rules and regulations

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; Docket No. R-0066]

PART 226—TRUTH IN LENDING

Amendment to § 226.6(a) of Regulation Z Regarding Spanish Language Truth in Lending Disclosures in the Commonwealth of Puerto Rico

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Rule.

SUMMARY: The Board hereby adopts an amendment to Regulation Z permitting the use of Spanish rather than English language Truth in Lending disclosures in the Commonwealth of Puerto Rico. English language disclosures must be provided to customers if they so request. The Board's action is based upon the fact that Spanish is the traditional and predominant language used in Puerto Rico. This amendment will permit creditors to provide more meaningful disclosures to customers in a more efficient and effective manner.

EFFECTIVE DATE: April 20, 1977.

FOR FURTHER INFORMATION CONTACT:

D. Edwin Schmelzer, Chief, Fair Credit Practices Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2412.

SUPPLEMENTARY INFORMATION: On December 6, 1976, the Board issued a proposed amendment to § 226.6(a) of Regulation Z which would permit the use of Spanish rather than English language Truth in Lending disclosures in Puerto Rico. The proposed amendment required that English language disclosures be provided upon the customer's request, either in substitution for the Spanish disclosures or as additional information in accordance with § 226.6 (c).

The purpose of this proposal was to conform the Truth in Lending Act's disclosure requirements to language use in Puerto Rico where the pervasive and dominant language is Spanish. The proposal recognized the unique status of the Spanish language in Puerto Rico as reflected in the Board's examination of case and statutory law and statistical data derived from census materials. This proposal was published for comment on December 17, 1976 (41 FR 55198). Twenty-five comments were received. The comments supported the idea of providing Spanish language Truth in Lending disclosures.

Based upon the Board's independent analysis and upon the comments received, the Board has concluded that Spanish rather than English language disclosures may be furnished to customers in Puerto Rico.

Pursuant to the authority granted in 15 U.S.C. 1604 (1968), the Board amends 12 CFR Part 226 by adding a new paragraph to § 226.6(a) to read as follows:

§ 226.6 General disclosure requirements.

(a) *Disclosures; general rule.* • • • All disclosures required to be given by this Part shall be made in the English language except in the Commonwealth of Puerto Rico where disclosures may be made in the Spanish language with English language disclosures provided upon the customer's request, either in substitution for the Spanish disclosures or as additional information in accordance with § 226.6(c).

By order of the Board of Governors, April 11, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-11348 Filed 4-19-77;8:45 am]

[Reg. Z; Docket No. R-0003]

PART 226—TRUTH IN LENDING

Amendment to Regulation Z Concerning Variable Interest Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This rule requires creditors to make certain additional disclosures when variable interest rate clauses are used in credit transactions. It requires disclosure of the fact that the annual percentage rate is subject to increase, the conditions under which an increase may occur, the manner in which an increase would be effected, and in some cases, information on the effect a rate increase would have on the payment amounts and/or maturity of the obligation. This rule was adopted in view of the increased use of variable rate clauses in credit contracts and the consumers' need for more information about them. It is intended to promote consumer understanding of the operation and effect of variable rate clauses.

EFFECTIVE DATE: October 10, 1977.

FOR FURTHER INFORMATION CONTACT:

D. Edwin Schmelzer, Chief, Fair Credit Practices Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2412.

SUPPLEMENTARY INFORMATION: The Board of Governors of the Federal Reserve System has amended Regulation Z to require a creditor to disclose to customers, in advance of their becoming obligated on a credit contract, a variable interest rate clause if the contract, note or other instrument evidencing the obligation so provides. The information that must be provided in all obligations in which the annual percentage rate is subject to increase includes the fact that the rate may increase, the conditions under which it may do so, any limitations on the increase, and the manner in which a rate increase may be effected, e.g. through an increase in the payment amount, number of payments or amount due at maturity. In addition, in certain types of transactions, examples must be provided showing the effect on the payment amount and/or the length of maturity that would be caused by a hypothetical immediate increase in the annual percentage rate of one quarter of one percentage point. The transactions for which these hypothetical examples must be given are those in which a security interest is taken in real property used or to be used as the customer's dwelling, if the obligations are repayable in substantially equal installments at substantially equal intervals. The hypothetical examples need not be provided for transactions primarily for agricultural purposes, transactions in which the substantially equal installments do not include repayments of principal, or certain optional insurance transactions.

If the rate should increase in accordance with the conditions and limitations so disclosed, such increase would not constitute a refinancing of the obligation and would not require new disclosures to be made at the time of the rate change.

When this amendment becomes effective, Board Interpretation § 226.810 concerning variable rate disclosures will be rescinded, inasmuch as the amendment makes the interpretation unnecessary.

On October 29, 1976, the Board published for comment in the FEDERAL REGISTER (41 FR 47497) a proposed amendment regarding variable interest rate disclosures. Two hundred and fifteen written comments on the proposal were received and analyzed. In light of the suggestions and comments made, the Board has revised the amendment as follows.

(1) The scope of the provision has been narrowed to apply only to those situations in which the annual percentage rate is prospectively subject to increase, rather than all those in which the rate is subject to change. This revision is in keeping with the Board's previous position that a reduction in the annual per-

centage rate does not constitute a refinancing and does not require new disclosures. If a creditor wishes to show the effect of rate decreases, of course, this would be permissible as additional information under § 226.6(c) of the regulation. The complexity of the required disclosures would be substantially reduced by this change. Furthermore, since the amounts disclosed for decreases are within a few cents of the amounts shown for increases, little additional information would be provided to the consumer. This change also avoids application of the provision to certain transactions which were not intended to be covered, e.g., a series of sales in which the annual percentage rate on a purchase may be reduced when a subsequent purchase extends the term of repayment for the first purchase to coincide with that of the second. It also avoids misapprehension by creditors whose contracts provide only for rate increases that they would be required to show the effects of rate decreases.

It should be noted that the amendment by its terms applies to increases in the annual percentage rate rather than increases in the contract interest rate. Since interest is a component of the finance charge, increases in the interest rate would cause the annual percentage rate to increase.

(2) The scope of the provision has also been clarified by means of a footnote stating that it is not triggered by contracts permitting a higher rate of interest upon default, acceleration, late payment, assumption or transfer of property.

(3) The requirement of showing hypothetical examples of the effect of rate changes has been limited to transactions in which a security interest is taken in real property used or expected to be used as the customer's dwelling. This change is designed to provide information on the effect of rate changes in those transactions in which such information will most clearly be of the greatest importance. Typically, transactions involving a customer's dwelling are for large amounts and lengthy maturities. The requirement of giving the hypothetical examples has been deleted for three types of transactions: transactions primarily for agricultural purposes, transactions in which the substantially equal instalments do not include repayments of principal, and optional insurance agreements made pursuant to Board Interpretation § 226.814. Agricultural transactions would be excepted because of the additional burden these requirements would place on agricultural lenders who use variable rate loans quite extensively. (It should be noted that many agricultural transactions are already exempted from disclosing an annual percentage rate pursuant to § 226.8(p), a special section for certain agricultural purpose transactions, and therefore would not be affected at all by the variable rate proposal.)

The second class of transactions that would be expected from the requirement of disclosing hypothetical examples is transactions in which the substantially equal instalments do not include repayments of principal. This technical change would avoid covering demand loans in which the periodic equal instalments consist of only interest, with the entire principal sum due on demand. These transactions were never intended by the Board to be covered, but they arguably would have been included under the language of the earlier version.

The third class of excepted transactions is insurance agreements entered subsequent to consummation with premiums added to the balance of the obligation. The Board believes this exclusion to be proper for two reasons: (1) These agreements are closely tied to the underlying obligation and the variable rate disclosures will already have been made for that obligation; and (2) the hypothetical changes in payment amount and maturity would be de minimus in this type of transaction.

It should be noted that in these three types of transactions, the hypothetical examples of § 226.8(b)(8) (iii) and (iv) need not be given, but there must still be disclosures of the fact that the rate is subject to increase, the conditions under which it may change, and the manner in which the change may be effected (§ 226.8(b)(8) (i) and (ii)).

(4) The October 1976 proposal would have required that the hypothetical examples of § 226.8(b)(8) (iii) and (iv) show the effect of the maximum amount of incremental change allowed by contract or, if there is no such limitation, a change of one quarter of one percentage point. The proposed amendment has been revised to require use of one quarter of one percentage point in all cases. Although use of the maximum allowed by contract might be of some value to the consumer in demonstrating the most extreme incremental change possible, it would have the undesirable effect of making a contract which sets limits appear less favorable than one in which the increases are unlimited. The Board believes it is preferable to have all creditors use the same measure and that one quarter of one percentage point is a realistic and manageable amount to use.

(5) In a minor change, § 226.8(b)(8) (ii) was revised to make it clearer that if rate changes can be effected in more than one manner (e.g., by increasing the payment and lengthening the maturity), this fact will be disclosed.

Accordingly, in consideration of the foregoing and pursuant to the authority granted in 15 U.S.C. 1604 (1968), the Board amends Regulation Z, 12 CFR Part 226, effective October 10, 1977, as follows:

1. Section 226.8(b) would be amended by the addition of subparagraph (8) as follows:

§ 226.8 Credit other than open end—Specific Disclosures.

* * * * *

(b) * * *

(8) If the annual percentage rate as disclosed under § 226.8(b)(2) is prospectively subject to increase,[10a] the following additional disclosures shall be made:

(i) The fact that the annual percentage rate is subject to increase and the conditions under which such rate may increase, including: (A) Identification of the index, if any, with respect to which such increase in annual percentage rate is tied; and (B) any limitation on such increase;

(ii) The manner(s) (such as an increase in payment amounts, number of scheduled periodic payments, or in the amount due at maturity) in which any increase in the annual percentage rate may be effected;

(iii) If the obligation is repayable in substantially equal instalments at substantially equal intervals (including those obligations providing for "balloon" payments) and the increase could be effected by an increase in the periodic payment amount, a statement of the estimated increase in the amount of the payment caused by a hypothetical immediate increase of one quarter of one percentage point, based upon the number of scheduled periodic payments and original amount financed disclosed at consummation;

(iv) If the obligation is repayable in substantially equal instalments at substantially equal intervals (including those obligations providing for "balloon" payments) and the increase could be effected by an increase in the number of periodic payments, a statement of the estimated increase in the number of periodic payments caused by a hypothetical immediate increase of one quarter of one percentage point, based upon the periodic payment amount and the original amount financed disclosed at consummation.

Any increase in the annual percentage rate within the conditions or limitations disclosed in accordance with this paragraph is a subsequent occurrence under § 226.6(g) and is not a refinancing under § 226.8(j).

The disclosures required under § 226.8(b)(8) (iii) and (iv) need be made only in transactions in which a security interest is taken in real property used or expected to be used as the customer's dwelling, and they need not be made in transactions primarily for agricultural purposes, transactions in which the obligation is repayable in substantially equal instalments which do not include repayments of principal, or transactions in which disclosures are made pursuant to § 226.814.

§ 226.810 [Rescinded]

2. Interpretation § 226.810, previously issued by the Board, is rescinded effective

[10a] For this purpose, the phrase "prospectively subject to increase" does not apply to increases in the annual percentage rate upon such occurrences as default, acceleration, late payment, assumption or transfer of property.

October 10, 1977, inasmuch as the amendment to § 226.8(b) of the Regulation makes this interpretation unnecessary.

By order of the Board of Governors, April 11, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-11410 Filed 4-19-77;8:45 am]

CHAPTER VI—FARM CREDIT ADMINISTRATION

PART 614—LOAN POLICIES AND OPERATIONS

PART 619—DEFINITIONS

AGENCY: Farm Credit Administration.

ACTION: Final Rule.

SUMMARY. This rule amends the regulations governing loss sharing agreements which Farm Credit banks and associations may enter into with other institutions of the Farm Credit System, and the lending limits established for banks for cooperatives. The amendments to the loss sharing agreement provisions are being made to distinguish between general loss sharing authority and specific authority for loss sharing to protect against capital impairment. The amendment to the regulations covering lending limits for banks for cooperatives is being made as a result of a task force study which pointed up the need for a clearer definition of "single credit exposure" which would be generally applicable to the lending operations of the banks for cooperatives.

EFFECTIVE DATE: April 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Jon F. Greeneisen, Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza SW., Washington, D.C. 20578. (202-755-2181).

SUPPLEMENTARY INFORMATION: The Farm Credit Administration, by its Federal Farm Credit Board, took final action on amendments to its regulations which would: (1) Specify the types of loss sharing agreements which may be entered into by Farm Credit banks and associations; (2) specify the type of guaranty agreement which may be entered into by Farm Credit banks and associations; (3) specify the factors which are relevant to a determination of single versus separate credit exposures; and (4) redefine loss sharing agreements.

By a notice published in the FEDERAL REGISTER on March 3, 1977, interested persons were afforded the opportunity to file written comments or suggestions on these amendments. No comments were received and the Federal Farm Credit Board therefore adopted without change the regulations published on March 3, 1977.

KENNETH J. AUBERGER,
Acting Governor,
Farm Credit Administration.

Chapter VI of Title 12 of the Code of Federal Regulations is amended by revising §§ 614.4340, 614.4345, 614.4354(e), and 619.9200 as follows:

§ 614.4340 General.

With approval of the boards of directors of the respective banks, Farm Credit banks and associations may enter into agreements to share losses as provided in paragraph (a) and (b) of this section. The loss sharing agreements shall cover, but not be limited to, definition of terms, terms and conditions for activation, determination of assessment formulas, limitation on assessments, reimbursements, administration, arbitration, and provisions for amendment and termination. All loss sharing agreements shall be subject to Farm Credit Administration approval.

(a) Loss sharing agreements to protect against the impairment of capital stock and participation certificates may, unless otherwise authorized by the Farm Credit Administration, be entered into by:

(1) The 12 Federal land banks;

(2) The 12 Federal intermediate credit banks;

(3) The 12 district banks for cooperatives; and

(4) The 37 Farm Credit banks.

(b) Loss sharing agreements other than those provided for in pargaraph (a) of this section may be entered into:

(1) By a Federal land bank with Federal land bank associations in its district for sharing the gain or losses on loans or on security held therefor or acquired in liquidation thereof;

(2) With the approval of the supervising bank, by a Federal land bank association with other like associations in its district for sharing losses on loans endorsed by each association that is a party to such agreement;

(3) By a Federal intermediate credit bank with production credit associations in its district, and with other Federal intermediate credit banks;

(4) With the approval of the supervising bank, by a production credit association with other like associations in its district.

§ 614.4345 Guaranty agreements.

With approval of the Farm Credit Administration, guaranty agreements under which a percentage of the risk associated with specific loans is assumed may be entered into: (a) By those parties authorized to enter into loss sharing agreements in § 614.4340(b), and (b) by banks for cooperatives.

§ 614.4354 Banks for cooperatives.

* * * * *

(e) The term "one borrower" is generally defined as a cooperative organization and, if any, its affiliated organizations which are controlled by a common directorate or management, or wherein such primary organization owns in excess of 50 percent of the net worth or voting stock of an affiliated organization; *Provided, however,* That any such affiliated organization shall be defined as a separate borrower under certain conditions, subject to prior approval by the Farm Credit Administration. Such definition shall be based primarily on the conclusion that the affiliated organization would be viable in the event of the demise of the other organization. Particular consideration should be given to, but not limited to, the following items:

(1) Composition and independence of directorate and management.

(2) Independence and control of operations and funds flow.

(3) Strength and diversity of other equity holders.

(4) Ability to generate and to retain earnings and cash flow.

(5) Diversity of product or service.

§ 619.9200 Loss sharing agreements.

A contractual arrangement under which the parties agree to share losses associated with loans or otherwise, as may be provided for in the agreement.

(Secs. 5.9, 5.12, 5.18, 85 Stat. 619, 620, 621.)

DONALD E. WILKINSON,
Governor,
Farm Credit Administration.

[FR Doc.77-11392 Filed 4-19-77;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Revision 13, Amdt. 13]

PART 121—SMALL BUSINESS SIZE STANDARDS

Definition of Small Business for SBA Loans—Correction

AGENCY: Small Business Administration.

ACTION: Correction.

SUMMARY: This action corrects the wording of the procedures set forth in § 121.3-10, Definitions of small business for SBA loans, for determining the small business eligibility of a concern primarily engaged in one industry but with external-operating affiliates primarily engaged in an industry subject to a different size standard.

EFFECTIVE DATE: April 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Harvey D. Bronstein (202-653-6373).

SUPPLEMENTARY INFORMATION: In Part 121 appearing in the Federal Register dated December 24, 1974 (39 FR 44423), the fourth sentence of § 121.3-10, Definition of small business for SBA loans, contained a typographical error which clouds its meaning. Accordingly, the fourth sentence of § 121.3-10 is hereby corrected to read as follows:

§ 121.3-10 Definition of small business for SBA loans.

* * * If an applicant for an SBA loan has external-operating affiliates (i.e., affiliates which are primarily engaged in selling to the general public or to concerns other than the applicant concern or an affiliate thereof) and such external-operating affiliates are engaged in