FEDERAL RESERVE press release

For immediate release April 1, 1993

The Federal Reserve Board today published revisions to its staff commentary to Regulation Z (Truth in Lending). The rules are effective immediately; but compliance is optional until October 1, 1993.

The revisions address the interplay between the Truth in Lending rules on demand features and other federal rules dealing with credit extended to executive officers of depository institutions, providing greater flexibility in complying with disclosure requirements. The revisions also offer creditors alternative methods of disclosing security interests in rescindable transactions.

The Board's notice is attached.

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Attachment

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. TIL-1]

Truth in Lending; Update to Official Staff Commentary

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; Official staff interpretation.

SUMMARY: The Board is revising the official staff commentary to Regulation Z (Truth in Lending). The commentary applies and interprets the requirements of Regulation Z. The revisions are limited, and address regulatory provisions needing clarification or issues for which there may be a general need for more guidance. The revisions address the interplay between the Truth in Lending rules on demand features and other federal rules dealing with credit extended to executive officers of depository institutions. They provide greater flexibility in complying with the disclosure requirements under Regulation Z in these transactions. The disclosure rules for security interests (particularly those in rescindable transactions) are also clarified. The commentary offers creditors alternative methods of disclosing security interests in rescindable transactions.

DATES: Effective April 1, 1993; but compliance is optional until October 1, 1993.

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Affairs, Board of Governors of the Federal Reserve System, Washington, DC 29551, at (202) 452-3667. For the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD), at (202) 452-3544.

SUPPLEMENTARY INFORMATION: (1) General. The Truth in Lending Act (15 U.S.C. 1601 et seq.) governs consumer credit transactions and is implemented by the Board's Regulation Z (12 CFR part 226). Effective October 13, 1981, an official staff commentary (TIL-1, Supp. I to 12 CFR part 226) was published to interpret the regulation. The commentary is designed to provide guidance to creditors in applying the regulation to specific transactions and is updated periodically to address significant questions that arise.

The Board published proposed revisions to the official staff commentary to Regulation Z (Truth in Lending) on December 9, 1992 (57 FR 58159). The Board received 44 comments on the proposal relating to demand features in credit transactions to executive officers and disclosure of a security interest in rescindable transactions. Commenters generally supported the proposal. Based on a review of the comments and further analysis, the Board is adopting the commentary update which, except for minor editorial changes, is virtually identical to the proposed commentary language. Compliance with the commentary revision is optional until October 1, 1993.

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

Subpart A -- General

Section 226.2 Definitions and Rules of Construction

2(a) Definitions

2(a)(25) Security interest. The Board received numerous questions about the disclosure of security interests--particularly in rescission notices--and about the appropriate use of the model rescission form for a refinancing with an original creditor. Comment 2(a)(25)-6 is revised to clarify that disclosures about collateral securing an open-end or closed-end credit transaction need not specify how the security interest is taken, for example, by "acquiring" a new security interest or by "retaining" an existing security interest. The revision expands on an interpretation added in the 1989 commentary update (54 FR 9417, March 7, 1989). Commentary to the definition of "security interest" is revised because of its applicability to the security interest disclosures under multiple sections of the regulation (§§ 226.6, 226.15, 226.18 and 226.23). Sample language is provided to illustrate how a rescission notice could disclose the fact that a transaction is secured by the consumer's home without any additional detail about the security interest.

The comment refers to the model form for rescission of refinancings with an original creditor (model form H-9) to illustrate that it adequately discloses the fact of a security interest where a new security interest is acquired (and the preexisting security interest is replaced by the new one). As stated in the Supplementary Information to the 1989 commentary

update, comment 2(a)(25)-6 was intended to clarify "that the disclosure that an interest is retained, as in form H-9, is adequate in a refinancing where a new mortgage is filed and a new advance is made." The revision specifically incorporates that position into the commentary.

The commentary revisions make clear that the requirements about disclosure of a security interest in a rescission notice may be satisfied with either a generic statement of the fact that the consumer's home is security for the transaction or with a more detailed disclosure about that security interest. It further makes clear, as an alternative to modifying rescission notices to include more generic disclosures, that the form H-9 may be used, without modification, in any case in which an original creditor refinances a transaction (whether or not the refinancing involves keeping in place an existing security interest for any period of time or involves taking a new security interest).

Subpart B -- Open-End Credit

Section 226.5b Requirements for Home-Equity Plans

5b(d) Content of disclosures.

5b(d)(4) Possible Actions by Creditor - Paragraph 5b(d)(4)(iii).

Comment 5b(d)(4)(iii)-1 is revised to reflect the amendment to § 226.5b(f)(2) adopted by the Board in August 1992. (57 FR 34676, August 6, 1992.) The Board amended the regulation to provide that a depository institution may terminate and demand payment of the balance on any home equity line of credit extended to its

executive officers to the extent federal law requires that the credit shall be due and payable on demand. (See § 226.5b(f)(2)(iv).) For example, Regulation O contains this requirement for state member banks of the Federal Reserve System. (See 12 CFR 215.5.)

In the Supplementary Information accompanying the amendment, the Board stated that the regulation requires that this provision be part of the home-equity agreement, although this feature is not required to be disclosed with the preapplication disclosures. The commentary restates this position.

5b(f) Limitations on Home Equity Plans - Paragraph 5b(f)(2).

Comment 5b(f)(2)-1 is revised to clarify that a creditor may terminate a plan as provided in § 226.5b(f)(2)(iv).

Section 226.6 Initial Disclosure Statement

6(e) Home Equity Plan Information

Comment 6(e)-1 is revised to add a cross reference to comment 5b(d)(4)(iii)-1. This reflects the position taken in the Supplementary Information of the August 6, 1992 Federal Register notice that the termination feature in § 226.5b(f)(2)(iv) also need not be specifically disclosed under § 226.6(e).

Appendix G Open-End Model Forms and Clauses

Comment 4 to Appendix G is revised to add a cross reference to comment 226.2(a)(25) regarding the specificity of the security interest disclosure for model form G-7.

Subpart C -- Closed-End Credit

Section 226.18 Content of Disclosures

18(i) Demand Feature

Comment 18(i)-2 is revised to address how the rule in the Board's Regulation O (and other comparable federal financial regulatory agency rules) relates to the disclosure rules for demand features in closed-end credit transactions. It parallels the treatment of such features in open-end credit. The revised comment provides that if an institution retains the ability to demand payment of a loan in its closed-end credit agreement with its executive officers to the extent required by federal law, the institution need not provide demand disclosures. Of course, if an institution has a demand feature in its closed-end agreement with its executive officers that is broader than that required by federal law, such a feature would have to be disclosed under § 226.18(i).

Section 226.19 Certain Residential Mortgage and Variable-Rate Transactions

19(b) Certain Variable-Rate Transactions

Paragraph (19)(b)(2)(xi). Demand features must be disclosed in variable rate mortgages covered by § 226.19(b). Since disclosure of a demand feature for variable-rate mortgages is determined by reference to § 226.18(i), a cross-reference is added to comment 19(b)(2)(xi)-1 dealing with demand features.

Appendix H Closed-End Model Forms and Clauses

Comment 11 to Appendix H is revised to add a cross reference to comment 226.2(a)(25) regarding the specificity of the security interest disclosure for model form H-9.

List of Subjects in 12 CFR Part 226

Advertising, Reporting and recordkeeping requirements, Truth in Lending.

Text of Revisions For the reasons set forth in the preamble, the Board is amending the official staff commentary to 12 CFR part 226, Supplement I as follows:

PART 226 -- [AMENDED]

1. The authority citation for Part 226 is revised to read as follows:

Authority: 12 U.S.C. 3806, 15 U.S.C. 1604 and 1637 (c)(5); sec. 1204(c).

SUPPLEMENT I TO PART 226 -- [AMENDED]

2. In Supplement I to part 226, under the heading "2(a) Definitions", comment 2(a)(25)-6 is amended by adding five new sentences at the end to read as follows:

2(a)(25) Security interest.

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6. Specificity of disclosure. * * * In disclosing the fact that the transaction is secured by the collateral, the creditor also need not disclose how the security interest arose. For example, in a closed-end credit transaction, a rescission notice need not specifically state that a new security interest is "acquired" or

an existing security interest is "retained" in the transaction. The acquisition or retention of a security interest in the consumer's principal dwelling instead may be disclosed in a rescission notice with a general statement such as the following: "Your home is the security for the new transaction." A statement such as this may be used, for example, instead of the second sentence in model form H-9 and could apply both to a refinancing in which a new security interest is taken by the original creditor to replace a preexisting security interest and one in which an existing security interest is maintained. Of course, because model form H-9 adequately discloses the fact that the home is security for the transaction, it may be used without modification in both a refinancing in which a new security interest is taken by the original creditor to replace a preexisting security interest and one in which an existing security interest is retained by that creditor.

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SUPPLEMENT I TO PART 226 -- [AMENDED]

3. In Supplement I to part 226, under the heading "5b(d) Content of Disclosures", comment 5b(d)(4)(iii)-1 is amended by revising the fourth sentence and adding a sentence after the fourth sentence to read as follows:

Paragraph 5b(d)(4)(iii).

1. Disclosure of conditions. * * * As an alternative to disclosing the conditions in this manner, the creditor may simply describe the conditions using the language in §§ 226.5b(f)(2)(i)-

(iii), 226.5b(f)(3)(i) (regarding freezing the line when the maximum annual percentage rate is reached), and 226.5b(f)(3)(vi) or language that is substantially similar. The condition contained in § 226.5b(f)(2)(iv) need not be stated. * * *

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SUPPLEMENT I TO PART 226 -- [AMENDED]

4. In Supplement I to part 226, under the heading "5b(f) Limitations on Home Equity Plans", comment 5b(f)(2)-1 is amended by revising the second sentence to read as follows:

Paragraph 5b(f)(2).

1. Limitations on termination and acceleration. * * * However, creditors may take these actions in the four circumstances specified in § 226.5b(f)(2). * * *

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SUPPLEMENT I TO PART 226 -- [AMENDED]

5. In Supplement I to part 226, under the heading "6(e) Home Equity Plan Information", comment 6(e)-1 is amended by adding a parenthetical at the end to read as follows (and the last sentence is added for the convenience of the reader):

1. Additional disclosures required. * * * Creditors also must disclose a list of the conditions that permit the creditor to terminate the plan, freeze or reduce the credit limit, and implement specified modifications to the original terms. (See comment 5b(d)(4)(iii)-1.)

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SUPPLEMENT I TO PART 226 -- [AMENDED]

6. In Supplement I to part 226, under the heading "18(i) Demand feature", comment 18(i)-2 is amended by adding a new sentence at the end to read as follows:

2. Covered demand features. * * * A creditor may, but need not, treat its contractual right to demand payment of a loan made to its executive officers as a demand feature to the extent that the contractual right is required by Regulation O (12 CFR 215.5) or other federal law.

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SUPPLEMENT I TO PART 226 -- [AMENDED]

7. In Supplement I to part 226, under the heading "19(b) Certain variable-rate transactions", comment 19(b)(2)(xi)-1 is amended by revising the first sentence to read as follows:

Paragraph 19(b)(2)(xi).

1. Demand feature. If a variable-rate loan subject to § 226.19(b) requirements contains a demand feature as discussed in the commentary to § 226.18(i), this fact must be disclosed. * * *

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SUPPLEMENT I TO PART 226 -- [AMENDED]

8. In Supplement I to part 226, under the heading "Appendix G-Open-end model forms and clauses", comment 4 to Appendix G is amended by adding a new sentence at the end to read as follows:

4. Models G-5 through G-9. * * * See the commentary to section 226.2(a)(25) regarding the specificity of the security interest disclosure for model form G-7.

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SUPPLEMENT I TO PART 226 -- [AMENDED]

9. In Supplement I to part 226, under the heading "Appendix H-Closed-end model forms and clauses", comment 11 to Appendix H is amended by adding a new sentence at the end to read as follows:

11. Models H-8 through H-9. * * * See the commentary to section 226.2(a)(25) regarding the specificity of the security interest disclosure for model form H-9.

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Board of Governors of the Federal Reserve System,
March 26, 1993.

(signed)

William W. Wiles,
Secretary of the Board