

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R-1070]

Truth in Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing amendments to Regulation Z, which implements the Truth in Lending Act, to revise the disclosure requirements for credit and charge card solicitations and applications. The annual percentage rate (APR) and other cost information must be provided in direct mail and other applications and solicitations to open card accounts. The amendments are intended to enhance consumers' ability to notice and understand cost information that generally must be provided in the form of a table. The APR disclosed for purchase transactions would be subject to a type size requirement, and the requirement that disclosures be "clear and conspicuous" would be more strictly construed. Additional guidance would be given on the requirement that the table be prominently located, and on the level of detail about cost information required or permitted in the table.

DATES: Comments must be received on or before July 18, 2000.

ADDRESSES: Comments, which should refer to Docket No. R-1070, may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551 or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson may also be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. weekdays, and to the security control room at all other times. The mail room and the security control room, both in the Board's Eccles Building, are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments may be inspected in room MP-500 in the Board's Martin Building between 9:00 a.m. and 5:00 p.m., pursuant to the Board's Rules Regarding the Availability of Information, 12 CFR part 261.

FOR FURTHER INFORMATION CONTACT: Natalie E. Taylor, Counsel, or Jane E. Ahrens, Senior Counsel, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452-3667 or 452-2412; for users of Telecommunications Device for the Deaf (TDD) only, contact Janice Simms at (202) 872-4984.

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of the Truth in Lending Act (TILA), 15 U.S.C. 1601 *et seq.*, is to promote the informed use of consumer credit by requiring disclosures about its terms and cost. The Board's Regulation Z (12 CFR part 226) implements the act. The act requires creditors to disclose the cost of credit as a dollar amount (the finance charge) and as an annual percentage rate (the APR). Uniformity in creditors' disclosures is intended to assist consumers in comparison shopping.

The Fair Credit and Charge Card Disclosure Act of 1988 (1988 Act) amended TILA to require that the APR and certain other terms (primarily applicable to purchase transactions) be disclosed in certain direct mail and other solicitations and applications to open credit and charge card accounts. The purpose of the 1988 Act was to ensure that consumers receive key cost information about credit and charge cards early enough to have the opportunity to comparison shop for such cards. The 1988 Act generally requires that card application and solicitation disclosures be provided in the form of a table (commonly referred to as the "Schumer box" after the law's chief sponsor) with headings for each item of information. The terms required to be in the table include: the name of the method used for calculating finance charges on an outstanding balance, any minimum finance charge per billing cycle, transaction fee, annual fee, grace period, and the APR for purchase transactions. The card issuer also must disclose any cash advance fee, late payment fee, or fee for exceeding a credit limit. These items may be either in the required table or clearly and conspicuously elsewhere. The applicable disclosures must also be provided for charge cards that do not use a periodic rate to compute a finance charge.

As with all TILA disclosures, the table is subject to the "clear and conspicuous" standard. Currently, the table meets the "clear and conspicuous" standard if the disclosures are in a "readily understandable form." There are no type size requirements associated with this standard. The table is also required to be in a "prominent location" on or with the application or solicitation. Under the existing rules, this requirement is met if the table is "readily noticeable to the consumer." The table need not be in any particular location to satisfy the requirement.

Over the years, the pricing of credit card programs has changed, and the cost disclosures accompanying card issuers' solicitations and applications have become more complex. Multiple APRs may apply to a single program. There may be a temporary introductory rate, a fixed or variable rate for all purchases after the introductory period expires, and one or more "penalty rates" that apply if, for example, the consumer makes late payments.

As interest rates and other account features have become more complex, and disclosures longer, some card issuers have compensated by using reduced type sizes for the table instead of allocating additional space for the disclosures. In such cases, consumers may have difficulty in using the table to readily identify key costs and terms. In contrast, the promotional materials that accompany the credit card application or solicitation may highlight a low introductory APR in a large, easy to read type size; oftentimes without the expiration date in close proximity. The APR

in effect after the introductory rate expires typically is disclosed much less prominently—in a smaller type size—and it may only appear in the disclosure table and not at all in the promotional materials. The table may be in a location that is less likely to capture the consumer’s attention, for example, on the reverse side of an application or on the last page of a multi-page solicitation.

Even with the format requirements, there is substantial flexibility in the current regulatory framework. While some card issuers’ disclosures are fairly straightforward, other card issuers have created disclosures that are difficult for consumers to use. Changes to the current regulatory scheme appear necessary to ensure that consumers receive meaningful disclosures on a more consistent basis, for comparison shopping.

The 1988 Act authorizes the Board to require disclosure of additional information, or to modify the disclosures required by the statute if the Board determines that such action is necessary to carry out the purposes of, or prevent evasions of the 1988 Act. See 15 U.S.C. § 1637(c)(5). This is in addition to the Board’s authority under section 105(a) of TILA to prescribe regulations to effectuate the purposes of TILA, to prevent circumvention or evasion, or to facilitate compliance. See 15 U.S.C. § 1604(a).

II. Summary of Proposed Revisions

The Board is proposing amendments to Regulation Z in order to effectuate the purposes of the 1988 Act and promote more effective disclosure of the costs and terms in credit and charge card applications and solicitations.

Under the proposal, the APR for purchase transactions is subject to a type-size requirement, to highlight this information. It would be in at least 18-point type and would appear under a separate heading from other APRs, such as penalty rates. The requirement that disclosures be “clear and conspicuous” would be more strictly construed for purposes of the disclosure table required for credit and charge card applications and solicitations. These disclosures would have to be “readily noticeable,” as well as in a “reasonably understandable form.” As to type size, disclosures in at least 12-point type would be deemed readily noticeable.

Additional guidance is provided on satisfying the current requirement that the table be prominently located. The Staff Commentary would be revised to provide that the table is sufficiently prominent, for example, if it is on the same page as an application or solicitation reply form, or on a separate insert with a reference to the insert on the application or reply form.

Guidance also would be issued on the level of detail required or permitted in the table. This is intended to reduce clutter and promote the use of more concise language. For example, the table must include any increased penalty APR that will apply upon the occurrence of one or more specific events, such as a late payment or an extension of credit exceeding the credit limit. The card issuer must also provide a description of the specific events that can trigger an increase. Currently, card issuers have the option of including this description inside the table or elsewhere. In order to simplify the table, the existing staff interpretations would be revised so that only the

penalty rates could appear inside the table; the explanatory information would have to appear outside the table.

Legislation

During 1999, bills were introduced in the Congress that also would add new disclosure requirements for credit card applications and solicitations. Some bills would require card issuers that offer temporary introductory rates to provide more conspicuous information in their promotional materials about the expiration date and the rate that will apply after that date. The provisions in these bills would address some of the same concerns that are the basis for the Board's regulatory proposal. In light of the pending legislation, however, the scope of the Board's regulatory proposal does not address the rates and terms disclosed in card issuer's promotional materials. Such matters may be the subject of future regulatory proposals once the Congress acts on the proposed legislation or otherwise clarifies its intent.

III. Section-by-Section Analysis

Subpart B – Open-end Credit

Section 226.5 – General Disclosure Requirements

5(a) Form of Disclosures

Section 226.5(a) states the general rule that TILA disclosures for open-end credit plans must be made clearly and conspicuously. Comment 5(a)(1)-1 interprets this standard to require disclosures to be in a “reasonably understandable form.” Under the proposal, this standard would be more strictly construed for purposes of the disclosures required under § 226.5a for credit and charge card applications and solicitations. Accordingly, comment 5(a)(1)-1 would be revised to reflect this fact, and include a cross-reference to proposed comments 5a(a)(2)-1 and –2 concerning the special format and location rules for § 226.5a disclosures.

Section 226.5a – Credit and Charge Card Applications and Solicitations

5a(a) General Rules

5a(a)(2) Form of Disclosures

Disclosures required by § 226.5a(a)(2) must be clear and conspicuous and prominently located on or with an application or solicitation, or other applicable document. Certain of these disclosures are also required to be in a tabular format. A new comment 5a(a)(2)-1 would be added to establish a stricter standard for satisfying the “clear and conspicuous” standard with respect to the tabular disclosures. Proposed comment 5a(a)(2)-2 would provide additional interpretative guidance on the location of the table. Because the proposed interpretations differ from those currently provided, they are intended to have prospective application only.

Currently, information provided in the table meets the “clear and conspicuous” requirement if the disclosures are reasonably understandable. Although the tabular format assists

consumers by providing key cost information in a single location, consumers may have difficulty using the table due to the amount of information provided in the table and the small type size used by some card issuers to compensate for the amount of information. To ensure that consumers receive meaningful disclosures on a consistent basis, proposed comment 5a(a)(2)-1 would provide that disclosures are clear and conspicuous if the disclosures are both reasonably understandable and readily noticeable. Comment 5a(a)(2)-1 would also provide that as to type size, disclosures in at least 12-point type would be deemed to be readily noticeable. Disclosures printed in less than 12-point type would not automatically violate the standard, but would be judged on a case-by-case basis. For example, disclosures in 10- or 11-point type would probably satisfy the standard, but disclosures in 6-point type would likely be too small to satisfy the standard.

Existing comment 5a(a)(2)-1 addresses the requirement that the table be prominently located. The comment would be redesignated as comment 5a(a)(2)-2, and would be revised to address concerns about the location of tabular disclosures. Currently, some card issuers locate the table on the reverse side of an application or reply form or on the last page of a multi-page solicitation. Consumers may see the promotional materials and fill out the application without being aware that there is additional cost information following the application, on the reverse side of the page or at the end of the promotional materials. Proposed comment 5a(a)(2)-2 would provide additional interpretative guidance; the table would be deemed to be prominently located, for example, if it appears on the same page as the application or solicitation reply form, or the first page of any other applicable document, or on an insert with a reference to the insert on the application or reply form.

5a(b) Required Disclosures

The table required under § 226.5a provides consumers with key cost information, grouped together in one place to facilitate consumers' use of the information for comparison shopping. These disclosures are not intended to be as detailed as disclosures provided to consumers at account opening; at the time the 1988 Act was adopted, the primary focus was on cost disclosures for purchase transactions. For example, the APR and transaction fees for purchases must be disclosed in the table, but not the APR for cash advances.

Because the services and features offered with credit and charge cards have evolved in recent years, the disclosures required by the 1988 Act may not capture costs commonly assessed on such cards. For example, the periodic rate of interest assessed on a balance transfer (which the card issuer may characterize as a cash advance) is not disclosed in the table. The 1988 Act expressly authorizes the Board to add disclosures to the table, or modify the existing requirements. Accordingly, the Board solicits comment on whether consumers could be aided in comparison shopping by having additional rates and fees disclosed in the table. In particular, commenters should address whether the APR and transaction fees for balance transfers and the APR for cash advances should be included in the table; commenters are requested to specify why the benefits to consumers from the additional information would not outweigh the burden of compliance.

5a(b)(1) Annual Percentage Rate

Section 226.5a(b)(1) requires card issuers to disclose in the table each periodic rate that may be used to compute the finance charge on an outstanding balance for purchases, expressed as an APR. This section would be revised to require the APR for purchases to be disclosed in the table in at least 18-point type. The type-size requirement would not apply to temporary initial rates that are lower than the APR that will apply after the temporary rate expires, or to penalty rates that may increase upon the occurrence of one or more specific events (such as a late payment or an extension of credit that exceeds the credit limit).

The use of this larger type size is intended to highlight the significance of this information, particularly in light of the larger type sizes typically used by card issuers to promote introductory rates. Although the tabular format generally draws consumers' attention to the table, under existing rules the APR information is often obscured due to the amount of other information provided in the table and the small type size used by some card issuers. The APR for purchase transactions would also be highlighted by requiring that it be listed under a separate heading.

In September 1999, the Board published a proposal that would amend Regulation Z to authorize creditors to use electronic communication to deliver required disclosures. 64 FR 49722 (September 14, 1999). Accordingly, comment is also requested on any specific guidance that may be needed for applying the type size requirements to disclosures made using electronic communication.

Comment 226.5a(b)(1)-6 provides that where there is a temporary initial APR that is higher than the rate that will apply after the temporary rate expires, the card issuer must disclose the higher initial rate. The comment would be revised to clarify that in such cases, the initial rate must be disclosed in at least 18-point type, unless the card issuer also discloses the permanently applicable rate in the table, which would have to be in at least 18-point type.

Comment 226.5a(b)(1)-7 requires card issuers to disclose "penalty rates" in the table, along with a description of the specific events that can trigger a rate increase and any index or margin used to determine the penalty rate. Currently, card issuers have the option of including this information inside the table or elsewhere. To simplify the table, the comment would be revised so that only the penalty rates would appear inside the table and the additional information would appear outside the table. Card issuers would be required to use an asterisk or other means to direct the consumer to the additional information.

Appendices G and H to Part 226 – Open-end and Closed-end Model Forms and Clauses

Comment App. G and H-1 would be revised to clarify that there are special rules for disclosures required under § 226.5a for applications and solicitations for credit and charge cards.

Appendix G to Part 226 – Open-end Model Forms and Clauses

The Board provides three model forms to aid compliance with the disclosure requirements of § 226.5a(b). See Appendix G-10(A) – (C). Under the proposal, Appendix G-10(A) would be revised, and a new sample form G-10(D) would be added to illustrate an account with a lower introductory rate and a penalty rate.

Comment G-5 would be revised to clarify that there are format and sequence requirements for certain § 226.5a disclosures.

III. Form of Comment Letters

Comment letters should refer to Docket No. R-1070, and, when possible, should use a standard typeface with a font size of 10 or 12. This will enable the Board to convert the text to machine-readable form through electronic scanning, and will facilitate automated retrieval of comments for review. Also, if accompanied by an original document in paper form, comments may be submitted on 3 1/2 inch computer diskettes in any IBM-compatible DOS- or Windows-based format.

IV. Initial Regulatory Flexibility Analysis

In accordance with section 3(a) of the Regulatory Flexibility Act, the Board has reviewed the proposed amendments to Regulation Z. Although the proposal would require creditors to use a specific type size for the APR; require creditors to provide supplemental information about penalty rates outside the table; and require that the table be located on the same page as the application or solicitation reply form, on the first page of any other applicable document, or on a separate insert with a reference to the insert on the application or reply form, the proposed amendments are not expected to have any significant impact on small entities beyond these initial revisions. A final regulatory flexibility analysis will be conducted after consideration of comments received during the public comment period.

V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Board by the Office of Management and Budget. The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to, this information collection unless it displays a currently valid OMB control number. The OMB control number is 7100-0199.

The collection of information that is revised by this rulemaking is found in 12 CFR part 226 and in Appendices F, G, H, J, K, and L. This information is mandatory (15 U.S.C. 1601 *et seq.*) to evidence compliance with the requirements of Regulation Z and the Truth in Lending Act (TILA). The respondents/recordkeepers are for-profit financial institutions, including small businesses. Institutions are required to retain records for twenty-four months. This regulation applies to all types of creditors, not just state member banks. However, under Paperwork Reduction Act regulations, the Federal Reserve accounts for the burden of the paperwork associated with the regulation only for state member banks. Other agencies account for the paperwork burden on their respective constituencies under this regulation.

The proposed revisions would require creditors to revise disclosures for credit card solicitations and applications by: (1) requiring the use of a specific type size for the APR,

(2) requiring creditors to provide supplemental information about penalty rates outside the table, and (3) requiring that such table be located on the same page as the application or solicitation reply form, on the first page of any other applicable document, or on a separate insert with a reference to the insert on the application or reply form. Although the proposal adds these requirements, it is expected that these revisions would not significantly increase the paperwork burden of creditors. With respect to state member banks, it is estimated that there are 988 respondent/recordkeepers and an average frequency of 136,294 responses per respondent each year. Therefore, the current amount of annual burden is estimated to be 1,863,754 hours. Because these proposed revisions modify preexisting tables, there is estimated to be no additional annual cost burden and no capital or start-up cost.

Because the records would be maintained at state member banks and the notices are not provided to the Federal Reserve, no issue of confidentiality under the Freedom of Information Act arises; however, any information obtained by the Federal Reserve may be protected from disclosure under exemptions (b)(4), (6), and (8) of the Freedom of Information Act (5 U.S.C. 522 (b)(4), (6) and (8)). The disclosures and information about error allegations are confidential between creditors and the customer.

The Federal Reserve requests comments from creditors, especially state member banks, that will help to estimate the number and burden of the various disclosures that would be made in the first year this proposed regulation would be effective. Comments are invited on: (a) the cost of compliance; (b) ways to enhance the quality, utility, and clarity of the information to be disclosed; and (c) ways to minimize the burden of disclosure on respondents, including through the use of automated disclosure techniques or other forms of information technology. Comments on the collection of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (7100-0199), Washington, DC 20503, with copies of such comments sent to Mary M. West, Federal Reserve Board Clearance Officer, Division of Research and Statistics, Mail Stop 97, Board of Governors of the Federal Reserve System, Washington, DC 20551.

List of Subjects in 12 CFR Part 226

Advertising, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Truth in lending.

Text of Proposed Revisions

Certain conventions have been used to highlight the proposed revisions to the text of the staff commentary. New language is shown inside bold-faced arrows, while language that would be deleted is set off with bold-faced brackets.

For the reasons set forth in the preamble, the Board proposes to amend Regulation Z, 12 CFR part 226, as set forth below:

PART 226 -- TRUTH IN LENDING (REGULATION Z)

1. The authority citation for part 226 would continue to read as follows:

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

2. Section 226.5a would be amended by revising paragraph (b)(1).

Subpart B--Open-End Credit

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§ 226.5a Credit and charge card applications and solicitations.

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- (b) Required disclosures. * * *

(1) Annual percentage rate. Each periodic rate that may be used to compute the finance charge on an outstanding balance for purchases, expressed as an annual percentage rate (as determined by § 226.14(b)). When more than one rate applies, the range of balances to which each rate is applicable shall also be disclosed. ▶ The annual percentage rate disclosed pursuant to this paragraph shall be in at least 18-point type, except for the following: a temporary initial rate that is lower than the rate that will apply after the temporary rate expires, and a penalty rate which is one that will apply upon the occurrence of one or more specific events. ◀

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3. Appendix G to Part 226 would be amended by:
 - a. Revising the table of contents at the beginning of the appendix;
 - b. Revising Appendix G-10(A); and
 - c. Adding new Appendix G-10(D).

APPENDIX G TO PART 226 – OPEN-END MODEL FORMS AND CLAUSES

- G–1 Balance-Computation Methods Model Clauses (§§ 226.6 and 226.7)
- G–2 Liability for Unauthorized Use Model Clause (§ 226.12)
- G–3 Long-Form Billing-Error Rights Model Form (§§ 226.6 and 226.9)
- G–4 Alternative Billing-Error Rights Model Form (§ 226.9)
- G–5 Rescission Model Form (When Opening an Account) (§ 226.15)
- G–6 Rescission Model Form (For Each Transaction) (§ 226.15)
- G–7 Rescission Model Form (When Increasing the Credit Limit) (§ 226.15)
- G–8 Rescission Model Form (When Adding a Security Interest) (§ 226.15)
- G–9 Rescission Model Form (When Increasing the Security) (§ 226.15)
- G–10 (A)–(B) Applications and Solicitations Model Forms (Credit Cards) (§ 226.5a(b))
- G–10(C) Applications and Solicitations Model Form (Charge Cards) (§ 226.5a(b))
- ▶ G–10(D) Applications and Solicitations Sample (Credit Cards) (§ 226.5a(b)) ◀
- G–11 Applications and Solicitations Made Available to General Public Model Clauses
(§ 226.5a(e))
- G–12 Charge Card Model Clause (When Access to Plan Offered by Another) (§ 226.5a(f))
- G–13(A) Change in Insurance Provider Model Form (Combined Notice) (§ 226.9(f))
- G–13(B) Change in Insurance Provider Model Form (§ 226.9(f)(2))
- G–14A Home Equity Sample
- G–14B Home Equity Sample
- G–15 Home Equity Model Clauses

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G-10(A)—Applications and Solicitations Model Form (Credit Cards)

Annual percentage rate ▶ (APR) ◀ for purchases	▶ _____ % until (<u>expiration date</u>) after that, ◀ _____ [%] ▶ % ◀
▶ Other APRs ◀	▶ Penalty rate: _____ % See explanation below.* ◀
Variable-rate information	Your annual percentage rate may vary. The rate is determined by [(<u>explanation</u>).] ▶ _____. See explanation below.** ◀
Grace period for repayment of balances for purchases	You have [__ days] [until ____] [not less than __ days] [between __ and __ days] [__ days on average] to repay your balance [for purchases] before a finance charge on purchases will be imposed. [You have no grace period in which to repay your balance for purchases before a finance charge will be imposed.]
Method of computing the balance for purchases	
Annual fees	[Annual] [Membership] fee: \$ _____ per year] [(<u>type of fee</u>): \$ _____ per year] [(<u>type of fee</u>): \$ _____]
Minimum finance charge	\$ _____
Transaction fee for purchases	[\$ _____] [_____ % of _____]
Transaction fee for cash advances: [\$ _____] [_____ % of _____] Late-payment fee: [\$ _____] [_____ % of _____] Over-the-credit-limit fee: \$ _____	

▶ * Explanation of penalty.

** Explanation of variable rate. ◀

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▶ G-10(D)—Applications and Solicitations Sample (Credit Cards)

Annual percentage rate (APR) for purchases	2.9% until October 1, 2000 after that, 14.90 %
Other APRs	Penalty rate: 23.90% See explanation below.*
Variable-rate information	Your annual percentage rate may vary. The rate is determined monthly by adding 5.9% to the Prime Rate See explanation below.**
Grace period for repayment of balances for purchases	25 days on average
Method of computing the balance for purchases	Average daily balance (excluding new purchases)
Annual fees	No annual fee
Minimum finance charge	\$.50
Transaction fee for cash advances: 3% of the amount advanced Late-payment fee: \$ 25 Over-the-credit-limit fee: \$ 25	

* Explanation of penalty.

**The Prime Rate used to determine your APR is the rate published in _____ on the ____ day of the prior month. ◀

4. In Supplement I to Part 226, the following amendments would be made:
- a. Under Section 226.5—General Disclosure Requirements, under Paragraph 5(a)(1), paragraph 1. would be revised;
 - b. Under Section 226.5a—Credit and Charge Card Applications and Solicitations, under 5a(a)(2) Form of Disclosures, paragraph 1. through paragraph 6. would be redesignated as paragraph 2. through paragraph 7. respectively, a new paragraph 1. would be added, and newly designated paragraph 2. would be revised.
 - c. Under Section 226.5a—Credit and Charge Card Applications and Solicitations, under 5a(b)(1) Annual Percentage Rate, paragraphs 6. and 7. would be revised.
 - d. Under Appendixes G and H—Open-End and Closed-End Model Forms and Clauses, paragraph 1. would be revised.
 - e. Under Appendix G—Open-end Model Forms and Clauses, paragraph 5. would be revised.

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SUPPLEMENT I TO PART 226—OFFICIAL STAFF INTERPRETATIONS

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SUBPART B—OPEN-END CREDIT

Section 226.5—General Disclosure Requirements5(a) Form of disclosures.Paragraph 5(a)(1).

1. Clear and conspicuous. The clear and conspicuous standard requires that disclosures be in a reasonably understandable form. ▶ Except where otherwise provided, the standard ◀ [It] does not require that disclosures be segregated from other material or located in any particular place on the disclosure statement, or that numerical amounts or percentages be in any particular type size. ▶ (See comments 5a(a)(2)-1 and -2 for special rules concerning § 226.5a disclosures.) ◀ The standard does not prohibit: * * *

* * * * *

Section 226.5a—Credit and Charge Card Applications and Solicitations

* * * * *

5a(a) General Rules5a(a)(2) Form of Disclosures

1. ▶ Clear and conspicuous standard. For purposes of § 226.5a(a)(2) disclosures, “clear and conspicuous” means in a reasonably understandable form, and readily noticeable to the consumer. As to type size, disclosures in at least 12-point type are deemed to be readily noticeable for purposes of § 226.5a(a)(2).

2. ◀ Prominent location. Certain of the required disclosures provided on or with an application or solicitation must be prominently located ▶ . Disclosures are deemed to be prominently located, for example, if the disclosures are on the same page as an application or solicitation reply form, on the first page of any other applicable document, or on a separate insert with a reference to the insert on the application or reply form. Disclosures in other than a tabular format need not begin and end on the same page. ◀ [—that is, readily noticeable to the consumer. There are, however, no requirements that the disclosures be in any particular location or in any particular type size or typeface.]

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5a(b) Required Disclosures

5a(b)(1) Annual Percentage Rate

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6. Introductory rates—premium rates. If the initial rate is temporary and is higher than the permanently applicable rate, the card issuer must disclose in the table the initial rate. The initial rate must be in at least 18-point type unless the issuer also discloses in the table the permanently applicable rate. The issuer may disclose in the table the permanently applicable rate that would otherwise apply if the issuer also discloses the time period during which the initial rate will remain in effect. In that case, the permanently applicable rate must be in at least 18-point type.

7. Increased penalty rates. If the initial rate may increase upon the occurrence of one or more specific events, such as a late payment or an extension of credit that exceeds the credit limit, the card issuer must disclose in the table the initial rate and the increased penalty rate that may apply. If the penalty rate is based on an index and an increased margin, the issuer must also disclose in the table the index and the margin. The issuer must also disclose the specific event or events that may result in imposing the increased rate, such as “22% APR, if 60 days late.” If the penalty rate cannot be determined at the time disclosures are given, the issuer must provide an explanation of the specific event or events that may result in imposing an increased rate. In describing the specific event or events that may result in an increased rate, issuers need not be as detailed as for the disclosures required under § 226.6(a)(2). [Alternatively] For issuers using a tabular format, the specific event or events must [may] be located outside of the table and an asterisk or other means shall be used to direct the consumer to the additional information. [if the conditions are noted with an asterisk or other means that direct the consumer to the explanation.] At its option, the issuer may include in the explanation of the penalty rate [disclose] the period for which the increased rate will remain in effect, such as “until you make three timely payments.” The issuer need not disclose an increased rate that is imposed when credit privileges are permanently terminated.

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APPENDICES G AND H—OPEN-END AND CLOSED-END MODEL FORMS AND CLAUSES

1. Permissible changes. Although use of the model forms and clauses is not required, creditors using them properly will be deemed to be in compliance with the regulation with regard to those disclosures. Creditors may make certain changes in the format or content of the forms and clauses and may delete any disclosures that are inapplicable to a transaction or a plan without losing the act’s protection from liability. (But see comment G-5 for special rules concerning certain disclosures required under § 226.5a for credit and charge card applications and solicitations). * * *

APPENDIX G—OPEN-END MODEL FORMS AND CLAUSES

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5. Models G-10(A) through G-10(C) [▶] and Sample G-10(D) [◀]. Models G-10(A) and G-10(B) illustrate the tabular format for providing the disclosures required under § 226.5a for applications and solicitations for credit cards other than charge cards. Model G-10(A) illustrates the permissible inclusion in the tabular format of all of the disclosures. Model G-10(B) contains only the disclosures required to be included in the table, while the three additional disclosures are shown outside of the table. The two forms also illustrate two different levels of detail in disclosing the grace period, and different arrangements of the disclosures. Model G-10(C) illustrates the tabular format disclosure for charge card applications and solicitations and reflects all of the disclosures in the table. [▶] Sample G-10(D) illustrates an account with a lower introductory rate and a penalty rate. Except as otherwise permitted, disclosures must be substantially similar in sequence and format to model forms G-10(A), (B), and (C). The disclosures may, however, be arranged vertically or horizontally and need not be highlighted aside from being included in the table. [◀] [Disclosures may be arranged in an order different from that in model forms G-10(A), (B), and (C); may be arranged vertically or horizontally; need not be highlighted aside from being included in the table; and are not required to be in any particular type size]. Various features from different model forms may be combined; for example, the shorter grace period disclosure in model form G-10(B) may be used in any disclosure. While proper use of the model forms will be deemed in compliance with the regulation, card issuers are permitted to use headings and disclosures other than those in the forms (with an exception relating to the use of “grace period”) if they are clear and concise and are substantially similar to the headings and disclosures contained in model forms. For further discussion of requirements relating to form, see the commentary to § 226.5a(a)(2).

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By order of the Board of Governors of the Federal Reserve System, May 17, 2000.

(Signed)

Jennifer J. Johnson
Secretary of the Board