

# FEDERAL RESERVE SYSTEM

## 12 CFR Part 226

### [Regulation Z; Docket No. R-1157]

#### Truth in Lending

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule; staff commentary.

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**SUMMARY:** The Board is publishing a final rule amending the staff commentary that interprets the requirements of Regulation Z (Truth in Lending). The Board is required to adjust annually the dollar amount that triggers requirements for certain home mortgage loans bearing fees above a certain amount. The Home Ownership and Equity Protection Act of 1994 (HOEPA) sets forth rules for home-secured loans in which the total points and fees payable by the consumer at or before loan consummation exceed the greater of \$400 or 8 percent of the total loan amount. In keeping with the statute, the Board has annually adjusted the \$400 amount based on the annual percentage change reflected in the Consumer Price Index that is in effect on June 1. The adjusted dollar amount for 2004 is \$499.

**EFFECTIVE DATE:** January 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Minh-Duc T. Le, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452-3667. For the users of Telecommunications Device for the Deaf (“TDD”) only, contact (202) 263-4869.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

The Truth in Lending Act (TILA; 15 U.S.C. 1601 - 1666j) requires creditors to disclose credit terms and the cost of consumer credit as an annual percentage rate. The act requires additional disclosures for loans secured by a consumer's home, and permits consumers to cancel certain transactions that involve their principal dwelling. TILA is implemented by the Board's Regulation Z (12 CFR part 226). The Board's official staff commentary (12 CFR part 226 (Supp. I)) interprets the regulation, and provides guidance to creditors in applying the regulation to specific transactions.

In 1995, the Board published amendments to Regulation Z implementing HOEPA, contained in the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103-325, 108 Stat. 2160 (60 FR 15463). These amendments, contained in §§ 226.32 and 226.34 of the regulation, impose substantive limitations and additional disclosure requirements

on certain closed-end home mortgage loans bearing rates or fees above a certain percentage or amount. As enacted, the statute requires creditors to comply with the HOEPA rules if the total points and fees payable by the consumer at or before loan consummation exceed the greater of \$400 or 8 percent of the total loan amount. TILA and Regulation Z provide that the \$400 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index (CPI) that was reported on the preceding June 1. (15 U.S.C. 1602(aa)(3) and 12 CFR 226.32(a)(1)(ii)). The Board adjusted the \$400 amount to \$488 for the year 2003.

The Bureau of Labor Statistics publishes consumer-based indices monthly, but does not "report" a CPI change on June 1; adjustments are reported in the middle of each month. The Board uses the CPI-U index, which is based on all urban consumers and represents approximately 80 percent of the U.S. population, as the index for adjusting the \$400 dollar figure. The adjustment to the CPI-U index reported by the Bureau of Labor Statistics on May 15, 2003, was the CPI-U index "in effect" on June 1, and reflects the percentage increase from April 2002 to April 2003. The adjustment to the \$400 figure below reflects a 2.22 percent increase in the CPI-U index for this period and is rounded to whole dollars for ease of compliance.

## **II. Adjustment and Commentary Revision**

Effective January 1, 2004, for purposes of determining whether a home mortgage transaction is covered by 12 CFR 226.32 (based on the total points and fees payable by the consumer at or before loan consummation), a loan is covered if the points and fees exceed the greater of \$499 or 8 percent of the total loan amount. Comment 32(a)(1)(ii)-2, which lists the adjustments for each year, is amended to reflect the dollar adjustment for 2004. Because the timing and method of the adjustment is set by statute, the Board finds that notice and public comment on the change are unnecessary.

## **III. Regulatory Flexibility Analysis**

The Board certifies that this amendment will not have a substantial effect on regulated entities because the only change is to raise the threshold for transactions requiring HOEPA disclosures.

## **List of Subjects in 12 CFR Part 226**

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

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

### **Part 226 – TRUTH IN LENDING (REGULATION Z)**

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

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

2. In Supplement I to Part 226, under Section 226.32---Requirements for Certain Closed-End Home Mortgages, under Paragraph 32(a)(1)(ii), paragraph 2. ix. is added.

SUPPLEMENT I TO PART 226—OFFICIAL STAFF INTERPRETATIONS

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SUBPART E—SPECIAL RULES FOR CERTAIN HOME MORTGAGE TRANSACTIONS

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Section 226.32—Requirements for Certain Closed-End Home Mortgages

32(a) Coverage

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Paragraph 32(a)(1)(ii)

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2. Annual adjustment of \$400 amount.

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ix. For 2004, \$499, reflecting a 2.22 percent increase in the CPI-U from June 2002 to June 2003, rounded to the nearest whole dollar.

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By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division of Consumer and Community Affairs under delegated authority, August 18, 2003.

(signed) Robert deV. Frierson  
Robert deV. Frierson,  
Deputy Secretary of the Board.