5(b) Extensions

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3. *Basis of disclosures.* The disclosures should be based on the extension period, including any upfront costs paid in connection with the extension. For example, assume that initially a lease ends on March 1, 1999. In January 1999, agreement is reached to extend the lease until October 1, 1999. The disclosure would include any extension fee paid in January and the periodic payments for the seven-month extension period beginning in March.

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5. In Supplement I to Part 213, under *Section 213.7—Advertising,* under *Paragraph 7(d)(2) Additional Terms.,* paragraph 1. is revised as follows:

* * * * *

Section 213.7—Advertising

* * * * *

7(d)(2) Additional Terms

1. *Third-party fees that vary by state or locality.* The disclosure of a periodic payment or total amount due at lease signing or delivery may:

i. Exclude third-party fees, such as taxes, licenses, and registration fees and disclose that fact; or

ii. Provide a periodic payment or total that includes third-party fees based on a particular state or locality as long as that fact and the fact that fees may vary by state or locality are disclosed.

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6. In Supplement I to Part 213, under *Appendix A—Model Forms,* paragraph 1. is revised as follows:

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Appendix A—Model Forms

* * * * *

1. *Permissible changes.* Although use of the model forms is not required, lessors using them properly will be deemed to be in compliance with the regulation. Generally, lessors may make certain changes in the format or content of the forms and may delete any disclosures that are inapplicable to a transaction without losing the act's protection from liability. For example, the model form based on monthly periodic payments may be modified for single-payment lease transactions or for quarterly or other regular or irregular periodic payments. The model form may also be modified to reflect that a transaction is an extension. The content, format, and headings for the segregated disclosures must be substantially similar to those contained in the model forms; therefore, any changes should be minimal. The changes to the model forms should not be so extensive as to affect the substance and the clarity of the disclosures.

* * * * *

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, March 31, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–8412 Filed 4–5–99; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R–1029]

Truth in Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; official staff interpretation.

SUMMARY: The Board is publishing revisions to the official staff commentary to Regulation Z (Truth in Lending). The commentary applies and interprets the requirements of the regulation. The update addresses the prohibition against the issuance of unsolicited credit cards. It provides guidance on calculating payment schedules involving private mortgage insurance. In addition, the update discusses credit sale transactions where downpayments include cash and property used as a trade-in, and adopts several technical amendments.

DATES: This rule is effective March 31, 1999. Compliance is optional until March 31, 2000.

FOR FURTHER INFORMATION CONTACT: James H. Mann or Obrea O. Poindexter (open-end credit), or Michael E. Hentrel or Kathleen C. Ryan (closed-end credit), Staff Attorneys; Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or 452–2412; for users of Telecommunications Device for the Deaf (TDD) *only,* Diane Jenkins at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of the Truth in Lending Act (TILA; 15 U.S.C. 1601 *et seq.*) is to promote the informed use of consumer credit by providing for disclosures about its terms and cost. The act requires creditors to disclose the cost of credit as a dollar amount (the finance charge) and as an annual percentage rate (APR). Uniformity in creditors' disclosures is intended to assist consumers in comparison shopping. TILA requires additional disclosures for loans secured by a consumer's home and permits consumers to rescind certain transactions that involve their principal dwelling. In addition, the act regulates certain practices of creditors. The act is implemented by the Board's Regulation Z (12 CFR Part 226). The Board's official staff commentary (12 CFR Part 226 (Supp. I)) interprets the regulation, and provides guidance to creditors in applying the regulation to specific transactions. The commentary is a substitute for individual staff interpretations; it is updated periodically to address significant questions that arise.

In December, the Board published proposed amendments to the commentary to Regulation Z (63 FR 67436, December 7, 1998). The Board received about 50 comments. Most of the comments were from financial institutions and other creditors; state attorneys general and consumer representatives also submitted comments. Overall, commenters generally supported the proposed amendments. Views were mixed on comments concerning multifunction cards that are or may be used as credit cards and credit sale transactions where downpayments involve cash payments and property used as a trade-in.

Except as discussed below, the commentary is being adopted as proposed; some technical suggestions or concerns raised by commenters are addressed. In response to concerns about the uncertainty of computer readiness for the Year 2000 date change, the effective date for mandatory compliance with the commentary update is March 31, 2000.

II. Commentary Revisions

Subpart A—General

Section 226.2—Definitions and Rules of Construction

2(a) Definitions

2(a)(15) Credit Card

Section 226.2(a)(15) defines a credit card to include any card or credit device that may be used from time to time to obtain credit. Comment 2(a)(15)–2 provides examples of cards and devices that are and are not credit cards. The comment is revised to include a new example of cards or devices that are credit cards, addressing recent programs where cards are marketed from the outset with both credit and non-credit features. (Two additional examples were proposed. Some commenters suggested technical changes to ensure consistency in the new examples; the changes were made by merging them.)

2(a)(18) Downpayment

Comment 2(a)(18)–3 provides guidance on how a creditor discloses the downpayment if a trade-in is involved in a credit sale transaction and if the amount of an existing lien exceeds the value of the trade-in. Under Regulation Z, the term ''downpayment'' refers to an amount, including the value of any property used as a trade-in, paid to a seller to reduce the ''cash price.'' If the amount of an existing lien exceeds the value of the property being used as a trade-in and no cash payment is involved, creditors must disclose zero as the downpayment and not a negative number. The proposed comment also added an example where the consumer makes a cash payment. In that example, creditors would apply the cash payment to the excess lien amount rather than reduce the price of the purchased item. In response to commenters' concerns, the comment has been revised to provide flexibility. At their option, creditors may first apply the cash payment to reduce the price of the purchased item.

Many commenters opposed the proposal. Some believed that applying the cash payment to the excess lien amount would be confusing to consumers because the creditor's treatment of the cash payments might not be readily apparent. They argued that the comment should comport with consumers' general expectations—that cash payments would be disclosed as downpayments that reduce the cash price.

Moreover, commenters stated that, where cash payments are made in credit sales involving a trade-in and a lien on the property that exceeds the value of the trade-in, many creditors currently apply the cash payment to any excess lien amount. These creditors disclose the cash payment as a downpayment. Many of these creditors, along with consumer advocates and state Attorneys General commenting on the issue, believe disclosing a downpayment equal to the cash payment is more helpful to consumers. They express concern about the potential for confusion under the proposal when, for example, a cash payment of $500 is applied to an excess lien amount of $2,000 and the downpayment is disclosed as $0, even if the cash payment is disclosed elsewhere in the itemization of the amount financed. (See § 226.18(c).) Some commenters also believed the proposal potentially conflicts with some state laws regarding the disclosure of downpayments.

In response to comments received and upon further analysis, the proposed example has been revised. In disclosing a downpayment where cash payments are made in credit sales involving a trade-in and a lien on the property that exceeds the value of the trade-in, creditors may, but need not, apply the cash payment first to any excess lien amount.

Subpart B—Open-end Credit

Section 226.12—Special Credit Card Provisions

12(a) Issuance of Credit Cards

12(a)(1)

Section 226.12(a) prohibits creditors from issuing credit cards except in response to a consumer's request or application for the card or as a renewal of, or substitute for, a previously accepted credit card. The prohibition, which parallels the statute, addresses various concerns including the potential for theft and fraud and the consumer inconvenience of refuting claims of liability. The law does not prohibit creditors from issuing unsolicited cards that have a non-credit purpose—such as check-guarantee or purchase-price discount cards—so long as they cannot also be used to obtain credit. Consumers may later be able to convert these cards to credit cards if the issuer makes a credit feature available and the consumer requests the credit.

Comment 12(a)(1)–7 provides guidance regarding a card that is issued to and accepted by the consumer as a non-credit device and that subsequently is converted for use as a credit device at the consumer's request. The revisions clarify the comment's applicability to recent programs where unsolicited cards are marketed from the outset as both stored-value cards and credit cards. The Board proposed revisions to the comment to reflect more clearly its intended purpose.

Views were mixed on the proposal. Commenters that opposed the revisions cited a variety of reasons for their position. Some believed the concerns associated with the prohibition—theft, fraud, and the inconvenience of refuting claims of liability—were outdated, due to advances in technology and industry practice regarding fraud prevention, and TILA's $50 maximum potential loss for consumers. Others believed the proposal would inappropriately deter the development of multifunction cards. They discussed the convenience of such cards and urged that any rule be crafted narrowly so as to not affect the continuing development of multifunction cards. The prohibition is, however statutory.

Comment 12(a)(1)–7 is revised in accord with the proposal, with some changes to address commenters' concerns. The fundamental import of the comment remains unchanged: Multifunction cards connected with credit plans when they are issued are credit cards, and they may not be sent without the consumer's prior request or application. New examples have been added to provide further guidance. The comment makes clear that card issuers do not violate the prohibition merely by sending a card imprinted with information that identifies the consumer, so long as the issuer does not propose to connect the card to a credit plan at the time the card is issued.

To the extent that the interpretation of the TILA rule previously may have been unclear, the Board believes that liability should not attach to a card issuer's prior reliance on comment 12(a)(1)–7 in issuing multifunction cards that included a credit feature.

Section 226.14—Determination of Annual Percentage Rate

14(c) Annual Percentage Rate for Periodic Statements

Comment 14(c)–10 addresses finance charges that are imposed during the current billing cycle but that relate to account activity that occurred during a prior billing cycle. The comment is revised to refer expressly to current-cycle or prior-cycle debits and current-cycle or prior-cycle credits.

Subpart C—Closed-end Credit

Section 226.18—Content of Disclosures

18(g) Payment Schedule

The Homeowners Protection Act of 1998 limits the amount of private mortgage insurance (PMI) consumers can be required to purchase. Borrowers may request cancellation of PMI under some circumstances and lenders must terminate PMI automatically when certain conditions are met.

Comment 18(g)–5 is added in response to creditors' requests for guidance on how the new statutory requirements affect TILA disclosures. PMI premiums are finance charges and are figured into disclosures such as the APR and payment schedule. TILA disclosures are based on the legal obligation between the parties, and the comment provides that the payment schedule disclosure should reflect all components of the finance charge, including PMI for the time period there is a legal obligation to maintain the insurance.

Commenters generally supported the proposed guidance, although a few believed the guidance was unnecessary and others believed the guidance was not detailed enough. In response to comments received, the comment is revised to clarify that creditors may rely on assumptions used for variable-rate transactions and discounted and premium variable-rate transactions in calculating payment schedules that involve PMI.

18(j) Total Sale Price

Comment 18(j)–2 provides the formula for calculating the total sale price in a credit sale transaction; it is the sum of the cash price, certain other amounts financed, and the finance charge. In response to requests for guidance, the commentary is revised to address how the total sale price may be affected by downpayments involving both cash and property used as a trade-in with a lien exceeding the value of the trade-in. This guidance is provided in a new comment 18(j)–3.

Under the proposal, creditors were to calculate the downpayment by applying cash payments first to reduce excess lien amounts. In response to commenters' concerns about the Board's proposed approach to disclosing the downpayment, the guidance has been revised. See comment 2(a)(18)–3.

The flexibility provided to creditors in disclosing a downpayment may result in disclosures of a total sale price that may differ among creditors. However, key disclosures such as the amount financed, finance charge, and APR remain uniform and will not be affected by the creditor's approach in disclosing the downpayment and total sale price.

Subpart E—Special Rules for Certain Home Mortgage Transactions

Section 226.32—Requirements for Certain Closed-end Home Mortgages

32(a) Coverage

32(a)(1)(ii)

Creditors must follow the rules in § 226.32 if the total points and fees payable by the consumer at or before loan closing exceed the greater of $400 or 8 percent of the total loan amount. The Board is required to adjust the $400 amount each year. The adjusted amount for 1999 ($441), published on December 8, 1998 (63 FR 67575) is added to comment 32(a)(1)(ii)–2.

List of Subjects in 12 CFR Part 226

Advertising, Banks, banking, Consumer protection, Credit, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Truth in lending.

For the reasons set forth in the preamble, the Board amends 12 CFR part 226 as follows:

PART 226—TRUTH IN LENDING (REGULATION Z)

1. The authority citation for part 226 continues to read as follows:

Authority: 12 U.S.C. 3806; 15 U.S.C. 1604 and 1637(c)(5).

2. In Supplement I to Part 226, under *Section 226.2—Definitions and Rules of Construction,* the following amendments are made:

a. Under *Paragraph 2(a)(15) Credit card.*, paragraph 2. is revised; and

b. Under *Paragraph 2(a)(18) Downpayment.*, paragraph 3. is revised.

The revisions read as follows:

Supplement I to Part 226—Official Staff Interpretations

* * * * *

Subpart A—General

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Section 226.2—Definitions and Rules of Construction

2(a) Definitions.

* * * * *

2(a)(15) Credit card.

* * * * *

2. *Examples.* i. Examples of credit cards include:

A. A card that guarantees checks or similar instruments, if the asset account is also tied to an overdraft line or if the instrument directly accesses a line of credit.

B. A card that accesses both a credit and an asset account (that is, a debit-credit card).

C. An identification card that permits the consumer to defer payment on a purchase.

D. An identification card indicating loan approval that is presented to a merchant or to a lender, whether or not the consumer signs a separate promissory note for each credit extension.

E. A card or device that can be activated upon receipt to access credit, even if the card has a substantive use other than credit, such as a purchase-price discount card. Such a card or device is a credit card notwithstanding the fact that the recipient must first contact the card issuer to access or activate the credit feature.

ii. In contrast, a credit card does not include, for example:

A. A check-guarantee or debit card with no credit feature or agreement, even if the creditor occasionally honors an inadvertent overdraft.

B. Any card, key, plate, or other device that is used in order to obtain petroleum products for business purposes from a wholesale distribution facility or to gain access to that facility, and that is required to be used without regard to payment terms.

* * * * *

2(a)(18) Downpayment.

* * * * *

3. *Effect of existing liens.* i. *No cash payment.* In a credit sale, the ''downpayment'' may only be used to reduce the cash price. For example, when a trade-in is used as the downpayment and the existing lien on an automobile to be traded in exceeds the value of the automobile, creditors must disclose a zero on the downpayment line rather than a negative number. To illustrate, assume a consumer owes $10,000 on an existing automobile loan and that the trade-in value of the automobile is only $8,000, leaving a $2,000 deficit. The creditor should disclose a downpayment of $0, not −$2,000.

ii. *Cash payment.* If the consumer makes a cash payment, creditors may, at their option, disclose the entire cash payment as the downpayment, or apply the cash payment first to any excess lien amount and disclose any remaining cash as the downpayment. In the above example:

A. If the downpayment disclosed is equal to the cash payment, the $2,000 deficit must be reflected as an additional amount financed under § 226.18(b)(2).

B. If the consumer provides $1,500 in cash (which does not extinguish the $2,000 deficit), the creditor may disclose a downpayment of $1,500 or of $0.

C. If the consumer provides $3,000 in cash, the creditor may disclose a downpayment of $3,000 or of $1,000.

* * * * *

3. In Supplement I to Part 226, under *Section 226.12—Special Credit Card Provisions,* under *Paragraph 12(a)(1),* paragraph 7. is revised to read as follows:

* * * * *

Subpart B—Open-end Credit

* * * * *

Section 226.12—Special Credit Card Provisions

* * * * *

12(a) Issuance of credit cards.

Paragraph 12(a)(1)

* * * * *

7. *Issuance of non-credit cards.* i. *General.* Under § 226.12(a)(1), a credit card cannot be issued except in response to a request or an application. (See comment 2(a)(15)–2 for examples of cards or devices that are and are not credit cards.) A non-credit card may be sent on an unsolicited basis by an issuer that does not propose to connect the card to any credit plan; a credit feature

may be added to a previously issued non-credit card only upon the consumer's specific request.

ii. *Examples.* A purchase-price discount card may be sent on an unsolicited basis by an issuer that does not propose to connect the card to any credit plan. An issuer demonstrates that it proposes to connect the card to a credit plan by, for example, including promotional materials about credit features or account agreements and disclosures required by § 226.6. The issuer will violate the rule against unsolicited issuance if, for example, at the time the card is sent a credit plan can be accessed by the card or the recipient of the unsolicited card has been preapproved for credit that the recipient can access by contacting the issuer and activating the card.

* * * * *

4. In Supplement I to Part 226, *Section 226.14—Determination of Annual Percentage Rate,* under *Paragraph 14(c) Annual percentage rate for periodic statements.,* paragraph 10.ii. is republished and paragraph 10.ii.B. is revised to read as follows:

* * * * *

Section 226.14—Determination of Annual Percentage Rate

* * * * *

14(c) Annual percentage rate for periodic statements.

* * * * *

10. *Prior-cycle adjustments.*

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ii. Finance charges relating to activity in prior cycles should be reflected on the periodic statement as follows:

* * * * *

B. If a finance charge that is posted to the account relates to activity for which a finance charge was debited or credited to the account in a previous billing cycle (for example, if the finance charge relates to an adjustment such as the resolution of a billing error dispute, or an unintentional posting error, or a payment by check that was later returned unpaid for insufficient funds or other reasons), the creditor shall at its option:

1. Calculate the annual percentage rate in accord with ii.A. of this paragraph, or

2. Disclose the finance charge adjustment on the periodic statement and calculate the annual percentage rate for the current billing cycle without including the finance charge adjustment in the numerator and balances associated with the finance charge adjustment in the denominator.

* * * * *

5. In Supplement I to Part 226, under *Section 226.18—Content of Disclosures,* the following amendments are made:

a. Under *18(g) Payment schedule.,* a new paragraph 5. is added; and

b. Under *18(j) Total sale price.,* a new paragraph 3. is added.

The additions read as follows:

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Subpart C—Closed-end Credit

* * * * *

Section 226.18—Content of Disclosures

* * * * *

18(g) Payment schedule.

* * * * *

5. *Mortgage insurance.* The payment schedule should reflect the consumer's mortgage insurance payments until the date on which the creditor must automatically terminate coverage under applicable law, even though the consumer may have a right to request that the insurance be cancelled earlier. (For assumptions in calculating a payment schedule that includes mortgage insurance that must be automatically terminated, see comments 17(c)(1)–8 and 17(c)(1)–10.)

* * * * *

18(j) Total sale price.

* * * * *

3. *Effect of existing liens.* When a credit sale transaction involves property that is being used as a trade-in (an automobile, for example) and that has a lien exceeding the value of the trade-in, the total sale price is affected by the amount of any cash provided. (See comment 2(a)(18)–3.) To illustrate, assume a consumer finances the purchase of an automobile with a cash price of $20,000. Another vehicle used as a trade-in has a value of $8,000 but has an existing lien of $10,000, leaving a $2,000 deficit that the consumer must finance.

i. If the consumer pays $1,500 in cash, the creditor may apply the cash first to the lien, leaving a $500 deficit, and reflect a downpayment of $0. The total sale price would include the $20,000 cash price, an additional $500 financed under § 226.18(b)(2), and the amount of the finance charge. Alternatively, the creditor may reflect a downpayment of $1,500 and finance the $2,000 deficit. In that case, the total sale price would include the sum of the $20,000 cash price, the $2,000 lien payoff amount as an additional amount financed, and the amount of the finance charge.

ii. If the consumer pays $3,000 in cash, the creditor may apply the cash first to extinguish the lien and reflect the remainder as a downpayment of $1,000. The total sale price would reflect the $20,000 cash price and the amount of the finance charge. (The cash payment extinguishes the trade-in deficit and no charges are added under § 226.18(b)(2).) Alternatively, the creditor may elect to reflect a downpayment of $3,000 and finance the $2,000 deficit. In that case, the total sale price would include the sum of the $20,000 cash price, the $2,000 lien payoff amount as an additional amount financed, and the amount of the finance charge.

* * * * *

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

* * * * *

Subpart E—Special Rules For Certain Home Mortgage Transactions

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Section 226.32—Requirements for Certain Closed-end Home Mortgages

* * * * *

32(a) Coverage.

* * * * *

Paragraph 32(a)(1)(ii).

* * * * *

2. *Annual adjustment of $400 amount.*

* * * * *

iv. For 1999, $441, reflecting a 1.4 percent increase in the CPI–U from June 1997 to June 1998, rounded to the nearest whole dollar.

* * * * *

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, March 31, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–8413 Filed 4–5–99; 8:45 am]

BILLING CODE 6210–01–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 611 and 620

RIN 3052–AB79

Organization; Disclosure to Shareholders; FCS Board Compensation Limits

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: This final rule amends Farm Credit Administration (FCA) regulations on Farm Credit System (System or FCS) bank director compensation. The amendment removes the requirement for FCS banks to obtain our prior