

FEDERAL RESERVE SYSTEM

12 CFR Part 230

[Regulation DD; Docket No. R-1003]

Truth in Savings

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is publishing a final rule amending Regulation DD, which implements the Truth in Savings Act. The rule implements amendments to the Truth in Savings Act enacted as part of the Economic Growth and Regulatory Paperwork Reduction Act of 1996. The law modifies the rules for indoor lobby signs, eliminates subsequent disclosure requirements for automatically renewable time accounts with terms of one month or less, and repeals the civil liability provisions as of September 30, 2001.

DATES: This rule is effective September 24, 1998.

FOR FURTHER INFORMATION CONTACT: Kyung Cho-Miller, Staff Attorney, Division of Consumer and Community Affairs, at (202) 452-3667 or 452-2412. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), contact Diane Jenkins, at (202) 452-3544.

SUPPLEMENTARY INFORMATION:

I. Background

The Truth in Savings Act (TISA) is implemented by the Board's Regulation DD (12 CFR Part 230). The act and regulation require depository institutions to disclose yields, fees, and other terms concerning deposit accounts to consumers at account opening. The regulation also includes rules about advertising of deposit accounts. Credit unions are governed by a substantially similar regulation issued by the National Credit Union Administration. The act was amended by the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (1996 Act).

II. Regulatory Revisions

On March 25, 1998, the Board published proposed amendments to Regulation DD to implement statutory amendments that eliminate the requirement that institutions provide disclosures in advance of maturity for automatically renewable (rollover) time accounts with a term of 30 days or less, expand an exemption from certain advertising provisions for signs on the premises of a depository institution, and repeal TISA's civil liability provisions, effective September 30, 2001 (63 FR 14533). Commenters on the proposal--all financial institutions or their trade associations--unanimously supported the proposed amendments.

In March 1998, the Board also published a proposal to allow institutions to provide Regulation DD disclosures electronically (63 FR 14533, March 25, 1998). Similar proposals were made under Regulations B (Equal Credit Opportunity), M (Consumer Leasing), and Z (Truth in Lending); an interim rule was issued under Regulation E. The Board anticipates further action on these proposals by year-end.

III. Section-by-Section Analysis

Section 230.5 Subsequent Disclosures

5(c) Notice for Time Accounts One Month or Less That Renew Automatically.

Section 266(a)(3) of TISA requires institutions to provide certain disclosures for rollover time accounts at least 30 days before maturity. In implementing this provision, the Board determined in 1992 that the purposes of the legislation would not be served by requiring advance disclosures for rollover time accounts with maturities of one month or less. Regulation DD therefore does not require disclosures to be provided in advance of maturity for such time accounts. However, under § 230.5(c) of the regulation, if a term disclosed when the account was opened is changed at renewal, institutions were required to send a notice describing the change within a reasonable time after the renewal of the account.

The 1996 Act eliminates the requirement that institutions provide subsequent disclosures (that is, disclosures in advance of maturity) for automatically renewable time accounts with a term of 30 days or less. (Institutions will continue to provide disclosures when these accounts are opened.) Accordingly, § 230.5(c) and the corresponding provision in the official staff commentary, comment 5(c)-1, are deleted.

Technically, the statute could be read to require subsequent disclosures for rollover time accounts with a maturity of 31 days. For ease of compliance, the Board has eliminated these disclosures for rollover time accounts with a maturity of "one month or less." Subsequent disclosures for accounts with a maturity of 31 days are not required under this approach, which is consistent with other provisions of Regulation DD that interpret one month to include 31 days.

Section 230.8 Advertising

8(e) Exemption for Certain Advertisements.

8(e)(2) Indoor Signs.

Section 263(a) of TISA provides that a reference to a specific interest rate, yield, or rate of earnings in an advertisement triggers a duty to state certain additional information, including the annual percentage yield. In 1994, the Congress amended section 263(c) of the advertising rules to provide that if a rate is displayed on a sign (including a rate board) designed to be viewed only from the interior of an institution, the disclosure requirements of section 263 do not apply.

A further amendment to section 263(c) contained in the 1996 Act expands the exemption for signs on the premises of the depository institution. All signs inside the premises of an institution are now exempt from certain advertising disclosures (including signs that are intended to be viewed from outside the premises). Accordingly, the reference in § 230.8(e) to signs that face outside the premises and the corresponding provision in the official staff commentary, comment 8(e)(2)(I)-2, are deleted. Any sign posted outside a depository institution remains covered by the advertising provisions unless the sign qualifies for some other exemption, such as the exemption for electronic media.

Section 230.9 Enforcement and Record Retention

9(b) Civil Liability.

Section 271 of TISA, which provides for civil liability for violations of the act's provisions, was repealed by the 1996 Act, effective September 30, 2001. The regulation refers to TISA's civil liability provisions in § 230.9(b), and has been revised to reflect the effective date of the repeal of Section 271.

IV. Regulatory Flexibility Analysis

In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 604), the Board has reviewed the final amendments to Regulation DD. Two of the three requirements of a final regulatory flexibility analysis under this section are (1) a succinct statement of the need for and the objectives of the rule and (2) a summary of the issues raised by the public comments, the agency's assessment of the issues, and a statement of the changes made in the final rule in response to the comments. These two areas are discussed above.

The third requirement of the analysis calls for a description of significant alternatives to the rule that would minimize the rule's economic impact on small entities and reasons why the alternatives were rejected. The final amendments will apply to all financial institutions subject to Regulation DD, including small institutions. The amendments represent minor changes to the existing regulation; in some cases, the amendments reduce economic burden. Accordingly,

the amendments should not have a negative economic impact on small institutions, and, therefore, there were no significant alternatives that would have further minimized the economic impact on those institutions.

V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Board by the Office of Management and Budget. The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to, this information collection unless it displays a currently valid OMB control number. The OMB control number is 7100-0271.

The collection of information that is revised by this rulemaking is found in 12 CFR 230--Regulation DD, including Appendices A and B and Supplement I. This information collection is mandatory under the Truth in Savings Act (12 U.S.C. 4308) and the Board's Regulation DD, which requires that consumers be given certain account disclosures. The disclosures assist consumers in comparing deposit accounts offered by depository institutions, principally through the disclosure of fees, APY, interest rates, and other account terms whenever a consumer requests the information and before an account is opened. The regulation also requires that fees and other information be provided on any periodic statement the institution sends to the consumer. The respondents are for-profit financial institutions, including small businesses. Institutions are also required to retain records for twenty-four months as evidence of compliance. No comments specifically addressing the burden estimate were received.

The Board also extended the recordkeeping and disclosure requirements in connection with Regulation DD for three years. The current total annual burden for this information collection is an estimated 1,478,395 hours. This amount reflects the burden estimate of the Federal Reserve System for the 996 state member banks under its supervision. The modified rules for indoor lobby signs and elimination of subsequent disclosure requirements for automatically renewable time accounts with terms less than one month will decrease the frequency of response slightly. The estimated total annual burden after the revisions will be about 1,476,071 hours, a decrease of 2,324 hours. There is estimated to be no associated capital or start up cost and no annual cost burden.

Because the records would be maintained at state member banks and the notices are not provided to the Federal Reserve, no issue of confidentiality arises under the Freedom of Information Act.

The Board has a continuing interest in the public's opinions of Federal Reserve collections of information. At any time, comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project (7100-0271), Washington, DC 20503.

List of Subjects

Advertising, Banks, banking, Consumer protection, Federal Reserve System, Reporting and recordkeeping requirements, Truth in savings.

Text of Revisions

For the reasons set forth in the preamble, the Board amends 12 CFR part 230, as set forth below:

PART 230 -- TRUTH IN SAVINGS (REGULATION DD)

1. The authority citation for part 230 continues to read as follows:

Authority: 12 U.S.C. 4301 et seq.

2. Section 230.5 is amended by removing paragraph (c) and redesignating paragraph (d) as new paragraph (c).

3. Section 230.8 is amended by revising paragraph (e)(2)(i) to read as follows:

§ 230.8 -- Advertising.

* * * * *

(e) Exemption for certain advertisements. * * *

(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.

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4. Section 230.9 is amended by revising paragraph (b) to read as follows:

§ 230.9 -- Enforcement and record retention.

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(b) Civil liability. Section 271 of the Act contains the provisions relating to civil liability for failure to comply with the requirements of the act and this part; Section 271 is repealed effective September 30, 2001.

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SUPPLEMENT I to PART 230 -- OFFICIAL STAFF INTERPRETATION

5. In Supplement I to Part 230, section 230.5 Subsequent disclosures, under paragraph (c), paragraph 1. is removed.

6. In Supplement I to Part 230, section 230.8 Advertising, under paragraph (e)(2)(i), paragraph 2. is removed.

By order of the Board of Governors of the Federal Reserve System, September 24, 1998.

Jennifer J. Johnson (signed)

Jennifer J. Johnson,
Secretary of the Board