BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1030

[Docket No. CFPB–2011–0032]

RIN 3170–AA06

Truth in Savings (Regulation DD)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Interim final rule with request for public comment.

SUMMARY: Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) transferred rulemaking authority for a number of consumer financial protection laws from seven federal agencies to the Bureau of Consumer Financial Protection (Bureau) as of July 21, 2011. The Bureau is in the process of republishing the regulations implementing those laws with technical and conforming changes to reflect the transfer of authority and certain other changes made by the Dodd-Frank Act. In light of the transfer of the Board of Governors of the Federal Reserve System's (Board's) rulemaking authority for the Truth in Savings Act (TISA) to the Bureau, the Bureau is publishing for public comment an interim final rule establishing a new Regulation DD (Truth in Savings). This interim final rule does not impose any new substantive obligations on persons subject to the existing Regulation DD, previously published by the Board.

DATES: This interim final rule is effective December 30, 2011. Comments must be received on or before February 21, 2012.

ADDRESSES: You may submit comments, identified by *Docket No. CFPB–2011–0032* or *RIN 3170–AA06,* by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Monica Jackson, Office of the Executive Secretary, Bureau of Consumer Financial Protection, 1500 Pennsylvania Avenue NW., (Attn: 1801 L Street), Washington, DC 20220.
- *Hand Delivery/Courier in Lieu of Mail:* Monica Jackson, Office of the Executive Secretary, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20006.

All submissions must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1700 G Street NW., Washington, DC 20006, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or social security numbers, should not be included. Comments will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Krista Ayoub or Stephen Shin, Office of Regulations, at (202) 435–7700.

SUPPLEMENTARY INFORMATION:

I. Background

Congress enacted the Truth in Savings Act (TISA), 12 U.S.C. 4301 *et seq.,* based on findings that economic stability would be enhanced, competition between depository institutions would be improved, and consumers' ability to make informed decisions regarding deposit accounts would be strengthened if there was uniformity in the disclosure of interest rates and fees. The purpose of the act and regulation is to assist consumers in comparing deposit accounts offered by depository institutions, principally through the disclosure of fees, the annual percentage yield, the interest rate, and other account terms. Historically, TISA has been implemented in Regulation DD of the Board of Governors of the Federal Reserve System (Board), 12 CFR part 230, and, with respect to credit unions, by regulations of the National Credit Union Administration (NCUA), 12 CFR part 707. The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) [1] amended a number of consumer financial protection laws, including TISA. In addition to various substantive amendments, the Dodd-Frank Act transferred the Board's rulemaking authority for TISA to the Bureau of Consumer Financial Protection (Bureau), effective July 21, 2011.[2] *See* sections 1061 and 1100B of the Dodd-Frank Act. Pursuant to the Dodd-Frank Act and TISA, as amended, the Bureau is publishing for public comment an interim final rule establishing a new Regulation DD (Truth in Savings), 12 CFR Part 1030, implementing TISA.

II. Summary of the Interim Final Rule

A. General

The interim final rule substantially duplicates the Board's Regulation DD as the Bureau's new Regulation DD, 12 CFR part 1030, making only certain non-substantive, technical, formatting, and stylistic changes. To minimize any potential confusion, the Bureau is preserving where possible past numbering systems by republishing regulations with Bureau part numbers that correspond to regulations in existence prior to the transfer of rulemaking authority. For example, while this interim final rule generally incorporates the Board's existing regulatory text, appendices (including model forms and clauses), and supplements, as amended,[3] the rule has been edited as necessary to reflect nomenclature and other technical amendments required by the Dodd-Frank Act. Notably, this interim final rule does not impose any new substantive obligations on regulated entities.

B. Specific Changes

In addition to the changes described above, the Bureau is making certain nomenclature and other non-substantive changes for clarity and consistency. For example, references to the Board and its administrative structure have been replaced with references to the Bureau. Conforming edits have been made to internal cross-references and addresses for filing applications and notices. In addition, edits to subheadings and numbering have been made for consistency and to fix typographical errors. Footnotes have been moved to the text of the regulation or commentary, as appropriate.

III. Legal Authority

A. Rulemaking Authority

The Bureau is issuing this interim final rule pursuant to its authority under TISA and the Dodd-Frank Act. Effective July 21, 2011, section 1061 of the Dodd-Frank Act transferred to the Bureau the ''consumer financial protection functions'' previously vested in certain other federal agencies. The term ''consumer financial protection function'' is defined to include ''all authority to prescribe rules or issue

[1] Public Law 111–203, 124 Stat. 1376 (2010).

[2] Dodd-Frank section 1029 generally excludes from this transfer of authority, subject to certain exceptions, any rulemaking authority over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both. Further, Dodd-Frank section 1100B did not grant the Bureau TISA rulemaking authority over credit unions or repeal the NCUA's TISA rulemaking authority over credit unions under 12 U.S.C. 4311.

[3] *See* 76 FR 42020 (July 18, 2011).

orders or guidelines pursuant to any Federal consumer financial law, including performing appropriate functions to promulgate and review such rules, orders, and guidelines.'' [4] TISA is a federal consumer financial law.[5] Accordingly, effective July 21, 2011, the authority of the Board to issue regulations pursuant to TISA transferred to the Bureau.[6]

The TISA, as amended, authorizes the Bureau to issue regulations to carry out the provisions of TISA.[7] These regulations may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, that in the Bureau's judgment are necessary or proper to effectuate the purpose of TISA, facilitate compliance with TISA, or prevent circumvention or evasion of TISA.[8]

B. Authority To Issue an Interim Final Rule Without Prior Notice and Comment

The Administrative Procedure Act (APA) [9] generally requires public notice and an opportunity to comment before promulgation of regulations.[10] The APA provides exceptions to notice-and-comment procedures, however, where an agency for good cause finds that such procedures are impracticable, unnecessary, or contrary to the public interest or when a rulemaking relates to agency organization, procedure, and practice.[11] The Bureau finds that there is good cause to conclude that providing notice and opportunity for comment would be unnecessary and contrary to the public interest under these circumstances. In addition, substantially all the changes made by this interim final rule, which were necessitated by the Dodd-Frank Act's transfer of TISA authority from the Board to the Bureau, relate to agency organization, procedure, and practice and are thus exempt from the APA's notice-and-comment requirements.

The Bureau's good cause findings are based on the following considerations. As an initial matter, the Board's existing regulation was a result of notice-and-comment rulemaking to the extent required. Moreover, the interim final rule published today does not impose any new, substantive obligations on regulated entities. Rather, the interim final rule makes only non-substantive, technical changes to the existing text of the regulation, such as renumbering, changing internal cross-references, replacing appropriate nomenclature to reflect the transfer of authority to the Bureau, and changing the address for filing applications and notices. Given the technical nature of these changes, and the fact that the interim final rule does not impose any additional substantive requirements on covered entities, an opportunity for prior public comment is unnecessary. In addition, recodifying the Board's regulations to reflect the transfer of authority to the Bureau will help facilitate compliance with TISA and its implementing regulation, and the new regulations will help reduce uncertainty regarding the applicable regulatory framework. Using notice-and comment procedures would delay this process and thus be contrary to the public interest.

The APA generally requires that rules be published not less than 30 days before their effective dates. *See* 5 U.S.C. 553(d). As with the notice and comment requirement, however, the APA allows an exception when ''otherwise provided by the agency for good cause found and published with the rule.'' 5 U.S.C. 553(d)(3). The Bureau finds that there is good cause for providing less than 30 days notice here. A delayed effective date would harm consumers and regulated entities by needlessly perpetuating discrepancies between the amended statutory text and the implementing regulation, thereby hindering compliance and prolonging uncertainty regarding the applicable regulatory framework.[12]

In addition, delaying the effective date of the interim final rule for 30 days would provide no practical benefit to regulated entities in this context and in fact could operate to their detriment. As discussed above, the interim final rule published today does not impose any new, substantive obligations on regulated entities. Instead, the rule makes only non-substantive, technical changes to the existing text of the regulation. Thus, regulated entities that are already in compliance with the existing rules will not need to modify business practices as a result of this rule.

C. Section 1022(b)(2) of the Dodd-Frank Act

In developing the interim final rule, the Bureau has conducted an analysis of potential benefits, costs, and impacts.[13] The Bureau believes that the interim final rule will benefit consumers and covered persons by updating and recodifying Regulation DD to reflect the transfer of authority to the Bureau and certain other changes mandated by the Dodd-Frank Act. This will help facilitate compliance with TISA and its implementing regulations and help reduce any uncertainty regarding the applicable regulatory framework. The interim final rule will not impose any new substantive obligations on consumers or covered persons and is not expected to have any impact on consumers' access to consumer financial products and services.

Although not required by the interim final rule, depository institutions may incur some costs in updating compliance manuals and related materials to reflect the new numbering and other technical changes reflected in the new Regulation DD. The Bureau has worked to reduce any such burden by preserving the existing numbering to the extent possible and believes that such costs will likely be minimal. These

[4] Public Law 111–203, section 1061(a)(1). Effective on the designated transfer date, July 21, 2011, the Bureau was also granted ''all powers and duties'' vested in each of the federal agencies, relating to the consumer financial protection functions, on the day before the designated transfer date. Until this and other interim final rules take effect, existing regulations for which rulemaking authority transferred to the Bureau continue to govern persons covered by this rule. *See* 76 FR 43569 (July 21, 2011). *See also* footnote 2, *supra.*

[5] Public Law 111–203, section 1002(14) (defining ''Federal consumer financial law'' to include the ''enumerated consumer laws''); id. section 1002(12) (defining ''enumerated consumer laws'' to include TISA).

[6] Section 1066 of the Dodd-Frank Act grants the Secretary of the Treasury interim authority to perform certain functions of the Bureau. Pursuant to that authority, Treasury is publishing this interim final rule on behalf of the Bureau.

[7] *Id.* Section 1100B(1); 12 U.S.C. 4302–4304, 4308.

[8] *Id.*

[9] 5 U.S.C. 551 *et seq.*

[10] 5 U.S.C. 553(b), (c).

[11] 5 U.S.C. 553(b)(3)(A), (B).

[12] This interim final rule is one of 14 companion rulemakings that together restate and recodify the implementing regulations under 14 existing consumer financial laws (part III.C, below, lists the 14 laws involved). In the interest of proper coordination of this overall regulatory framework, which includes numerous cross-references among some of the regulations, the Bureau is establishing the same effective date of December 30, 2011 for those rules published on or before that date and making those published thereafter (if any) effective immediately.

[13] Section 1022(b)(2)(A) of the Dodd-Frank Act addresses the consideration of the potential benefits and costs of regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services; the impact on depository institutions and credit unions with $10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act; and the impact on consumers in rural areas. Section 1022(b)(2)(B) requires that the Bureau ''consult with the appropriate prudential regulators or other Federal agencies prior to proposing a rule and during the comment process regarding consistency with prudential, market, or systemic objectives administered by such agencies.'' The manner and extent to which these provisions apply to interim final rules and to benefits, costs, and impacts that are compelled by statutory changes rather than discretionary Bureau action is unclear. Nevertheless, to inform this rulemaking more fully, the Bureau performed the described analyses and consultations.

changes could be handled in the short term by providing a short, standalone summary alerting users to the changes and in the long term could be combined with other updates at the creditor's convenience. The Bureau intends to continue investigating the possible costs to affected entities of updating manuals and related materials to reflect these changes and solicits comments on this and other issues discussed in this section.

The interim final rule will have no unique impact on depository institutions or credit unions with $10 billion or less in assets as described in section 1026(a) of the Dodd-Frank Act. Also, the interim final rule will have no unique impact on rural consumers.

In undertaking the process of recodifying Regulation DD, as well as regulations implementing thirteen other existing consumer financial laws, [14] the Bureau consulted the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the National Credit Union Administration, the Board of Governors of the Federal Reserve System, the Federal Trade Commission, and the Department of Housing and Urban Development, including with respect to consistency with any prudential, market, or systemic objectives that may be administered by such agencies.[15] The Bureau also has consulted with the Office of Management and Budget for technical assistance. The Bureau expects to have further consultations with the appropriate federal agencies during the comment period.

IV. Request for Comment

Although notice and comment rulemaking procedures are not required, the Bureau invites comments on this notice. Commenters are specifically encouraged to identify any technical issues raised by the rule. The Bureau is also seeking comment in response to a notice published at 76 FR 75825 (Dec. 5, 2011) concerning its efforts to identify priorities for streamlining regulations that it has inherited from other federal agencies to address provisions that are outdated, unduly burdensome, or unnecessary.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small not-for-profit organizations.[16] The RFA generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and-comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.[17] The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small business representatives prior to proposing a rule for which an IRFA is required.[18]

The IRFA and FRFA requirements described above apply only where a notice of proposed rulemaking is required,[19] and the panel requirement applies only when a rulemaking requires an IRFA.[20] As discussed above in part III, a notice of proposed rulemaking is not required for this rulemaking.

In addition, as discussed above, this interim final rule has only a minor impact on entities subject to Regulation DD. The rule imposes no new, substantive obligations on depository institutions. Accordingly, the undersigned certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities.

VI. Paperwork Reduction Act

The Bureau may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. This rule contains information collection requirements under the Paperwork Reduction Act (PRA), which have been previously approved by OMB, and the ongoing PRA burden for which is unchanged by this rule. There are no new information collection requirements in this interim final rule. The Bureau's OMB control number for this information collection is: 3170–0004.

List of Subjects in 12 CFR Part 1030

Advertising, Banks, Banking, Consumer protection, National banks, Reporting and recordkeeping requirements, Savings associations, Truth in savings.

Authority and Issuance

For the reasons set forth above, the Bureau of Consumer Financial Protection adds Part 1030 to Chapter X in Title 12 of the Code of Federal Regulations to read as follows:

PART 1030—TRUTH IN SAVINGS (REGULATION DD)

Sec.

1030.1 Authority, purpose, coverage, and effect on state laws.
1030.2 Definitions.
1030.3 General disclosure requirements.
1030.4 Account disclosures.
1030.5 Subsequent disclosures.
1030.6 Periodic statement disclosures.
1030.7 Payment of interest.
1030.8 Advertising.
1030.9 Enforcement and record retention.
1030.10 [Reserved]
1030.11 Additional disclosure requirements for overdraft services.
Appendix A to Part 1030—Annual Percentage Yield Calculation
Appendix B to Part 1030—Model Clauses and Sample Forms
Appendix C to Part 1030—Effect on State Laws
Appendix D to Part 1030—Issuance of Official Interpretations
Supplement I to Part 1030—Official Interpretations

Authority: 12 U.S.C. 4302–4304, 4308, 5512, 5581.

§ 1030.1 Authority, purpose, coverage, and effect on state laws.

(a) *Authority.* This part, known as Regulation DD, is issued by the Bureau of Consumer Financial Protection to implement the Truth in Savings Act of 1991 (the act), contained in the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 3201 *et seq.,* Public Law 102–242, 105 Stat. 2236), as amended by Title X, section 1100B of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, 124 Stat. 1376). Information-collection requirements contained in this part have been approved by the Office of Management and Budget under the provisions of 44

[14] The fourteen laws implemented by this and its companion rulemakings are: The Consumer Leasing Act, the Electronic Fund Transfer Act (except with respect to section 920 of that Act), the Equal Credit Opportunity Act, the Fair Credit Reporting Act (except with respect to sections 615(e) and 628 of that act), the Fair Debt Collection Practices Act, Subsections (b) through (f) of section 43 of the Federal Deposit Insurance Act, sections 502 through 509 of the Gramm-Leach-Bliley Act (except for section 505 as it applies to section 501(b)), the Home Mortgage Disclosure Act, the Real Estate Settlement Procedures Act, the S.A.F.E. Mortgage Licensing Act, the Truth in Lending Act, the Truth in Savings Act, section 626 of the Omnibus Appropriations Act, 2009, and the Interstate Land Sales Full Disclosure Act.

[15] In light of the technical but voluminous nature of this recodification project, the Bureau focused the consultation process on a representative sample of the recodified regulations, while making information on the other regulations available. The Bureau expects to conduct differently its future consultations regarding substantive rulemakings.

[16] 5 U.S.C. 601 *et seq.*

[17] 5 U.S.C. 603, 604.

[18] 5 U.S.C. 609.

[19] 5 U.S.C. 603(a), 604(a); 5 U.S.C. 553(b)(B).

[20] 5 U.S.C. 609(b).

U.S.C. 3501 *et seq.* and have been assigned OMB No. 3170–0004.

(b) *Purpose.* The purpose of this part is to enable consumers to make informed decisions about accounts at depository institutions. This part requires depository institutions to provide disclosures so that consumers can make meaningful comparisons among depository institutions.

(c) *Coverage.* This part applies to depository institutions except for credit unions. In addition, the advertising rules in § 1030.8 of this part apply to any person who advertises an account offered by a depository institution, including deposit brokers.

(d) *Effect on state laws.* State law requirements that are inconsistent with the requirements of the act and this part are preempted to the extent of the inconsistency. Additional information on inconsistent state laws and the procedures for requesting a preemption determination from the Bureau are set forth in appendix C of this part.

§ 1030.2 Definitions.

For purposes of this part, the following definitions apply:

(a) *Account* means a deposit account at a depository institution that is held by or offered to a consumer. It includes time, demand, savings, and negotiable order of withdrawal accounts. For purposes of the advertising requirements in § 1030.8 of this part, the term also includes an account at a depository institution that is held by or on behalf of a deposit broker, if any interest in the account is held by or offered to a consumer.

(b) *Advertisement* means a commercial message, appearing in any medium, that promotes directly or indirectly:

(1) The availability or terms of, or a deposit in, a new account; and

(2) For purposes of §§ 1030.8(a) and 1030.11 of this part, the terms of, or a deposit in, a new or existing account.

(c) *Annual percentage yield* means a percentage rate reflecting the total amount of interest paid on an account, based on the interest rate and the frequency of compounding for a 365-day period and calculated according to the rules in appendix A of this part.

(d) *Average daily balance method* means the application of a periodic rate to the average daily balance in the account for the period. The average daily balance is determined by adding the full amount of principal in the account for each day of the period and dividing that figure by the number of days in the period.

(e) *Bureau* means the Bureau of Consumer Financial Protection.

(f) *Bonus* means a premium, gift, award, or other consideration worth more than $10 (whether in the form of cash, credit, merchandise, or any equivalent) given or offered to a consumer during a year in exchange for opening, maintaining, renewing, or increasing an account balance. The term does not include interest, other consideration worth $10 or less given during a year, the waiver or reduction of a fee, or the absorption of expenses.

(g) *Business day* means a calendar day other than a Saturday, a Sunday, or any of the legal public holidays specified in 5 U.S.C. 6103(a).

(h) *Consumer* means a natural person who holds an account primarily for personal, family, or household purposes, or to whom such an account is offered. The term does not include a natural person who holds an account for another in a professional capacity.

(i) *Daily balance method* means the application of a daily periodic rate to the full amount of principal in the account each day.

(j) *Depository institution* and *institution* mean an institution defined in section 19(b)(1)(A)(i) through (vi) of the Federal Reserve Act (12 U.S.C. 461), except credit unions defined in section 19(b)(1)(A)(iv).

(k) *Deposit broker* means any person who is a deposit broker as defined in section 29(g) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)).

(l) *Fixed-rate account* means an account for which the institution contracts to give at least 30 calendar days advance written notice of decreases in the interest rate.

(m) *Grace period* means a period following the maturity of an automatically renewing time account during which the consumer may withdraw funds without being assessed a penalty.

(n) *Interest* means any payment to a consumer or to an account for the use of funds in an account, calculated by application of a periodic rate to the balance. The term does not include the payment of a bonus or other consideration worth $10 or less given during a year, the waiver or reduction of a fee, or the absorption of expenses.

(o) *Interest rate* means the annual rate of interest paid on an account which does not reflect compounding. For the purposes of the account disclosures in § 1030.4(b)(1)(i) of this part, the interest rate may, but need not, be referred to as the ''annual percentage rate'' in addition to being referred to as the ''interest rate.''

(p) *Passbook savings account* means a savings account in which the consumer retains a book or other document in which the institution records transactions on the account.

(q) *Periodic statement* means a statement setting forth information about an account (other than a time account or passbook savings account) that is provided to a consumer on a regular basis four or more times a year.

(r) *State* means a state, the District of Columbia, the commonwealth of Puerto Rico, and any territory or possession of the United States.

(s) *Stepped-rate account* means an account that has two or more interest rates that take effect in succeeding periods and are known when the account is opened.

(t) *Tiered-rate account* means an account that has two or more interest rates that are applicable to specified balance levels.

(u) *Time account* means an account with a maturity of at least seven days in which the consumer generally does not have a right to make withdrawals for six days after the account is opened, unless the deposit is subject to an early withdrawal penalty of at least seven days' interest on amounts withdrawn.

(v) *Variable-rate account* means an account in which the interest rate may change after the account is opened, unless the institution contracts to give at least 30 calendar days advance written notice of rate decreases.

§ 1030.3 General disclosure requirements.

(a) *Form.* Depository institutions shall make the disclosures required by §§ 1030.4 through 1030.6 of this part, as applicable, clearly and conspicuously, in writing, and in a form the consumer may keep. The disclosures required by this part may be provided to the consumer in electronic form, subject to compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 *et seq.*). The disclosures required by §§ 1030.4(a)(2) and 1030.8 may be provided to the consumer in electronic form without regard to the consumer consent or other provisions of the E–Sign Act in the circumstances set forth in those sections. Disclosures for each account offered by an institution may be presented separately or combined with disclosures for the institution's other accounts, as long as it is clear which disclosures are applicable to the consumer's account.

(b) *General.* The disclosures shall reflect the terms of the legal obligation of the account agreement between the consumer and the depository institution. Disclosures may be made in languages other than English, provided

the disclosures are available in English upon request.

(c) *Relation to Regulation E (12 CFR Part 1005).* Disclosures required by and provided in accordance with the Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq.*) and its implementing Regulation E (12 CFR Part 1005) that are also required by this part may be substituted for the disclosures required by this part.

(d) *Multiple consumers.* If an account is held by more than one consumer, disclosures may be made to any one of the consumers.

(e) *Oral response to inquiries.* In an oral response to a consumer's inquiry about interest rates payable on its accounts, the depository institution shall state the annual percentage yield. The interest rate may be stated in addition to the annual percentage yield. No other rate may be stated.

(f) *Rounding and accuracy rules for rates and yields.* (1) *Rounding.* The annual percentage yield, the annual percentage yield earned, and the interest rate shall be rounded to the nearest one-hundredth of one percentage point (.01%) and expressed to two decimal places. For account disclosures, the interest rate may be expressed to more than two decimal places.

(2) *Accuracy.* The annual percentage yield (and the annual percentage yield earned) will be considered accurate if not more than one-twentieth of one percentage point (.05%) above or below the annual percentage yield (and the annual percentage yield earned) determined in accordance with the rules in Appendix A of this part.

§ 1030.4 Account disclosures.

(a) *Delivery of account disclosures.* (1) *Account opening.* (i) *General.* A depository institution shall provide account disclosures to a consumer before an account is opened or a service is provided, whichever is earlier. An institution is deemed to have provided a service when a fee required to be disclosed is assessed. Except as provided in paragraph (a)(1)(ii) of this section, if the consumer is not present at the institution when the account is opened or the service is provided and has not already received the disclosures, the institution shall mail or deliver the disclosures no later than 10 business days after the account is opened or the service is provided, whichever is earlier.

(ii) *Timing of electronic disclosures.* If a consumer who is not present at the institution uses electronic means (for example, an Internet Web site) to open an account or request a service, the disclosures required under paragraph (a)(1) of this section must be provided before the account is opened or the service is provided.

(2) *Requests.* (i) A depository institution shall provide account disclosures to a consumer upon request. If a consumer who is not present at the institution makes a request, the institution shall mail or deliver the disclosures within a reasonable time after it receives the request and may provide the disclosures in paper form, or electronically if the consumer agrees.

(ii) In providing disclosures upon request, the institution may:

(A) Specify an interest rate and annual percentage yield that were offered within the most recent seven calendar days; state that the rate and yield are accurate as of an identified date; and provide a telephone number consumers may call to obtain current rate information.

(B) State the maturity of a time account as a term rather than a date.

(b) *Content of account disclosures.* Account disclosures shall include the following, as applicable:

(1) *Rate information.* (i) *Annual percentage yield and interest rate.* The ''annual percentage yield'' and the ''interest rate,'' using those terms, and for fixed-rate accounts the period of time the interest rate will be in effect.

(ii) *Variable rates.* For variable-rate accounts:

(A) The fact that the interest rate and annual percentage yield may change;

(B) How the interest rate is determined;

(C) The frequency with which the interest rate may change; and

(D) Any limitation on the amount the interest rate may change.

(2) *Compounding and crediting.* (i) *Frequency.* The frequency with which interest is compounded and credited.

(ii) *Effect of closing an account.* If consumers will forfeit interest if they close the account before accrued interest is credited, a statement that interest will not be paid in such cases.

(3) *Balance information.* (i) *Minimum balance requirements.* (A) Any minimum balance required to:

(*1*) Open the account;

(*2*) Avoid the imposition of a fee; or

(*3*) Obtain the annual percentage yield disclosed.

(B) Except for the balance to open the account, the disclosure shall state how the balance is determined for these purposes.

(ii) *Balance computation method.* An explanation of the balance computation method specified in § 1030.7 of this part used to calculate interest on the account.

(iii) *When interest begins to accrue.* A statement of when interest begins to accrue on noncash deposits.

(4) *Fees.* The amount of any fee that may be imposed in connection with the account (or an explanation of how the fee will be determined) and the conditions under which the fee may be imposed.

(5) *Transaction limitations.* Any limitations on the number or dollar amount of withdrawals or deposits.

(6) *Features of time accounts.* For time accounts:

(i) *Time requirements.* The maturity date.

(ii) *Early withdrawal penalties.* A statement that a penalty will or may be imposed for early withdrawal, how it is calculated, and the conditions for its assessment.

(iii) *Withdrawal of interest prior to maturity.* If compounding occurs during the term and interest may be withdrawn prior to maturity, a statement that the annual percentage yield assumes interest remains on deposit until maturity and that a withdrawal will reduce earnings. For accounts with a stated maturity greater than one year that do not compound interest on an annual or more frequent basis, that require interest payouts at least annually, and that disclose an APY determined in accordance with section E of Appendix A of this part, a statement that interest cannot remain on deposit and that payout of interest is mandatory.

(iv) *Renewal policies.* A statement of whether or not the account will renew automatically at maturity. If it will, a statement of whether or not a grace period will be provided and, if so, the length of that period must be stated. If the account will not renew automatically, a statement of whether interest will be paid after maturity if the consumer does not renew the account must be stated.

(7) *Bonuses.* The amount or type of any bonus, when the bonus will be provided, and any minimum balance and time requirements to obtain the bonus.

(c) *Notice to existing account holders.* (1) *Notice of availability of disclosures.* Depository institutions shall provide a notice to consumers who receive periodic statements and who hold existing accounts of the type offered by the institution on June 21, 1993. The notice shall be included on or with the first periodic statement sent on or after June 21, 1993 (or on or with the first periodic statement for a statement cycle beginning on or after that date). The notice shall state that consumers may request account disclosures containing terms, fees, and rate information for their account. In responding to such a request, institutions shall provide

disclosures in accordance with paragraph (a)(2) of this section.

(2) *Alternative to notice.* As an alternative to the notice described in paragraph (c)(1) of this section, institutions may provide account disclosures to consumers. The disclosures may be provided either with a periodic statement or separately, but must be sent no later than when the periodic statement described in paragraph (c)(1) is sent.

§ 1030.5 Subsequent disclosures.

(a) *Change in terms.* (1) *Advance notice required.* A depository institution shall give advance notice to affected consumers of any change in a term required to be disclosed under § 1030.4(b) of this part if the change may reduce the annual percentage yield or adversely affect the consumer. The notice shall include the effective date of the change. The notice shall be mailed or delivered at least 30 calendar days before the effective date of the change.

(2) *No notice required.* No notice under this section is required for:

(i) *Variable-rate changes.* Changes in the interest rate and corresponding changes in the annual percentage yield in variable-rate accounts.

(ii) *Check printing fees.* Changes in fees assessed for check printing.

(iii) *Short-term time accounts.* Changes in any term for time accounts with maturities of one month or less.

(b) *Notice before maturity for time accounts longer than one month that renew automatically.* For time accounts with a maturity longer than one month that renew automatically at maturity, institutions shall provide the disclosures described below before maturity. The disclosures shall be mailed or delivered at least 30 calendar days before maturity of the existing account. Alternatively, the disclosures may be mailed or delivered at least 20 calendar days before the end of the grace period on the existing account, provided a grace period of at least five calendar days is allowed.

(1) *Maturities of longer than one year.* If the maturity is longer than one year, the institution shall provide account disclosures set forth in § 1030.4(b) of this part for the new account, along with the date the existing account matures. If the interest rate and annual percentage yield that will be paid for the new account are unknown when disclosures are provided, the institution shall state that those rates have not yet been determined, the date when they will be determined, and a telephone number consumers may call to obtain the interest rate and the annual percentage yield that will be paid for the new account.

(2) *Maturities of one year or less but longer than one month.* If the maturity is one year or less but longer than one month, the institution shall either:

(i) Provide disclosures as set forth in paragraph (b)(1) of this section; or

(ii) Disclose to the consumer:

(A) The date the existing account matures and the new maturity date if the account is renewed;

(B) The interest rate and the annual percentage yield for the new account if they are known (or that those rates have not yet been determined, the date when they will be determined, and a telephone number the consumer may call to obtain the interest rate and the annual percentage yield that will be paid for the new account); and

(C) Any difference in the terms of the new account as compared to the terms required to be disclosed under § 1030.4(b) of this part for the existing account.

(c) *Notice before maturity for time accounts longer than one year that do not renew automatically.* For time accounts with a maturity longer than one year that do not renew automatically at maturity, institutions shall disclose to consumers the maturity date and whether interest will be paid after maturity. The disclosures shall be mailed or delivered at least 10 calendar days before maturity of the existing account.

§ 1030.6 Periodic statement disclosures.

(a) *General rule.* If a depository institution mails or delivers a periodic statement, the statement shall include the following disclosures:

(1) *Annual percentage yield earned.* The ''annual percentage yield earned'' during the statement period, using that term, calculated according to the rules in Appendix A of this part.

(2) *Amount of interest.* The dollar amount of interest earned during the statement period.

(3) *Fees imposed.* Fees required to be disclosed under § 1030.4(b)(4) of this part that were debited to the account during the statement period. The fees shall be itemized by type and dollar amounts. Except as provided in § 1030.11(a)(1) of this part, when fees of the same type are imposed more than once in a statement period, a depository institution may itemize each fee separately or group the fees together and disclose a total dollar amount for all fees of that type.

(4) *Length of period.* The total number of days in the statement period, or the beginning and ending dates of the period.

(5) *Aggregate fee disclosure.* If applicable, the total overdraft and returned item fees required to be disclosed by § 1030.11(a).

(b) *Special rule for average daily balance method.* In making the disclosures described in paragraph (a) of this section, institutions that use the average daily balance method and that calculate interest for a period other than the statement period shall calculate and disclose the annual percentage yield earned and amount of interest earned based on that period rather than the statement period. The information in paragraph (a)(4) of this section shall be stated for that period as well as for the statement period.

§ 1030.7 Payment of interest.

(a) *Permissible methods.* (1) *Balance on which interest is calculated.* Institutions shall calculate interest on the full amount of principal in an account for each day by use of either the daily balance method or the average daily balance method. Institutions shall calculate interest by use of a daily rate of at least 1/365 of the interest rate. In a leap year a daily rate of 1/366 of the interest rate may be used.

(2) *Determination of minimum balance to earn interest.* An institution shall use the same method to determine any minimum balance required to earn interest as it uses to determine the balance on which interest is calculated. An institution may use an additional method that is unequivocally beneficial to the consumer.

(b) *Compounding and crediting policies.* This section does not require institutions to compound or credit interest at any particular frequency.

(c) *Date interest begins to accrue.* Interest shall begin to accrue not later than the business day specified for interest-bearing accounts in section 606 of the Expedited Funds Availability Act (12 U.S.C. 4005 *et seq.*) and the Board of Governors of the Federal Reserve System's implementing Regulation CC (12 CFR part 229). Interest shall accrue until the day funds are withdrawn.

§ 1030.8 Advertising.

(a) *Misleading or inaccurate advertisements.* An advertisement shall not:

(1) Be misleading or inaccurate or misrepresent a depository institution's deposit contract; or

(2) Refer to or describe an account as ''free'' or ''no cost'' (or contain a similar term) if any maintenance or activity fee may be imposed on the account. The word ''profit'' shall not be used in referring to interest paid on an account.

(b) *Permissible rates.* If an advertisement states a rate of return, it shall state the rate as an ''annual percentage yield'' using that term. (The abbreviation ''APY'' may be used provided the term ''annual percentage yield'' is stated at least once in the advertisement.) The advertisement shall not state any other rate, except that the ''interest rate,'' using that term, may be stated in conjunction with, but not more conspicuously than, the annual percentage yield to which it relates.

(c) *When additional disclosures are required.* Except as provided in paragraph (e) of this section, if the annual percentage yield is stated in an advertisement, the advertisement shall state the following information, to the extent applicable, clearly and conspicuously:

(1) *Variable rates.* For variable-rate accounts, a statement that the rate may change after the account is opened.

(2) *Time annual percentage yield is offered.* The period of time the annual percentage yield will be offered, or a statement that the annual percentage yield is accurate as of a specified date.

(3) *Minimum balance.* The minimum balance required to obtain the advertised annual percentage yield. For tiered-rate accounts, the minimum balance required for each tier shall be stated in close proximity and with equal prominence to the applicable annual percentage yield.

(4) *Minimum opening deposit.* The minimum deposit required to open the account, if it is greater than the minimum balance necessary to obtain the advertised annual percentage yield.

(5) *Effect of fees.* A statement that fees could reduce the earnings on the account.

(6) *Features of time accounts.* For time accounts:

(i) *Time requirements.* The term of the account.

(ii) *Early withdrawal penalties:* A statement that a penalty will or may be imposed for early withdrawal.

(iii) *Required interest payouts.* For noncompounding time accounts with a stated maturity greater than one year that do not compound interest on an annual or more frequent basis, that require interest payouts at least annually, and that disclose an APY determined in accordance with section E of Appendix A of this part, a statement that interest cannot remain on deposit and that payout of interest is mandatory.

(d) *Bonuses.* Except as provided in paragraph (e) of this section, if a bonus is stated in an advertisement, the advertisement shall state the following information, to the extent applicable, clearly and conspicuously:

(1) The ''annual percentage yield,'' using that term;

(2) The time requirement to obtain the bonus;

(3) The minimum balance required to obtain the bonus;

(4) The minimum balance required to open the account, if it is greater than the minimum balance necessary to obtain the bonus; and

(5) When the bonus will be provided.

(e) *Exemption for certain advertisements.* (1) *Certain media.* If an advertisement is made through one of the following media, it need not contain the information in paragraphs (c)(1), (c)(2), (c)(4), (c)(5), (c)(6)(ii), (d)(4), and (d)(5) of this section:

(i) Broadcast or electronic media, such as television or radio;

(ii) Outdoor media, such as billboards; or

(iii) Telephone response machines.

(2) *Indoor signs.* (i) Signs inside the premises of a depository institution (or the premises of a deposit broker) are not subject to paragraphs (b), (c), (d) or (e)(1) of this section.

(ii) If a sign exempt by paragraph (e)(2) of this section states a rate of return, it shall:

(A) State the rate as an ''annual percentage yield,'' using that term or the term ''APY.'' The sign shall not state any other rate, except that the interest rate may be stated in conjunction with the annual percentage yield to which it relates.

(B) Contain a statement advising consumers to contact an employee for further information about applicable fees and terms.

(f) *Additional disclosures in connection with the payment of overdrafts.* Institutions that promote the payment of overdrafts in an advertisement shall include in the advertisement the disclosures required by § 1030.11(b) of this part.

§ 1030.9 Enforcement and record retention.

(a) *Administrative enforcement.* Section 270 of the act (12 U.S.C. 4309) contains the provisions relating to administrative sanctions for failure to comply with the requirements of the act and this part. Compliance is enforced by the agencies listed in that section.

(b) [Reserved]

(c) *Record retention.* A depository institution shall retain evidence of compliance with this part for a minimum of two years after the date disclosures are required to be made or action is required to be taken. The administrative agencies responsible for enforcing this part may require depository institutions under their jurisdiction to retain records for a longer period if necessary to carry out their enforcement responsibilities under section 270 of the act.

§ 1030.10 [Reserved]

§ 1030.11 Additional disclosure requirements for overdraft services.

(a) *Disclosure of total fees on periodic statements.* (1) *General.* A depository institution must separately disclose on each periodic statement, as applicable:

(i) The total dollar amount for all fees or charges imposed on the account for paying checks or other items when there are insufficient or unavailable funds and the account becomes overdrawn, using the term ''Total Overdraft Fees;'' and

(ii) The total dollar amount for all fees or charges imposed on the account for returning items unpaid.

(2) *Totals required.* The disclosures required by paragraph (a)(1) of this section must be provided for the statement period and for the calendar year-to-date;

(3) *Format requirements.* The aggregate fee disclosures required by paragraph (a) of this section must be disclosed in close proximity to fees identified under § 1030.6(a)(3), using a format substantially similar to Sample Form B–10 in Appendix B to this part.

(b) *Advertising disclosures for overdraft services.* (1) *Disclosures.* Except as provided in paragraphs (b)(2) through (4) of this section, any advertisement promoting the payment of overdrafts shall disclose in a clear and conspicuous manner:

(i) The fee or fees for the payment of each overdraft;

(ii) The categories of transactions for which a fee for paying an overdraft may be imposed;

(iii) The time period by which the consumer must repay or cover any overdraft; and

(iv) The circumstances under which the institution will not pay an overdraft.

(2) *Communications about the payment of overdrafts not subject to additional advertising disclosures.* Paragraph (b)(1) of this section does not apply to:

(i) An advertisement promoting a service where the institution's payment of overdrafts will be agreed upon in writing and subject to Regulation Z (12 CFR Part 1026);

(ii) A communication by an institution about the payment of overdrafts in response to a consumer-initiated inquiry about deposit accounts or overdrafts. Providing information about the payment of overdrafts in

response to a balance inquiry made through an automated system, such as a telephone response machine, ATM, or an institution's Internet site, is not a response to a consumer-initiated inquiry for purposes of this paragraph;

(iii) An advertisement made through broadcast or electronic media, such as television or radio;

(iv) An advertisement made on outdoor media, such as billboards;

(v) An ATM receipt;

(vi) An in-person discussion with a consumer;

(vii) Disclosures required by federal or other applicable law;

(viii) Information included on a periodic statement or a notice informing a consumer about a specific overdrawn item or the amount the account is overdrawn;

(ix) A term in a deposit account agreement discussing the institution's right to pay overdrafts;

(x) A notice provided to a consumer, such as at an ATM, that completing a requested transaction may trigger a fee for overdrawing an account, or a general notice that items overdrawing an account may trigger a fee;

(xi) Informational or educational materials concerning the payment of overdrafts if the materials do not specifically describe the institution's overdraft service; or

(xii) An opt-out or opt-in notice regarding the institution's payment of overdrafts or provision of discretionary overdraft services.

(3) *Exception for ATM screens and telephone response machines.* The disclosures described in paragraphs (b)(1)(ii) and (iv) of this section are not required in connection with any advertisement made on an ATM screen or using a telephone response machine.

(4) *Exception for indoor signs.* Paragraph (b)(1) of this section does not apply to advertisements for the payment of overdrafts on indoor signs as described by § 1030.8(e)(2) of this part, provided that the sign contains a clear and conspicuous statement that fees may apply and that consumers should contact an employee for further information about applicable fees and terms. For purposes of this paragraph (b)(4), an indoor sign does not include an ATM screen.

(c) *Disclosure of account balances.* If an institution discloses balance information to a consumer through an automated system, the balance may not include additional amounts that the institution may provide to cover an item when there are insufficient or unavailable funds in the consumer's account, whether under a service provided in its discretion, a service subject to Regulation Z (12 CFR part 1026), or a service to transfer funds from another account of the consumer. The institution may, at its option, disclose additional account balances that include such additional amounts, if the institution prominently state s that any such balance includes such additional amounts and, if applicable, that additional amounts are not available for all transactions.

Appendix A to Part 1030—Annual Percentage Yield Calculation

The annual percentage yield measures the total amount of interest paid on an account based on the interest rate and the frequency of compounding. The annual percentage yield reflects only interest and does not include the value of any bonus (or other consideration worth $10 or less) that may be provided to the consumer to open, maintain, increase or renew an account. Interest or other earnings are not to be included in the annual percentage yield if such amounts are determined by circumstances that may or may not occur in the future. The annual percentage yield is expressed as an annualized rate, based on a 365-day year. Institutions may calculate the annual percentage yield based on a 365-day or a 366-day year in a leap year. Part I of this appendix discusses the annual percentage yield calculations for account disclosures and advertisements, while Part II discusses annual percentage yield earned calculations for periodic statements.

Part I. Annual Percentage Yield for Account Disclosures and Advertising Purposes

In general, the annual percentage yield for account disclosures under §§ 1030.4 and 1030.5 and for advertising under § 1030.8 is an annualized rate that reflects the relationship between the amount of interest that would be earned by the consumer for the term of the account and the amount of principal used to calculate that interest. Special rules apply to accounts with tiered and stepped interest rates, and to certain time accounts with a stated maturity greater than one year.

A. General Rules

Except as provided in Part I.E. of this appendix, the annual percentage yield shall be calculated by the formula shown below. Institutions shall calculate the annual percentage yield based on the actual number of days in the term of the account. For accounts without a stated maturity date (such as a typical savings or transaction account), the calculation shall be based on an assumed term of 365 days. In determining the total interest figure to be used in the formula, institutions shall assume that all principal and interest remain on deposit for the entire term and that no other transactions (deposits or withdrawals) occur during the term. This assumption shall not be used if an institution requires, as a condition of the account, that consumers withdraw interest during the term. In such a case, the interest (and annual percentage yield calculation) shall reflect that requirement. For time accounts that are offered in multiples of months, institutions may base the number of days on either the actual number of days during the applicable period, or the number of days that would occur for any actual sequence of that many calendar months. If institutions choose to use the latter rule, they must use the same number of days to calculate the dollar amount of interest earned on the account that is used in the annual percentage yield formula (where ''Interest'' is divided by ''Principal'').

The annual percentage yield is calculated by use of the following general formula (''APY'' is used for convenience in the formulas):

$$APY = 100\ [(1 + Interest/Principal)(365/Days\ in\ term) - 1]$$

''Principal'' is the amount of funds assumed to have been deposited at the beginning of the account.

''Interest'' is the total dollar amount of interest earned on the Principal for the term of the account.

''Days in term'' is the actual number of days in the term of the account. When the ''days in term'' is 365 (that is, where the stated maturity is 365 days or where the account does not have a stated maturity), the annual percentage yield can be calculated by use of the following simple formula:

$$APY=100\ (Interest/Principal)$$

Examples

(1) If an institution pays $61.68 in interest for a 365-day year on $1,000 deposited into a NOW account, using the general formula above, the annual percentage yield is 6.17%:

$$APY = 100\ [(1 + 61.68/1{,}000)\ (365/365) - 1]$$
$$APY = 6.17\%$$

Or, using the simple formula above (since, as an account without a stated term, the term is deemed to be 365 days):

$$APY = 100\ (61.68/1{,}000)$$
$$APY = 6.17\%$$

(2) If an institution pays $30.37 in interest on a $1,000 six-month certificate of deposit (where the six-month period used by the institution contains 182 days), using the general formula above, the annual percentage yield is 6.18%:

$$APY = 100\ [(1 + 30.37/1{,}000)\ (365/182) - 1]$$
$$APY = 6.18\%$$

B. Stepped-Rate Accounts (Different Rates Apply in Succeeding Periods)

For accounts with two or more interest rates applied in succeeding periods (where the rates are known at the time the account is opened), an institution shall assume each interest rate is in effect for the length of time provided for in the deposit contract.

Examples

(1) If an institution offers a $1,000 6-month certificate of deposit on which it pays a 5% interest rate, compounded daily, for the first three months (which contain 91 days), and a 5.5% interest rate, compounded daily, for the next three months (which contain 92 days), the total interest for six months is $26.68 and, using the general formula above, the annual percentage yield is 5.39%:

$$APY = 100\ [(1 + 26.68/1{,}000)\ (365/183) - 1]$$
$$APY = 5.39\%$$

(2) If an institution offers a $1,000 two-year certificate of deposit on which it pays a 6% interest rate, compounded daily, for the first year, and a 6.5% interest rate, compounded daily, for the next year, the total interest for two years is $133.13, and, using the general formula above, the annual percentage yield is 6.45%:

APY = 100 [(1 + 133.13/1,000) (365/730) − 1]
APY = 6.45%

C. Variable-Rate Accounts

For variable-rate accounts without an introductory premium or discounted rate, an institution must base the calculation only on the initial interest rate in effect when the account is opened (or advertised), and assume that this rate will not change during the year.

Variable-rate accounts with an introductory premium (or discount) rate must be calculated like a stepped-rate account. Thus, an institution shall assume that: (1) The introductory interest rate is in effect for the length of time provided for in the deposit contract; and (2) the variable interest rate that would have been in effect when the account is opened or advertised (but for the introductory rate) is in effect for the remainder of the year. If the variable rate is tied to an index, the index-based rate in effect at the time of disclosure must be used for the remainder of the year. If the rate is not tied to an index, the rate in effect for existing consumers holding the same account (who are not receiving the introductory interest rate) must be used for the remainder of the year.

For example, if an institution offers an account on which it pays a 7% interest rate, compounded daily, for the first three months (which, for example, contain 91 days), while the variable interest rate that would have been in effect when the account was opened was 5%, the total interest for a 365-day year for a $1,000 deposit is $56.52 (based on 91 days at 7% followed by 274 days at 5%). Using the simple formula, the annual percentage yield is 5.65%:

APY = 100 (56.52/1,000)
APY = 5.65%

D. Tiered-Rate Accounts (Different Rates Apply to Specified Balance Levels)

For accounts in which two or more interest rates paid on the account are applicable to specified balance levels, the institution must calculate the annual percentage yield in accordance with the method described below that it uses to calculate interest. In all cases, an annual percentage yield (or a range of annual percentage yields, if appropriate) must be disclosed for each balance tier.

For purposes of the examples discussed below, assume the following:

Interest rate (percent)	Deposit balance required to earn rate
5.25	Up to but not exceeding $2,500.
5.50	Above $2,500 but not exceeding $15,000.
5.75	Above $15,000.

Tiering Method A. Under this method, an institution pays on the full balance in the account the stated interest rate that corresponds to the applicable deposit tier. For example, if a consumer deposits $8,000, the institution pays the 5.50% interest rate on the entire $8,000.

When this method is used to determine interest, only one annual percentage yield will apply to each tier. Within each tier, the annual percentage yield will not vary with the amount of principal assumed to have been deposited.

For the interest rates and deposit balances assumed above, the institution will state three annual percentage yields—one corresponding to each balance tier. Calculation of each annual percentage yield is similar for this type of account as for accounts with a single interest rate. Thus, the calculation is based on the total amount of interest that would be received by the consumer for each tier of the account for a year and the principal assumed to have been deposited to earn that amount of interest.

First tier. Assuming daily compounding, the institution will pay $53.90 in interest on a $1,000 deposit. Using the general formula, for the first tier, the annual percentage yield is 5.39%:

APY = 100 [(1 + 53.90/1,000) (365/365) − 1]
APY = 5.39%

Using the simple formula:

APY = 100 (53.90/1,000)
APY = 5.39%

Second tier. The institution will pay $452.29 in interest on an $8,000 deposit. Thus, using the simple formula, the annual percentage yield for the second tier is 5.65%:

APY = 100 (452.29/8,000)
APY = 5.65%

Third tier. The institution will pay $1,183.61 in interest on a $20,000 deposit. Thus, using the simple formula, the annual percentage yield for the third tier is 5.92%:

APY = 100 (1,183.61/20,000)
APY = 5.92%

Tiering Method B. Under this method, an institution pays the stated interest rate only on that portion of the balance within the specified tier. For example, if a consumer deposits $8,000, the institution pays 5.25% on $2,500 and 5.50% on $5,500 (the difference between $8,000 and the first tier cut-off of $2,500).

The institution that computes interest in this manner must provide a range that shows the lowest and the highest annual percentage yields for each tier (other than for the first tier, which, like the tiers in Method A, has the same annual percentage yield throughout). The low figure for an annual percentage yield range is calculated based on the total amount of interest earned for a year assuming the minimum principal required to earn the interest rate for that tier. The high figure for an annual percentage yield range is based on the amount of interest the institution would pay on the highest principal that could be deposited to earn that same interest rate. If the account does not have a limit on the maximum amount that can be deposited, the institution may assume any amount.

For the tiering structure assumed above, the institution would state a total of five annual percentage yields—one figure for the first tier and two figures stated as a range for the other two tiers.

First tier. Assuming daily compounding, the institution would pay $53.90 in interest on a $1,000 deposit. For this first tier, using the simple formula, the annual percentage yield is 5.39%:

APY = 100 (53.90/1,000)
APY = 5.39%

Second tier. For the second tier, the institution would pay between $134.75 and $841.45 in interest, based on assumed balances of $2,500.01 and $15,000, respectively. For $2,500.01, interest would be figured on $2,500 at 5.25% interest rate plus interest on $.01 at 5.50%. For the low end of the second tier, therefore, the annual percentage yield is 5.39%, using the simple formula:

APY = 100 (134.75/2,500)
APY = 5.39%

For $15,000, interest is figured on $2,500 at 5.25% interest rate plus interest on $12,500 at 5.50% interest rate. For the high end of the second tier, the annual percentage yield, using the simple formula, is 5.61%:

APY = 100 (841.45/15,000)
APY = 5.61%

Thus, the annual percentage yield range for the second tier is 5.39% to 5.61%.

Third tier. For the third tier, the institution would pay $841.45 in interest on the low end of the third tier (a balance of $15,000.01). For $15,000.01, interest would be figured on $2,500 at 5.25% interest rate, plus interest on $12,500 at 5.50% interest rate, plus interest on $.01 at 5.75% interest rate. For the low end of the third tier, therefore, the annual percentage yield (using the simple formula) is 5.61%:

APY = 100 (841.45/15,000)
APY = 5.61%

Since the institution does not limit the account balance, it may assume any maximum amount for the purposes of computing the annual percentage yield for the high end of the third tier. For an assumed maximum balance amount of $100,000, interest would be figured on $2,500 at 5.25% interest rate, plus interest on $12,500 at 5.50% interest rate, plus interest on $85,000 at 5.75% interest rate. For the high end of the

third tier, therefore, the annual percentage yield, using the simple formula, is 5.87%.

APY = 100 (5,871.79/100,000)
APY = 5.87%

Thus, the annual percentage yield range that would be stated for the third tier is 5.61% to 5.87%.

If the assumed maximum balance amount is $1,000,000 instead of $100,000, the institution would use $985,000 rather than $85,000 in the last calculation. In that case, for the high end of the third tier the annual percentage yield, using the simple formula, is 5.91%:

APY = 100 (59,134.22/1,000,000)
APY = 5.91%

Thus, the annual percentage yield range that would be stated for the third tier is 5.61% to 5.91%.

E. Time Accounts With a Stated Maturity Greater Than One Year That Pay Interest at Least Annually

1. For time accounts with a stated maturity greater than one year that do not compound interest on an annual or more frequent basis, and that require the consumer to withdraw interest at least annually, the annual percentage yield may be disclosed as equal to the interest rate.

Example

(1) If an institution offers a $1,000 two-year certificate of deposit that does not compound and that pays out interest semi-annually by check or transfer at a 6.00% interest rate, the annual percentage yield may be disclosed as 6.00%.

(2) For time accounts covered by this paragraph that are also stepped-rate accounts, the annual percentage yield may be disclosed as equal to the composite interest rate.

Example

(1) If an institution offers a $1,000 three-year certificate of deposit that does not compound and that pays out interest annually by check or transfer at a 5.00% interest rate for the first year, 6.00% interest rate for the second year, and 7.00% interest rate for the third year, the institution may compute the composite interest rate and APY as follows:

(a) Multiply each interest rate by the number of days it will be in effect;

(b) Add these figures together; and

(c) Divide by the total number of days in the term.

(2) Applied to the example, the products of the interest rates and days the rates are in effect are (5.00% × 365 days) 1825, (6.00% × 365 days) 2190, and (7.00% × 365 days) 2555, respectively. The sum of these products, 6570, is divided by 1095, the total number of days in the term. The composite interest rate and APY are both 6.00%.

Part II. Annual Percentage Yield Earned for Periodic Statements

The annual percentage yield earned for periodic statements under § 1030.6(a) is an annualized rate that reflects the relationship between the amount of interest actually earned on the consumer's account during the statement period and the average daily balance in the account for the statement period. Pursuant to § 1030.6(b), however, if an institution uses the average daily balance method and calculates interest for a period other than the statement period, the annual percentage yield earned shall reflect the relationship between the amount of interest earned and the average daily balance in the account for that other period.

The annual percentage yield earned shall be calculated by using the following formulas (''APY Earned'' is used for convenience in the formulas):

A. General Formula

APY Earned = 100 [(1 + Interest earned/Balance) (365/Days in period) − 1]

''Balance'' is the average daily balance in the account for the period.

''Interest earned'' is the actual amount of interest earned on the account for the period.

''Days in period'' is the actual number of days for the period.

Examples

(1) Assume an institution calculates interest for the statement period (and uses either the daily balance or the average daily balance method), and the account has a balance of $1,500 for 15 days and a balance of $500 for the remaining 15 days of a 30-day statement period. The average daily balance for the period is $1,000. The interest earned (under either balance computation method) is $5.25 during the period. The annual percentage yield earned (using the formula above) is 6.58%:

APY Earned = 100 [(1 + 5.25/1,000) (365/30) − 1]
APY Earned = 6.58%

(2) Assume an institution calculates interest on the average daily balance for the calendar month and provides periodic statements that cover the period from the 16th of one month to the 15th of the next month. The account has a balance of $2,000 September 1 through September 15 and a balance of $1,000 for the remaining 15 days of September. The average daily balance for the month of September is $1,500, which results in $6.50 in interest earned for the month. The annual percentage yield earned for the month of September would be shown on the periodic statement covering September 16 through October 15. The annual percentage yield earned (using the formula above) is 5.40%:

APY Earned = 100 [(6.50/1,500) (365/30) − 1]
APY Earned = 5.40%

(3) Assume an institution calculates interest on the average daily balance for a quarter (for example, the calendar months of September through November), and provides monthly periodic statements covering calendar months. The account has a balance of $1,000 throughout the 30 days of September, a balance of $2,000 throughout the 31 days of October, and a balance of $3,000 throughout the 30 days of November. The average daily balance for the quarter is $2,000, which results in $21 in interest earned for the quarter. The annual percentage yield earned would be shown on the periodic statement for November. The annual percentage yield earned (using the formula above) is 4.28%:

APY Earned = 100 [(1 + 21/2,000) (365/91) − 1]
APY Earned = 4.28%

B. Special Formula for Use Where Periodic Statement Is Sent More Often Than the Period for Which Interest Is Compounded

Institutions that use the daily balance method to accrue interest and that issue periodic statements more often than the period for which interest is compounded shall use the following special formula:

$$APY\ Earned = 100\left\{\left[1+\frac{(Interest\ earned/Balance)}{Days\ in\ period}(Compounding)\right]^{(365/Compounding)}-1\right\}$$

The following definition applies for use in this formula (all other terms are defined under Part II):

''Compounding'' is the number of days in each compounding period.

Assume an institution calculates interest for the statement period using the daily balance method, pays a 5.00% interest rate, compounded annually, and provides periodic statements for each monthly cycle. The account has a daily balance of $1,000 for a 30-day statement period. The interest earned is $4.11 for the period, and the annual percentage yield earned (using the special formula above) is 5.00%:

$$APY\ Earned = 100\left\{\left[1+\frac{(4.11/1,000)}{30}(365)\right]^{(365/365)}-1\right\}$$

APY Earned = 5.00%

Appendix B to Part 1030—Model Clauses and Sample Forms

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B–1—Model Clauses for Account Disclosures

(a) Rate Information

(i) Fixed-Rate Accounts

The interest rate on your account is __% with an annual percentage yield of __%. You will be paid this rate [for (time period)/until (date)/for at least 30 calendar days].

(ii) Variable-Rate Accounts

The interest rate on your account is __% with an annual percentage yield of __%.

Your interest rate and annual percentage yield may change.

Determination of Rate

The interest rate on your account is based on (name of index) [plus/minus a margin of __]; or

At our discretion, we may change the interest rate on your account.

Frequency of Rate Changes

We may change the interest rate on your account [every (time period)/at any time].

Limitations on Rate Changes

The interest rate for your account will never change by more than __% each (time period).

The interest rate will never be [less/more] than __%; or

The interest rate will never [exceed__% above/drop more than __% below] the interest rate initially disclosed to you.

(iii) Stepped-Rate Accounts

The initial interest rate for your account is __%. You will be paid this rate [for (time period)/until (date)]. After that time, the interest rate for your account will be __%, and you will be paid this rate [for (time period)/until (date)]. The annual percentage yield for your account is __%.

(iv) Tiered-Rate Accounts

Tiering Method A

- If your [daily balance/average daily balance] is $__ or more, the interest rate paid on the entire balance in your account will be __% with an annual percentage yield of __%.
- If your [daily balance/average daily balance] is more than $__, but less than $__, the interest rate paid on the entire balance in your account will be __% with an annual percentage yield of __%.
- If your [daily balance/average daily balance] is $__ or less, the interest rate paid on the entire balance will be __% with an annual percentage yield of __%.

Tiering Method B

- An interest rate of __% will be paid only for that portion of your [daily balance/average daily balance] that is greater than $__. The annual percentage yield for this tier will range from __% to __%, depending on the balance in the account.
- An interest rate of ____% will be paid only for that portion of your [daily balance/average daily balance] that is greater than $____. The annual percentage yield for this tier will range from ____% to ____%, depending on the balance in the account.
- If your [daily balance/average daily balance] is $____ or less, the interest rate paid on the entire balance will be ____% with an annual percentage yield of ____%.

(b) Compounding and Crediting

(i) Frequency

Interest will be compounded [on a ____ basis/every (time period)]. Interest will be credited to your account [on a ____ basis/every (time period)].

(ii) Effect of Closing an Account

If you close your account before interest is credited, you will not receive the accrued interest.

(c) Minimum Balance Requirements

(i) To Open the Account

You must deposit $____ to open this account.

(ii) To Avoid Imposition of Fees

A minimum balance fee of $____ will be imposed every (time period) if the balance in the account falls below $____ any day of the (time period).

A minimum balance fee of $____ will be imposed every (time period) if the average daily balance for the (time period) falls below $____. The average daily balance is calculated by adding the principal in the account for each day of the period and dividing that figure by the number of days in the period.

(iii) To Obtain the Annual Percentage Yield Disclosed

You must maintain a minimum balance of $____ in the account each day to obtain the disclosed annual percentage yield.

You must maintain a minimum average daily balance of $____ to obtain the disclosed annual percentage yield. The average daily balance is calculated by adding the principal in the account for each day of the period and dividing that figure by the number of days in the period.

(d) Balance Computation Method

(i) Daily Balance Method

We use the daily balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

(ii) Average Daily Balance Method

We use the average daily balance method to calculate interest on your account. This method applies a periodic rate to the average daily balance in the account for the period. The average daily balance is calculated by adding the principal in the account for each day of the period and dividing that figure by the number of days in the period.

(e) Accrual of Interest on Noncash Deposits

Interest begins to accrue no later than the business day we receive credit for the deposit of noncash items (for example, checks); or

Interest begins to accrue on the business day you deposit noncash items (for example, checks).

(f) Fees

The following fees may be assessed against your account:

____$____
____$____
____$____
____(*conditions for imposing fee*) $____
____% of ____.

(g) Transaction Limitations

The minimum amount you may [withdraw/write a check for] is $____.

You may make ____ [deposits into/withdrawals from] your account each (time period).

You may not make [deposits into/withdrawals from] your account until the maturity date.

(h) Disclosures Relating to Time Accounts

(i) Time Requirements

Your account will mature on (date).

Your account will mature in (time period).

(ii) Early Withdrawal Penalties

We [will/may] impose a penalty if you withdraw [any/all] of the [deposited funds/principal] before the maturity date. The fee imposed will equal ____ days/week[s]/month[s] of interest; or

We [will/may] impose a penalty of $____ if you withdraw [any/all] of the [deposited funds/principal] before the maturity date.

If you withdraw some of your funds before maturity, the interest rate for the remaining funds in your account will be ____% with an annual percentage yield of ____%.

(iii) Withdrawal of Interest Prior to Maturity

The annual percentage yield assumes interest will remain on deposit until maturity. A withdrawal will reduce earnings.

(iv) Renewal Policies

(1) Automatically Renewable Time Accounts

This account will automatically renew at maturity.

You will have [____ calendar/business] days after the maturity date to withdraw funds without penalty; or

There is no grace period following the maturity of this account to withdraw funds without penalty.

(2) Non-Automatically Renewable Time Accounts

This account will not renew automatically at maturity. If you do not renew the account,

your deposit will be placed in [an interest-bearing/a noninterest-bearing] account.

(v) Required Interest Distribution

This account requires the distribution of interest and does not allow interest to remain in the account.

(i) Bonuses

You will [be paid/receive] [$_____ (description of item)] as a bonus [when you open the account/on (date) ____].s

You must maintain a minimum [daily balance/average daily balance] of $____ to obtain the bonus.

To earn the bonus, [$____/your entire principal] must remain on deposit [for (time period)/until (date)____].

B–2—Model Clauses for Change in Terms

On (date), the cost of (type of fee) will increase to $____.

On (date), the interest rate on your account will decrease to ____% with an annual percentage yield of ____%.

On (date), the minimum [daily balance/average daily balance] required to avoid imposition of a fee will increase to $____.

B–3—Model Clauses for Pre-Maturity Notices for Time Accounts

(a) Automatically Renewable Time Accounts With Maturities of One Year or Less But Longer Than One Month

Your account will mature on (date).

If the account renews, the new maturity date will be (date).

The interest rate for the renewed account will be ____% with an annual percentage yield of ____%; or

The interest rate and annual percentage yield have not yet been determined. They will be available on (date). Please call (phone number) to learn the interest rate and annual percentage yield for your new account.

(b) Non-Automatically Renewable Time Accounts With Maturities Longer Than One Year

Your account will mature on (date).

If you do not renew the account, interest [will/will not] be paid after maturity.

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B-4 – SAMPLE FORM (MULTIPLE ACCOUNTS)

BANK ABC

DISCLOSURE OF ACCOUNT TERMS

This disclosure contains information about your:

X NOW Account

- Your interest rate and annual percentage yield may change. At our discretion, we may change the interest rate on your account daily. The interest rate for your account will never be less than 2.00%.
- Interest begins to accrue on the business day you deposit noncash items (for example, checks).
- Interest is compounded daily and credited on the last day of each month. If you close your account before interest is credited, you will not receive the accrued interest.
- We use the daily balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

___ Passbook Savings Account

- The interest rate on your account will be paid for at least 30 days.
- Interest begins to accrue on the business day you deposit noncash items (for example, checks).
- Interest is compounded daily and credited on the last day of each month. If you close your account before interest is credited, you will not receive the accrued interest.
- We use the daily balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

Additional disclosures for your account are included on the attached sheets.

__ Money Market Account

- Your interest rate and annual percentage yield may change. At our discretion, we may change the interest rate on your account daily. The interest rate on your account will never be less than 3.00%.
- You may make six (6) transfers from your account, but only three (3) may be payments by check to third parties.
- Interest begins to accrue on the business day you deposit noncash items (for example, checks).
- Interest is compounded daily and credited on the last day of each month. If you close your account before interest is credited, you will not receive the accrued interest.
- We use the daily balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

___ Certificates of Deposit

- The interest rate for your account will be paid until the maturity date of your certificate (_____).
- Interest is compounded daily and will be credited to your account monthly.
- Interest begins to accrue on the business day you deposit noncash items (for example, checks).
- This account will automatically renew at maturity. You will have ten (10) calendar days from the maturity date to withdraw your funds without being charged a penalty.
- After the account is opened, you may not make deposits into or withdrawals from this account until the maturity date.
- We use the daily balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.
- If any of the deposit is withdrawn before the maturity date, a penalty as shown below will be imposed:

Term	Early Withdrawal Penalty
3-month CD	30 days interest
6-month CD	90 days interest
1-year CD	120 days interest
2-year CD	180 days interest

Additional disclosures for your account are included on the attached sheets.

(Fee Schedule Insert)

BANK ABC
FEE SCHEDULE

NOW Account

- Monthly minimum balance fee if the daily balance drops below $ 500 any day of the month . . . . . $ 7.50

Passbook Savings Account

- Monthly minimum balance fee if the daily balance drops below $ 100 any day of the month . . . . . $ 6.00
- You may make three (3) withdrawals per quarter
  Each subsequent withdrawal . . . . . $ 2.00

Money Market Account

- Monthly minimum balance fee if the daily balance drops below $ 1,000 any day of the month . . . . . $ 5.00

Other Account Fees

- Deposited checks returned . . . . . $ 5.00
- Balance inquiries (at a branch or at an ATM) . . . . . $ 1.00
- Check printing ♦ . . . . . (Fee depends on style of check ordered)
- Your check returned for insufficient funds (per check) ♦ . . . . . $ 16.00
- Stop payment request (per request) ♦ . . . . . $ 12.50
- Certified check (per check) ♦ . . . . . $ 10.00

♦ Fee does not apply to Passbook Savings Accounts or Certificates of Deposit.

Additional disclosures for your account are included on the attached sheet.

(Rate Sheet Insert)

BANK ABC
RATE SHEET

ACCOUNT TYPE	MINIMUM DEPOSIT TO OPEN ACCOUNT	MINIMUM BALANCE* TO OBTAIN ANNUAL PERCENTAGE YIELD	INTEREST RATE	ANNUAL PERCENTAGE YIELD
NOW	$ 500	$ 2,500	4.00%	4.08%
PASSBOOK SAVINGS	$ 100	$ 500	3.50%	3.56%
MONEY MARKET	$ 1,000	$ 1,000	4.15%	4.24%
3-MONTH CD	$ 1,000	$ 1,000	4.20%	4.29%
6-MONTH CD	$ 1,000	$ 1,000	4.25%	4.34%
1-YEAR CD	$ 1,000	$ 1,000	5.20%	5.34%
2-YEAR CD	$ 1,000	$ 1,000	5.80%	5.97%

* Daily balance (the amount of principal in the account each day)

B-5 – SAMPLE FORM (NOW ACCOUNT)

BANK XYZ

DISCLOSURE OF INTEREST, FEES AND ACCOUNT TERMS

NOW ACCOUNT

Fee schedule

- **Monthly minimum balance fee if the daily balance drops below $1,000 any day of the month . . . . . $ 7.00**
- **Fee to stop payment of a check . . . . . $ 12.50**
- **Fee for check returns (insufficient funds – per check) . . . . . $ 16.00**
- **Certified check (per check) . . . . . $ 10.00**
- **Fee for initial check printing (per 200) . . . . . $ 12.00**
  (Cost for check printing varies depending on the style of checks ordered.)

Rate information

- The interest rate for your account is _4.00_ % with an annual percentage yield of _4.08_ %. Your interest rate and annual percentage yield may change. At our discretion, we may change the interest rate for your account at any time. The interest rate for your account will never be less than 2% each year.

Minimum balance requirements

- You must deposit $500 to open this account.

- You must maintain a minimum balance of $2,500 in the account each day to obtain the annual percentage yield listed above.

Balance computation method

- We use the daily balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

Compounding and crediting

- Interest for your account will be compounded daily and credited to your account on the last day of each month.

Accrual of interest on deposits other than cash

- Interest begins to accrue on the business day you deposit noncash items (for example, checks).

B-6 – SAMPLE FORM (TIERED-RATE MONEY MARKET ACCOUNT)

BANK ABC

DISCLOSURE OF INTEREST, FEES AND ACCOUNT TERMS

MONEY MARKET ACCOUNT

Fee schedule

- Check returned for insufficient funds (per check) $16.00
- Stop payment request (per request) $12.50
- Certified check (per check) $10.00
- Check printing . . . . . (Fee depends on style of checks ordered)

Rate information

- If your daily balance is $15,000 or more, the interest rate paid on the entire balance in your account will be _5.75_ % with an annual percentage yield of _5.92_ %.
- If your daily balance is more than $2,500, but less than $15,000, the interest rate paid on the entire balance in your account will be _5.50_ % with an annual percentage yield of _5.65_ %.
- If your daily balance is $2,500 or less, the interest rate paid on the entire balance will be _5.25_ % with an annual percentage yield of _5.39_ %.
- Your interest rate and annual percentage yield may change. At our discretion, we may change the interest rate for your account at any time. The interest rate for your account will never be less than 2.00%.
- Interest begins to accrue on the business day you deposit noncash items (for example, checks).
- Interest is compounded daily and credited on the last day of each month.

Minimum balance requirements

- You must deposit $1,000 to open this account.
- A minimum balance fee of $5.00 will be imposed every month if the balance in your account falls below $1,000 any day of the month.

Balance computation method

- We use the daily balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

Transaction limitations

- You may make six (6) transfers from your account, but only three (3) may be payments by check to third parties.

B-7 -- SAMPLE FORM (CERTIFICATE OF DEPOSIT)

XYZ SAVINGS BANK
1 YEAR CERTIFICATE OF DEPOSIT

Rate information

The interest rate for your account is 5.20 % with an annual percentage yield of 5.34 %. You will be paid this rate until the maturity date of the certificate. Your certificate will mature on September 30, 1993. The annual percentage yield assumes interest remains on deposit until maturity. A withdrawal will reduce earnings.

Interest for your account will be compounded daily and credited to your account on the last day of each month.

Interest begins to accrue on the business day you deposit any noncash item (for example, checks).

Minimum balance requirements

You must deposit $1,000 to open this account.

You must maintain a minimum balance of $1,000 in your account every day to obtain the annual percentage yield listed above.

Balance computation method

We use the daily balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

Transaction limitations

After the account is opened, you may not make deposits into or withdrawals from the account until the maturity date.

Early withdrawal penalty

If you withdraw any principal before the maturity date, a penalty equal to three months interest will be charged to your account.

Renewal policy

This account will be automatically renewed at maturity. You have a grace period of ten (10) calendar days after the maturity date to withdraw the funds without being charged a penalty.

B-8 -- SAMPLE FORM (CERTIFICATE OF DEPOSIT ADVERTISEMENT)

BANK XYZ

ALWAYS OFFERS YOU COMPETITIVE CD RATES!!

CERTIFICATES OF DEPOSIT	ANNUAL PERCENTAGE YIELD (APY)
5 YEAR	6.31%
4 YEAR	6.07%
3 YEAR	5.72%
2 YEAR	5.52%
1 YEAR	4.54%
6 MONTH	4.34%
90 DAY	4.21%
	APYs are offered on accounts opened from 5/9/93 through 5/18/93.

The minimum balance to open an account and obtain the APY is $1,000.
A penalty may be imposed for early withdrawal.

For more information call:

202-123-1234

B-9 -- SAMPLE FORM (MONEY MARKET ACCOUNT ADVERTISEMENT)

BANK XYZ

ALWAYS OFFERS YOU COMPETITIVE RATES!!

MONEY MARKET ACCOUNTS	ANNUAL PERCENTAGE YIELD (APY)
Accounts with a balance of $5,000 or less	5.07%*
Accounts with a balance over $5,000	5.57%*
APYs are accurate as of April 30, 1993	*The rates may change after the account is opened.

Fees could reduce the earnings on the account.

For more information call:

202-123-1234

B-10 Aggregate Overdraft and Returned Item Fees Sample Form

	Total For This Period	Total Year-to-Date
Total Overdraft Fees	$60.00	$150.00
Total Returned Item Fees	$0.00	$30.00

BILLING CODE 4810–AM–C

Appendix C to Part 1030—Effect on State Laws

(a) Inconsistent Requirements

State law requirements that are inconsistent with the requirements of the act and this part are preempted to the extent of the inconsistency. A state law is inconsistent if it requires a depository institution to make disclosures or take actions that contradict the requirements of the federal law. A state law is also contradictory if it requires the use of the same term to represent a different amount or a different meaning than the federal law, requires the use of a term different from that required in the federal law to describe the same item, or permits a method of calculating interest on an account different from that required in the federal law.

(b) Preemption Determinations

A depository institution, state, or other interested party may request the Bureau to determine whether a state law requirement is inconsistent with the federal requirements. A request for a determination shall be in writing and addressed to the Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20006. Notice that the Bureau intends to make a determination (either on request or on its own motion) will be published in the **Federal Register**, with an opportunity for public comment unless the Bureau finds that notice and opportunity for comment would be impracticable, unnecessary, or contrary to the public interest and publishes its reasons for such decision. Notice of a final determination will be published in the **Federal Register** and furnished to the party who made the request and to the appropriate state official.

(c) Effect of Preemption Determinations

After the Bureau determines that a state law is inconsistent, a depository institution may not make disclosures using the inconsistent term or take actions relying on the inconsistent law.

(d) Reversal of Determination

The Bureau reserves the right to reverse a determination for any reason bearing on the coverage or effect of state or federal law. Notice of reversal of a determination will be published in the **Federal Register** and a copy furnished to the appropriate state official.

Appendix D to Part 1030—Issuance of Official Interpretations

Except in unusual circumstances, interpretations will not be issued separately but will be incorporated in an official commentary to this part, which will be amended periodically. No interpretations will be issued approving depository institutions' forms, statements, or calculation tools or methods.

Supplement I to Part 1030—Official Interpretations

Introduction

1. *Official status.* This commentary is the means by which the Bureau of Consumer Financial Protection issues official interpretations of Regulation DD.

Section 1030.1 Authority, purpose, coverage, and effect on state laws

(c) Coverage

1. *Foreign applicability.* Regulation DD applies to all depository institutions, except credit unions, that offer deposit accounts to residents (including resident aliens) of any state as defined in § 1030.2(r). Accounts held in an institution located in a state are covered, even if funds are transferred periodically to a location outside the United States. Accounts held in an institution located outside the United States are not covered, even if held by a U.S. resident.

2. *Persons who advertise accounts.* Persons who advertise accounts are subject to the advertising rules. For example, if a deposit broker places an advertisement offering consumers an interest in an account at a depository institution, the advertising rules apply to the advertisement, whether the account is to be held by the broker or directly by the consumer.

Section 1030.2—Definitions

(a) Account.

1. *Covered accounts.* Examples of accounts subject to the regulation are:

i. Interest-bearing and noninterest-bearing accounts.

ii. Deposit accounts opened as a condition of obtaining a credit card.

iii. Accounts denominated in a foreign currency.

iv. Individual retirement accounts (IRAs) and simplified employee pension (SEP) accounts.

v. Payable on death (POD) or ''Totten trust'' accounts.

2. *Other accounts.* Examples of accounts not subject to the regulation are:

i. Mortgage escrow accounts for collecting taxes and property insurance premiums.

ii. Accounts established to make periodic disbursements on construction loans.

iii. Trust accounts opened by a trustee pursuant to a formal written trust agreement (not merely declarations of trust on a signature card such as a ''Totten trust,'' or an IRA and SEP account).

iv. Accounts opened by an executor in the name of a decedent's estate.

3. *Other investments.* The term ''account'' does not apply to all products of a depository institution. Examples of products not covered are:

i. Government securities.

ii. Mutual funds.

iii. Annuities.

iv. Securities or obligations of a depository institution.

v. Contractual arrangements such as repurchase agreements, interest rate swaps, and bankers acceptances.

(b) Advertisement.

1. *Covered messages.* Advertisements include commercial messages in visual, oral, or print media that invite, offer, or otherwise announce generally to prospective customers the availability of consumer accounts—such as:

i. Telephone solicitations.

ii. Messages on automated teller machine (ATM) screens.

iii. Messages on a computer screen in an institution's lobby (including any printout) other than a screen viewed solely by the institution's employee.

iv. Messages in a newspaper, magazine, or promotional flyer or on radio.

v. Messages that are provided along with information about the consumer's existing account and that promote another account at the institution.

2. *Other messages.* Examples of messages that are not advertisements are:

i. Rate sheets in a newspaper, periodical, or trade journal (unless the depository institution, or a deposit broker offering accounts at the institution, pays a fee for or otherwise controls publication).

ii. In-person discussions with consumers about the terms for a specific account.

iii. For purposes of § 1030.8(b) of this part through § 1030.8(e) of this part, information given to consumers about existing accounts, such as current rates recorded on a voice-response machine or notices for automatically renewable time account sent before renewal.

iv. Information about a particular transaction in an existing account.

v. Disclosures required by federal or other applicable law.

vi. A deposit account agreement.

(f) Bonus.

1. *Examples.* Bonuses include items of value, other than interest, offered as incentives to consumers, such as an offer to pay the final installment deposit for a holiday club account. Items that are not a bonus include discount coupons for goods or services at restaurants or stores.

2. *De minimis rule.* Items with a *de minimis* value of $10 or less are not bonuses. Institutions may rely on the valuation standard used by the Internal Revenue Service to determine if the value of the item is *de minimis.* Examples of items of *de minimis* value are:

i. Disability insurance premiums valued at an amount of $10 or less per year.

ii. Coffee mugs, T-shirts or other merchandise with a market value of $10 or less.

3. *Aggregation.* In determining if an item valued at $10 or less is a bonus, institutions must aggregate per account per calendar year items that may be given to consumers. In making this determination, institutions aggregate per account only the market value of items that may be given for a specific promotion. To illustrate, assume an institution offers in January to give consumers an item valued at $7 for each calendar quarter during the year that the average account balance in a negotiable order of withdrawal (NOW) account exceeds $10,000. The bonus rules are triggered, since consumers are eligible under the promotion to receive up to $28 during the year. However, the bonus rules are not triggered if an item valued at $7 is offered to consumers opening a NOW account during the month of January, even though in November the institution introduces a new promotion that includes, for example, an offer to existing NOW account holders for an item valued at $8 for maintaining an average balance of $5,000 for the month.

4. *Waiver or reduction of a fee or absorption of expenses.* Bonuses do not

include value that consumers receive through the waiver or reduction of fees (even if the fees waived exceed $10) for banking-related services such as the following:

i. A safe deposit box rental fee for consumers who open a new account.

ii. Fees for travelers checks for account holders.

iii. Discounts on interest rates charged for loans at the institution.

(h) Consumer.

1. *Professional capacity.* Examples of accounts held by a natural person in a professional capacity for another are attorney-client trust accounts and landlord-tenant security accounts.

2. *Other accounts.* Accounts not held in a professional capacity include accounts held by an individual for a child under the Uniform Gifts to Minors Act.

3. *Sole proprietors.* Accounts held by individuals as sole proprietors are not covered.

4. *Retirement plans.* IRAs and SEP accounts are consumer accounts to the extent that funds are invested in covered accounts. Keogh accounts are not subject to the regulation.

(j) Depository institution and institution.

1. *Foreign institutions.* Branches of foreign institutions located in the United States are subject to the regulation if they offer deposit accounts to consumers. Edge Act and Agreement corporations, and agencies of foreign institutions, are not depository institutions for purposes of this part.

(k) Deposit broker.

1. *General.* A deposit broker is a person who is in the business of placing or facilitating the placement of deposits in an institution, as defined by the Federal Deposit Insurance Act (12 U.S.C. 29(g)).

(n) Interest.

1. *Relation to bonuses.* Bonuses are not interest for purposes of this part.

(p) Passbook savings account.

1. *Relation to Regulation E.* Passbook savings accounts include accounts accessed by preauthorized electronic fund transfers to the account (as defined in 12 CFR 1005.2(j)), such as an account that receives direct deposit of social security payments. Accounts permitting access by other electronic means are not ''passbook saving accounts'' and must comply with the requirements of § 1030.6 if statements are sent four or more times a year.

(q) Periodic statement.

1. *Examples.* Periodic statements do not include:

i. Additional statements provided solely upon request.

ii. General service information such as a quarterly newsletter or other correspondence describing available services and products.

(t) Tiered-rate account.

1. *Time accounts.* Time accounts paying different rates based solely on the amount of the initial deposit are not tiered-rate accounts.

2. *Minimum balance requirements.* A requirement to maintain a minimum balance to earn interest does not make an account a tiered-rate account.

(u) Time account.

1. *Club accounts.* Although club accounts typically have a maturity date, they are not time accounts unless they also require a penalty of at least seven days' interest for withdrawals during the first six days after the account is opened.

2. *Relation to Regulation D.* Regulation D of the Board of Governors of the Federal Reserve System (12 CFR part 204) permits in limited circumstances the withdrawal of funds without penalty during the first six days after a ''time deposit'' is opened. (See 12 CFR 204.2(c)(1)(i).) But the fact that a consumer makes a withdrawal as permitted by Regulation D does not disqualify the account from being a time account for purposes of this part.

(v) Variable-rate account.

1. *General.* A certificate of deposit permitting one or more rate adjustments prior to maturity at the consumer's option is a variable-rate account.

Section 1030.3—General Disclosure Requirements

(a) Form.

1. *Design requirements.* Disclosures must be presented in a format that allows consumers to readily understand the terms of their account. Institutions are not required to use a particular type size or typeface, nor are institutions required to state any term more conspicuously than any other term. Disclosures may be made:

i. In any order.

ii. In combination with other disclosures or account terms.

iii. In combination with disclosures for other types of accounts, as long as it is clear to consumers which disclosures apply to their account.

iv. On more than one page and on the front and reverse sides.

v. By using inserts to a document or filling in blanks.

vi. On more than one document, as long as the documents are provided at the same time.

2. *Consistent terminology.* Institutions must use consistent terminology to describe terms or features required to be disclosed. For example, if an institution describes a monthly fee (regardless of account activity) as a ''monthly service fee'' in account-opening disclosures, the periodic statement and change-in-term notices must use the same terminology so that consumers can readily identify the fee.

(b) General.

1. *Specificity of legal obligation.* Institutions may refer to the calendar month or to roughly equivalent intervals during a calendar year as a ''month.''

(c) Relation to Regulation E.

1. *General rule.* Compliance with Regulation E (12 CFR Part 1005) is deemed to satisfy the disclosure requirements of this part, such as when:

i. An institution changes a term that triggers a notice under Regulation E, and uses the timing and disclosure rules of Regulation E for sending change-in-term notices.

ii. Consumers add an ATM access feature to an account, and the institution provides disclosures pursuant to Regulation E, including disclosure of fees (see 12 CFR 1005.7.)

iii. An institution complying with the timing rules of Regulation E discloses at the same time fees for electronic services (such as for balance inquiry fees at ATMs) required to be disclosed by this part but not by Regulation E.

iv. An institution relies on Regulation E's rules regarding disclosure of limitations on the frequency and amount of electronic fund transfers, including security-related exceptions. But any limitations on ''intra-institutional transfers'' to or from the consumer's other accounts during a given time period must be disclosed, even though intra-institutional transfers are exempt from Regulation E.

(e) Oral response to inquiries.

1. *Application of rule.* Institutions are not required to provide rate information orally.

2. *Relation to advertising.* The advertising rules do not cover an oral response to a question about rates.

3. *Existing accounts.* This paragraph does not apply to oral responses about rate information for existing accounts. For example, if a consumer holding a one-year certificate of deposit (CD) requests interest rate information about the CD during the term, the institution need not disclose the annual percentage yield.

(f) Rounding and accuracy rules for rates and yields

(f)(1) Rounding.

1. *Permissible rounding.* Examples of permissible rounding are an annual percentage yield calculated to be 5.644%, rounded down and disclosed as 5.64%; 5.645% rounded up and disclosed as 5.65%.

(f)(2) Accuracy.

1. *Annual percentage yield and annual percentage yield earned.* The tolerance for annual percentage yield and annual percentage yield earned calculations is designed to accommodate inadvertent errors. Institutions may not purposely incorporate the tolerance into their calculation of yields.

Section 1030.4—Account Disclosures

(a) Delivery of account disclosures.

(a)(1) Account opening.

1. *New accounts.* New account disclosures must be provided when:

i. A time account that does not automatically rollover is renewed by a consumer.

ii. A consumer changes a term for a renewable time account (see comment 5(b)–5 regarding disclosure alternatives.)

iii. An institution transfers funds from an account to open a new account not at the consumer's request, unless the institution previously gave account disclosures and any change-in-term notices for the new account.

iv. An institution accepts a deposit from a consumer to an account that the institution had deemed closed for the purpose of treating accrued but uncredited interest as forfeited interest (see comment 7(b)–3.)

2. *Acquired accounts.* New account disclosures need not be given when an institution acquires an account through an acquisition of or merger with another institution (but see § 1030.5(a) of this part regarding advance notice requirements if terms are changed).

(a)(2) Requests.

Paragraph (a)(2)(i).

1. *Inquiries versus requests.* A response to an oral inquiry (by telephone or in person)

about rates and yields or fees does not trigger the duty to provide account disclosures. But when consumers ask for written information about an account (whether by telephone, in person, or by other means), the institution must provide disclosures unless the account is no longer offered to the public.

2. *General requests.* When responding to a consumer's general request for disclosures about a type of account (a NOW account, for example), an institution that offers several variations may provide disclosures for any one of them.

3. *Timing for response.* Ten business days is a reasonable time for responding to requests for account information that consumers do not make in person, including requests made by electronic means (such as by electronic mail).

4. *Use of electronic means.* If a consumer who is not present at the institution makes a request for account disclosures, including a request made by telephone, email, or via the institution's Web site, the institution may send the disclosures in paper form or, if the consumer agrees, may provide the disclosures electronically, such as to an email address that the consumer provides for that purpose, or on the institution's Web site, without regard to the consumer consent or other provisions of the E–Sign Act. The regulation does not require an institution to provide, nor a consumer to agree to receive, the disclosures required by § 1030.4(a)(2) in electronic form.

Paragraph (a)(2)(ii)(A).

1. *Recent rates.* Institutions comply with this paragraph if they disclose an interest rate and annual percentage yield accurate within the seven calendar days preceding the date they send the disclosures.

Paragraph (a)(2)(ii)(B).

1. *Term.* Describing the maturity of a time account as ''1 year'' or ''6 months,'' for example, illustrates a statement of the maturity of a time account as a term rather than a date (''January 10, 1995'').

(b) Content of account disclosures.

(b)(1) Rate information.

(b)(1)(i) Annual percentage yield and interest rate.

1. *Rate disclosures.* In addition to the interest rate and annual percentage yield, institutions may disclose a periodic rate corresponding to the interest rate. No other rate or yield (such as ''tax effective yield'') is permitted. If the annual percentage yield is the same as the interest rate, institutions may disclose a single figure but must use both terms.

2. *Fixed-rate accounts.* For fixed-rate time accounts paying the opening rate until maturity, institutions may disclose the period of time the interest rate will be in effect by stating the maturity date. (See Appendix B, B–7—Sample Form.) For other fixed-rate accounts, institutions may use a date (''This rate will be in effect through May 4, 1995'') or a period (''This rate will be in effect for at least 30 days'').

3. *Tiered-rate accounts.* Each interest rate, along with the corresponding annual percentage yield for each specified balance level (or range of annual percentage yields, if appropriate), must be disclosed for tiered-rate accounts. (See Appendix A, Part I, Paragraph D.)

4. *Stepped-rate accounts.* A single composite annual percentage yield must be disclosed for stepped-rate accounts. (See Appendix A, Part I, Paragraph B.) The interest rates and the period of time each will be in effect also must be provided. When the initial rate offered for a specified time on a variable-rate account is higher or lower than the rate that would otherwise be paid on the account, the calculation of the annual percentage yield must be made as if for a stepped-rate account. (See Appendix A, Part I, Paragraph C.)

(b)(1)(ii) Variable rates.

Paragraph (b)(1)(ii)(B).

1. *Determining interest rates.* To disclose how the interest rate is determined, institutions must:

i. Identify the index and specific margin, if the interest rate is tied to an index.

ii. State that rate changes are within the institution's discretion, if the institution does not tie changes to an index.

Paragraph (b)(1)(ii)(C).

1. *Frequency of rate changes.* An institution reserving the right to change rates at its discretion must state the fact that rates may change at any time.

Paragraph (b)(1)(ii)(D).

1. *Limitations.* A floor or ceiling on rates or on the amount the rate may decrease or increase during any time period must be disclosed. Institutions need not disclose the absence of limitations on rate changes.

(b)(2) Compounding and crediting.

(b)(2)(ii) Effect of closing an account.

1. *Deeming an account closed.* An institution may, subject to state or other law, provide in its deposit contracts the actions by consumers that will be treated as closing the account and that will result in the forfeiture of accrued but uncredited interest. An example is the withdrawal of all funds from the account prior to the date that interest is credited.

(b)(3) Balance information.

(b)(3)(ii) Balance computation method.

1. *Methods and periods.* Institutions may use different methods or periods to calculate minimum balances for purposes of imposing a fee (the daily balance for a calendar month, for example) and accruing interest (the average daily balance for a statement period, for example). Each method and corresponding period must be disclosed.

(b)(3)(iii) When interest begins to accrue.

1. *Additional information.* Institutions may disclose additional information such as the time of day after which deposits are treated as having been received the following business day, and may use additional descriptive terms such as ''ledger'' or ''collected'' balances to disclose when interest begins to accrue.

(b)(4) Fees.

1. *Covered fees.* The following are types of fees that must be disclosed:

i. Maintenance fees, such as monthly service fees.

ii. Fees to open or to close an account.

iii. Fees related to deposits or withdrawals, such as fees for use of the institution's ATMs.

iv. Fees for special services, such as stop-payment fees, fees for balance inquiries or verification of deposits, fees associated with checks returned unpaid, and fees for regularly sending to consumers checks that otherwise would be held by the institution.

2. *Other fees.* Institutions need not disclose fees such as the following:

i. Fees for services offered to account and nonaccount holders alike, such as travelers checks and wire transfers (even if different amounts are charged to account and nonaccount holders).

ii. Incidental fees, such as fees associated with state escheat laws, garnishment or attorneys fees, and fees for photocopying.

3. *Amount of fees.* Institutions must state the amount and conditions under which a fee may be imposed. Naming and describing the fee (such as ''$4.00 monthly service fee'') will typically satisfy these requirements.

4. *Tied-accounts.* Institutions must state if fees that may be assessed against an account are tied to other accounts at the institution. For example, if an institution ties the fees payable on a NOW account to balances held in the NOW account and a savings account, the NOW account disclosures must state that fact and explain how the fee is determined.

5. *Fees for overdrawing an account.* Under § 1030.4(b)(4) of this part, institutions must disclose the conditions under which a fee may be imposed. In satisfying this requirement institutions must specify the categories of transactions for which an overdraft fee may be imposed. An exhaustive list of transactions is not required. It is sufficient for an institution to state that the fee applies to overdrafts ''created by check, in-person withdrawal, ATM withdrawal, or other electronic means,'' as applicable. Disclosing a fee ''for overdraft items'' would not be sufficient.

(b)(5) Transaction limitations.

1. *General rule.* Examples of limitations on the number or dollar amount of deposits or withdrawals that institutions must disclose are:

i. Limits on the number of checks that may be written on an account within a given time period.

ii. Limits on withdrawals or deposits during the term of a time account.

iii. Limitations required by Regulation D of the Board of Governors of the Federal Reserve System (12 CFR part 204) on the number of withdrawals permitted from money market deposit accounts by check to third parties each month. Institutions need not disclose reservations of right to require notices for withdrawals from accounts required by federal or state law.

(b)(6) Features of time accounts.

(b)(6)(i) Time requirements.

1. *''Callable'' time accounts.* In addition to the maturity date, an institution must state the date or the circumstances under which it may redeem a time account at the institution's option (a ''callable'' time account).

(b)(6)(ii) Early withdrawal penalties.

1. *General.* The term ''penalty'' may but need not be used to describe the loss of interest that consumers may incur for early withdrawal of funds from time accounts.

2. *Examples.* Examples of early withdrawal penalties are:

i. Monetary penalties, such as ''$10.00'' or ''seven days' interest plus accrued but uncredited interest.''

ii. Adverse changes to terms such as a lowering of the interest rate, annual percentage yield, or compounding frequency for funds remaining on deposit.

iii. Reclamation of bonuses.

3. *Relation to rules for IRAs or similar plans.* Penalties imposed by the Internal Revenue Code for certain withdrawals from IRAs or similar pension or savings plans are not early withdrawal penalties for purposes of this part.

4. *Disclosing penalties.* Penalties may be stated in months, whether institutions assess the penalty using the actual number of days during the period or using another method such as a number of days that occurs in any actual sequence of the total calendar months involved. For example, stating ''one month's interest'' is permissible, whether the institution assesses 30 days' interest during the month of April, or selects a time period between 28 and 31 days for calculating the interest for all early withdrawals regardless of when the penalty is assessed.

(b)(6)(iv) Renewal policies.

1. *Rollover time accounts.* Institutions offering a grace period on time accounts that automatically renew need not state whether interest will be paid if the funds are withdrawn during the grace period.

2. *Nonrollover time accounts.* Institutions paying interest on funds following the maturity of time accounts that do not renew automatically need not state the rate (or annual percentage yield) that may be paid. (See Appendix B, Model Clause B–1(h)(iv)(2).)

Section 1030.5—Subsequent Disclosures

(a) Change in terms.

(a)(1) Advance notice required.

1. *Form of notice.* Institutions may provide a change-in-term notice on or with a periodic statement or in another mailing. If an institution provides notice through revised account disclosures, the changed term must be highlighted in some manner. For example, institutions may note that a particular fee has been changed (also specifying the new amount) or use an accompanying letter that refers to the changed term.

2. *Effective date.* An example of language for disclosing the effective date of a change is ''As of November 21, 1994.''

3. *Terms that change upon the occurrence of an event.* An institution offering terms that will automatically change upon the occurrence of a stated event need not send an advance notice of the change provided the institution fully describes the conditions of the change in the account opening disclosures (and sends any change-in-term notices regardless of whether the changed term affects that consumer's account at that time).

4. *Examples.* Examples of changes not requiring an advance change-in-terms notice are:

i. The termination of employment for consumers for whom account maintenance or activity fees were waived during their employment by the depository institution.

ii. The expiration of one year in a promotion described in the account opening disclosures to ''waive $4.00 monthly service charges for one year.''

(a)(2) No notice required.

(a)(2)(ii) Check printing fees.

1. *Increase in fees.* A notice is not required for an increase in fees for printing checks (or deposit and withdrawal slips) even if the institution adds some amount to the price charged by the vendor.

(b) Notice before maturity for time accounts longer than one month that renew automatically.

1. *Maturity dates on nonbusiness days.* In determining the term of a time account, institutions may disregard the fact that the term will be extended beyond the disclosed number of days because the disclosed maturity falls on a nonbusiness day. For example, a holiday or weekend may cause a ''one-year'' time account to extend beyond 365 days (or 366, in a leap year) or a ''one-month'' time account to extend beyond 31 days.

2. *Disclosing when rates will be determined.* Ways to disclose when the annual percentage yield will be available include the use of:

i. A specific date, such as ''October 28.''

ii. A date that is easily determinable, such as ''the Tuesday before the maturity date stated on this notice'' or ''as of the maturity date stated on this notice.''

3. *Alternative timing rule.* Under the alternative timing rule, an institution offering a 10-day grace period would have to provide the disclosures at least 10 days prior to the scheduled maturity date.

4. *Club accounts.* If consumers have agreed to the transfer of payments from another account to a club time account for the next club period, the institution must comply with the requirements for automatically renewable time accounts—even though consumers may withdraw funds from the club account at the end of the current club period.

5. *Renewal of a time account.* In the case of a change in terms that becomes effective if a rollover time account is subsequently renewed:

i. If the change is initiated by the institution, the disclosure requirements of this paragraph apply. (Paragraph 1030.5(a) applies if the change becomes effective prior to the maturity of the existing time account.)

ii. If the change is initiated by the consumer, the account opening disclosure requirements of § 1030.4(b) apply. (If the notice required by this paragraph has been provided, institutions may give new account disclosures or disclosures highlighting only the new term.)

6. *Example.* If a consumer receives a prematurity notice on a one-year time account and requests a rollover to a six-month account, the institution must provide either account opening disclosures including the new maturity date or, if all other terms previously disclosed in the prematurity notice remain the same, only the new maturity date.

(b)(1) Maturities of longer than one year.

1. *Highlighting changed terms.* Institutions need not highlight terms that changed since the last account disclosures were provided.

(c) Notice before maturity for time accounts longer than one year that do not renew automatically.

1. *Subsequent account.* When funds are transferred following maturity of a nonrollover time account, institutions need not provide account disclosures unless a new account is established.

Section 1030.6—Periodic Statement Disclosures

(a) General rule.

1. *General.* Institutions are not required to provide periodic statements. If they do provide statements, disclosures need only be furnished to the extent applicable. For example, if no interest is earned for a statement period, institutions need not state that fact. Or, institutions may disclose ''$0'' interest earned and ''0%'' annual percentage yield earned.

2. *Regulation E interim statements.* When an institution provides regular quarterly statements, and in addition provides a monthly interim statement to comply with Regulation E, the interim statement need not comply with this section unless it states interest or rate information. (See 12 CFR 1005.9(b).)

3. *Combined statements.* Institutions may provide information about an account (such as a MMDA) on the periodic statement for another account (such as a NOW account) without triggering the disclosures required by this section, as long as:

i. The information is limited to the account number, the type of account, or balance information, and

ii. The institution also provides a periodic statement complying with this section for each account.

4. *Other information.* Additional information that may be given on or with a periodic statement includes:

i. Interest rates and corresponding periodic rates applied to balances during the statement period.

ii. The dollar amount of interest earned year-to-date.

iii. Bonuses paid (or any *de minimis* consideration of $10 or less).

iv. Fees for products such as safe deposit boxes.

(a)(1) Annual percentage yield earned.

1. *Ledger and collected balances.* Institutions that accrue interest using the collected balance method may use either the ledger or the collected balance in determining the annual percentage yield earned.

(a)(2) Amount of interest.

1. *Accrued interest.* Institutions must state the amount of interest that accrued during the statement period, even if it was not credited.

2. *Terminology.* In disclosing interest earned for the period, institutions must use the term ''interest'' or terminology such as:

i. ''Interest paid,'' to describe interest that has been credited.

ii. ''Interest accrued'' or ''interest earned,'' to indicate that interest is not yet credited.

3. *Closed accounts.* If consumers close an account between crediting periods and forfeits accrued interest, the institution may not show any figures for interest earned or annual percentage yield earned for the period (other than zero, at the institution's option).

(a)(3) Fees imposed.

1. *General.* Periodic statements must state fees disclosed under § 1030.4(b) that were debited to the account during the statement period, even if assessed for an earlier period.

2. *Itemizing fees by type.* In itemizing fees imposed more than once in the period, institutions may group fees if they are the same type. (See § 1030.11(a)(1) of this part regarding certain fees that are required to be grouped.) When fees of the same type are grouped together, the description must make clear that the dollar figure represents more than a single fee, for example, ''total fees for checks written this period.'' Examples of fees that may not be grouped together are—

i. Monthly maintenance and excess-activity fees.

ii. ''Transfer'' fees, if different dollar amounts are imposed, such as $.50 for deposits and $1.00 for withdrawals.

iii. Fees for electronic fund transfers and fees for other services, such as balance-inquiry or maintenance fees.

iv. Fees for paying overdrafts and fees for returning checks or other items unpaid.

3. *Identifying fees.* Statement details must enable consumers to identify the specific fee. For example:

i. Institutions may use a code to identify a particular fee if the code is explained on the periodic statement or in documents accompanying the statement.

ii. Institutions using debit slips may disclose the date the fee was debited on the periodic statement and show the amount and type of fee on the dated debit slip.

4. *Relation to Regulation E.* Disclosure of fees in compliance with Regulation E complies with this section for fees related to electronic fund transfers (for example, totaling all electronic funds transfer fees in a single figure).

(a)(4) Length of period.

1. *General.* Institutions providing the beginning and ending dates of the period must make clear whether both dates are included in the period.

2. *Opening or closing an account mid-cycle.* If an account is opened or closed during the period for which a statement is sent, institutions must calculate the annual percentage yield earned based on account balances for each day the account was open.

(b) Special rule for average daily balance method.

1. *Monthly statements and quarterly compounding.* This rule applies, for example, when an institution calculates interest on a quarterly average daily balance and sends monthly statements. In this case, the first two monthly statements would omit annual percentage yield earned and interest earned figures; the third monthly statement would reflect the interest earned and the annual percentage yield earned for the entire quarter.

2. *Length of the period.* Institutions must disclose the length of both the interest calculation period and the statement period. For example, a statement could disclose a statement period of April 16 through May 15 and further state that ''the interest earned and the annual percentage yield earned are based on your average daily balance for the period April 1 through April 30.''

3. *Quarterly statements and monthly compounding.* Institutions that use the average daily balance method to calculate interest on a monthly basis and that send statements on a quarterly basis may disclose a single interest (and annual percentage yield earned) figure. Alternatively, an institution may disclose three interest and three annual percentage yield earned figures, one for each month in the quarter, as long as the institution states the number of days (or beginning and ending dates) in the interest period if different from the statement period.

Section 1030.7—Payment of Interest

(a)(1) Permissible methods.

1. *Prohibited calculation methods.* Calculation methods that do not comply with the requirement to pay interest on the full amount of principal in the account each day include:

i. Paying interest on the balance in the account at the end of the period (the ''ending balance'' method).

ii. Paying interest for the period based on the lowest balance in the account for any day in that period (the ''low balance'' method).

iii. Paying interest on a percentage of the balance, excluding the amount set aside for reserve requirements (the ''investable balance'' method).

2. *Use of 365-day basis.* Institutions may apply a daily periodic rate greater than 1/365 of the interest rate—such as 1/360 of the interest rate—as long as it is applied 365 days a year.

3. *Periodic interest payments.* An institution can pay interest each day on the account and still make uniform interest payments. For example, for a one-year certificate of deposit an institution could make monthly interest payments equal to 1/12 of the amount of interest that will be earned for a 365-day period (or 11 uniform monthly payments—each equal to roughly 1/12 of the total amount of interest—and one payment that accounts for the remainder of the total amount of interest earned for the period).

4. *Leap year.* Institutions may apply a daily rate of 1/366 or 1/365 of the interest rate for 366 days in a leap year, if the account will earn interest for February 29.

5. *Maturity of time accounts.* Institutions are not required to pay interest after time accounts mature. (See 12 CFR Part 217, Regulation Q of the Board of Governors of the Federal Reserve System, for limitations on duration of interest payments.) Examples include:

i. During a grace period offered for an automatically renewable time account, if consumers decide during that period not to renew the account.

ii. Following the maturity of nonrollover time accounts.

iii. When the maturity date falls on a holiday, and consumers must wait until the next business day to obtain the funds.

6. *Dormant accounts.* Institutions must pay interest on funds in an account, even if inactivity or the infrequency of transactions would permit the institution to consider the account to be ''inactive'' or ''dormant'' (or similar status) as defined by state or other law or the account contract.

(a)(2) Determination of minimum balance to earn interest.

1. *Daily balance accounts.* Institutions that require a minimum balance may choose not to pay interest for days when the balance drops below the required minimum, if they use the daily balance method to calculate interest.

2. *Average daily balance accounts.* Institutions that require a minimum balance may choose not to pay interest for the period in which the balance drops below the required minimum, if they use the average daily balance method to calculate interest.

3. *Beneficial method.* Institutions may not require that consumers maintain both a minimum daily balance and a minimum average daily balance to earn interest, such as by requiring consumers to maintain a $500 daily balance and a prescribed average daily balance (whether higher or lower). But an institution could offer a minimum balance to earn interest that includes an additional method that is ''unequivocally beneficial'' to consumers such as the following: An institution using the daily balance method to calculate interest and requiring a $500 minimum daily balance could offer to pay interest on the account for those days the minimum balance is not met as long as consumers maintain an average daily balance throughout the month of $400.

4. *Paying on full balance.* Institutions must pay interest on the full balance in the account that meets the required minimum balance. For example, if $300 is the minimum daily balance required to earn interest, and a consumer deposits $500, the institution must pay the stated interest rate on the full $500 and not just on $200.

5. *Negative balances prohibited.* Institutions must treat a negative account balance as zero to determine:

i. The daily or average daily balance on which interest will be paid.

ii. Whether any minimum balance to earn interest is met.

6. *Club accounts.* Institutions offering club accounts (such as a ''holiday'' or ''vacation'' club) cannot impose a minimum balance requirement for interest based on the total number or dollar amount of payments required under the club plan. For example, if a plan calls for $10 weekly payments for 50 weeks, the institution cannot set a $500 ''minimum balance'' and then pay interest only if the consumer has made all 50 payments.

7. *Minimum balances not affecting interest.* Institutions may use the daily balance, average daily balance, or any other computation method to calculate minimum balance requirements not involving the payment of interest—such as to compute minimum balances for assessing fees.

(b) Compounding and crediting policies.

1. *General.* Institutions choosing to compound interest may compound or credit interest annually, semi-annually, quarterly, monthly, daily, continuously, or on any other basis.

2. *Withdrawals prior to crediting date.* If consumers withdraw funds (without closing the account) prior to a scheduled crediting date, institutions may delay paying the accrued interest on the withdrawn amount until the scheduled crediting date, but may not avoid paying interest.

3. *Closed accounts.* Subject to state or other law, an institution may choose not to pay accrued interest if consumers close an account prior to the date accrued interest is credited, as long as the institution has disclosed that fact.

(c) Date interest begins to accrue.

1. *Relation to Regulation CC.* Institutions may rely on the Expedited Funds Availability Act (EFAA) and Regulation CC of the Board of Governors of the Federal Reserve System (12 CFR part 229) to determine, for example, when a deposit is considered made for purposes of interest accrual, or when interest need not be paid on funds because a deposited check is later returned unpaid.

2. *Ledger and collected balances.* Institutions may calculate interest by using a ''ledger'' or ''collected'' balance method, as long as the crediting requirements of the EFAA are met (12 CFR 229.14).

3. *Withdrawal of principal.* Institutions must accrue interest on funds until the funds are withdrawn from the account. For example, if a check is debited to an account on a Tuesday, the institution must accrue interest on those funds through Monday.

Section 1030.8—Advertising

(a) Misleading or inaccurate advertisements.

1. *General.* All advertisements are subject to the rule against misleading or inaccurate advertisements, even though the disclosures applicable to various media differ.

2. *Indoor signs.* An indoor sign advertising an annual percentage yield is not misleading or inaccurate when:

i. For a tiered-rate account, it also provides the lower dollar amount of the tier corresponding to the advertised annual percentage yield.

ii. For a time account, it also provides the term required to obtain the advertised annual percentage yield.

3. *Fees affecting ''free'' accounts.* For purposes of determining whether an account can be advertised as ''free'' or ''no cost,'' maintenance and activity fees include:

i. Any fee imposed when a minimum balance requirement is not met, or when consumers exceed a specified number of transactions.

ii. Transaction and service fees that consumers reasonably expect to be imposed on a regular basis.

iii. A flat fee, such as a monthly service fee.

iv. Fees imposed to deposit, withdraw, or transfer funds, including per-check or per-transaction charges (for example, $.25 for each withdrawal, whether by check or in person).

4. *Other fees.* Examples of fees that are not maintenance or activity fees include:

i. Fees not required to be disclosed under § 1030.4(b)(4).

ii. Check printing fees.

iii. Balance inquiry fees.

iv. Stop-payment fees and fees associated with checks returned unpaid.

v. Fees assessed against a dormant account.

vi. Fees for ATM or electronic transfer services (such as preauthorized transfers or home banking services) not required to obtain an account.

5. *Similar terms.* An advertisement may not use the term ''fees waived'' if a maintenance or activity fee may be imposed because it is similar to the terms ''free'' or ''no cost.''

6. *Specific account services.* Institutions may advertise a specific account service or feature as free if no fee is imposed for that service or feature. For example, institutions offering an account that is free of deposit or withdrawal fees could advertise that fact, as long as the advertisement does not mislead consumers by implying that the account is free and that no other fee (a monthly service fee, for example) may be charged.

7. *Free for limited time.* If an account (or a specific account service) is free only for a limited period of time—for example, for one year following the account opening—the account (or service) may be advertised as free if the time period is also stated.

8. *Conditions not related to deposit accounts.* Institutions may advertise accounts as ''free'' for consumers meeting conditions not related to deposit accounts, such as the consumer's age. For example, institutions may advertise a NOW account as ''free for persons over 65 years old,'' even though a maintenance or activity fee is assessed on accounts held by consumers 65 or younger.

9. *Electronic advertising.* If an electronic advertisement (such as an advertisement appearing on an Internet Web site) displays a triggering term (such as a bonus or annual percentage yield) the advertisement must clearly refer the consumer to the location where the additional required information begins. For example, an advertisement that includes a bonus or annual percentage yield may be accompanied by a link that directly takes the consumer to the additional information.

10. *Examples.* Examples of advertisements that would ordinarily be misleading, inaccurate, or misrepresent the deposit contract are:

i. Representing an overdraft service as a ''line of credit,'' unless the service is subject to Regulation Z, 12 CFR part 1026.

ii. Representing that the institution will honor all checks or authorize payment of all transactions that overdraw an account, with or without a specified dollar limit, when the institution retains discretion at any time not to honor checks or authorize transactions.

iii. Representing that consumers with an overdrawn account are allowed to maintain a negative balance when the terms of the account's overdraft service require consumers promptly to return the deposit account to a positive balance.

iv. Describing an institution's overdraft service solely as protection against bounced checks when the institution also permits overdrafts for a fee for overdrawing their accounts by other means, such as ATM withdrawals, debit card transactions, or other electronic fund transfers.

v. Advertising an account-related service for which the institution charges a fee in an advertisement that also uses the word ''free'' or ''no cost'' (or a similar term) to describe the account, unless the advertisement clearly and conspicuously indicates that there is a cost associated with the service. If the fee is a maintenance or activity fee under § 1030.8(a)(2) of this part, however, an advertisement may not describe the account as ''free'' or ''no cost'' (or contain a similar term) even if the fee is disclosed in the advertisement.

11. *Additional disclosures in connection with the payment of overdrafts.* The rule in § 1030.3(a), providing that disclosures required by § 1030.8 may be provided to the consumer in electronic form without regard to E-Sign Act requirements, applies to the disclosures described in § 1030.11(b), which are incorporated by reference in § 1030.8(f).

(b) Permissible rates.

1. *Tiered-rate accounts.* An advertisement for a tiered-rate account that states an annual percentage yield must also state the annual percentage yield for each tier, along with corresponding minimum balance requirements. Any interest rates stated must appear in conjunction with the applicable annual percentage yields for each tier.

2. *Stepped-rate accounts.* An advertisement that states an interest rate for a stepped-rate account must state all the interest rates and the time period that each rate is in effect.

3. *Representative examples.* An advertisement that states an annual percentage yield for a given type of account (such as a time account for a specified term) need not state the annual percentage yield applicable to other time accounts offered by the institution or indicate that other maturity terms are available. In an advertisement stating that rates for an account may vary depending on the amount of the initial deposit or the term of a time account, institutions need not list each balance level and term offered. Instead, the advertisement may:

i. Provide a representative example of the annual percentage yields offered, clearly described as such. For example, if an institution offers a $25 bonus on all time accounts and the annual percentage yield will vary depending on the term selected, the institution may provide a disclosure of the annual percentage yield as follows: ''For example, our 6-month certificate of deposit currently pays a 3.15% annual percentage yield.''

ii. Indicate that various rates are available, such as by stating short-term and longer-term maturities along with the applicable annual percentage yields: ''We offer certificates of deposit with annual percentage yields that depend on the maturity you choose. For example, our one-month CD earns a 2.75% APY. Or, earn a 5.25% APY for a three-year CD.''

(c) When additional disclosures are required.

1. *Trigger terms.* The following are examples of information stated in advertisements that are not ''trigger'' terms:

i. ''One, three, and five year CDs available.''

ii. ''Bonus rates available.''

iii. ''1% over our current rates,'' so long as the rates are not determinable from the advertisement.

(c)(2) Time annual percentage yield is offered.

1. *Specified date.* If an advertisement discloses an annual percentage yield as of a specified date, that date must be recent in relation to the publication or broadcast

frequency of the media used, taking into account the particular circumstances or production deadlines involved. For example, the printing date of a brochure printed once for a deposit account promotion that will be in effect for six months would be considered ''recent,'' even though rates change during the six-month period. Rates published in a daily newspaper or on television must reflect rates offered shortly before (or on) the date the rates are published or broadcast.

2. *Reference to date of publication.* An advertisement may refer to the annual percentage yield as being accurate as of the date of publication, if the date is on the publication itself. For instance, an advertisement in a periodical may state that a rate is ''current through the date of this issue,'' if the periodical shows the date.

(c)(5) Effect of fees.

1. *Scope.* This requirement applies only to maintenance or activity fees described in comment 8(a).

(c)(6) Features of time accounts.

(c)(6)(i) Time requirements.

1. *Club accounts.* If a club account has a maturity date but the term may vary depending on when the account is opened, institutions may use a phrase such as: ''The maturity date of this club account is November 15; its term varies depending on when the account is opened.''

(c)(6)(ii) Early withdrawal penalties.

1. *Discretionary penalties.* Institutions imposing early withdrawal penalties on a case-by-case basis may disclose that they ''may'' (rather than ''will'') impose a penalty if such a disclosure accurately describes the account terms.

(d) Bonuses.

1. *General reference to ''bonus.''* General statements such as ''bonus checking'' or ''get a bonus when you open a checking account'' do not trigger the bonus disclosures.

(e) Exemption for certain advertisements.

(e)(1) Certain media.

Paragraph (e)(1)(i).

1. *Internet advertisements.* The exemption for advertisements made through broadcast or electronic media does not extend to advertisements posted on the Internet or sent by email.

Paragraph (e)(1)(iii).

1. *Tiered-rate accounts.* Solicitations for a tiered-rate account made through telephone response machines must provide the annual percentage yields and the balance requirements applicable to each tier.

(e)(2) Indoor signs.

Paragraph (e)(2)(i).

1. *General.* Indoor signs include advertisements displayed on computer screens, banners, preprinted posters, and chalk or peg boards. Any advertisement inside the premises that can be retained by a consumer (such as a brochure or a printout from a computer) is not an indoor sign.

Section 1030.9—Enforcement and Record Retention

(c) Record retention.

1. *Evidence of required actions.* Institutions comply with the regulation by demonstrating that they have done the following:

i. Established and maintained procedures for paying interest and providing timely disclosures as required by the regulation, and

ii. Retained sample disclosures for each type of account offered to consumers, such as account-opening disclosures, copies of advertisements, and change-in-term notices; and information regarding the interest rates and annual percentage yields offered.

2. *Methods of retaining evidence.* Institutions must be able to reconstruct the required disclosures or other actions. They need not keep disclosures or other business records in hard copy. Records evidencing compliance may be retained on microfilm, microfiche, or by other methods that reproduce records accurately (including computer files).

3. *Payment of interest.* Institutions must retain sufficient rate and balance information to permit the verification of interest paid on an account, including the payment of interest on the full principal balance.

Section 1030.10—[Reserved]

Section 1030.11—Additional Disclosures Regarding the Payment of Overdrafts

(a) Disclosure of total fees on periodic statements.

(a)(1) General.

1. *Transfer services.* The overdraft services covered by § 1030.11(a)(1) of this part do not include a service providing for the transfer of funds from another deposit account of the consumer to permit the payment of items without creating an overdraft, even if a fee is charged for the transfer.

2. *Fees for paying overdrafts.* Institutions must disclose on periodic statements a total dollar amount for all fees or charges imposed on the account for paying overdrafts. The institution must disclose separate totals for the statement period and for the calendar year-to-date. The total dollar amount for each of these periods includes per-item fees as well as interest charges, daily or other periodic fees, or fees charged for maintaining an account in overdraft status, whether the overdraft is by check, debit card transaction, or by any other transaction type. It also includes fees charged when there are insufficient funds because previously deposited funds are subject to a hold or are uncollected. It does not include fees for transferring funds from another account of the consumer to avoid an overdraft, or fees charged under a service subject to Regulation Z (12 CFR part 1026). *See also* comment 11(c)–2. Under § 1030.11(a)(1)(i), the disclosure must describe the total dollar amount for all fees or charges imposed on the account for the statement period and calendar year-to-date for paying overdrafts using the term ''Total Overdraft Fees.'' This requirement applies notwithstanding comment 3(a)–2.

3. *Fees for returning items unpaid.* The total dollar amount for all fees for returning items unpaid must include all fees charged to the account for dishonoring or returning checks or other items drawn on the account. The institution must disclose separate totals for the statement period and for the calendar year-to-date. Fees imposed when deposited items are returned are not included. Institutions may use terminology such as ''returned item fee'' or ''NSF fee'' to describe fees for returning items unpaid.

4. *Waived fees.* In some cases, an institution may provide a statement for the current period reflecting that fees imposed during a previous period were waived and credited to the account. Institutions may, but are not required to, reflect the adjustment in the total for the calendar year-to-date and in the applicable statement period. For example, if an institution assesses a fee in January and refunds the fee in February, the institution could disclose a year-to-date total reflecting the amount credited, but it should not affect the total disclosed for the February statement period, because the fee was not assessed in the February statement period. If an institution assesses and then waives and credits a fee within the same cycle, the institution may, at its option, reflect the adjustment in the total disclosed for fees imposed during the current statement period and for the total for the calendar year-to-date. Thus, if the institution assesses and waives the fee in the February statement period, the February fee total could reflect a total net of the waived fee.

5. *Totals for the calendar year to date.* Some institutions' statement periods do not coincide with the calendar month. In such cases, the institution may disclose a calendar year-to-date total by aggregating fees for 12 monthly cycles, starting with the period that begins during January and finishing with the period that begins during December. For example, if statement periods begin on the 10th day of each month, the statement covering December 10, 2006 through January 9, 2007 may disclose the year-to-date total for fees imposed from January 10, 2006 through January 9, 2007. Alternatively, the institution could provide a statement for the cycle ending January 9, 2007 showing the year-to-date total for fees imposed January 1, 2006 through December 31, 2006.

6. *Itemization of fees.* An institution may itemize each fee in addition to providing the disclosures required by § 1030.11(a)(1) of this part.

(a)(3) Format requirements.

1. *Time period covered by periodic statement disclosures.* The disclosures under § 1030.11(a) must be included on periodic statements provided by an institution starting the first statement period that begins after January 1, 2010. For example, if a consumer's statement period typically closes on the 15th of each month, an institution must provide the disclosures required by § 1030.11(a)(1) on subsequent periodic statements for that consumer beginning with the statement reflecting the period from January 16, 2010 to February 15, 2010.

(b) Advertising disclosures for overdraft services.

1. *Examples of institutions promoting the payment of overdrafts.* A depository institution would be required to include the advertising disclosures in § 1030.11(b)(1) of this part if the institution:

i. Promotes the institution's policy or practice of paying overdrafts (unless the service would be subject to Regulation Z (12 CFR part 1026)). This includes advertisements using print media such as newspapers or brochures, telephone solicitations, electronic mail, or messages posted on an Internet site. (But see

§ 1030.11(b)(2) of this part for communications that are not subject to the additional advertising disclosures.)

ii. Includes a message on a periodic statement informing the consumer of an overdraft limit or the amount of funds available for overdrafts. For example, an institution that includes a message on a periodic statement informing the consumer of a $500 overdraft limit or that the consumer has $300 remaining on the overdraft limit, is promoting an overdraft service.

iii. Discloses an overdraft limit or includes the dollar amount of an overdraft limit in a balance disclosed on an automated system, such as a telephone response machine, ATM screen or the institution's Internet site. (See, however, § 1030.11(b)(3) of this part.)

2. *Transfer services.* The overdraft services covered by § 1030.11(b)(1) of this part do not include a service providing for the transfer of funds from another deposit account of the consumer to permit the payment of items without creating an overdraft, even if a fee is charged for the transfer.

3. *Electronic media.* The exception for advertisements made through broadcast or electronic media, such as television or radio, does not apply to advertisements posted on an institution's Internet site, on an ATM screen, provided on telephone response machines, or sent by electronic mail.

4. *Fees.* The fees that must be disclosed under § 1030.11(b)(1) of this part include per-item fees as well as interest charges, daily or other periodic fees, and fees charged for maintaining an account in overdraft status, whether the overdraft is by check or by other means. The fees also include fees charged when there are insufficient funds because previously deposited funds are subject to a hold or are uncollected. The fees do not include fees for transferring funds from another account to avoid an overdraft, or fees charged when the institution has previously agreed in writing to pay items that overdraw the account and the service is subject to Regulation Z, 12 CFR Part 1026.

5. *Categories of transactions.* An exhaustive list of transactions is not required. Disclosing that a fee may be imposed for covering overdrafts ''created by check, in-person withdrawal, ATM withdrawal, or other electronic means'' would satisfy the requirements of § 1030.11(b)(1)(ii) of this part where the fee may be imposed in these circumstances. See comment 4(b)(4)–5 of this part.

6. *Time period to repay.* If a depository institution reserves the right to require a consumer to pay an overdraft immediately or on demand instead of affording consumers a specific time period to establish a positive balance in the account, an institution may comply with § 1030.11(b)(1)(iii) of this part by disclosing this fact.

7. *Circumstances for nonpayment.* An institution must describe the circumstances under which it will not pay an overdraft. It is sufficient to state, as applicable: ''Whether your overdrafts will be paid is discretionary and we reserve the right not to pay. For example, we typically do not pay overdrafts if your account is not in good standing, or you are not making regular deposits, or you have too many overdrafts.''

8. *Advertising an account as ''free.''* If the advertised account-related service is an overdraft service subject to the requirements of § 1030.11(b)(1) of this part, institutions must disclose the fee or fees for the payment of each overdraft, not merely that a cost is associated with the overdraft service, as well as other required information. Compliance with comment 8(a)–10.v. is not sufficient.

(c) Disclosure of account balances.

1. *Balance that does not include additional amounts.* For purposes of the balance disclosure requirement in § 1030.11(c), if an institution discloses balance information to a consumer through an automated system, it must disclose a balance that excludes any funds that the institution may provide to cover an overdraft pursuant to a discretionary overdraft service, that will be paid by the institution under a service subject to Regulation Z (12 CFR Part 1026), or that will be transferred from another account held individually or jointly by a consumer. The balance may, but need not, include funds that are deposited in the consumer's account, such as from a check, that are not yet made available for withdrawal in accordance with the funds availability rules under Regulation CC of the Board of Governors of the Federal Reserve System (12 CFR part 229). In addition, the balance may, but need not, include funds that are held by the institution to satisfy a prior obligation of the consumer (for example, to cover a hold for an ATM or debit card transaction that has been authorized but for which the bank has not settled).

2. *Retail sweep programs.* In a retail sweep program, an institution establishes two legally distinct subaccounts, a transaction subaccount and a savings subaccount, which together make up the consumer's account. The institution allocates and transfers funds between the two subaccounts in order to maximize the balance in the savings account while complying with the monthly limitations on transfers out of savings accounts under Regulation D of the Board of Governors of the Federal Reserve System (12 CFR 204.2(d)(2)). Retail sweep programs are generally not established for the purpose of covering overdrafts. Rather, institutions typically establish retail sweep programs by agreement with the consumer, in order for the institution to minimize its transaction account reserve requirements and, in some cases, to provide a higher interest rate than the consumer would earn on a transaction account alone. Section 1030.11(c) does not require an institution to exclude from the consumer's balance funds that may be transferred from another account pursuant to a retail sweep program that is established for such purposes and that has the following characteristics:

i. The account involved complies with Regulation D of the Board of Governors of the Federal Reserve System (12 CFR 204.2(d)(2));

ii. The consumer does not have direct access to the non-transaction subaccount that is part of the retail sweep program; and

iii. The consumer's periodic statements show the account balance as the combined balance in the subaccounts.

3. *Additional balance.* The institution may disclose additional balances supplemented by funds that may be provided by the institution to cover an overdraft, whether pursuant to a discretionary overdraft service, a service subject to Regulation Z (12 CFR Part 1026), or a service that transfers funds from another account held individually or jointly by the consumer, so long as the institution prominently states that any additional balance includes these additional overdraft amounts. The institution may not simply state, for instance, that the second balance is the consumer's ''available balance,'' or contains ''available funds.'' Rather, the institution should provide enough information to convey that the second balance includes these amounts. For example, the institution may state that the balance includes ''overdraft funds.'' Where a consumer has not opted into, or as applicable, has opted out of the institution's discretionary overdraft service, any additional balance disclosed should not include funds that otherwise might be available under that service. Where a consumer has not opted into, or as applicable, has opted out of, the institution's discretionary overdraft service for some, but not all transactions (*e.g.* , the consumer has not opted into overdraft services for ATM and one-time debit card transactions), an institution that includes these additional overdraft funds in the second balance should convey that the overdraft funds are not available for all transactions. For example, the institution could state that overdraft funds are not available for ATM and one-time (or everyday) debit card transactions. Similarly, if funds are not available for all transactions pursuant to a service subject to Regulation Z (12 CFR part 1026) or a service that transfers funds from another account, a second balance that includes such funds should also indicate this fact.

4. *Automated systems.* The balance disclosure requirement in § 1030.11(c) applies to any automated system through which the consumer requests a balance, including, but not limited to, a telephone response system, the institution's Internet site, or an ATM. The requirement applies whether the institution discloses a balance through an ATM owned or operated by the institution or through an ATM not owned or operated by the institution (including an ATM operated by a non-depository institution). If the balance is obtained at an ATM, the requirement also applies whether the balance is disclosed on the ATM screen or on a paper receipt.

Appendix A to Part 1030—Annual Percentage Yield Calculation

Part I. Annual Percentage Yield for Account Disclosures and Advertising Purposes

1. *Rounding for calculations.* The following are examples of permissible rounding for calculating interest and the annual percentage yield:

i. The daily rate applied to a balance carried to five or more decimal places

ii. The daily interest earned carried to five or more decimal places

Part II. Annual Percentage Yield Earned for Periodic Statements

1. *Balance method.* The interest figure used in the calculation of the annual percentage yield earned may be derived from the daily balance method or the average daily balance method. The balance used in the formula for the annual percentage yield earned is the sum of the balances for each day in the period divided by the number of days in the period.

2. *Negative balances prohibited.* Institutions must treat a negative account balance as zero to determine the balance on which the annual percentage yield earned is calculated. (See commentary to § 1030.7(a)(2).)

A. General Formula

1. *Accrued but uncredited interest.* To calculate the annual percentage yield earned, accrued but uncredited interest:

i. May not be included in the balance for statements issued at the same time or less frequently than the account's compounding and crediting frequency. For example, if monthly statements are sent for an account that compounds interest daily and credits interest monthly, the balance may not be increased each day to reflect the effect of daily compounding.

ii. Must be included in the balance for succeeding statements if a statement is issued more frequently than compounded interest is credited on an account. For example, if monthly statements are sent for an account that compounds interest daily and credits interest quarterly, the balance for the second monthly statement would include interest that had accrued for the prior month.

2. *Rounding.* The interest earned figure used to calculate the annual percentage yield earned must be rounded to two decimals and reflect the amount actually paid. For example, if the interest earned for a statement period is $20.074 and the institution pays the consumer $20.07, the institution must use $20.07 (not $20.074) to calculate the annual percentage yield earned. For accounts paying interest based on the daily balance method that compound and credit interest quarterly, and send monthly statements, the institution may, but need not, round accrued interest to two decimals for calculating the annual percentage yield earned on the first two monthly statements issued during the quarter. However, on the quarterly statement the interest earned figure must reflect the amount actually paid.

B. Special Formula for Use Where Periodic Statement Is Sent More Often Than the Period for Which Interest Is Compounded

1. *Statements triggered by Regulation E.* Institutions may, but need not, use this formula to calculate the annual percentage yield earned for accounts that receive quarterly statements and are subject to Regulation E's rule calling for monthly statements when an electronic fund transfer has occurred. They may do so even though no monthly statement was issued during a specific quarter. But institutions must use this formula for accounts that compound and credit interest quarterly and receive monthly statements that, while triggered by Regulation E, comply with the provisions of § 1030.6.

2. *Days in compounding period.* Institutions using the special annual percentage yield earned formula must use the actual number of days in the compounding period.

Appendix B to Part 1030—Model Clauses and Sample Forms

1. *Modifications.* Institutions that modify the model clauses will be deemed in compliance as long as they do not delete required information or rearrange the format in a way that affects the substance or clarity of the disclosures.

2. *Format.* Institutions may use inserts to a document (see Sample Form B–4) or fill-in blanks (see Sample Forms B–5, B–6 and B–7, which use underlining to indicate terms that have been filled in) to show current rates, fees, or other terms.

3. *Disclosures for opening accounts.* The sample forms illustrate the information that must be provided to consumers when an account is opened, as required by § 1030.4(a)(1). (See § 1030.4(a)(2), which states the requirements for disclosing the annual percentage yield, the interest rate, and the maturity of a time account in responding to a consumer's request.)

4. *Compliance with Regulation E.* Institutions may satisfy certain requirements under Regulation DD with disclosures that meet the requirements of Regulation E. (See § 1030.3(c).) For disclosures covered by both this part and Regulation E (such as the amount of fees for ATM usage, institutions should consult Appendix A to Regulation E for appropriate model clauses.

5. *Duplicate disclosures.* If a requirement such as a minimum balance applies to more than one account term (to obtain a bonus and determine the annual percentage yield, for example), institutions need not repeat the requirement for each term, as long as it is clear which terms the requirement applies to.

6. *Sample forms.* The sample forms (B–4 through B–8) serve a purpose different from the model clauses. They illustrate ways of adapting the model clauses to specific accounts. The clauses shown relate only to the specific transactions described.

B–1 Model Clauses for Account Disclosures

B–1(h) Disclosures Relating to Time Accounts

1. *Maturity.* The disclosure in Clause (h)(i) stating a specific date may be used in all cases. The statement describing a time period is appropriate only when providing disclosures in response to a consumer's request.

B–2 Model Clauses for Change in Terms

1. *General.* The second clause, describing a future decrease in the interest rate and annual percentage yield, applies to fixed-rate accounts only.

B–4 Sample Form (Multiple Accounts)

1. *Rate sheet insert.* In the rate sheet insert, the calculations of the annual percentage yield for the three-month and six-month certificates are based on 92 days and 181 days respectively. All calculations in the insert assume daily compounding.

B–6 Sample Form (Tiered-Rate Money Market Account)

1. *General.* Sample Form B–6 uses Tiering Method A (discussed in Appendix A and Clause (a)(iv)) to calculate interest. It gives a narrative description of a tiered-rate account; institutions may use different formats (for example, a chart similar to the one in Sample Form B–4), as long as all required information for each tier is clearly presented. The form does not contain a separate disclosure of the minimum balance required to obtain the annual percentage yield; the tiered-rate disclosure provides that information.

Dated: October 24, 2011.

Alastair M. Fitzpayne,

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