

Amendments to the Official Staff Commentary on Regulation Z Truth in Lending May 2004*

Compliance with the following amendments (items 1 through 8), effective April 1, 2004, is optional until October 1, 2004.

1. *Comment 2(b)-2 is added to read as follows:*

2. *Amount.* The numerical amount must be a dollar amount unless otherwise indicated. For example, in a closed-end transaction (subpart C), the amount financed and the amount of any payment must be expressed as a dollar amount. In some cases, an amount should be expressed as a percentage. For example, in disclosures provided before the first transaction under an open-end plan (subpart B), creditors are permitted to explain how the amount of any finance charge will be determined; where a cash-advance fee (which is a finance charge) is a percentage of each cash advance, the amount of the finance charge for that fee is expressed as a percentage.

2. *Comment 15(a)(2)-1 is amended by adding two sentences at the end to read as follows:*

*** Where the creditor fails to provide the consumer with a designated address for sending the notification of rescission, delivery of the notification to the person or address to which the consumer has been directed to send payments constitutes delivery to the creditor or assignee. State law determines whether delivery of the notification to a third party other than the person to whom payments are made is delivery to the creditor or assignee, in the

* A complete commentary pamphlet, as amended effective April 1, 2004, consists of—

- the regulation pamphlet dated May 2002 (see inside front cover) and
- this slip sheet.

Items 1 through 8 are new. The other items were included in the October 2003 slip sheet.

case where the creditor fails to designate an address for sending the notification of rescission.

3. *Comment 15(d)(4)-1 is amended by adding two sentences at the end to read as follows:*

*** The sequence of procedures under section 226.15(d)(2) and (3), or a court's modification of those procedures under section 226.15(d)(4), does not affect a consumer's substantive right to rescind and to have the loan amount adjusted accordingly. Where the consumer's right to rescind is contested by the creditor, a court would normally determine whether the consumer has a right to rescind and determine the amounts owed before establishing the procedures for the parties to tender any money or property.

4. *Comment 18(c)(1)(iii)-1 is amended in the last sentence by changing "footnote 40" to "footnote 41".*

5. *Comment 23(a)(2)-1 is amended by adding two sentences at the end to read as follows:*

*** Where the creditor fails to provide the consumer with a designated address for sending the notification of rescission, delivering notification to the person or address to which the consumer has been directed to send payments constitutes delivery to the creditor or assignee. State law determines whether delivery of the notification to a third party other than the person to whom payments are made is delivery to the creditor or assignee, in the case where the creditor fails to designate an address for sending the notification of rescission.

6. *Comment 23(d)(4)-1 is amended by adding two sentences at the end to read as follows:*

*** The sequence of procedures under section 226.23(d)(2) and (3), or a court's modification of those procedures under section 226.23(d)(4), does not affect a consumer's substantive right to rescind and to have the loan amount adjusted accordingly. Where the consumer's right to rescind is contested by the creditor, a court would normally determine whether the consumer has a right to rescind and determine the amounts owed before establishing the procedures for the parties to tender any money or property.

7. *The commentary on section 226.27 is amended to read as follows:*

SECTION 226.27—Language of Disclosures

1. *Subsequent disclosures.* If a creditor provides initial disclosures in a language other than English, subsequent disclosures need not be in that other language. For example, if the creditor gave Spanish-language initial disclosures, periodic statements and change-in-terms notices may be made in English.

References

Statute: None

Other sections: None

Previous regulation: § 226.6(a)

1981 changes: No substantive change

8. *Comment 32(a)(1)(ii)-1 is amended in paragraph ii to read as follows:*

ii. If the consumer pays the \$300 fee for the creditor-conducted appraisal in cash at closing, the \$300 is included in the points and fees calculation because it is paid to the creditor. However, because the \$300 is not financed by the creditor, the fee is not part of the amount financed under section 226.18(b). In this case, the amount fi-

nanced is the same as the total loan amount: \$9,600 (\$10,000, less \$400 in prepaid finance charges).

9. *Effective January 1, 2003, in comment 32(a)(1)(ii)-2, paragraph viii is added, and effective January 1, 2004, paragraph ix is added to read as follows:*

- viii. For 2003, \$488, reflecting a 1.64 percent increase in the CPI-U from June 2001 to June 2002, rounded to the nearest whole dollar.
- ix. For 2004, \$499, reflecting a 2.22 percent increase in the CPI-U from June 2002 to June 2003, rounded to the nearest whole dollar.

Compliance with the following amendments (items 10 through 14), effective April 1, 2003, is optional until October 1, 2003.

10. *Comment 6(b)-2, paragraphs ix and x, are added to read as follows:*

- ix. A fee to expedite delivery of a credit card, either at account opening or during the life of the account, provided delivery of the card is also available by standard mail service (or other means at least as fast) without paying a fee for delivery
- x. A fee charged for arranging a single payment on the credit account, upon the consumer's request (regardless of how frequently the consumer requests the service), if the credit plan provides that the consumer may make payments on the account by another reasonable means, such as by standard mail service, without paying a fee to the creditor

11. *Comment 12(a)(2)-6 is amended to read as follows:*

6. *One-for-one rule—exception.* The regulation does not prohibit the card issuer from:

- i. Replacing a debit/credit card with a credit card and another card with only debit functions (or debit functions plus

- an associated overdraft capability), since the latter card could be issued on an unsolicited basis under Regulation E
- ii. Replacing an accepted card with more than one renewal or substitute card, provided that:
 - A. No replacement card accesses any account not accessed by the accepted card;
 - B. For terms and conditions required to be disclosed under section 226.6, all replacement cards are issued subject to the same terms and conditions, except that a creditor may vary terms for which no change in terms notice is required under section 226.9(c); and
 - C. Under the account's terms the consumer's total liability for unauthorized use with respect to the account does not increase.
12. *Comment 18(g)-5 is amended to read as follows:*
5. *Mortgage insurance.* The payment schedule should reflect the consumer's mortgage insurance payments until the date on which the creditor must automatically terminate coverage under applicable law, even though the consumer may have a right to request that the insurance be cancelled earlier. The payment schedule must reflect the legal obligation, as determined by applicable state or other law. For example, assume that under applicable law, mortgage insurance must terminate after the 130th scheduled monthly payment, and the creditor collects at closing and places in escrow two months of premiums. If, under the legal obligation, the creditor will include mortgage insurance premiums in 130 payments and refund the escrowed payments when the insurance is terminated, the payment schedule should reflect 130 premium payments. If, under the legal obligation, the creditor will apply the amount escrowed to the two final insurance payments, the payment schedule should reflect 128 monthly premium payments. (For assumptions in calculating a payment schedule that includes mortgage insurance that must be automatically terminated, see comments 17(c)(1)-8 and 17(c)(1)-10.)
13. *Comment 19(b)(1)-2 is amended by removing "comment 19(b)-4" and adding "comment 19(b)-5" in its place.*
14. *Comment 32(a)(1)(i)-4 is amended to read as follows:*
4. *Treasury securities.* To determine the yield on comparable Treasury securities for the annual percentage rate test, creditors may use the yield on actively traded issues adjusted to constant maturities published in the Board's "Selected Interest Rates" (statistical release H-15). Creditors must use the yield corresponding to the constant maturity that is closest to the loan's maturity. If the loan's maturity is exactly halfway between security maturities, the annual percentage rate on the loan should be compared with the yield for Treasury securities having the lower yield. In determining the loan's maturity, creditors may rely on the rules in section 226.17(c)(4) regarding irregular first payment periods. For example:
- i. If the H-15 contains a yield for Treasury securities with constant maturities of 7 years and 10 years and no maturity in between, the annual percentage rate for an 8-year mortgage loan is compared with the yield of securities having a 7-year maturity, and the annual percentage rate for a 9-year mortgage loan is compared with the yield of securities having a 10-year maturity.
 - ii. If a mortgage loan has a term of 15 years, and the H-15 contains a yield of 5.21 percent for constant maturities of 10 years, and also contains a yield of 6.33 percent for constant maturities of 20 years, then the creditor compares the annual percentage rate for a 15-year mortgage loan with the yield for constant maturities of 10 years.

iii. If a mortgage loan has a term of 30 years, and the H-15 does not contain a yield for 30-year constant maturities, but contains a yield for 20-year constant maturities, and an aver-

age yield for securities with remaining terms to maturity of 25 years and over, then the annual percentage rate on the loan is compared with the yield for 20-year constant maturities.