

FEDERAL RESERVE SYSTEM

12 CFR Part 230

[Docket No. R-1482]

RIN 7100 AE12

Truth in Savings (Regulation DD)

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is repealing its Regulation DD, 12 CFR part 230, which was issued to implement the Truth in Saving Act (TISA). 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, including TISA, from the Board to the Bureau of Consumer Financial Protection (Bureau). In December 2011, the Bureau published an interim final rule establishing its own Regulation DD to implement TISA (Bureau Interim Final Rule). The Bureau Interim Final Rule substantially duplicates the Board's Regulation DD.

Under section 1029 of the Dodd-Frank Act, the Board retains authority to issue rules for certain motor vehicle dealers that offer consumer financial services and are not subject to the Bureau's regulatory authority. The Board is not aware of any entities that are motor vehicle dealers engaging in activities subject to TISA that would be subject to the Board's rulemaking authority under section 1029 of the Dodd-Frank Act.

Accordingly, the Board is repealing its Regulation DD.

DATES: The final rule is effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Vivian W. Wong, Counsel, Division of Consumer and Community Affairs, at (202) 452-3667, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, D.C. 20551. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263-4869.

SUPPLEMENTARY INFORMATION:

I. Background

The Board of Governors of the Federal Reserve System (Board) historically implemented the Truth in Savings Act (TISA), 12 U.S.C. 4301 *et seq.*, in Regulation DD, published at 12 CFR part 230. 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. An official staff commentary interprets the requirements of the Board's Regulation DD (12 CFR part 230 (Supp. I)). Credit unions are governed by a substantially similar regulation issued by the National Credit Union Administration (NCUA) at 12 CFR part 707.

Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)¹ transferred rulemaking authority for a number of consumer financial protection laws from the Board to the Bureau of Consumer Financial Protection (Bureau), effective July 21, 2011. In connection with the transfer of the Board's rulemaking authority for TISA, the Bureau published an interim final rule to establish its own

¹ Pub. L. No. 111-203, 124 Stat. 1376.

Regulation DD, 12 CFR part 1030, to implement TISA (Bureau Interim Final Rule).²

The Bureau Interim Final Rule substantially duplicated the Board's Regulation DD and made only certain non-substantive, technical, formatting, and stylistic changes. The Bureau Interim Final Rule did not impose any new substantive obligations on regulated entities.

Under section 1029(a) of the Dodd-Frank Act, the Bureau may not exercise any rulemaking, supervisory, enforcement or any other 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, subject to certain exceptions.³ However, that provision does not apply to any motor vehicle dealer to the extent the dealer offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.⁴ Section 1029(c) of the Dodd-Frank Act further provides that nothing in the Dodd-Frank Act

² 76 FR 79276 (Dec. 21, 2011). Section 1100B of the Dodd-Frank Act 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 Section 1029(a) of the Dodd-Frank Act states: "Except as permitted in subsection (b), the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other 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." 12 U.S.C. 5519(a).

⁴ Section 1029(b) of the Dodd-Frank Act states: "Subsection (a) shall not apply to any person, to the extent such person (1) provides consumers with any services related to residential or commercial mortgages or self-financing transaction involving real property; (2) operates a line of business (A) that involves the extension of retail credit or retail leases involving motor vehicles; and (B) in which (i) the extension of retail credit or retail leases are provided directly to consumers and (ii) the contract governing such extension of retail credit or retail leases is not routinely assigned to an unaffiliated third party finance or leasing source; or (3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service." 12 U.S.C. 5519(b).

should be construed to modify, limit, or supersede the authority of the Board with respect to a motor vehicle dealer described in section 1029(a) of the Dodd-Frank Act.⁵

Accordingly, to the extent that a motor vehicle dealer described in section 1029(a) of the Dodd-Frank Act was subject to one of the Board's consumer financial service regulations, the Board's regulation would continue to apply, provided that the consumer financial product or service is one that involves or is related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

In February 2014, the Board published a proposal to repeal its Regulation DD, 12 CFR part 230 (Proposed Rule) based on the Board's belief that there are no motor vehicle dealers engaging in activities subject to TISA that would be subject to the Board's authority under section 1029 of the Dodd-Frank Act.⁶ The Board received five comments on the Proposed Rule.

II. Legal Authority

Title X of the Dodd-Frank Act transferred rulemaking authority for TISA from the Board to the Bureau, effective July 21, 2011. Pursuant to Section 1029 of the Dodd-Frank Act, however, the Board retains rulemaking authority for consumer financial protection laws to the extent that such laws could cover motor vehicle dealers identified in section 1029(a) of the Dodd-Frank Act, subject to the limitations in section 1029(b) of the Dodd-Frank Act.

⁵ 12 U.S.C. 5519(c).

⁶ 79 FR 9647 (Feb. 20, 2014).

III. Discussion

As the Board discussed in the Proposed Rule, TISA and the Board's Regulation DD apply only to depository institutions. See 12 U.S.C. 4301; 12 CFR § 230.1(c). For this purpose, the term "depository institution" includes "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)." 12 U.S.C. 4313(6); 12 CFR § 230.2(j). Depository institutions are generally subject to restrictions on the types of activities in which they may engage as principal. See e.g., 12 U.S.C. 24(Seventh) and 12 U.S.C. 1831a. These activities are restricted to those that are necessary to carry on the business of banking and other limited financial activities. Based on these restrictions, the Board believes that motor vehicle dealers, as defined in section 1029(a) of the Dodd-Frank Act, that are predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both, could not also be depository institutions subject to TISA.

The Board requested comment in the Proposed Rule on whether any motor vehicle dealers identified in section 1029(a) of the Dodd-Frank Act are or could become depository institutions for purposes of TISA. The commenters did not address that issue. Four commenters supported the Board's proposal to repeal its Regulation DD in order to avoid confusion and duplication. One commenter, however, suggested that the regulation should be retained in case there is new legislation and the law changes.

Based on the lack of evidence that there are any motor vehicle dealers identified in section 1029(a) of the Dodd-Frank Act that are or could become depository institutions

subject to the Board's rulemaking authority for purposes of TISA, the Board is repealing its Regulation DD, 12 CFR part 230.

IV. Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) (RFA) generally requires an agency to perform an assessment of the impact a rule is expected to have on small entities. Based on its analysis, and for the reasons stated below, the Board believes that this final rule will not have a significant economic impact on a substantial number of small entities.

1. *Statement of the need for, and objectives of, the final rule.* Title X of the Dodd-Frank Act transferred rulemaking authority for a number of consumer financial protection laws from the Board to the Bureau, effective July 21, 2011, including TISA. The Bureau issued the Bureau Interim Final Rule to implement TISA in connection with the transfer of TISA rulemaking authority to the Bureau. Pursuant to section 1029 of the Dodd-Frank Act, however, the Board retains rulemaking authority for consumer financial protection laws to the extent that such laws could cover motor vehicle dealers identified in section 1029(a) of the Dodd-Frank Act. The Board does not believe that any motor vehicle dealers identified in section 1029(a) of the Dodd-Frank Act are or could become depository institutions engaged in activities that would be subject to the Board's rulemaking authority under TISA. Consequently, the Board is repealing the Board's Regulation DD, 12 CFR part 230.

2. *Summary of issues raised by comments in response to the initial regulatory flexibility analysis.* The Board did not receive any comments on the initial regulatory flexibility analysis.

3. *Small entities affected by the final rule.* The Board does not believe that any motor vehicle dealers identified in section 1029(a) of the Dodd-Frank Act are or could become depository institutions engaged in activities that would be subject to the Board's rulemaking authority under TISA. Therefore, the Board believes the final rule would not affect any entity, including any small entity.

4. *Recordkeeping, reporting, and compliance requirements.* The final rule repeals the Board's Regulation DD, 12 CFR part 230, and would therefore not impose any recordkeeping, reporting, or compliance requirements on any entities.

5. *Significant alternatives to the final revisions.* Because the repeal of the Board's Regulation DD (12 CFR part 230) will have no impact, there are no significant alternatives that would further minimize the economic impact of the final rule on small entities.

V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Federal Reserve by the Office of Management and Budget. The final rule contains no collections of information under the PRA. See 44 U.S.C. 3502(3). Accordingly, there is no paperwork burden associated with the final rule.

List of Subjects in 12 CFR Part 230

Advertising, Banks, Banking, Consumer protection, Reporting and recordkeeping requirements, Truth in savings.

Authority and Issuance

For the reasons set forth in the preamble, based on the transfer of authority under 12 U.S.C. 5581, the Board removes and reserves Regulation DD, 12 CFR part 230.

PART 230— [REMOVED AND RESERVED]

By order of the Board of Governors of the Federal Reserve System, May 22, 2014.

Robert deV. Frierson (signed)

Robert deV. Frierson
Secretary of the Board.