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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R-0654]

Truth in Lending; Credit and Charge Card Disclosures

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing to revise Regulation Z (Truth in Lending) to implement the Fair Credit and Charge Card Disclosure Act amendments to the Truth in Lending Act. The law, enacted on November 3, 1988, requires credit and charge card issuers to provide certain credit disclosures in telephone solicitations and in direct mail and other applications and solicitations to open credit and charge card accounts. Card issuers will also be required to give cardholders written notice regarding the renewal of their credit and charge card accounts before a cardholder has to pay a fee to renew the account. In addition, the law requires credit card issuers to provide cardholders with written notice of a change in the entity providing credit insurance on credit card accounts.

DATE: Comments must be received on or before February 21, 1989.

ADDRESSES: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, or delivered to the Mail Services courtyard entrance on 20th Street, between C Street and Constitution Avenue, NW., Washington, DC, between 8:45 a.m. and 5:15 p.m. weekdays. Comments should include a reference to Docket No. R-0654. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: The following attorneys in the Division of Consumer and Community Affairs, at (202) 452-2412 or (202) 452-3867: Michael S. Bylsma or Adrienne D. Hurt, Senior Attorneys, or Kathleen S. Brueger, Staff

Attorney; for the hearing impaired *only*, contact Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

(1) General

On November 3, 1988, the Fair Credit and Charge Card Disclosure Act, Pub. L. No. 100-583, 102 Stat. 2960, was enacted into law. The law amends sections 111 (state law preemption), 122 (form of disclosure), 127 (open-end credit disclosures), 130 (civil liability), and 136 (information collection by Board) of the Truth in Lending Act (TILA). The purpose of the law is to provide for more detailed and uniform disclosure of rates and other cost information in applications and solicitations to open credit and charge card accounts. Consumers will be given basic cost information about credit and charge cards at an earlier time than under the current provisions of the TILA in order to enhance credit shopping. Under the current provisions of the TILA, card issuers are required to give consumers credit disclosure statements at about the time an account is opened. (The new law does not affect the general advertising provisions in section 143 of the TILA.)

The law mandates that an implementing rule be in place 150 days from enactment of the law. Mandatory compliance by card issuers with the law's requirements will be effective 150 days from issuance of a final rule by the Board (240 days for disclosures in applications and solicitations made available to the general public by means other than direct mail or telephone). The Board expects to adopt a final rule by April 3, 1989, making compliance with the law mandatory on or around August 31, 1989 (or November 29, 1989, for applications and solicitations made available to the general public other than by direct mail or telephone).

As of the mandatory compliance dates, all state laws relating to the disclosure of information in any credit or charge card application and solicitation that will be subject to the requirements of new section 127(c) of the TILA, or any renewal notice that will be subject to the requirements of new section 127(d), will be preempted. If a card issuer complies with the federal

requirements before the effective dates for mandatory compliance, all relevant state laws will be preempted as to that card issuer as of the date of compliance.

The law requires credit and charge card issuers to provide disclosures to consumers in three situations involving applications and solicitations to open credit or charge card accounts: (1) Direct mail applications and solicitations; (2) telephone solicitations; and (3) applications and solicitations by means other than mail or telephone that are made available to the general public (such as applications and solicitations commonly referred to as "take-ones"), including those contained in catalogs, magazines, or other generally available publications. An application or solicitation to add a credit or charge card to an existing open-end plan would not be subject to the new law. Most of the required disclosures would have to be provided in the form of a table, which the Board is directed to prescribe.

In addition to the disclosures required with applications and solicitations, the law requires disclosures in two other circumstances. First, card issuers that impose fees to renew credit and charge card accounts will have to provide cardholders with renewal notices (including a new set of credit disclosures and information about an account's expiration and how to terminate an account) before a renewal fee is payable. Second, credit card issuers will have to provide disclosures if they offer credit insurance and decide to change insurance providers. As part of the disclosures, credit card issuers would be required to disclose any substantial decrease or limitation in coverage as a result of a change.

The law amends section 130 of the TILA, the civil liability provision, to provide that a card issuer shall have liability under section 127 (c) and (d) of the act only to a cardholder who pays an annual or other periodic fee or a membership fee, or who uses a credit or charge card. The law also requires the Board to collect credit card price and availability information from a sampling of financial institutions and make it available to the public on request.

(2) The Proposed Amendments to Regulation Z

The Board proposes to add new § 226.5a to Regulation Z to implement most of the provisions of the Fair Credit

and Charge Card Disclosure Act. The proposed section has been added between § 226.5 (general open-end disclosure requirements) and § 226.6 (initial open-end disclosure statement) because of the timing for providing the disclosures. The disclosures required when renewing a credit or charge card account or changing an insurance provider on a credit card account are contained in § 226.9 (subsequent disclosure requirements) of the regulation.

The disclosure requirements for credit and charge cards have been combined in the proposed rule to avoid unnecessary duplication. Unless otherwise specified in the discussion below, language of the proposed rule which differs from the language of the act primarily simplifies and clarifies the act's requirements. Citations in the discussion of the proposed rule are to the amended sections of the TILA. The Board intends to provide additional guidance as necessary when it publishes the final rule. This guidance will eventually be proposed for incorporation into the Board's official staff commentary to the regulation.

Section 226.1—Authority, Purpose, Coverage, Organization, Enforcement and Liability

Paragraph (a)—Authority

Instead of adding to the authority section each law that amends the TILA, the section will merely refer to the TILA as amended, thus incorporating all such laws. As a result, any specific reference to laws amending the act would be removed as unnecessary.

Section 226.2—Definitions and Rules of Construction

Section 226.2(a)(15) of the regulation would be revised to include the definition of a charge card. Generally, these are credit card accounts on which outstanding balances cannot be rolled over from one month to another and are payable when a periodic statement is received. Section 127(c)(4)(E) of the act defines a charge card as a credit card (as defined in Regulation Z, § 226.2(a)(15)) which is not subject to a finance charge. The act's disclosure provisions applicable to charge cards require the issuer to disclose transaction charges, for both purchases and cash advances. Since, under Regulation Z, these charges are finance charges, it is clear that charge card accounts can involve finance charges despite the act's definition. The Board proposes to modify the charge card definition for clarity, so that the term charge card would be defined in the regulation to

mean a credit card on an account for which no periodic rate is used to compute a finance charge. Consequently, card issuers who offer cards that may be subject to finance charges such as transaction charges on cash advances—but for which no periodic rate is used to compute the finance charge on an outstanding balance—would be characterized as charge card issuers for purposes of the new law and would give the applicable charge card disclosures.

Under the existing regulation, § 226.2(a)(17)(iv), card issuers extending closed-end credit are subject to certain of the open-end credit disclosure provisions. That section sets forth the provisions that are not applicable to such card issuers. The Board proposes to revise the section to also exclude these card issuers from the new disclosure requirements of the law.

Section 226.5—General Disclosure Requirements

Paragraph (a)—Form of Disclosures

Paragraph (a)(1). The Board proposes to revise footnotes 8 and 9 to § 226.5. Footnote 8 would be revised to indicate that the terms "annual percentage rate" (APR) and "finance charge," when used in the disclosures required under proposed § 226.5a, need not be more conspicuous than other terms. Footnote 9 would be revised to indicate that the disclosures given under § 226.5a need not be in a form that the consumer can keep.

Paragraph (a)(3). Paragraph (a)(3) would be added to explain that the standard for certain disclosures required under proposed § 226.5a differs from the general clear and conspicuous standard for TILA disclosures. Certain disclosures under proposed § 226.5a must be given in the form of a table and in a prominent location when provided on or with an application or solicitation.

Paragraph (b)—Time of Disclosures

Paragraph (b)(3). Paragraph (b)(3) would be added to provide a general cross reference to § 226.5a for the timing requirements for disclosures in credit and charge card applications and solicitations.

Section 226.5a—Credit and Charge Card Applications and Solicitations

Paragraph (a)—General Rules

Paragraph (a) would contain the general rules applicable to this section.

Paragraph (a)(1). Paragraph (a)(1) would implement section 127(e)(1) of the act and provide that if the amount of any fee required to be disclosed is determined on the basis of a percentage

of another amount—for example, if a card issuer imposes an annual fee based on a percentage of the credit line—the card issuer may state the percentage and what it is applied to rather than the dollar amount of the fee. If a card issuer is able to determine the dollar amount of the fee, the card issuer would, of course, be permitted to disclose that amount.

Paragraph (a)(2). Paragraph (a)(2) would implement section 127(f) of the act. It provides that if any cash advance, late payment or over-the-credit-limit fee required to be disclosed varies from state to state, the card issuer may disclose the range of the fees instead of disclosing the amount of the fee. If a range is disclosed, the card issuer must include a statement that the amount of the fee varies from state to state. This option is limited to the fees mentioned above.

Paragraph (b)—Direct Mail Applications and Solicitations

Paragraph (b) would implement the disclosure requirements for direct mail applications and solicitations for credit and charge cards provided in section 127(c)(1) and (c)(4) (A) and (B) of the act. Paragraph (b)(1) would contain the disclosures under the act that are required to be given in tabular format. Paragraph (b)(2) would contain the additional fee disclosures that may be located inside or outside of the table.

Paragraph (b)(1). Credit card issuers would have to provide the disclosures in paragraph (b)(1) (i) through (vi) to the extent the disclosures are applicable. Charge card issuers would have to provide the disclosures in paragraphs (b)(1) (ii), (iv) and (vii) as applicable. The disclosures would have to be given in the form of a table. The Board is proposing two new model forms in appendix G, either of which will comply with the tabular format requirement if used properly. Detailed information about requirements as to the form of disclosures is contained in the discussion of appendix G below.

APR Disclosure. Paragraph (b)(1)(i) would implement section 127(c)(1)(A)(i) of the act. Credit card issuers would be required to disclose each periodic rate that may be used to compute the finance charge on an outstanding balance expressed as a corresponding APR. This provision would apply to rates applied to purchase and cash advance balances. If the APR for cash advances differs from the APR for purchases, the disclosure should indicate the rate applicable to each balance. Whenever more than one rate applies to an outstanding balance, the card issuer

would be required to disclose the range of balances to which each rate applies.

If an extension of credit is subject to a variable rate, the credit card issuer would be required to disclose the fact that the rate is variable. The credit card issuer would also be required to disclose the APR in effect at the time of mailing, and how the rate is determined. An APR in effect at any time within 30 days before the mailing may be deemed to be the rate in effect at the time of mailing. Thus, a change in an index resulting in a change in the APR within 30 days before the mailing would not invalidate the disclosure. A credit card issuer would satisfy the requirement of disclosing how the rate is determined by identifying the index and the margin or spread above the index.

Periodic and membership fee disclosure. Paragraph (b)(1)(ii) would implement section 127(c)(1)(A)(ii)(I) and (4)(A)(i) of the act. It would require credit and charge card issuers to disclose any annual or other periodic fee (including fees based on account activity or inactivity), or any membership fee imposed for the issuance or availability of a credit or charge card. This would include a one-time fee for the issuance of a card. To promote easy comparison of disclosures, the proposed rule would require that the fees (if periodic) be expressed as an annualized amount. Therefore, for example, if a card issuer imposed a quarterly fee, the issuer would have to disclose how much the fee would be on an annual basis.

With regard to one-time membership fees, the Board requests comment on what types of fees should be included. For example, the language of the proposed rule might be interpreted to include application fees, raising the question of whether these fees should be covered. The same question arises with respect to various charges associated with the opening of a home equity line of credit that is accessible by credit card.

Minimum finance charge. Paragraph (b)(1)(iii) would implement section 127(c)(1)(A)(ii)(II) of the act and would require credit card issuers to disclose any minimum or fixed finance charge that could be imposed for any period during which any extension of credit which is subject to a finance charge is outstanding. This would occur where the amount of such a finance charge is greater than the finance charge that would otherwise be imposed for such period under the applicable APR.

Transaction charge for purchases. Paragraph (b)(1)(iv) would implement section 127(c)(1)(A)(ii)(III) and (4)(A)(ii) of the act. It would require credit and

charge card issuers to disclose any transaction charge imposed in connection with the use of the card to purchase goods and services. This provision does not cover fees for cash advances, although such fees are required to be disclosed by another provision of the law.

Grace period for purchases. Paragraph (b)(1)(v) would implement section 127(c)(1)(A)(iii) of the act. It would require credit card issuers to disclose the date by which or the period within which any credit extended under credit card accounts for the purchase of goods or services must be repaid to avoid incurring a finance charge. If a card issuer does not offer a "grace period", the card issuer must disclose that fact. If the length of the grace period varies, a card issuer may disclose the range, the minimum or the average number of days in the grace period, if the disclosure is identified as a range, minimum or average, respectively. No disclosure about grace periods for cash advances is required.

The act provides that either the heading or the statement under the heading for the disclosure shall contain the term "grace period." The Board proposes to mandate use of the term "grace period" as a required heading in the table (as well as all other terms in the headings). Therefore, to the extent a card issuer provides more than a numerical disclosure in the body of the table, the card issuer would be permitted to use any word or statement that conveys substantially the same meaning as a "grace period", for example, a reference to a free-ride period.

Balance calculation method for purchases. Paragraph (b)(1)(vi) would implement section 127(c)(1)(A)(iv) of the act. Credit card issuers would be required to disclose the method of calculating the balance on which finance charges will be computed for the purchase of goods and services. (No disclosure of the method of calculating the balance for cash advances is required.) In making this disclosure, issuers would be required to identify the balance calculation method used on the account by the name provided by the Board in the regulation's definitions of the most common balance calculation methods. Credit card issuers would be required to provide a detailed explanation of the balance calculation method used if it is not one of the methods described in the regulation. The level of detail of the explanation would be the same as that required for the initial disclosures under § 226.6(a)(3) of the regulation. A card issuer would be permitted to provide the detailed

explanation outside of the table if a reference is included in the table.

The Board has tentatively identified five of the most common methods for determining the balance of account transactions on which the finance charge will be computed. Those methods are contained in paragraph (f) of this section of the proposal. The numerical order of these methods is not intended to reflect their relative usage by issuers. Three general balance calculation methods have been defined by the Board—average daily balance, adjusted balance and previous balance. Of these general methods, three variations of the average daily balance method have been identified as separate methods because of their potential impact on a consumer's finance charge. The three average daily balance methods which would be required to be identified separately are average daily balance (including new transactions), average daily balance (excluding new transactions), and retroactive average daily balance.

As described, the average daily balance methods are computed in a similar manner but vary based on whether new transactions are included in the balance and on whether the balance includes transactions from a previous billing cycle. The retroactive average daily balance method is described as the sum of the average daily balance (including new transactions) for two billing cycles. The Board requests comment on whether a separate retroactive method exists which is the average daily balance (excluding new transactions) for two cycles and on how many issuers may use that method. The Board also requests comment on whether and how much any separate retroactive methods vary from the retroactive method described by the Board in terms of their potential effect on a consumer's finance charge.

Another average daily balance method, frequently called "true" or "actuarial" average daily balance, has not been identified as a specific balance calculation method because the Board believes that it is the average daily balance (including new transactions) method without a grace period, and therefore may be disclosed using the name "average daily balance (including new transactions)."

The proposed descriptions of the balance calculation methods disregard minor variations in the methods resulting from differences in the allocation of payments, in the posting date as compared to the transaction date, the grace period, and whether the

balance includes unpaid finance charges and charges such as late fees and annual fees. Such variations in the methods described would not constitute different balance calculation methods.

The Board also has identified two other balance calculation methods—ending balance and daily balance—as the alternative sixth and seventh methods on the list for the purpose of soliciting comment on whether either of these methods should be substituted for any of the five methods identified as the most common methods. The Board also requests comment on whether the daily balance method results in a finance charge substantially similar to that derived under the average daily balance (including new transactions) method. The Board would consider categorizing the daily balance method as average daily balance (including new transactions) if it determines that there is no significant difference between the two methods in the impact on the consumer's finance charge.

The Board also solicits comment on whether any methods that have not been identified are more common than those in the proposed rule. The Board is particularly interested in any data from surveys or other studies of card issuers that address which methods are most commonly used. This information should focus only on those methods which are most common for the majority of card issuers—not on those methods which are most common for the majority of accounts in existence. Comments suggesting substitution of other methods for the five methods identified by the Board should include information supporting the inclusion of certain methods as more common among all card issuers than a particular method on the Board's list.

Due and payable statement.

Paragraph (b)(1)(vii) would implement section 127(c)(4)(A)(iii) of the Act which applies only to charge card issuers. It would require charge card issuers to disclose that charges incurred by use of a charge card are payable when the periodic statement reflecting those charges is received by the cardholder.

Paragraph (b)(2)

Additional fee disclosures. Paragraph (b)(2) would implement section 127(c)(1)(B) and (c)(4)(B) of the Act which requires credit and charge card issuers to disclose any cash advance, late payment or over-the-credit-limit fee. These disclosures could be provided in the prescribed table along with the disclosures mentioned in paragraph (b)(1) above (see the discussion of proposed model forms for details), or could be provided elsewhere in a clear

and conspicuous manner on or with an application or solicitation.

Paragraph (c)—Telephone Solicitations

Paragraph (c) would implement the disclosure requirements for telephone solicitations to open a credit or charge card account provided in section 127(c)(2) and (c)(4)(A) of the act.

Paragraph (c)(1).

Under paragraph (c)(1), card issuers would generally be required to orally disclose the applicable items that are required to be disclosed in tabular format in direct mail applications and solicitations; cash advance, late payment and over-the-credit-limit fees would not have to be disclosed.

Paragraph (c)(2).

Paragraph (c)(2) would implement section 127(c)(2)(B) of the act which permits an alternative disclosure for telephone solicitations. The act specifically provides this alternative for credit card issuers. The Board proposes to make this alternative disclosure available to both credit and charge card issuers; this modification might make compliance easier, and would not appear to reduce consumer protections.

If a card issuer does not impose a periodic or membership fee or does not impose any of those fees unless the consumer signifies acceptance by using the card, the card issuer need not give the oral disclosures at the time of the solicitation. The card issuer, however, would be required to disclose in writing the required terms—both those specified in paragraph (b)(1), in tabular format, and those listed in paragraph (b)(2)—within 30 days after the consumer requests the card, but in no event later than the delivery of the card. Therefore, if a consumer requests a card and the card is sent to the consumer 10 days after the solicitation, of example, the disclosures would have to be provided at that time. The card issuer must also explain in the written disclosure notice that the consumer is not obligated to accept the card and that the consumer will not be obligated to pay any fee or charges disclosed unless the consumer elects to accept the card by using it.

Paragraph (d)—Applications and Solicitations Other Than by Mail or Telephone

Paragraph (d) would implement the disclosure requirements for applications and solicitations to open credit and charge card accounts that are made available to the general public, including those contained in catalogs, magazines and other generally available publications, as provided in section 127

(c)(3) and (4)(C) of the act. A card issuer could satisfy the requirements of this section of the act in any of three ways. The act specifically allows any option to be used by credit card issuers. In order to allow maximum flexibility in complying with the new requirements, the Board proposes to make all options available to both credit and charge card issuers.

Paragraph (d)(1).

Under the option in paragraph (d)(1), the card issuer would provide all the required credit disclosures in the requisite format on or with applications and solicitations, and indicate: (1) That the disclosures are accurate as of the date they were printed; (2) the date of printing (disclosure of the month and year would be sufficient to fulfill this requirement); (3) that the terms are subject to change after such date; and (4) that the consumer should contact the creditor for any changes in the information disclosed. (If a rate is variable, any rate in effect 30 days before the date of printing would be deemed accurate as of the date of printing.) The card issuer would also have to provide a mailing address, or a toll-free telephone number to call (for calls made from an area code other than that used by the card issuer), for consumers to obtain information about changes in the disclosures. If the card issuer elects to provide an address rather than a toll-free telephone number, the card issuer could also provide a regular telephone number (rather than a toll-free number).

Paragraph (d)(2).

Under the option in paragraph (d)(2), a card issuer could include on or with an application or solicitation the disclosures required under § 226.6(a) through (c) of the regulation. The act provides that the credit disclosures required under section 127(c)(1) (proposed paragraph (b) discussed above) must be included, though they need not be given in tabular format. The legislative history of the act indicates that this option is available so long as the credit disclosures required under the act are provided clearly and conspicuously (H.R. Rep. No. 1069, 100th Cong., 2d Sess. 17). With minor exceptions, the disclosures required under section 127(c)(1) are also part of the disclosures required to be given under § 226.6(a) through (c) of the regulation. Furthermore, all TILA disclosures are subject to a general clear and conspicuous standard. Consequently, the Board proposes to interpret this option as requiring that

only the initial disclosures in § 226.6(a) through (c) of the regulation be given.

It should be noted that the disclosure of this information alone would not satisfy the initial disclosure requirements under the TILA. If, however, the card issuer in complying with this section provides all the disclosures required under § 226.6, in a form that the consumer may keep, the card issuer will have satisfied the disclosure requirement for this section of the act as well as the initial disclosure requirements for credit cards under the TILA.

Paragraph (d)(2) would also require the card issuer to disclose a toll-free telephone number or a mailing address for use in asking about changes in the information disclosed.

Paragraph (d)(3):

Under the option in paragraph (d)(3), a card issuer would provide a statement on the application or solicitation that there are costs associated with the use of the credit or charge card and that the applicant could contact the creditor to request specific information about those costs by calling a toll-free telephone number or by writing to an address specified on the application or solicitation. The card issuer would have to provide both a toll-free telephone number (for calls made from an area code other than that used by the card issuer) and a mailing address at which the consumer would contact the card issuer to obtain the required information. A card issuer could not use this option if the card issuer includes on the application or solicitation any of the credit disclosures required by the act.

Paragraph (d)(4).

Regardless of the option used, the act provides that upon receiving a request by a consumer for any of the credit information required to be disclosed under the act, card issuers must promptly disclose all of the required credit disclosures. The Board would not interpret this provision to require card issuers to provide all required credit disclosures in all instances. For example, if disclosures have been provided in accordance with proposed paragraph (d)(1) or (2), and a consumer calls or writes a card issuer to obtain information about changes in the disclosures, the card issuer may, but would not be required to, provide information about disclosures for which there are no changes from those previously provided on or with the application. Furthermore, if a consumer requested only one particular item, the card issuer could supply just that requested item rather than the entire list

of disclosures. If, however, the card issuer has made disclosures in accordance with the option in paragraph (d)(3), and a consumer calls or writes the card issuer requesting information about costs, all the required disclosure information would have to be given.

Paragraph (e)—Special Charge Card Rule—Card Issuer and Person Extending Credit Not the Same Person

Paragraph (e) would implement section 127(c)(4)(D) of the act. Where the charge card issuer and the person maintaining an open-end credit plan that the card accesses are different persons, this provision permits the charge card issuer to disclose only the information required for the charge card, and no information about the underlying plan, if the charge card issuer also discloses to the consumer that: (1) The card issuer will make an independent decision whether to issue the card; (2) the card may arrive before the decision is made on the open-end plan; and (3) approval by the card issuer does not constitute approval of the plan.

The act also requires the creditor offering the underlying open-end credit plan to provide the credit disclosures required under section 127(c)(1) for the plan, before the first transaction under the plan. The timing for giving these disclosures is identical to the timing for giving initial disclosures. Moreover, with minor exceptions, the credit disclosures required under the new law will be included as part of the initial disclosures required under § 226.6 of the regulation. Consequently, the Board proposes to eliminate any additional disclosure requirements for a creditor that extends the underlying open-end credit plan beyond providing the initial disclosures in accordance with § 226.6 of the regulation. Thus, the proposed rule makes no reference to this requirement.

Paragraph (f)—Balance Calculation Methods Defined

This paragraph sets forth the proposed names and definitions of balance calculation methods. For a detailed discussion, refer to the discussion under paragraph (b) above.

Section 226.9 Subsequent Disclosure Requirements

Paragraph (e)—Disclosures Upon Renewal of Credit or Charge Card

Paragraph (e) would implement the disclosure requirements for credit and charge card renewals provided in section 127(d) of the act. Paragraph (e)(1) contains the general rule about notification. Paragraph (e)(2) allows the notice in paragraph (e)(1) to be given at

a later point in time if certain other disclosures are provided.

Paragraph (e)(1). If a card issuer imposes any annual or other periodic fee to renew a credit or charge card account, the card issuer would generally be required to provide cardholders with written notices of renewal at least 30 days before the scheduled renewal date of the credit or charge card account. The renewal date is the date the fee is payable to preserve continued credit availability and not necessarily the date on which the credit or charge card expires. The notice would have to disclose: (1) The date by which, the month by which, or the billing period at the close of which the account will expire if not renewed; (2) the credit disclosures required under the Act, in the requisite format, that would apply if the account were renewed; and (3) the manner in which the cardholder may terminate continued credit availability under an account.

Paragraph (e)(2). Under paragraph (e)(2), the notice could be provided less than 30 days before the renewal date so long as the cardholder is given at least 30 days to avoid payment of the fee, or to have the fee recredited to the account, in any case where the cardholder does not wish to continue the availability of credit. The card issuer would have to disclose those facts, in writing, along with a disclosure that the cardholder may use the card in the interim without paying the fee.

Paragraph (e)(3). The renewal disclosures may be presented on or with a periodic statement, or in a separate mailing. If provided with a periodic statement or separately, the credit disclosures required by § 226.9(e)(1)(ii) would have to be given in tabular format (to the extent required in applications and solicitations); if provided on the statement itself, they need not be given in tabular format although the required headings would have to be used. If disclosures are provided on the back of a periodic statement, the card issuer must include on the front of the statement a reference to those disclosures.

Section 127(d)(3) of the act permits the Board, by regulation, to provide for fewer disclosures where an account is renewable more frequently than every six months; the purpose would be to ease the burden on card issuers in this circumstance. The legislative history indicates, however, that the Board would have to require, at a minimum, the periodic fee disclosure and disclosure of any credit term that had changed since the last disclosure. The Board believes such short term renewals

are rare and is not proposing any special rule; however, it seeks comment on whether an abbreviated disclosure scheme would be necessary or useful to cover this situation.

Paragraph (f)—Change in Credit Card Account Insurance Provider

Paragraph (f) would implement section 127(g) of the act. Credit card issuers that offer credit insurance (typically, life, disability, and unemployment insurance) on the outstanding balance on an account would be required to make certain disclosures to their insured consumer cardholders if the card issuers change insurance providers. The Board proposes to add two new model forms that may be used to comply with paragraph (f); see the discussion of appendix G, below, for details.

Paragraph (f)(1). Paragraph (f)(1) would implement section 127(g)(1) of the act which requires that a notice be sent at least 30 days before a change in insurance providers occurs. The notice may be sent on or with a periodic statement. The notice must inform the cardholder of the upcoming change in insurance providers, and indicate that the cardholder has the right to discontinue the credit insurance. (If discontinuing the credit insurance would have some effect on the credit plan, the notice may also explain that.) In addition, if the change in insurance providers will result in an increased rate or other increased costs for the cardholder, or if a substantial decrease or limitation in coverage will result, the notice must disclose those items to the cardholder. The Board proposes to interpret the act to require notice of changes in coverage terms only and not of changes relating solely to service.

Paragraph (f)(2). Paragraph (f)(2) would incorporate section 127(g)(5) of the act and would provide that, in determining whether a decrease or limitation in the coverage terms is considered substantial, the card issuer first must consider whether the decrease or limitation is in a significant term of coverage. (A list of examples of significant terms of coverage is provided in the proposed rule.) If a significant term of coverage is involved, the card issuer must then consider whether the decrease or limitation might reasonably be expected to affect a cardholder's decision to continue taking insurance from the card issuer; if that is the case, the decrease or limitation must be disclosed in the notice. The Board seeks comment on its definition of a substantial decrease and on its examples of significant terms of coverage.

Paragraph (f)(3).

Paragraph (f)(3) would incorporate section 127(g)(2) of the act. It would require that a second notice be provided by card issuers when the change in insurance providers actually occurs. Card issuers would be required to send this notice no later than 30 days after the change. Card issuers would be required to provide the name and address of the new insurance provider, and to include a statement that the consumer has the right to discontinue the insurance. In addition, card issuers would have to provide a copy of the new policy or group certificate, which must contain the basic terms and conditions and the premium rate. This notice may be sent on or with a periodic statement. (The copy of the policy or group certificate could be sent along with the periodic statement.)

Paragraph (f)(4).

Paragraph (f)(4) allows card issuers to combine the notice required by paragraph (f)(3) with the notice required by paragraph (f)(1) providing the timing requirement of paragraph (f)(1) is met. Notices may be provided on or with a periodic statement.

Section 226.28 Effect on State Laws

Paragraph (d) would implement the new preemption provision added to section 111 of the TILA. Section 127 (c) through (f) preempts any provision in state or local laws and regulations relating to the disclosure of information in any credit or charge card application or solicitation that is subject to section 127(c) and any provision relating to renewal notices in any transaction that is subject to section 127(d). The preemption of such state law is total, and differs from the preemption standard of other parts of the TILA, which generally preempt only inconsistent state law requirements.

State laws enacted or used to enforce the requirements of section 127 (c) and (d) of the act are not affected. The same is true for general disclosure laws such as state retail installment sales acts and plain language laws. In addition, other state consumer laws regarding credit or charge cards, such as a law requiring banks in that state to offer a grace period, would not be affected. The provisions of the act requiring insurance disclosures do not supersede any state laws applicable to the regulation of insurance. The Board would also take the view that the act does not preempt state laws that require disclosures relating to antidiscrimination matters.

Appendix G—Open-End Model Forms and Clauses

The Board's proposal includes several model forms and clauses which would appear in Appendix G of the regulation.

Proposed model form G-10A illustrates the permissible inclusion in the tabular format of all of the required disclosures for applications and solicitations. In proposed model form G-10B, the table includes only that information required to be included in the table, while the three additional required disclosures are illustrated clearly and conspicuously outside of the table. The table (in either G-10A or G-10B) must contain the prescribed headings to the extent applicable, although they may be arranged horizontally rather than vertically. In designing forms, card issuers would be permitted to eliminate inapplicable headings and their corresponding boxes. For example, if no transaction fee is imposed for purchases, the disclosure form could either retain the "Transaction Fee for Purchases" heading and box, indicating "None" in the box, or the heading and box could be deleted from the disclosure entirely. There is, however, an exception for the grace period disclosure: even if no grace period exists, this disclosure must be retained, stating that fact. The information in the boxes must be provided in a manner that conveys substantially the same meaning as the information in the Board's model form, although the precise terminology shown need not be used. A card issuer may provide other information about the tabular disclosures; however, that information must be presented outside the table.

Proposed model clauses G-11, -12, and -13 are provided to illustrate the additional disclosures for applications and solicitations by means other than by direct mail or telephone. Proposed model clause G-14 illustrates the disclosures to be made when a charge card may access an open-end line of credit offered by someone other than the card issuer.

Proposed model forms G-15 and -16 relate to changes in an insurance provider. Form G-15 lists several significant terms of coverage that may be affected by the change in insurance provider. The card issuer may list all of these potential changes in coverage and place a checkmark by the applicable changes or may include only statements about the actual change in coverage. Under either approach, the card issuer must explain the change or reference an accompanying copy of the policy or

group certificate for details of the new terms of coverage. Form G-15 illustrates the permissible combination of the two notices required by § 226.9(f). Form G-15 may be modified for use in providing only the disclosures required before the change if the card issuer chooses to send two separate notices. Proposed model form G-16 illustrates the disclosures required when the insurance provider is changed.

The Board solicits comment on whether additional model forms and clauses should be provided, and if so, suggestions about what would be useful.

(3) Comments Requested

Interested persons are invited to submit written comments on the proposed amendments and other matters addressed in this notice. After the close of the comment period, based upon its analysis of the comments received, the Board will publish in the *Federal Register* notice of final action. The comment period ends on February 21, 1989. Because of the strict statutory deadline for issuing the final regulations, comments must be submitted no later than this date.

(4) Economic Impact Statement

The Board's Division of Research and Statistics has prepared an economic impact statement on the proposed revisions to Regulation Z. A copy of the analysis may be obtained from Publications Services, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452-3245.

List of Subjects in 12 CFR 226

Advertising; Banks; Banking; Consumer protection; Credit; Federal Reserve System; Finance; Penalties; Rate limitations; Truth in Lending.

(5) Text of Proposed Revisions

Certain conventions have been used to highlight the proposed revisions. New language is shown inside arrows, while language that would be removed is set off with brackets. Pursuant to authority granted in 15 U.S.C. 1604 and sec. 2, Pub. L. No. 100-583, 102 Stat. 2960 (to be codified at 15 U.S.C. 1637(c)(5)) of the TILA, as amended, the Board proposes to amend Regulation Z (12 CFR Part 226) as follows:

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

Authority: ▶ Truth in Lending Act, 15 U.S.C. 1604 and sec. 2, Pub. L. No. 100-583, 102 Stat. 2960 ◀ [Sec. 105, Truth in Lending Act, as amended by sec. 605, Pub. L. 96-221, 94 Stat. 170 (15 U.S.C. 1604 *et seq.*); sec. 1204(c), Competitive Equality Banking Act, Pub. L. No. 100-86 101 Stat. 552.

Subpart A—General

2. Section 226.1 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 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 ▶ Act ◀ [and Fair Credit Billing Acts], which [are] ▶ is ◀ contained in title I of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 *et seq.*). * * *

3. Section 226.2 is amended by revising paragraph (a)(15) and (a)(17)(iv) to read as follows:

§ 226.2 Definitions and rules of construction.

(a) Definitions.

(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. ▶ The term "charge card" means a credit card on an account for which no periodic rate is used to compute a finance charge. ◀ * * *

(17) "Creditor" means:

(iv) For purposes of Subpart B (except for ▶ the credit and charge card disclosures contained in §§ 226.5a and 226.9(e) and (f), ◀ the finance charge disclosures contained in §§ 226.6(a) and 226.7(d) through (g) and the right of rescission set forth in § 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. * * *

Subpart B—Open-End Credit

4. Section 226.5 is amended by revising footnotes 8 and 9, adding paragraphs (a)(3) and (b)(3) and republishing paragraphs (a)(1) and (a)(2) and footnote 7 to read as follows:

§ 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,⁷ in a form that the consumer may keep.⁸

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

⁸ The ▶ disclosures required under § 226.5a for credit and charge card applications and

(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.⁹

▶ (3) Certain disclosures required under § 226.5a for credit and charge card applications and solicitations must be provided in a tabular format and in a prominent location in accordance with the requirements of that section. ◀

(b) *Time of disclosures.*

▶ (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 requirements of § 226.5a. ◀ * * *

5. A new § 226.5a is added to read as follows:

§ 226.5a Credit and charge card applications and solicitations.

(a) *General rules—(1) 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.

(2) *Certain fees that vary by state.* If the amount of any fee referred to in paragraph (b)(2) 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) *Direct mail applications and solicitations.* The credit card issuer shall disclose the applicable items in paragraphs (b)(1)(i) through (vi) and paragraph (b)(2) of this section on or with an application to open a credit card account, or a solicitation not requiring an application to open a credit card account, that is mailed to consumers. In the case of a similar mail application or solicitation to open a charge card account, the charge card issuer shall disclose the applicable items in

solicitations, the ◀ alternative summary billing rights statement provided for in § 226.9 (a)(2), and the disclosures made under § 226.10(b) about payment requirements need not be in a form that the consumer can keep.

⁹ The terms need not be more conspicuous when used ▶ under § 226.5a for credit and charge card applications and solicitations, ◀ under § 226.7(d) on periodic statements and under § 226.16 in advertisements.

paragraphs (b)(1)(ii), (iv) and (vii) and paragraph (b)(2) of this section. This paragraph does not apply to an application or a solicitation made available to the general public, including one contained in a catalog, magazine, or other generally available publication. The disclosures for such applications and solicitations are contained in paragraph (d) of this section.

(1) *Disclosures in tabular format.* The card issuer shall disclose, to the extent applicable, in a prominent location on or with the application or solicitation, each of the following items in the form of a table, using the prescribed terminology in the headings and substantially the same format and statements as found in appendix G:

(i) Each periodic rate that may be used to compute the finance charge on an outstanding balance expressed as an annual percentage rate. When more than one rate applies, the range of balances to which each rate is applicable shall also be disclosed. If the plan has a variable rate, the card issuer shall also disclose the fact that the rate may vary, the annual percentage rate in effect within 30 days before the time of mailing, and how the rate is determined.

(ii) Any annual or other periodic fee, expressed as an annualized amount, or any other membership 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.

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

(iv) Any transaction charge imposed in connection with use of the card for purchases.

(v) The date by which or the period within which any credit extended for purchases may be repaid without incurring a finance charge. If no such 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.

(vi) The name of the balance calculation method listed in paragraph (f) of this section that is used to determine the balance on which the finance charge is computed for purchases, 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.

(vii) A statement that charges incurred by use of the charge card are due when the periodic statement is received.

(2) *Additional disclosures.* The card issuer shall also disclose either in the table prescribed in paragraph (b)(1) of this section or elsewhere on or with the application or solicitation, the following items to the extent applicable, using the prescribed terminology in the headings and substantially the same format and statements as found in appendix G (if the items are in the table):

(i) Any fee imposed for an extension of credit in the form of cash;

(ii) Any fee imposed for a late payment; and

(iii) Any fee imposed for exceeding a credit limit.

(c) *Telephone solicitations.*—(1) *Oral disclosure.* The card issuer shall orally disclose the information in paragraph (b)(1) of this section, to the extent applicable, in a telephone solicitation to open a credit or charge card account.

(2) *Alternative disclosure.* The oral disclosure under paragraph (c)(1) of this section need not be given if the card issuer either does not impose a fee described in paragraph (b)(1)(ii) of this section or does not impose the fee unless the consumer uses the card, and the card issuer discloses in writing:

(i) The applicable information contained in, and in the form required by, paragraphs (b)(1) and (2) of this section within 30 days after the consumer requests the card, but in no event later than the delivery of the card; and

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

(d) *Applications and solicitations other than by mail or telephone.* The card issuer shall provide disclosures on or with an application to open a credit or charge card account, or a solicitation not requiring an application to open a credit or charge card account, that is made available to the general public, including one contained in a catalog, magazine, or other generally available publication. The disclosures shall be provided in accordance with paragraph (d)(1), (2) or (3) of this section.

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

(i) The applicable information contained in, and in the form required by, paragraphs (b)(1) and (2) 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) *Disclosure of certain initial disclosures.* The card issuer may disclose on or with the application or solicitation the following:

(i) The disclosures required in § 226.6 (a) through (c); and

(ii) A toll-free telephone number or a mailing address for the consumer to contact the card issuer to obtain any change in the information disclosed.

(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.

(e) *Special charge card rule—card issuer and person extending credit not the same person.* If by use of a charge card, a cardholder may access an open-end plan that is not maintained by the charge card issuer, the card issuer need not provide the disclosures in paragraph (b), (c) or (d) of this section for the open-end plan if the card issuer states on or with the application or solicitation the following, to the extent applicable:

(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 plan; and

(3) Approval for the charge card does not constitute approval for the open-end plan.

(f) *Balance calculation methods defined.* The following methods may be described by name without regard to minor 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:

(1) *Average daily balance (including new transactions).* 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.

(2) *Average daily balance (excluding new transactions).* 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.

(3) *Retroactive average daily balance.* 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, and is figured in the same way as the first balance except that it will be considered zero if a finance charge was already imposed against purchases in that cycle.

(4) *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.

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

(6) *Ending balance.* This balance is the outstanding balance at the end of the billing cycle (including new purchases and deducting payments and credits made during the billing cycle).

(7) *Daily balance.* This balance is the balance on each day of the billing cycle (including new purchases and deducting payments and credits made as of that day). ◀

6. Section 226.9 is amended by adding paragraphs (e) and (f) to read as follows:

§ 226.9 Subsequent disclosure requirements.

* * * * *

▶ (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 (including any fee based on account activity or inactivity) shall mail or deliver to the cardholder at least 30 days before the renewal fee is payable written notice of the following information:

(i) When the account will expire if not renewed;

(ii) The disclosures contained in, and in the form required by, § 226.5a(b)(1) that would apply if the account were renewed; and

(iii) How the cardholder may terminate the account to avoid paying the renewal fee.

(2) *Delayed notice.* The notice required by paragraph (e)(1) of this section may be provided less than 30 days before the date the fee to renew the account is payable if, no later than the time the periodic statement first disclosing the fee is mailed or delivered, the card issuer also discloses that:

(i) The cardholder has 30 days to avoid paying the fee or to have the fee recredited if the cardholder terminates the account; and

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

(3) *Combined notification.* The disclosures required by this paragraph may be made on or with a periodic statement. When the disclosures are provided on a periodic statement, the card issuer shall use the prescribed headings referred to in § 226.5a(b)(1) but need not give the disclosures in tabular format. If the disclosures are provided on the back of a periodic statement, the card issuer shall include on the front of the statement a reference to those disclosures.

(f) *Change in credit card account insurance provider—(1) Notice prior to proposed change.* If a credit card issuer proposes to change the provider of insurance for repayment of all or part of the outstanding balance of an open-end credit card account, the card issuer shall send the cardholder written notice of the proposed change not less than 30 days before the change. The notice shall also include the following items, to the extent applicable:

(i) Any increase in the premium rate or other costs that will result from the proposed change;

(ii) Any substantial decrease or limitation in coverage that will result from the proposed change; and

(iii) A statement that the cardholder may discontinue the insurance.

(2) *Substantial decrease or limitation in coverage.* For purposes of this paragraph, a substantial decrease or limitation in coverage is a decrease or limitation in a significant term of coverage that might reasonably be expected to affect the cardholder's decision 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 installment benefit, 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.

(3) *Notice when change in provider occurs.* If a proposed 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:

(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 premium rate to be charged; and

(iii) A statement that the cardholder may discontinue the insurance.

(4) *Combined notification.* The notices required by paragraphs (f)(1) and (3) of this section may be provided on or with a periodic statement, and may be combined provided the timing requirement of paragraph (f)(1) of this section is met. ◀

Subpart D—Miscellaneous

7. Section 226.28 is amended by revising the first sentence of paragraph (a)(1) and adding paragraph (d) to read as follows:

§ 226.28 Effect on State laws.

(a) *Inconsistent disclosure requirements.* (1) ▶ Except as provided in paragraph (d) of this section, state ◀ [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. * * *

▶ (d) (d) *Special rule for credit and charge cards.* State law requirements 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) of chapter 2 of the act (§ 226.5a of the requirement) or in any renewal notice for a credit or charge card which is subject to the requirements of section 127(d) of chapter 2 of the act (§ 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. ◀

8. Appendix G is amended by adding G-10A through G-16 to read as follows:

Appendix G—Open-End Model Forms and Clauses

* * * * *

► G-10A Applications and Solicitations Model Form (§ 226.5a(b)).

G-10B Applications and Solicitations Model Form (§ 226.5a(b)).

G-11 Applications and Solicitations Other Than By Direct Mail or Telephone Model Clauses (Disclosure of Required Credit Information) (§ 226.5a(d)(1)).

G-12 Applications and Solicitations Other Than By Direct Mail or Telephone Model Clauses (Disclosure With Initial Disclosures) (§ 226.5a(d)(2)).

G-13 Applications and Solicitations Other Than By Direct Mail or Telephone Model Clauses (No Disclosure of Credit Information) (§ 226.5a(d)(3)).

G-14 Open-End Credit Feature Model Clauses (§ 226.5a(e)).

G-15 Change in Insurance Provider Model Form (§ 226.9(f)(1)–(3)).

G-16 Change in Insurance Provider Model Form (§ 226.9(f)(3)). ◀

* * * * *

BILLING CODE 6210-01-M

- 48 -

•G-10A — Applications and Solicitations Model Form

| | |
|--|--|
| Annual Percentage Rate | _____ % |
| Variable Rate Information | Your annual percentage rate may vary. The rate is determined by _____. |
| Grace Period For Purchases | <ul style="list-style-type: none"> You have _____ days [until _____] [not less than _____ days] [between _____ and _____ days] [_____ days on average] to repay your balance for purchases before being charged a finance charge. [There is no grace period allowing you to repay your balance for purchases before being charged a finance charge.] |
| Balance Calculation Method for Purchases | |
| Membership Fees | [Annual][Membership] fee: \$_____ per year. [_____] \$_____ per year. [_____] \$_____. |
| Minimum Finance Charge | \$_____. |
| Transaction Fee for Purchases | \$_____. |
| Transaction Fee for Cash Advances | \$_____. |
| Late Payment and Over-the-Credit-Limit Fees | Late Payment fee: \$_____. Over-the-Credit Limit fee: \$_____. |
| [All charges made on this charge card are due and payable when you receive your periodic statement.] | |

- 49 -

G-10B — Applications and Solicitations Model Form

| | |
|--|--|
| Annual Percentage Rate | _____ % |
| Variable Rate Information | Your annual percentage rate may vary. The rate is determined by _____. |
| Grace Period for Purchases | <ul style="list-style-type: none"> You have _____ days [until _____] [not less than _____ days] [between _____ and _____ days] [_____ days on average] to repay your balance for purchases before being charged a finance charge. [• There is no grace period allowing you to repay your balance for purchases before being charged a finance charge.] |
| Balance Calculation Method for Purchases | |
| Membership Fees | [Annual][Membership] fee: \$ _____ per year.] [_____ \$ _____ per year.] [_____ \$ _____.] |
| Minimum Finance Charge | \$ _____. |
| Transaction Fee for Purchases | \$ _____. |
| [All charges made on this charge card are due and payable when you receive your periodic statement.] | |

- Transaction Fee for Cash Advances: \$ _____.
- Late Payment Fee: \$ _____.
- Over-the-Credit-Limit Fee: \$ _____.

- 50 -

G-11 — Applications and Solicitations Other Than By Direct Mail or Telephone Model Clauses (Disclosure of Required Credit Information)

The information about the costs of the card described in this [application] [solicitation] is accurate as of _____, when it was printed. This information may change after the printing date.

To find out what may have changed, [call us at _____.]
[write to us at _____]
_____.]

G-12 — Applications and Solicitations Other Than By Direct Mail or Telephone Model Clauses (Disclosure With Initial Disclosures)

To find out about changes in the information in this [application][solicitation], [call us at _____.]
[write to us at _____]
_____.]

G-13 — Applications and Solicitations Other Than By Direct Mail or Telephone Model Clauses (No Disclosure of Credit Information)

The card is subject to various fees and charges. To get information about these fees and charges, call us at _____
or write to us at _____
_____.

G-14 — Open-End Credit Feature Model Clauses

This charge card may also allow you to obtain credit from a line of credit offered by a different creditor. Our decision about issuing you a charge card will be made independently from the other creditor's decision about allowing you access to a line of credit. 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 to grant you credit privileges. The other creditor will provide you with information about the costs associated with the line of credit before the first extension of credit.

- 51 -

G-15 — Change in Insurance Provider Model Form

The credit card account you have with us currently is insured. This is to notify you that we plan to obtain insurance coverage from a different insurer to replace your current coverage.

- If we obtain insurance for your account from a different insurer, you may cancel the insurance.
- [• Your premium rate will increase to \$____ per ____.]
- [• Your other costs for coverage 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 become more restrictive. [____ (explanation)____]
[See ____ of the attached policy for details.]
 - [] A decrease in your maximum insurable loan balance, maximum installment benefit, maximum number of payments, or other decrease in the dollar amount of your coverage or benefits. [____ (explanation)____]
[See ____ of the attached policy for details.]
 - [] A restriction on your eligibility for benefits. [____ (explanation)____]
[See ____ of the attached policy for details.]
 - [] A restriction in the definition of "disability" or other key term of coverage. [____ (explanation)____]
[See ____ of the attached policy for details.]

- 52 -

[] The addition of exclusions or limitations broader or other than those under the current coverage. [_____] (explanation)

[See _____ of the attached policy for details.]

[] An increase in the elimination (waiting) period or a change to non-retroactive coverage. [_____] (explanation)

[See _____ of the attached policy for details.]

[• The name and mailing address of the new insurer providing the coverage for your account will be:

_____]

G-16 — Change in Insurance Provider Model Form

We have changed the insurer providing the coverage for your account. The new insurer's name and mailing address is:

(A copy of the new policy or certificate is attached.)

You may cancel the insurance for your account. ◀

By order of the Board of Governors of the Federal Reserve System, December 19, 1988.
 William W. Wiles,
Secretary of the Board.
 [FR Doc. 88-29457 Filed 12-22-88; 8:45 am]
 BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 561 and 563

[No. 88-1342]

Regulatory Capital Requirements for Insured Institutions

Date: December 15, 1988.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board (the "Bank Board" or "Board"), in its own right and as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), is today proposing to amend its regulations establishing capital requirements for institutions whose accounts are insured by the FSLIC ("insured institutions," "thrift institutions," or "institutions"). The proposal is intended to continue the Board's efforts to ensure that the thrift industry is adequately capitalized in order to protect the FSLIC and to ensure the financial strength of individual institutions, as well as the industry as a whole. The proposed rule is, to a greater extent than the Board's current capital regulations, risk-based, with the goal of better ensuring that institutions engaging in activities that are riskier to the institution and ultimately to the FSLIC as insurer are supported by adequate capital. It is modeled, in many respects, on the capital requirements recently proposed by the Board of Governors of the Federal Reserve System ("Federal Reserve Board"), the Office of the Comptroller of the Currency ("OCC"), and the Federal Deposit Insurance Corporation ("FDIC") (collectively the "federal banking agencies" or "federal banking regulators"). The proposal also addresses additional issues affecting capital and an institution's risk to the FSLIC, including interest-rate risk and collateralized borrowing.

DATE: Comments must be received on or before March 23, 1989.

ADDRESSES: Send comments to: Director, Information Services Division, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552. Comments will be available for public inspection at Information Services, Federal Home

Loan Bank Board, 801 17th Street, NW., Washington, DC 20006.

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SUPPLEMENTARY INFORMATION:

- I. General Background
 - A. Introduction
 - B. Purpose of Regulatory Capital
 - C. Defining Adequate Capital
- II. Statutory and Regulatory Background
 - A. Prior Reserve, Net-Worth and Regulatory Capital Regulations
 - B. Recent Developments Affecting Regulatory Capital Requirements
- III. Risk-Based Capital Requirement
 - A. Asset Base for Purposes of Determining Capital Requirements
 - B. Credit Risk
 1. On-Balance Sheet Assets
 - a. Discussion of Risk Weights for On-Balance Sheet Assets
 - b. Summary of Risk Weights for On-Balance Sheet Assets
 - c. Credit Risk Weight Assignments
 2. Off-Balance Sheet Items
 - a. Discussion of Conversion Factors for Off-Balance Sheet Items
 - b. Summary of Conversion Factors for Off-Balance Sheet Items
 - c. Conversion Factors
 - C. Interest-Rate Risk
 - D. Collateralized Borrowings
 - IV. Components of Capital
 - A. Core Capital (Tier 1)
 - B. Supplementary Capital (Tier 2)
 1. Unlimited Supplementary Capital
 2. Supplementary Capital: Maturing Capital Instruments
 3. Supplementary Capital: Other Limitations
 - V. Required Level and Composition of Capital
 - VI. Transition and Phase-In
 - VII. Summary
 - Appendix A—Alternate Treatment of Maturing Capital Instruments
 - Appendix B—Sample Capital Requirement Calculation

I. General Background

A. Introduction

The Board's current minimum capital regulation, 12 CFR 563.13, is primarily a liability-based requirement that contains limited provisions addressing credit risk,

interest-rate risk, and off-balance-sheet risk. The Board's current definition of regulatory capital, 12 CFR 561.13, establishes the elements that make up thrift capital. Today, the Board proposes a risk-based capital requirement, similar in many respects, to that proposed by the federal banking agencies in March of this year. The proposal addresses two major issues: (1) How much capital should be required for thrift institutions; and (2) what should count as capital for thrift institutions.

The Board is proposing to amend its capital regulations at this time for several reasons. First, Section 406 of the Competitive Equality Banking Act of 1987 ("CEBA") instructed the Board to establish capital requirements for thrifts consistent with the purposes of the capital requirements established by the federal banking agencies pursuant to section 908 of the International Lending Supervision Act of 1983 ("ILSA"). The federal banking agencies have proposed guidelines significantly modifying how certain risks will be taken into account in determining banking organizations' capital adequacy. See 53 FR 8550 (March 15, 1988). It is appropriate that the Board review these changes and consider them in conjunction with congressional intent as expressed in CEBA.

Second, the Board is concerned that its present capital rule may be unnecessarily complex in some respects without being adequately responsive to risk. Any rule that seeks to calculate a level of capital appropriate to protect the insurance fund against potential losses will be complex if it reflects the business risks involved in operating depository institutions. Today's proposal, like that of the federal banking agencies, advances the effort to distinguish among different risks. The proposal is designed as a reasonable balance between the need for a rule that distinguishes among institutions based on risk and the attendant problems of complexity and imprecision.

If the rule is adopted as proposed, thrifts without large amounts of collateralized borrowings will have a total capital requirement that, on average, is expected to equal 8% of risk-weighted assets. This requirement may be more or less stringent for individual institutions than the Board's present requirement, depending on the credit and interest-rate risk inherent in an institution's portfolio.

Total capital is the sum of an institution's core equity capital (primarily capital as computed in accordance with generally accepted accounting principles or "GAAP") and its supplementary capital (which