of parents granted nonimmigrant status under section 101(a)(15)(N)(i) of the Act, or of parents who have been granted special immigrant status under section 101(a)(27)(I) (ii), (iii) or (iv) of the Act may be granted status under section 101(a)(15)(N)(ii) of the Act for such time as each remains a child as defined in section 101(b)(1) of the Act.

(3) *Admission and extension of stay.* A nonimmigrant granted (N) status shall be admitted for not to exceed three years with extensions in increments up to but not to exceed three years. Status granted under this section shall terminate on the date the child as defined in section (n)(1) and (n)(2) no longer qualifies as a child as defined in section 101(b)(1) of the Act.

(4) *Employment.* A nonimmigrant admitted in or granted (N) status may request authorization for employment pursuant to procedures in § 274a.12 of this chapter.

* * * * *

Dated: December 23, 1987.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 88-2498 Filed 2-4-88; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Doc. No. R-0612]

Truth in Lending; Determination of Effect on State Law; Indiana

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Preemption determination.

SUMMARY: The Board is publishing in final form a determination that a provision in the law of Indiana is inconsistent with the Truth in Lending Act and Regulation Z and therefore preempted. This final determination that the provision is preempted has an effective date of October 1, 1988, although compliance may begin from the date of the Board's determination.

EFFECTIVE DATE: October 1, 1988, with compliance optional before that date.

FOR FURTHER INFORMATION CONTACT: Sharon Bowman, Attorney, Division of Consumer and Community Affairs, at (202) 452-3667. For the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), Earnestine Hill or Dorothea Thompson, at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC, 20551.

SUPPLEMENTARY INFORMATION: (1) *General.* Section 111(a)(1) of the Truth in Lending Act authorizes the Board to determine whether any inconsistency exists between chapters 1, 2, and 3 of the Federal act or the implementing provisions of the regulation and any state law relating to the disclosure of information in connection with consumer credit transactions. If the Board determines that a state-required disclosure is inconsistent with the Federal law, the state law is preempted to the extent of the inconsistency and disclosures using the inconsistent term or form may not be made.

The determination regarding Indiana law is issued under authority delegated to the Director of the Division of Consumer and Community Affairs, as set forth in the Board's Rules Regarding Delegation of Authority (12 CFR 265.2(h)(3)).

Preemption determinations have an effective date of the October 1 that follows the determination by at least six months, as required by section 105(d) of the act. As a result, this determination has an effective date of October 1, 1988, although compliance may begin before that time.

(2) *Principles followed in preemption analysis.* In determining whether a state law is inconsistent with Federal provisions, § 226.28(a)(1) of Regulation Z, which implements section 111 of the act, provides that state requirements are inconsistent with, and therefore preempted by, the Federal provisions if the state law requires a creditor to make disclosures or take actions that contradict the requirements of the Federal law. A state law is contradictory, and therefore preempted, if it significantly impedes the operation of the Federal law or interferes with the purposes of the Federal statute. Two examples of contradictory state laws are included in § 226.28(a)(1). They are (1) a law that requires the use of the same term to represent a different amount or a different meaning than the Federal law, or (2) a law that requires the use of a term different from the Federal term to describe the same item.

The following principles, which were developed in previous preemption determinations (48 FR 4454, February 1, 1983), were applied in making the current determinations:

- For purposes of making preemption determinations, state law is deemed to require the use of specific terminology in the state disclosures if the state statute uses certain terminology in the disclosure provision.
- A state disclosure does not "describe the same item," under § 226.28(a)(1), if it is not the functional equivalent of a Federal disclosure.
- Preemption occurs only in those transactions in which an actual inconsistency exists between the state law and the Federal law.
- A state law is not inconsistent merely because it requires more information than Federal law or requires disclosure in transactions where Federal law requires none.

In general, preemption determinations are limited to those provisions of state law identified in the request for a determination, and that is the case in the present determination. At the Board's discretion, however, other state provisions that may be affected by the Federal law also may be addressed.

(3) *Discussion of specific request and final determination.* The Board was asked to examine section 8(d) of the recently amended Indiana "Loan Broker" statute, Ind. Code section 23-2-5-1 *et seq.*, to determine whether that section of the state law requires certain disclosures that contradict the disclosures required under section 106(a) and § 226.4(a) of the Truth in Lending Act and Regulation Z, respectively.

The Board published a proposed determination on September 4, 1987 (52 FR 33596). In that proposal, the Board proposed to preempt the state disclosure requirement in those instances where the state law would call for inconsistent disclosures. Eight commenters addressed the proposal; commenters included banks, a Federal Reserve Bank, a Federal Home Loan Bank, the Secretary of State for the State of Indiana, the Indiana Securities Commissioner, and the Attorney General of Indiana. The majority of comments supported the Board's proposal, generally citing the state law's interference with the intent of the Federal scheme. The officials representing the State of Indiana, however, opposed the proposal, questioning the Board's authority to affect a law directed at a group that is not subject to the Truth in Lending Act, namely loan brokers. The final determination regarding the Indiana law at issue, together with the reasons for the Board's action, are set forth below.

The relevant provisions of the state statute (which has an effective date of September 1, 1987) are as follows:

23-2-5-8. *Disclosure statement.*

(d) A loan broker shall deliver to any person who proposes to become obligated for a loan an estimated disclosure statement if the creditor would be required to deliver to the person a disclosure statement under the Truth-in-Lending Act (15 U.S.C. 1601-1667e) for the transaction. The estimated disclosure statement:

(1) shall be delivered to the person before the person becomes contractually obligated on the loan; or

(2) shall be delivered or placed in the mail to the person not later than three (3) business days after the person enters into an agreement with the loan broker;

whichever occurs first. The estimated disclosure statement must contain all of the information and be in the form required by the Truth-in-Lending Act (15 U.S.C. 1601–1667e) and regulations under the Act. However, the annual percentage rate, finance charge, total of payments, and other matters required under the Truth-in-Lending Act (15 U.S.C. 1601–1667e) shall be adjusted to reflect the amount of all fees and charges of the loan broker that the creditor could exclude from a disclosure statement. The disclosure statement must state at the top in at least 10 point type: "The following is an estimated disclosure statement showing your loan transaction as if the fees and charges you are scheduled to pay us were charged to you directly by the creditor." After the estimated disclosure statement is delivered to any person, the loan broker shall deliver to the person an additional statement redisclosing all items if the actual annual percentage rate will vary from the annual percentage rate contained in the original estimated disclosure by more than one-eighth of one percent (0.125%). Any required additional disclosure statement shall be delivered or placed in the mail before consummation of the loan or the elapse of three (3) days after the information that requires redisclosure becomes available, whichever occurs first.

The requesting party asked for a determination as to whether the requirement imposed by this section that loan brokers reflect all of their fees and charges in their calculation of, among other items, the finance charge and annual percentage rate that must be disclosed to potential borrowers is preempted by the Truth in Lending Act and Regulation Z. Section 106(a) and § 226.4(a) of the Federal statute and regulation, respectively, state that, in any consumer credit transaction, the finance charge includes charges paid by the consumer that are imposed by the creditor as an incident to the extension of credit. Under Regulation Z, charges imposed by third parties are not finance charges as long as the creditor does not require the parties services or retain the charges. Thus, fees charged by a loan broker are not finance charges provided that the creditor does not require the use of the broker. (See Official Staff Commentary, 12 CFR 226.4(a)–3.)

Since the state statute requires that loan brokers include their fees in calculating the finance charge and annual percentage rate in cases where the creditor would exclude such fees in calculating those same items for the Federal disclosures, the Board has determined that the state disclosure requirement is preempted in those instances where the state law would require the use of the same term to disclose a different amount than would be disclosed under Federal law. In such cases, the state disclosure would contradict the disclosures required under Federal law and interfere with the intent of the Federal scheme.

Although the Board, in the past, has made preemption determinations concerning laws whose coverage may extend to parties who are not considered creditors for purposes of Regulation Z (for example, Arizona in 1985 and South Carolina in 1983), the issue is raised directly in this instance. Specifically, one comment letter, representing the views of officials from the State of Indiana, questioned whether the Board's preemption authority extends to a law governing loan brokers, parties who are not subject to the requirements of the Truth in Lending Act and Regulation Z.

Section 111(a)(1) of the Federal act permits the Board to "annul, alter, or affect the laws of any state relating to the disclosure of information in connection with credit transactions * * * to the extent that those laws are inconsistent with the provisions of [the Federal law]." Although this section goes on to refer to "creditors" who may not make disclosures using an inconsistent term or form, the Board does not view this reference as limiting the scope of its authority to carry out the overall purpose of the Truth in Lending Act. The reference to creditors in this section is descriptive of parties who are directly covered by the act's provisions. The Board, however, in considering the impact of a state statute on the operation of the Federal law, believes that use of this term is not meant to exclude laws concerning other parties or classes of transactions that might undermine the purpose of the Federal law. Congress, in granting the Board broad authority to effectuate the purpose of the Truth in Lending Act, could not have foreseen every group or class of transactions that might interfere with this purpose. Because of this, the Board's authority at times may necessarily affect transactions that the act does not reach on its face, particularly when, as in this case, the state statute effectively interferes with the operation of the Federal scheme. For these reasons, the Board, in reviewing Indiana's statute for its overall effect on the purpose and operation of the Federal law, does not feel constrained by the fact that the state law is directed towards loan brokers, a group not itself subject to the Truth in Lending Act and Regulation Z.

In this instance, therefore, the Board has determined that, although the parties involved are not "creditors" under the Truth in Lending Act, this circumstance does not outweigh the fact that the effect of the state statute is clearly inconsistent with the purpose of the Federal law, which is to promote the informed use of consumer credit by requiring clear, uniform, and meaningful disclosures about its terms and costs. The Board believes that, in this instance, the approach chosen by the state will undermine the intent of the Federal scheme by confusing consumers who will receive two different sets of disclosures—both purporting to describe the cost of credit—that contain different figures described by the same terminology. Although the Board recognizes that the state disclosure is meant to inform consumers about costs that they may incur in certain credit transactions, this purpose should not be served in a manner that interferes with the operation of the Federal scheme. In such cases, where the state law requires the use of the same term to disclose a different amount than would be disclosed under Federal law, the state law clearly contradicts the requirements of the Federal law and is therefore preempted.

List of Subjects in 12 CFR Part 226

Advertising, Banks, Banking, Consumer protection, Credit, Federal Reserve System, Finance, Penalties, Truth in lending.

(4) *Preemption determination.* The following order sets forth the preemption determination, which will also be reflected in the Official Staff Commentary on Regulation Z (Supplement I to Part 226).

Order

Pursuant to section 111 of the Federal Truth in Lending Act as revised in March 31, 1980 (Title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. 96–221), the Board has determined that a certain provision in the law of Indiana is inconsistent with and therefore preempted by the Federal law. The determination is as follows:

Preemption determination—Indiana. Effective October 1, 1988, the following provision in the State law of Indiana is preempted by the Federal law:

In section 23–2–5–8 of Indiana's "Loan Broker" statute, the inclusion of the loan broker's fees and charges in the calculation of, among other items, the finance charge and annual percentage rate disclosed to potential borrowers is inconsistent with sections 106(a) and

226.4(a) of the Truth in Lending Act and Regulation Z, respectively, and is preempted in those instances where the use of the same term would disclose a different amount than that required to be disclosed under Federal law.

Board of Governors of the Federal Reserve System, February 1, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-2382 Filed 2-4-88; 8:45 am]

BILLING CODE 6210-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 620

Disclosure to Shareholders

AGENCY: Farm Credit Administration.

ACTION: Interim rule with request for comments.

SUMMARY: The Farm Credit Administration (FCA) adopts an interim rule amending Part 620 relating to disclosure of the condition and classification of loans (problem loans) to senior officers and directors and their immediate families and affiliated organizations. The interim rule implements a provision of the Agricultural Credit Act of 1987 (Pub. L. 100-233), which amends section 5.17(a)(9) of the Farm Credit Act of 1971, 12 U.S.C. 2252(a)(9), by placing limitations on the disclosure the FCA can require in shareholder reports of problem loans to senior officers and directors and their immediate families. The new statute requires the amendment to be implemented within 30 days of enactment (January 6, 1988). To comply with the statute the FCA adopts an interim rule, effective one week from publication. The FCA invites comment on the amendment.

DATES: The interim rule shall become effective February 12, 1988. Comments must be received on or before March 7, 1988.

ADDRESSES: Comments may be mailed or delivered (in triplicate) to Anne E. Dewey, General Counsel, Farm Credit Administration, McLean, Virginia 22102-5090. Copies of all communications received will be available for examination by interested parties in the Office of General Counsel, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Dorothy J. Acosta, Senior Attorney, Office of the General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, (703) 883-4020

or

James Thies, Assistant Chief, Financial Analysis and Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, (703) 883-4483, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: On April 7, 1987, the FCA held a public hearing in response to concern expressed by institutions in the Farm Credit System (System) with provisions of the FCA's regulations that required disclosure in shareholder reports of problem loans from the reporting institution to its senior officers, directors and their immediate families and affiliated organizations (12 CFR Part 620). In response to the testimony presented at that hearing, the FCA proposed amendments to Part 620 and 621 (52 FR 30374, August 14, 1987). The comment period closed October 15, 1987. During the comment period bills were introduced and considered in the United States Congress that, among other things, would limit disclosure that the FCA can require of problem loans to directors and their immediate families in a manner different from that which had been proposed on August 14, 1987. The limiting provision was enacted into law on January 6, 1988, as an amendment to section 5.17(a)(9) of the Farm Credit Act of 1971. (Section 424 of the Agricultural Credit Act of 1987, Pub. L. 100-233.)

Because the amendments to § 620.3(j)(2) and (3) proposed on August 14, 1987 relating to problem loans to senior officers and directors are inconsistent with the new statutory limitations, the FCA has withdrawn the proposed amendments (see Final Rule published elsewhere in today's **Federal Register**) and now adopts an interim rule implementing the new statutory limitation. This limitation prohibits the FCA from requiring in shareholder reports disclosure of the conditon or classification of a loan to a director of the institution who has resigned before the time for filing the applicable report with the Farm Credit Administration or whose term of office will expire no later than the date of the shareholder meeting to which the statement relates. The FCA interprets "resign" to mean that the officer or director has actually vacated office. In addition, the statute limits disclosure that can be required of members of immediate families of directors to those who reside with directors or those in whose loan or business operation the director has a material financial or legal interest. The legislative history of the section indicates that Congress also intends the limitations on disclosure to apply to senior officers. (See H.R. Rep. No. 490, 100th Cong., 1st Sess. 268.)

The statute requires the newly enacted limitation to be implemented within 30 days of enactment. To comply with the statutory mandate, the FCA adopts an interim rule, effective one week from publication, and invites comment on that rule. The amendment makes reporting and disclosure less burdensome for Farm Credit institutions, and adopting the interim rule will enable institutions to prepare their annual reports to shareholders for 1987 in accordance with the new statute. Because the statute requires immediate implementation and because the interim rule implements a straight-forward restriction contained in the statute, the FCA finds, pursuant to 5 U.S.C. 553(b)(B), that notice and comment prior to adoption are impracticable and contrary to the public interest. Comments received after the effective date of the interim rule will be considered and any necessary adjustments will be made in the final rule. For the reasons stated above, the FCA, pursuant to 5 U.S.C. 553(d)(1) and (2) and 12 U.S.C. 2252(b)(2), finds good cause to make this regulation effective in less than 30 days.

Section 620.3(j)(3) is revised by deleting paragraph (i)(C), substituting a new paragraph (ii), redesignating the current paragraph (ii) as (iii) and revising the introductory text to paragraph (iii). The effect of this revision is to require a separate statement with respect to the collectibility of loans to senior officers and directors that reflects the newly enacted statutory restrictions. The requirements of the regulation are unchanged with respect to loans that are not made in the ordinary course of business or are not made on substantially the same terms as those available to other persons for comparable transactions.

As stated above, the FCA interprets "resign" to mean that the officer or director has actually vacated the office. The FCA will monitor any resignations through its examination process to assure that they have been accomplished in good faith and not merely to circumvent the regulation.

List of Subjects in 12 CFR Part 620

Disclosure to shareholders, Annual reports, Quarterly reports, Association annual meeting information statements.

As stated in the preamble, Part 620 is amended as follows: