addition, consistent with current policy, these guidelines generally will not apply to bank holding companies with consolidated assets of less than $150 million.

List of Subjects

12 CFR Part 208

Accounting, Agricultural loan losses, Applications, Appraisals, Banks, Banking, Capital adequacy, Confidential business information, Currency, Dividend payments, Federal Reserve System, Publication of reports of condition, Reporting and recordkeeping requirements, Securities, State member banks.

12 CFR Part 225

Administrative practice and procedure, Appraisals, Banks, Banking, Capital adequacy, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities, State member banks.

For the reasons set forth in this notice, and pursuant to the Board's authority under section 5(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(b)), and section 910 of the International Lending Supervision Act of 1983 (12 U.S.C. 3909), the Board proposes to amend 12 CFR parts 208 and 225 as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

1. The authority citation for part 208 continues to read as follows:

Authority: Sections 9, 11(a), 11(c), 19, 21, 25, and 25(a) of the Federal Reserve Act, as amended (12 U.S.C. 321–338, 248(a), 248(c), 481, 481–486, 601, and 611, respectively); sections 4 and 13(j) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1814 and 1323(j), respectively); section 7(a) of the International Banking Act of 1978 (12 U.S.C. 3105); sections 907–910 of the International Lending Supervision Act of 1983 (12 U.S.C. 3906–3909); sections 2, 12(b), 12(g), 12(i), 15B(c)(5), 17, 17A, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78b, 78*l*(b), 78*l*(g), 78*l*(1), 780–4(c)(5), 78q, 78q–1, and 78w, respectively); section 5155 of the Revised Statutes (12 U.S.C. 36) as amended by the McFadden Act of 1927; and sections 1101–1122 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 3310 and 3331–3351).

Appendix A [Amended]

2. A new sentence is added immediately following the first sentence of the first paragraph under "II. A. 1. b. Perpetual preferred stock" of appendix A to Part 208 to read as follows:

II. Definition of Qualifying Capital for the Risk-Based Capital Ratio

* * * * *

A. * * *

1. * * *

b. * * * Consistent with these provisions, any perpetual preferred stock with a redemption feature may qualify as capital *only if* the redemption is subject to prior approval of the Federal Reserve. * * *

* * * * *

Appendix A [Amended]

3. In appendix A to part 208, in II. B. 1., the footnote designator 14 in the text is removed and footnote 14 is removed and reserved.

Appendix A [Amended]

4. The last two sentences of footnote 30 under "III. C. 2. Category 2: 20 percent" of appendix A to part 208 are removed.

Appendix A [Amended]

5. Two new sentences are added immediately following the second sentence of the seventh paragraph under "II. D. 1. Items with a 100 percent conversion factor" of appendix A to part 208 to read as follows:

III. Procedures for Computing Weighted Risk Assets and Off-Balance Sheet Items

* * * * *

D. * * *

1. * * *

* * * Accordingly, the entire amount of any assets transferred with recourse that are not already included on the balance sheet, including pools of one-to-four family residential mortgages, are to be converted at 100 percent and assigned to the risk weight appropriate to the obligor, or if relevant, the nature of any collateral or guarantees. The only exception involves transfers of pools of residential mortgages that have been made with insignificant recourse for which a liability or specific non-capital reserve has been established and is maintained for the maximum amount of possible loss under the recourse provision. * * *

* * * * *

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1843(c)(8), 1844(b), 3106 ,3108, 3907, 3909, 3310, and 3331–3351.

Appendix A [Amended]

2. A new sentence is added immediately following the first sentence of the first paragraph under "II. A. 1. b. Perpetual preferred stock of appendix A to part 225 to read as follows:

II. Definition of Qualifying Capital for the Risk Based Capital Ratio

* * * * *

A. * * *

1. * * *

b. * * * Consistent with these provisions, any perpetual preferred stock with a redemption feature may qualify as capital *only if* the redemption is subject to prior approval of the Federal Reserve. * * *

* * * * *

Appendix A [Amended]

3. In appendix A to part 225, in II. B., the footnote designator 15 in the text is removed and footnote 15 is removed and reserved.

Appendix A [Amended]

4. The last two sentences of footnote 33 under "III. C. 2. Category 2: 20 percent" of appendix A to part 225 are removed.

Appendix A [Amended]

5. Two new sentences are added to the end of footnote 48 under "III. D. 1. Items with a 100 percent conversion factor" of appendix A to part 225 to read as follows:

48 * * * Accordingly, the entire amount of any assets transferred with recourse that are not already included on the balance sheet, including pools of one-to-four family residential mortgages, are to be converted at 100 percent and assigned to the risk weight appropriate to the obligor, or if relevant, the nature of any collateral or guarantees. The only exception involves transfers of pools of residential mortgages that have been made with insignificant recourse for which a liability or specific non-capital reserve has been established and is maintained for the maximum amount of possible loss under the recourse provision.

Board of Governors of the Federal Reserve System, October 11, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90–24425 Filed 10–16–90; 8:45 am]

BILLING CODE 6210–01–M

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12 CFR Part 226

[Reg. Z; Doc. No. R–0708]

Truth in Lending; Intent To Make Determination of Effect on State Law; New Mexico

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of intent to make preemption determination.

SUMMARY: The Board is publishing for comment a proposed determination that certain provisions in the law of New

Mexico are not inconsistent with the Truth in Lending Act and Regulation Z and therefore are not preempted.

DATES: Comments must be received on or before December 14, 1990.

ADDRESSES: Comments should refer to Docket No. R-0708 and be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551. They may be delivered to room B-2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays or delivered to the guard station in the Eccles Building Courtyard on 20th Street, NW. (between Constitution Avenue and C Street, NW.) any time. All comments received at the above address will be available for inspection and copying by any member of the public in the Freedom of Information Office, room B-1122 of the Eccles Building between 9 a.m. and 5 p.m. weekdays.

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

SUPPLEMENTARY INFORMATION:

(1) General

The Board has received a request for a determination that certain provisions of New Mexico law are inconsistent with the Truth in Lending Act and Regulation Z and therefore preempted. 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 state laws.

Section 226.28(a)(1) of Regulation Z, which implements section 111(a)(1) of the Truth in Lending Act, provides that state requirements are inconsistent with, and therefore preempted by, the federal provision if the state law requires a creditor to make disclosures or take actions that contradict the requirements of 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 law. Under § 226.28(a)(1), a state law is contradictory, for example, if it requires the use of the same term for a different amount or a different meaning than the federal law, or if it requires the use of a different term than the federal law to describe the same item.

The procedure for requesting a determination and the general procedures followed in making a determination are contained in appendix A to 12 CFR part 226. These proposed preemption determinations are 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)).

In previous preemption determinations (48 FR 4454, February 1, 1983) the Board developed principles to be applied in making preemption determinations. These principles require that preemption should occur only in those transactions in which an actual inconsistency exists between the state and federal laws. In addition, 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.

Preemption determinations are generally limited to those provisions of state law identified in the request for a determination. At the Board's discretion, however, other state provisions that may be affected by the federal law also will be addressed.

(2) Discussion of Specific Request and Proposed Determination

The Board has been asked to determine whether provisions of sections 56-8-11.2(A) and 56-8-11.3 of the New Mexico Loan Disclosure Act regarding disclosures for certain credit transactions and penalties for noncompliance are inconsistent with and therefore preempted by provisions of the Truth in Lending Act and Regulation Z (12 CFR part 226) that regulate disclosures for closed-end credit and provide penalties for noncompliance.

A preliminary issue is whether there is any inconsistency between the state and federal definitions of "creditor." There is no significant substantive difference in the definitions, although the federal law is more specific. While federal law, unlike state law, requires disclosure of the identity of the creditor in § 226.18(a) of Regulation Z, the definition of the term "creditor" is relevant only with regard to coverage of the respective rules. Therefore, there is no basis for preempting the state law definition.

State officials have confirmed that section 56-8-11.2(D) of the state law permits creditors to substitute federal disclosures for those required under state law (although creditors are required to provide any additional state disclosures that are not addressed under federal law). The requesting party nevertheless asks for a determination of whether the state disclosures are preempted.

Disclosures Under the New Mexico Loan Disclosure Act Section 56-8-11.2(A) and Section 226.18 of Regulation Z

The requesting party asks for a determination as to possible inconsistency between the state and federal requirements for disclosures for closed-end credit transactions. (Although the state provisions generally apply to all types of consumer credit transactions, the requesting party asks for a determination based only on federal disclosures relating to closed-end credit to be given before consummation of the transaction.) Section 56-8-11.2(A) of the New Mexico Loan Disclosure Act requires the following disclosures in a credit transaction:

(1) The total principal amount of the loan or purchase as well as the amount or item to be received by the borrower or purchaser;

(2) The purpose of the loan and the date the loan was made;

(3) The interest rate * * * including all charges or costs stated as a percent per month and percent per year;

(4) The number, amount, and timing of payments * * * including any required minimum installments;

(5) The term of the loan;

(6) Any penalties for prepayment of the loan;

(7) The total amount to be repaid;

(8) For variable rate transactions, a disclosure of the circumstances under which the rate will vary and identification of any index to which the rate is tied; and

(9) A description of the legal and financial consequences of the borrower's failure to meet the repayment terms of the agreement and any penalties imposed for such failure.

Section 226.18 of Regulation Z requires disclosure of, among other items:

(1) The "amount financed," the "annual percentage rate," and the "total of payments," using those terms;

(2) The number, amounts, and timing of payments required to repay the obligation;

(3) Any penalty that may be imposed if the obligation is prepaid in full in cases where the finance charge is calculated by applying a rate to the unpaid principal balance;

(4) Depending on the type of variable-rate transaction, either the circumstances under which the rate may

increase (including any index to which the rate is tied) or the fact that the loan is variable rate and that certain disclosures were given earlier; and

(5) A statement that the borrower should refer to the appropriate contract document for information about nonpayment and default.

A review of the state provisions and conversation with the relevant state official indicate that the state law does not require the use of specific terminology in any of the disclosures required under section 56-8-11.2(A). Therefore, state law would not require, for example, the use of a different term than the federal law to describe the same item, and thus would not require a creditor to make disclosures that contradict the federal law.

The Board proposes to determine that the disclosures required under section 56-8-11.2(A). as they relate to closed-end transactions, are not preempted by the federal law since a creditor can comply with both the state and federal provisions, and the requirement of additional information under state law does not by itself contradict federal law. Since Regulation Z requires the disclosures under § 226.18 to be segregated from everything else, however, any additional information provided must be separate from the federal disclosures.

State law also imposes penalties for noncompliance with the state requirements. Under section 56-8-11.3, creditors may "forfeit all interest, charges or other advantage" for the transaction. The requesting party seeks a determination whether the state provision is preempted by the federal remedies provided under section 130 of the Truth in Lending Act (15 U.S.C.A. 1640). Since the existence of a separate remedy under state law for violation of state law provisions does not by itself contradict federal law, the Board proposes to determine that the state law provision is not preempted. This proposed determination, of course, does not extend to the issue of whether dual remedies always will be recoverable under state and federal law.

(3) Comment requested

The Board requests comment on the consistency with the federal law of the provisions in the New Mexico statute discussed above. After the close of the comment period and analysis of the comments received, notice of final action on the proposal will be published in the **Federal Register**.

Lists of Subjects in 12 CFR Part 226

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

Board of Governors of the Federal Reserve System, October 11, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-24426 Filed 10-16-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[GEN Docket No. 90-357; DA 90-1412]

Amendment of the Commission's Rules With Regard To Establishment and Regulation of New Digital Audio Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment and reply comment period.

SUMMARY: At the request of the Association of Independent Television Stations, the Association of Maximum Service Telecasters, Inc., Bonneville International Corporation, the National Association of Broadcasters, and Tribune Broadcasting Company (Requesting Parties), the Commission is extending the comment period in this proceeding to November 13, 1990, and the reply comment period to December 14, 1990. The Requesting Parties state that the Commission has undertaken a broad reexamination of the provision of radio services in the United States. They claim that a brief extension of time will enable commenters to provide more refined input with respect to the issues raised in this proceeding. As the Commission desires as complete a record as possible to assist in formulating its digital audio radio service proposals, this request for additional time is warranted.

DATES: Comments are now due on or before November 13, 1990 and reply comments are now due on or before December 14, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Damon C. Ladson, Frequency Allocations Branch, Office of Engineering and Technology, (202) 653-8108.

SUPPLEMENTARY INFORMATION:

Order Granting Extension of Time

Adopted: October 9, 1990.

Released: October 10, 1990.

By the Office of Engineering and Technology:

1. The Association of Independent Television Stations, the Association of Maximum Service Telecasters, Inc., Bonneville International Corporation, the National Association of Broadcasters, and Tribune Broadcasting Company (Requesting Parties), have jointly requested an extension of the comment and reply comment periods in the above proceeding to November 26, 1990, and December 28, 1990, respectively. Comments are currently due October 12, 1990, and reply comments are currently due November 13, 1990. See Notice of Inquiry (Notice), GEN Docket No. 90-357, 5 FCC Rcd 5237 (1990), 55 FR 34940, August 27, 1990.

2. The Requesting Parties state that the Commission has undertaken nothing less than a broad reexamination of the provision of radio services in the United States. They note that the Commission's Second Notice of Inquiry in preparation for the 1992 World Administrative Radio Conference (WARC NOI) also requests comment on the possible allocation of spectrum for digital audio radio services. The requesting parties claim that the record in this proceeding and in the WARC NOI would benefit from coordinated consideration of these interrelated issues. They also claim that a modest extension of time will enable commenters to provide the Commission with more refined and specific input with respect to the issues raised in the digital audio radio services proceeding.

3. We believe that additional time for filing comments and reply comments is warranted. The Commission desires as complete a record as possible to assist in formulating its digital audio radio service proposals. However, we believe that a thirty day extension of the comment and reply comment periods should be sufficient. Accordingly, pursuant to authority found in section 4(i), 302, and 303 of the Communications Act of 1934, as amended, *it is ordered* that the comment period in this proceeding *is extended* to November 13, 1990, and the reply comment period *is extended* to December 14, 1990.

Federal Communications Commission.

Thomas P. Stanley,

Chief Engineer.

[FR Doc. 90-24423 Filed 10-16-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 64 and 68

[CC Docket No. 90-313; DA 90-1383]

Operator Service Providers

AGENCY: Federal Communications Commission.