map showing the assessment area containing this branch, which is the area in which the Board evaluates our CRA performance in this community; (2) information about our branches in this assessment area; (3) a list of services we provide at those locations; (4) data on our lending performance in this assessment area; and (5) copies of all written comments received by us that specifically relate to our CRA performance in its assessment area, and any responses we have made to those comments. If we are operating under an approved strategic plan, you may also have access to a copy of the plan.

[If you would like to review information about our CRA performance in other communities served by us, the public file for our entire bank is available at (name of office located in state), located at (address).]

At least 30 days before the beginning of each quarter, the Federal Reserve System publishes a list of the banks that are scheduled for CRA examination by the Reserve Bank in that quarter. This list is available from (title of responsible official), Federal Reserve Bank of \_\_\_\_\_ (address). You may send written comments about our performance in helping to meet community credit needs to (name and address of official at bank) and (title of responsible official), Federal Reserve Bank of \_\_\_\_\_ (address). Your letter, together with any response by us, will be considered by the Federal Reserve System in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the Reserve Bank. You may also request from the Reserve Bank an announcement of our applications covered by the CRA filed with the Reserve Bank. We are an affiliate of (name of holding company), a bank holding company. You may request from (title of responsible official), Federal Reserve Bank of \_\_\_\_\_ (address) an announcement of applications covered by the CRA filed by bank holding companies.



# Community Reinvestment Act

12 USC 2901; Title VII of Pub. L. 95-128, 91 Stat. 1147 (October 12, 1977)

## Section

- 801 Short title
- 802 Congressional findings and statement of purpose
- 803 Definitions
- 804 Financial institutions; evaluation
- 805 Report to Congress
- 806 Regulations
- 807 Written evaluations
- 808 Operation of branch facilities by minorities and women

## SECTION 801—Short Title

This title may be cited as the “Community Reinvestment Act of 1977”.

[12 USC 2901 note.]

## SECTION 802—Congressional Findings and Statement of Purpose

(a) The Congress finds that—

- (1) regulated financial institutions are required by law to demonstrate that their deposit facilities serve the convenience and needs of the communities in which they are chartered to do business;
- (2) the convenience and needs of communities include the need for credit services as well as deposit services; and
- (3) regulated financial institutions have continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered.

(b) It is the purpose of this title to require each appropriate Federal financial supervisory agency to use its authority when examining financial institutions, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of such institutions.

[12 USC 2901.]

## SECTION 803—Definitions

For the purposes of this title—

(1) the term “appropriate Federal financial supervisory agency” means —

(A) the Comptroller of the Currency with respect to national banks;

(B) the Board of Governors of the Federal Reserve System with respect to State chartered banks which are members of the Federal Reserve System and bank holding companies;

(C) the Federal Deposit Insurance Corporation with respect to State chartered banks and savings banks which are not members of the Federal Reserve System and the deposits of which are insured by the Corporation; and

(D) the Director of the Office of Thrift Supervision, in the case of a savings association (the deposits of which are insured by the Federal Deposit Insurance Corporation) and a savings and loan holding company;

(2) the term “regulated financial institution” means an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act); and

(3) the term “application for a deposit facility” means an application to the appropriate Federal financial supervisory agency otherwise required under Federal law or regulations thereunder for—

(A) a charter for a national bank or Federal savings and loan association;

(B) deposit insurance in connection with a newly chartered State bank, savings bank, savings and loan association or similar institution;

(C) the establishment of a domestic branch or other facility with the ability to accept deposits of a regulated financial institution;

(D) the relocation of the home office or a branch office of a regulated financial institution;

(E) the merger or consolidation with, or the acquisition of the assets, or the as-

sumption of the liabilities of a regulated financial institution requiring approval under section 18(c) of the Federal Deposit Insurance Act or under regulations issued under the authority of title IV of the National Housing Act; or  
 (F) the acquisition of shares in, or the assets of, a regulated financial institution requiring approval under section 3 of the Bank Holding Company Act of 1956 or section 408(e) of the National Housing Act.

(4) A financial institution whose business predominately consists of serving the needs of military personnel who are not located within a defined geographic area may define its "entire community" to include its entire deposit customer base without regard to geographic proximity.

[12 USC 2902. As amended by acts of Nov. 10, 1978 (92 Stat. 3713 and Aug. 9, 1989 (103 Stat. 440, 526).]

#### SECTION 804—Financial Institutions; Evaluation

(a) *In general.* In connection with its examination of a financial institution, the appropriate Federal financial supervisory agency shall—

- (1) assess the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such institution; and
- (2) take such record into account in its evaluation of an application for a deposit facility by such institution.

(b) *Majority-owned institutions.* In assessing and taking into account, under subsection (a), the record of a nonminority-owned and nonwomen-owned financial institution, the appropriate Federal financial supervisory agency may consider as a factor capital investment, loan participation, and other ventures undertaken by the institution in cooperation with minority- and women-owned financial institutions and low-income credit unions provided that these activities help meet the credit needs of local communities in which such institutions and credit unions are chartered.

[12 USC 2903. As amended by act of Oct. 28, 1992 (106 Stat. 3874).]

#### SECTION 805—Report to Congress

Each appropriate Federal financial supervisory agency shall include in its annual report to the Congress a section outlining the actions it has taken to carry out its responsibilities under this title.

[12 USC 2904.]

#### SECTION 806—Regulations

Regulations to carry out the purposes of this title shall be published by each appropriate Federal financial supervisory agency, and shall take effect no later than 390 days after the date of enactment of this title.

[12 USC 2905.]

#### SECTION 807—Written Evaluations

(a) (1) Upon the conclusion of each examination of an insured depository institution under section 804, the appropriate Federal financial supervisory agency shall prepare a written evaluation of the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods.

(2) Each written evaluation required under paragraph (1) shall have a public section and a confidential section.

(b) (1) (A) The public section of the written evaluation shall—

- (i) state the appropriate Federal financial supervisory agency's conclusions for each assessment factor identified in the regulations prescribed by the Federal financial supervisory agencies to implement this Act;
- (ii) discuss the facts and data supporting such conclusions; and
- (iii) contain the institution's rating and a statement describing the basis for the rating.

(B) The information required by clauses (i) and (ii) of subparagraph (A) shall be

presented separately for each metropolitan area in which a regulated depository institution maintains one or more domestic branch offices.

(2) The institution's rating referred to in paragraph (1)(C) shall be 1 of the following:

(A) "Outstanding record of meeting community credit needs".

(B) "Satisfactory record of meeting community credit needs".

(C) "Needs to improve record of meeting community credit needs".

(D) "Substantial noncompliance in meeting community credit needs".

Such ratings shall be disclosed to the public on and after July 1, 1990.

(c) (1) The confidential section of the written evaluation shall contain all references that identify any customer of the institution, any employee or officer of the institution, or any person or organization that has provided information in confidence to a Federal or State financial supervisory agency.

(2) The confidential section shall also contain any statements obtained or made by the appropriate Federal financial supervisory regulatory agency in the course of an examination which, in the judgment of the agency, are too sensitive or speculative in nature to disclose to the institution or the public.

(3) The confidential section may be disclosed, in whole or part, to the institution, if the appropriate Federal financial supervisory agency determines that such disclosure will promote the objectives of this Act. However, disclosure under this paragraph shall not identify a person or organization that has provided information in confidence to a Federal or State financial supervisory agency.

(d) Institutions with interstate branches.

(1) In the case of a regulated financial institution that maintains domestic branches in 2 or more States, the appropriate Federal financial supervisory agency shall prepare—

(A) a written evaluation of the entire institution's record of performance under this title, as required by subsections (a), (b), and (c); and

(B) for each State in which the institution maintains 1 or more domestic branches, a separate written evaluation of the institution's record of performance within such State under this title, as required by subsections (a), (b), and (c).

(2) In the case of a regulated financial institution that maintains domestic branches in 2 or more States within a multistate metropolitan area, the appropriate Federal financial supervisory agency shall prepare a separate written evaluation of the institution's record of performance within such metropolitan area under this title, as required by subsections (a), (b), and (c). If the agency prepares a written evaluation pursuant to this paragraph, the scope of the written evaluation required under paragraph (1)(B) shall be adjusted accordingly.

(3) A written evaluation prepared pursuant to paragraph (1)(B) shall—

(A) present the information required by subparagraphs (A) and (B) of subsection (b)(1) separately for each metropolitan area in which the institution maintains 1 or more domestic branch offices and separately for the remainder of the nonmetropolitan area of the State if the institution maintains 1 or more domestic branch offices in such nonmetropolitan area; and  
(B) describe how the Federal financial supervisory agency has performed the examination of the institution, including a list of the individual branches examined.

(e) For purposes of this section the following definitions shall apply:

(1) The term "*domestic branch*" means any branch office or other facility of a regulated financial institution that accepts deposits, located in any State.

(2) The term "*metropolitan area*" means any primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area, as defined by the Director of the Office of Management and Budget, with a population of 250,000 or more, and any other area designated as such by the appropriate Federal financial supervisory agency.

(3) The term "*State*" has the same mean-

ing as in section 3 of the Federal Deposit Insurance Act.

[12 USC 2906. As added by act of Aug. 9, 1989 (103 Stat. 527); and amended by acts of Dec. 19, 1991 (105 Stat. 2306) and Sept. 29, 1994 (108 Stat. 2364).]

### SECTION 808—Operation of Branch Facilities by Minorities and Women

(a) *In general.* In the case of any depository institution which donates, sells on favorable terms (as determined by the appropriate Federal financial supervisory agency), or makes available on a rent-free basis any branch of such institution which is located in any predominantly minority neighborhood to any minority depository institution or women's depository institution, the amount of the contribution or the amount of the loss incurred in connection with such activity may be a factor in determining whether the depository institution is meeting the credit needs of the institution's community for purposes of this title.

(b) *Definitions.* For purposes of this section—

(1) The term "*minority institution*" means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

(A) more than 50 percent of the owner-

ship or control of which is held by 1 or more minority individuals; and

(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

(2) The term "*women's depository institution*" means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

(A) more than 50 percent of the ownership or control of which is held by 1 or more women;

(B) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

(C) a significant percentage of senior management positions of which are held by women.

(3) The term "*minority*" has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.\*

[12 USC 2907. As added by acts of Dec. 12, 1991 (105 Stat. 1775) and Oct. 28, 1992 (106 Stat. 3874).]

\* Section 1204(c)(3) of this act (12 USC 1811 note) reads as follows:

(e) The term "minority" means any Black American, Native American, Hispanic American, or Asian American.