



FEDERAL RESERVE BANK
OF DALLAS

August 16, 2002

DALLAS, TEXAS
75265-5906

Notice 02-39

TO: The Chief Executive Officer of each
financial institution and others concerned
in the Eleventh Federal Reserve District

SUBJECT

**Slip-sheet Amendments to Regulation Z and new
Pamphlets for the Capital Adequacy Guidelines, Regulation Y,
and the Official Staff Commentary on Regulation Z**

DETAILS

The Board of Governors of the Federal Reserve System has published slip-sheet amendments to Regulation Z (*Truth in Lending*), effective April 9, 2002; new pamphlets for the *Capital Adequacy Guidelines*, effective April 1, 2002, and July 1, 2002; the *Official Staff Commentary on Regulation Z*, effective April 9, 2002; and Regulation Y (*Bank Holding Companies and Change in Bank Control*).

ATTACHMENTS

The slip-sheet amendments and the updated indexes are attached. Please insert them in the appropriate sections of your Regulations binders. Copies of the pamphlets, the slip-sheet amendments, and the updated indexes are being mailed.

You may discard all previous pamphlets and slip sheets for the *Capital Adequacy Guidelines*, the *Official Staff Commentary on Regulation Z*, and Regulation Y **only**; however, please retain the

For additional copies, bankers and others are encouraged to use one of the following toll-free numbers in contacting the Federal Reserve Bank of Dallas: Dallas Office (800) 333-4460; El Paso Branch *Intrastate* (800) 592-1631, *Interstate* (800) 846-6858; Houston Branch *Intrastate* (800) 392-4162, *Interstate* (800) 221-0363; San Antonio Branch *Intrastate* (800) 292-5810.

Regulation Z pamphlet, effective March 30, 2001—currently in your binder—along with the attached Regulation Z slip-sheet amendments. You may consult the regulations indexes to ensure that your binders have been properly updated.

MORE INFORMATION

For more information regarding Regulation Y or the *Capital Adequacy Guidelines*, please contact Dorsey Davis, Banking Supervision Department, (214) 922-6051. For more information regarding Regulation Z, please contact Eugene Coy, Banking Supervision Department, (214) 922-6201.

For additional copies of the pamphlets, the slip-sheet amendments, or the indexes, contact the Public Affairs Department at (214) 922-5254. Paper copies of this notice or previous Federal Reserve Bank notices can be printed from our web site at <http://www.dallasfed.org/banking/notices/index.html>. For your convenience, the full text of all Federal Reserve System regulations can now be found on the Board's web site at the following address: www.federalreserve.gov/regulations/default.htm.

E-MAIL SUBSCRIPTION SERVICE

As explained in this Bank's Notice 01-93 dated December 21, 2001, the Federal Reserve Bank of Dallas now offers an e-mail subscription service for notices. To subscribe to the service, please go to the Dallas Fed web site at www.dallasfed.org and click on "E-mail Subscriptions." Enter your e-mail address under "District Notices" and click "Subscribe."

Beginning March 2002, mailing of paper notices was *discontinued* except to those organizations and individuals who specifically requested the printed version. If you do not have Internet access or simply prefer to continue receiving hard copy notices by mail, please call Sandra Sanders at (800) 333-4460, ext. 5261, or e-mail her at sandra.e.sanders@dal.frb.org and provide your name, affiliation, and address.

Amendments to Regulation Z Truth in Lending May 2002*

Compliance with the following amendments (items 1 through 8), effective December 20, 2001, is optional until October 1, 2002.

1. *In section 226.1, a sentence was added to the end of paragraph (b) and paragraph (d)(5) was amended to read as follows:*

(b) *Purpose.* * * * The regulation prohibits certain acts or practices in connection with credit secured by a consumer's principal dwelling.

* * * * *

- (d) *Organization.* * * *

* * * * *

(5) Subpart E contains special rules for mortgage transactions. Section 226.32 requires certain disclosures and provides limitations for loans that have rates and fees above specified amounts. Section 226.33 requires disclosures, including the total annual loan cost rate, for reverse mortgage transactions. Section 226.34 prohibits specific acts and practices in connection with mortgage transactions.

* * * * *

2. *In section 226.32(a)(1), paragraph (i) and the footnote at the end of paragraph (ii) were amended to read as follows:*

(i) the annual percentage rate at consummation will exceed by more than 8 percentage points for first-lien loans, or by

* A complete Regulation Z, as amended effective April 9, 2002, consists of—

- the regulation pamphlet dated July 2001 (see inside front cover) and
- this slip sheet.

Items 6, 9, and 10 are new. Items 1 through 5 and items 7 and 8 appeared in the February 2002 slip sheet.

more than 10 percentage points for subordinate-lien loans, the yield on Treasury securities having comparable periods of maturity to the loan maturity as of the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or

(ii) the total points and fees payable by the consumer * * * the Consumer Price Index that was reported on the preceding June 1.*

* The dollar amount for 2002 is \$480.

3. *Section 226.32(b)(1)(iv) was added to read as follows:*

(iv) premiums or other charges for credit life, accident, health, or loss-of-income insurance, or debt-cancellation coverage (whether or not the debt-cancellation coverage is insurance under applicable law) that provides for cancellation of all or part of the consumer's liability in the event of the loss of life, health, or income or in the case of accident, written in connection with the credit transaction.

4. *Section 226.32(c) was amended to read as follows:*

(c) *Disclosures.* In addition to other disclosures required by this part, in a mortgage subject to this section the creditor shall disclose the following in conspicuous type size:

(1) *Notices.* The following statement: "You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application. If you obtain this loan, the lender will have a mortgage

on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan.”

(2) *Annual percentage rate.* The annual percentage rate.

(3) *Regular payment; balloon payment.* The amount of the regular monthly (or other periodic) payment and the amount of any balloon payment. The regular payment disclosed under this paragraph shall be treated as accurate if it is based on an amount borrowed that is deemed accurate and is disclosed under paragraph (c)(5) of this section.

(4) *Variable rate.* For variable-rate transactions, a statement that the interest rate and monthly payment may increase, and the amount of the single maximum monthly payment, based on the maximum interest rate required to be disclosed under section 226.30.

(5) *Amount borrowed.* For a mortgage refinancing, the total amount the consumer will borrow, as reflected by the face amount of the note; and where the amount borrowed includes premiums or other charges for optional credit insurance or debt-cancellation coverage, that fact shall be stated, grouped together with the disclosure of the amount borrowed. The disclosure of the amount borrowed shall be treated as accurate if it is not more than \$100 above or below the amount required to be disclosed.

5. *Section 226.32(d) was amended in the introductory sentence and a paragraph (8) was added to read as follows:*

(d) *Limitations.* A mortgage transaction subject to this section may not include the following terms:

* * * * *

(8) *Due-on-demand clause.* A demand feature that permits the creditor to terminate the loan in advance of the original maturity date and to demand repay-

ment of the entire outstanding balance, except in the following circumstances:

- (i) there is fraud or material misrepresentation by the consumer in connection with the loan;
- (ii) the consumer fails to meet the repayment terms of the agreement for any outstanding balance; or
- (iii) there is any action or inaction by the consumer that adversely affects the creditor’s security for the loan, or any right of the creditor in such security.

6. *Section 226.32(e) was deleted.*

7. *Section 226.34 was added to read as follows:*

SECTION 226.34—Prohibited Acts or Practices in Connection with Credit Secured by a Consumer’s Dwelling

(a) *Prohibited acts or practices for loans subject to section 226.32.* A creditor extending mortgage credit subject to section 226.32 shall not—

(1) *Home-improvement contracts.* Pay a contractor under a home-improvement contract from the proceeds of a mortgage covered by section 226.32, other than—

- (i) by an instrument payable to the consumer or jointly to the consumer and the contractor; or
- (ii) at the election of the consumer, through a third-party escrow agent in accordance with terms established in a written agreement signed by the consumer, the creditor, and the contractor prior to the disbursement.

(2) *Notice to assignee.* Sell or otherwise assign a mortgage subject to section 226.32 without furnishing the following statement to the purchaser or assignee: “Notice: This is a mortgage subject to special rules under the federal Truth in Lending Act. Purchasers or assignees of this mortgage could be

liable for all claims and defenses with respect to the mortgage that the borrower could assert against the creditor.”

(3) *Refinancings within one-year period.* Within one year of having extended credit subject to section 226.32, refinance any loan subject to section 226.32 to the same borrower into another loan subject to section 226.32, unless the refinancing is in the borrower’s interest. An assignee holding or servicing an extension of mortgage credit subject to section 226.32, shall not, for the remainder of the one-year period following the date of origination of the credit, refinance any loan subject to section 226.32 to the same borrower into another loan subject to section 226.32, unless the refinancing is in the borrower’s interest. A creditor (or assignee) is prohibited from engaging in acts or practices to evade this provision, including a pattern or practice of arranging for the refinancing of its own loans by affiliated or unaffiliated creditors, or modifying a loan agreement (whether or not the existing loan is satisfied and replaced by the new loan) and charging a fee.

(4) *Repayment ability.* Engage in a pattern or practice of extending credit subject to section 226.32 to a consumer based on the consumer’s collateral without regard to the consumer’s repayment ability, including the consumer’s current and expected income, current obligations, and employment. There is a presumption that a creditor has violated this paragraph (a)(4) if the creditor engages in a pattern or practice of making loans subject to section 226.32 without verifying and documenting consumers’ repayment ability.

(b) *Prohibited acts or practices for dwelling-secured loans; open-end credit.* In connection with credit secured by the consumer’s dwelling that does not meet the definition in section 226.2(a)(20), a creditor shall not structure a home-secured loan as an open-end plan to evade the requirements of section 226.32.

8. *Appendix H-16 was amended to read as follows:*

H-16—Mortgage Sample

You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application.

If you obtain this loan, the lender will have a mortgage on your home.

YOU COULD LOSE YOUR HOME, AND ANY MONEY YOU HAVE PUT INTO IT, IF YOU DO NOT MEET YOUR OBLIGATIONS UNDER THE LOAN.

You are borrowing \$ _____ (optional credit insurance is is not included in this amount).

The annual percentage rate on your loan will be _____ %.

Your regular [frequency] payment will be \$ _____.

[At the end of your loan, you will still owe us \$[balloon amount].]

[Your interest rate may increase. Increases in the interest rate could increase your payment. The highest amount your payment could increase is to \$ _____.]

9. *Compliance with the amendments pertaining to electronic delivery of disclosures, which had an original mandatory compliance date of October 1, 2002, is optional pending the Board’s evaluation of public comments. Institutions may continue to provide electronic disclosures under their existing policies and practices, or they may follow the interim rules until the Board issues permanent rules.*

The following amendment is effective April 9, 2002.

10. *In section 226.17(a)(1), footnote 38, “226.18(f)(4)” is amended to read “226.18(f)(1)(iv)”.*

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^{1/} Contained in Regulation T, U & X in volume 2 of the section entitled *Securities Credit Transactions*.

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