

RB 17 was rescinded 10/21/91. It was incorporated into Compliance Activities 305.

Handbook: Compliance Activities
Subject: Truth in Lending

Section: 305
RB 17

September 14, 1989

**Recent Truth in Lending Amendments
 and Supplemental Examination Procedures**
RESCINDED

Summary: The Federal Reserve Board has amended Regulation Z to implement the Fair Credit and Charge Card Disclosure Act and Home Equity Loan Consumer Protection Act. This bulletin provides supplemental examination procedures to be used until interagency procedures are developed.

For further information contact:
 The OTS District Office in which you are located, or the Compliance Program Division of OTS, Washington, D.C.

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Fair Credit and Charge Card Disclosure Act (Pub. L. No. 100-583)

These amendments to Regulation Z require that certain information, such as the annual percentage rate, the annual fee and the grace period, be provided in tabular form along with applications and preapproved solicitations for credit and other charge cards. The amendments include rules for direct mail applications and solicitations, telephone solicitations and "take-ones", and applications in magazines and catalogs. The amendments also require card issuers that impose an annual fee to provide disclosures before annual renewal.

Additionally, the amendment addresses card issuers that offer credit insurance. If these card issuers decide to change insurance providers, they must inform consumers of any increase in rate or substantial decrease in coverage resulting from the change.

Attachment A contains the amendments to Regulation Z implementing the Fair Credit and Charge Card

Disclosure Act. Mandatory compliance with the amendments is effective August 31, 1989 with the exception of applications and solicitations subject to Section 226.5a(e) which is effective November 29, 1989.

Home Equity Loan Consumer Protection Act of 1988 (Pub. L. No. 100-709)

The Home Equity Loan Consumer Protection Act requires creditors to provide consumers with extensive disclosures for home equity lines of credit (HELCs), which are open-end credit plans secured by the consumer's dwelling (including a vacation or other second home). Some data disclosed must be furnished again before the first transaction occurs, along with the traditional open-end credit disclosures.

Under the new rules, disclosures must be made to consumers when a HELC application is furnished. In addition to providing a brochure explaining how HELCs operate, the creditor must disclose information about:

- Consumer rights and risks under the plan.
- Conditions under which the creditor may require immediate repayment, prohibit additional extensions of credit, or reduce the credit limit.

- Payment terms, including a \$10,000 loan example showing the minimum periodic payment, any balloon payment, and the time it would take to repay the balance.
- Fees imposed by the creditor to open, use, or maintain the plan, and when such fees are payable.
- Fees imposed by a third party to open the plan.
- The annual percentage rate.

Disclosures must also include extensive information about variable-rate HELCs, such as what index is used and a 15-year history of changes in index values, with each change showing a corresponding annual percentage rate and minimum payment.

The HELC amendment adds new advertising requirements. It also limits a creditor's right to terminate a plan and accelerate any outstanding balance, or to change the terms of the plan after it has been opened. Finally, it limits the index that can be used to one beyond the control of the creditor.

Attachment B contains the amendments to Regulation Z implementing the Home Equity Loan Consumer Protection Act. The amendments are effective November 7, 1989.

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Supplemental Exam Procedures

The Truth in Lending section of the Compliance Activities Handbook (Section 305) will be amended through the interagency process in the near future to include examination procedures for these new amendments. In the interim, the following are suggested supplemental examination procedures.

Fair Credit and Charge Card Disclosure Act

1. Determine whether the institution is a credit or charge card issuer as defined by section 226.2 (a)(17) subject to this amendment.
2. Determine that the institution provides applicable disclosures in conjunction with applications and solicitations to open credit or charge card accounts by way of direct mailings, telephone solicitations, or applications and solicitations that are made available to the general public as required by section 226.5a.
3. Determine through a review of the institution's applications and preapproved solicitations if all applicable disclosures required by section 226.5a are provided for both written and oral solicitations:
 - a. An accurate disclosure of the annual percentage rate for purchases based on the guidelines set forth in section 226.5a(b)(1).
 - b. Any membership fees, annual fees, transaction or other charges that may be imposed are disclosed.
 - c. Any minimum or fixed finance charge that could be imposed during a billing cycle.

- d. The grace period to repay any balance of purchases or cash advance before a finance charge on the balance is imposed. If there is no grace period, that fact must also be disclosed.
 - e. The balance computation method used in calculating any finance charge.
 - f. A statement that charges incurred by use of the charge card are due when the periodic statement is received.
4. If the institution imposes an annual fee, determine that it provides renewal statements as required by section 226.5a(e). Do the renewal statements contain:
 - a. All the disclosures from section 226.5a(b)(1) through (7) that would apply if the account were renewed.
 - b. A statement as to how and when the cardholder may terminate credit availability under the account to avoid paying the renewal fee.
 5. If the institution offers credit insurance and decides to change insurance providers, are procedures in place to ensure consumers are informed of any increase in rate or substantial decrease in coverage as a result of the change as required by section 226.5a(f).

Home Equity Loan Consumer Protection Act

1. Determine whether the institution offers Home Equity Lines of Credit (HELC) subject to section 226.5b.
2. Determine whether the institution provides the home equity

brochure published by the Federal Reserve Board or a suitable substitute, explaining how HELCs operate as required by section 226.5b(e).

3. Determine that the institution has provided disclosures at the time an application is furnished for HELCs secured by the consumer's dwelling, and that the disclosures provide the following as required by section 226.5b:
 - a. Consumers rights and risks under the plan.
 - b. Conditions under which the creditor may require immediate repayment, prohibit additional extensions of credit, or reduce the credit limit.
 - c. Payment terms, including a \$10,000 loan example showing the minimum periodic payment, any balloon payment and the time it would take to repay the balance.
 - d. Fees imposed by the creditor to open, use or maintain the plan and when such fees are payable.
 - e. Any fees imposed by a third party.
 - f. The annual percentage rate.
 - g. The index used along with a 15-year history of change in index values with each change showing a corresponding annual percentage rate and minimum payment.
4. Determine whether the required subsequent HELC disclosures are provided prior to the first transaction along with the traditional open end credit disclosures required by Section 226.6.

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- a. A statement of the conditions under which the creditor may take certain action, such as terminating the plan or changing the terms.
- b. The payment information for both the draw period and any repayment period.
- c. A statement that negative amortization may occur if applicable.
- d. A statement of any transaction requirements.
- e. A statement regarding any tax implications.
- f. A statement that the annual percentage rate imposed under the plan does not include costs other than interest.
- g. Variable rate disclosures required by sections 226.5b(d)(12) (viii),(x),(xi),(xii), and 226.5b(d)(5)(iii), unless the disclosures provided with the

application were in a form the consumer could keep and included a representative payment example for the category of payment option chosen by the consumer.

5. Determine whether the institution has procedures in place to comply with the limitations on home equity plans set forth in section 226.5b(f) as follows:

- a. Changes in the APR after the plan is opened.
- b. Prohibitions on terminating an account and accelerating payment of the outstanding balance prior to the scheduled expiration of the plan subject to the following exceptions:
 - 1) fraud or material misrepresentation by the consumer in connection with the plan.
 - 2) failure to meet repayment terms of the agreement.

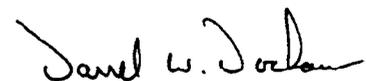
- 3) if the consumer acts or fails to act in a way that adversely affects the creditor's security.

- c. Changing the terms under the plan not provided for in the contract or not beneficial to the borrower.

6. Determine whether the institution's variable rate HELC is based on an index that is beyond its control and is available to the public.

7. Determine if the institution's HELC advertising makes any reference to a payment term for the draw period or any repayment period. Such reference "triggers" further disclosures as set forth in section 226.16(d), including loan fees, estimates of other fees that may be imposed, and, for variable-rate plans, the maximum rate that may be imposed.

Attachments



— Darrel W. Dochow
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