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QUARTERLY REPORT

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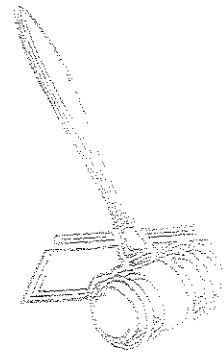
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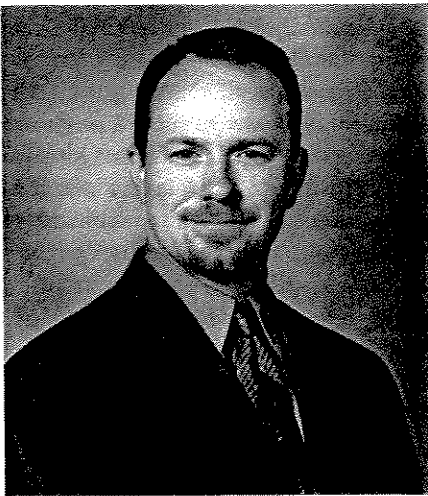
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Federal Reserve Board's 2007 Final Rule on Electronic Disclosures Under Regulation Z and Technical Amendment

By Eric L. Johnson



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I. Introduction

In March, 2001 the Federal Reserve Board (FRB) published an Interim Rule to establish uniform standards for the electronic delivery of consumer credit disclosures. The Interim Rule imposed significant requirements and restrictions on the use of electronic records to provide the consumer disclosures required by the Truth in Lending Act (TILA).¹ The mandatory compliance date for the Interim Rules was originally set for October 1, 2001. However, the mandatory compliance date was later lifted in August, 2001, and institutions have not been required to comply with the Interim Rule.²

In April, 2007 the FRB requested public comment on proposed amendments to Regulation Z to clarify the requirements for providing consumer disclosures in electronic form (Proposed Rule).³ In November, 2007 the FRB issued a Final Rule to withdraw portions of the Interim Rules and adopt final amendments to Regulation Z and the Commentary (some of which were reflected in the Proposed Rule) to provide guidance on the electronic delivery of disclosures. The Final Rule simplifies the FRB's Interim Rules by: (1) withdrawing certain portions of the Interim Rule that restated or cross-referenced provisions of the Electronic Signatures in Global and National Commerce Act (the E-SIGN Act); (2) withdrawing provisions of the Interim Rule that could have imposed undue burdens on electronic banking

and commerce and may be unnecessary for consumer protection; and (3) retaining certain provisions of the Interim Rule that provide guidance on the use of electronic disclosures. Finally, the Final Rule does not implement certain provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA),⁴ as those provisions are contained in the FRB's proposed amendments to the Regulation Z rules for open-end credit.⁵ The Final Rule was effective December 10, 2007 and the mandatory compliance date is October 1, 2008.

In addition, on December 14, 2007 the FRB published another Final Rule (Technical Amendment) to the Official Staff Commentary to Regulation Z to clarify those situations where creditors could provide paper disclosures in a timely manner to consumers accessing a credit application electronically, even though the consumers are not physically present in the creditor's office. The Technical Amendment is discussed below.

The Interim Rule allowed creditors to provide certain disclosures to consumers electronically, without regard to the consumer consent or other provisions of the E-SIGN Act, for disclosures provided on or with an application, solicitation or advertisement. The FRB reasoned that these disclosures, which would be available to the general public while shopping for credit, did not "relate to a transaction," which is a prerequisite for triggering the E-SIGN Act consumer consent provisions, and thus were not subject to those provisions. Some commenters on

1. 15 U.S.C. §§ 1601-1666j.

2. 66 Fed. Reg. 41439 (2001).

3. 72 Fed. Reg. 21141 (2007).

4. Pub. L. No. 109-8, 119 Stat. 23 (2005).

5. 72 Fed. Reg. 32948 (2007).

the Interim Rule did not agree with the FRB's rationale. The FRB indicated that it did not believe it was necessary to determine whether or not these disclosures are related to a transaction and the Final Rules do not make such determinations.

Pursuant to the FRB's authority under TILA section 105(a), as well as under section 104(d) of the ESIGN Act,⁶ the Final Rule specifies the circumstances under which certain disclosures may be provided to a consumer in electronic form, rather than in writing as generally required by Regulation Z, without obtaining the consumer's consent under section 101(c) of the ESIGN Act. The Final Rule also amended various sections of Regulation Z, discussed in more detail below, to clarify that certain disclosures must be provided to the consumer in electronic form on or with an application, solicitation or advertisement that is accessed by the consumer in electronic form.

The FRB indicated it continues to believe that creditors should not be required to obtain the consumer's consent in order to provide shopping or advertising disclosures to the consumer in electronic form if the consumer accesses an application, solicitation, or advertisement containing those disclosures in electronic form, such as at an Internet web site. However, the FRB recognizes that consumers who shop or apply for credit online may not want to receive other disclosures electronically. Therefore, with respect to, for example, account-opening disclosures, periodic statements and change-in terms notices, creditors are required to provide written disclosures or obtain the consumer's consent in accordance with the ESIGN Act in order to provide such disclosures

in electronic form. Finally, the FRB deleted, as unnecessary, certain provisions that restate or cross-reference the ESIGN Act's general rules regarding electronic disclosures (including the consumer consent provisions) and electronic signatures, because the ESIGN Act is a self-effectuating statute.

This article outlines the requirements imposed by the Final Rule and the Technical Amendment. The discussion below begins with the requirements imposed in the Final Rule and Technical Amendment in connection with open-end credit.

II. Open-End Credit Disclosures

Regulation Z requires creditors to provide open-end credit disclosures in writing and in a form that the consumer may keep.⁷ Under the Final Rule, creditors may provide these disclosures to consumers in electronic form, subject to compliance with the consumer consent and other applicable provisions of the ESIGN Act. In addition, the Final Rule provides that the open-end disclosures for credit and charge card applications and solicitations, HELOCs and open-end credit advertising may be provided to the consumer in electronic form, under the circumstances set forth in those sections, without regard to the consumer consent or other provisions of the ESIGN Act.⁸ The FRB felt that this approach would facilitate shopping for credit by enabling consumers to receive important disclosures online at the same time they access an electronic application, solicitation or advertisement without first having to provide consent in accordance with the requirements of the ESIGN Act.

III. Credit Cards

A. Introduction

The Final Rule addresses two issues in connection with credit and charge card

applications and solicitations: the location of the electronic disclosures and whether the applicable disclosures must be presented in a table format. The Final Rule declined to adopt proposed amendments to implement the BAPCA requirement that the disclosures for electronic credit card offers, particularly with regard to the accuracy of variable-rate Annual Percentage Rate (APR) disclosures in credit card applications and solicitations, must be updated regularly to reflect the current policies, terms and fee amounts, as those provisions to implement the BAPCA are contained in the FRB's proposed amendments to the Regulation Z rules for open-end credit.⁹ The location and tabular format issues are discussed below.

B. Location

The Final Rule provides that card issuers *may* (rather than *must* as was stated in the Proposed Rule) provide the applicable disclosures on or with a blank application or reply form that is made available to the consumer in electronic form, such as on a creditor's Internet website.¹⁰ Card issuers have flexibility in satisfying this requirement. For example, the disclosures could automatically appear on the website when the application or reply form appears.

In the alternative, the disclosures could be located on the same web page as the application or reply form, without necessarily appearing on the initial screen. In this case however, the application or reply form must contain a clear and conspicuous reference to the location of the disclosures and indicate that the disclosures contain rate, fee and other cost information, as applicable. The creditor could place a link to the applicable disclosures on or with the application (or reply form) as long as consumers cannot bypass the disclosures before submitting the application or reply form. The link would take the consumer to the disclosures, but

6. TILA § 105(a) provides that regulations prescribed by the FRB under the TILA "may provide for such adjustments and exceptions...as in the judgment of the [FRB], are necessary or proper to effectuate the purposes of [TILA]...or to facilitate compliance [with the requirements of TILA]." Section 104(d) of the ESIGN Act authorizes federal agencies to adopt exemptions for specified categories of disclosures from the ESIGN Act notice and consent requirements, "if such exemption is necessary to eliminate a substantial burden on electronic commerce and will not increase the material risk of harm to consumers." The FRB indicated it believes that these criteria are met in the case of the application, solicitation and advertising disclosures. In addition, the FRB has indicated that it believes that TILA § 105(a) authorizes the FRB to permit institutions to provide disclosures electronically, rather than in paper form, independent of the ESIGN Act.

7. 12 CFR § 226.5(a)(1) (2001).

8. 72 Fed. Reg. 63462 (2007) (revising 12 CFR § 226.5(a)(1) (2001)).

9. 72 Fed. Reg. 32948 (2007).

10. 72 Fed. Reg. 63462 (2007) (adding new 12 CFR § 226.5a(a)(2)(v)).

the consumer would not be required to scroll completely through the disclosures.

Finally, the disclosures could be located on the same web page as the application or reply form, without necessarily appearing on the initial screen, immediately preceding the button that the consumer will click to submit the application or reply. Whatever method is used, however, the card issuer is not required to confirm that the consumer has read the disclosures.¹¹

The FRB Official Staff Commentary attempts to clarify through additional examples how creditors can meet the existing requirement for providing disclosures “on or with” applications and solicitations in particular circumstances. Whether disclosures must be in electronic form depends on the following factors: (1) If a consumer accesses a credit card application or solicitation electronically (other than as described at (2) immediately below), such as online at a home computer, the card issuer must provide the disclosures in electronic form (such as with the application or solicitation on its web site) in order to meet the requirement to provide the disclosures in a timely manner on or with the application or solicitation--if the issuer instead mailed paper disclosures to the consumer, this requirement would not be met; or (2) in contrast, if a consumer is physically present in the card issuer’s office, and accesses a credit card application or solicitation electronically, such as via a terminal or kiosk (or if the consumer uses a terminal or kiosk located on the premises of an affiliate or third party that has arranged with the card issuer to provide applications or solicitations to consumers), the issuer may provide disclosures in either electronic or paper form, provided the issuer complies with the applicable timing and delivery (“on or with”) requirements.¹²

C. Tabular Format

Historically, Regulation Z required a creditor to provide the primary credit card disclosures in a tabular format in connection with direct mail solicitations. However, in a take-one solicitation, creditors had the option of disclosing the information in either a tabular format or by including a statement that costs are involved, with a toll-free telephone number and mailing address to contact for further information.¹³ The Final Rule declined to make the direct-mail provisions applicable to both electronic applications and solicitations as outlined in the Proposed Rule, as those provisions to implement the BAPCPA are contained in the FRB’s proposed amendments to the Regulation Z rules for open-end credit.¹⁴ For disclosures that are required to be provided in tabular form, card issuers must satisfy the requirements with respect to electronic disclosures set forth in staff Commentary para. 226.5a(a)(2)-2(ii).¹⁵

IV. HELOCs

The Final Rule addresses two issues in connection with Home Equity Line of Credit (HELOC) disclosures: the timeliness of the disclosures; and the ability of third parties to make electronic disclosures. These issues are discussed below.

A. Timeliness of HELOC Disclosures

Creditors are required to provide a home equity brochure and a home equity program disclosure to a consumer at the time a HELOC application is provided to the consumer.¹⁶ The Final Rule provides that a creditor *may* (rather than *must* as stated in the Proposed Rule) provide the applicable disclosures (including the brochure) on or with a HELOC ap-

plication that is made available to the consumer in electronic form, such as on a creditor’s website.¹⁷ Creditors thus have flexibility in satisfying this requirement.

For example, the disclosures could automatically appear on the website when the application appears. In the alternative, the disclosures could be located on the same web page as the application without necessarily appearing on the initial screen. In this case however, the application must contain a clear and conspicuous reference to the location of the disclosures and indicate that the disclosures contain rate, fee and other cost information, as applicable.

The creditor could place a link to the electronic disclosures on or with the application, as long as consumers cannot bypass the disclosures before submitting the application. The link would direct the consumer to the disclosures, but the consumer is not required to scroll completely through the disclosures.

Finally, the disclosures could be located on the same web page as the application, without necessarily appearing on the initial screen, immediately preceding the button that the consumer will click to submit the application. Whatever method is used, however, the creditor is not required to confirm that the consumer has read the disclosures.¹⁸

The FRB Official Staff Commentary attempts to clarify, through additional examples, how creditors can meet the requirement to provide disclosures “on or with” applications and solicitations in particular circumstances. Whether disclosures must be in electronic form depends on: (1) If a consumer accesses a HELOC application electronically (other than as described under (2) below), such as online at a home computer, the creditor must provide the disclosures in electronic form (such as with the application form on its website) in order to meet the requirement to provide disclosures in a timely manner

11. 72 Fed. Reg. 63462 (2007) (revising Official Staff Comment, 12 CFR pt. 226, supp. 1, § 226.5a(a)(2) cmt. 8 (2001)).

12. 72 Fed. Reg. 71058 (2007) (revising Official Staff Comment, 12 CFR pt. 226, supp. 1, § 226.5a(a)(2) cmt. 9, (2007)).

13. 12 CFR § 226.5a(e)(3) (2001).

14. See *supra* note 8.

15. See *supra* note 10.

16. 12 CFR § 226.5b(b) (2001).

17. 72 Fed. Reg. 63462 (2007) (adding new 12 CFR § 226.5b(a)(3)).

18. 72 Fed. Reg. 63462 (2007) (adding a new Official Staff Comment, 12 CFR pt. 226, supp. 1, § 226.5b(a)(1) cmt. 5).

on or with the application--if the creditor instead mailed paper disclosures to the consumer, this requirement would not be met; or (2) in contrast, if a consumer is physically present in the creditor's office, and accesses a HELOC application electronically, such as via a terminal or kiosk (or if the consumer uses a terminal or kiosk located on the premises of an affiliate or third party that has arranged with the creditor to provide applications to consumers), the creditor may provide the disclosures in either electronic or paper form, provided the creditor complies with the applicable timing, delivery and retainability requirements.¹⁹

B. Third Party Disclosures

The Final Rule deleted the Interim Rule provision that if a third party is required to provide HELOC disclosures, the third party may use electronic disclosures, so long as the third party satisfies the same requirements that apply to creditors.²⁰

V. Open-End Credit Rescission

As a general rule, a creditor must supply two copies of the notice of the right to rescind to each consumer who has the right to cancel a credit transaction.²¹ That way, if a consumer mails one copy to the creditor to rescind the transaction, the consumer can retain one copy as an explanation of his or her rights during the rescission process. The Final Rule retains the Interim Rule provision stating that a creditor need only deliver one copy of the notice of the right to rescind to each consumer entitled to rescind, if delivery occurs in electronic form in accordance with the consumer consent and other applicable provisions of the E-SIGN Act.²² The Final Rule deleted the Interim Rule

provision stating that each co-owner must agree to receive disclosures electronically and must designate an electronic address for receiving the rescission notice.²³

VI. Open-End Credit Advertising

Regulation Z requires a creditor to provide certain additional information to consumers if an advertisement contains certain trigger terms.²⁴ Under the Final Rule, creditors are permitted to apply the catalog rules in connection with an electronic advertisement, such as an advertisement appearing on an Internet website. If the advertisement is contained in a catalog or contains multiple pages, a creditor is permitted to place all of the required disclosures in a single table so long as the consumer was referred to the table each time a trigger term appeared in the document.²⁵ The table must include all required disclosures for a representative scale of credit amounts up to the level of the more commonly sold higher-priced items.²⁶

The Final Rule did not adopt the Proposed Rule requirement that when an advertisement is accessed by the consumer in electronic form (such as when the consumer views the advertisement on his/her computer), the applicable disclosures must be provided to the consumer in electronic form on or with the advertisement. The FRB stated that, under the existing regulation, providing paper disclosures for an advertisement in electronic form, or vice versa, would not be in compliance because the disclosures would not be set forth in the advertisement itself. The Final Rule retains the Interim Rule provision that a creditor may use a link as one method to refer the consumer from the trigger term page to the page that contains the table.²⁷

The following discussion describes the requirements imposed in the Final Rule and Technical Amendment in connection with closed-end credit.

VII. Closed-End Credit; Deferred Disclosures

Regulation Z requires creditors to provide closed-end credit disclosures in writing and in a form that the consumer may keep.²⁸ Under the Final Rule, creditors may provide these disclosures to consumers in electronic form, subject to compliance with the consumer consent and other applicable provisions of the E-SIGN Act. In addition, the Final Rule provides that the closed-end disclosures for certain adjustable-rate mortgage loans secured by the consumer's principal dwelling (Regulation Z section 226.19(b)) and closed-end credit advertising (Regulation Z section 226.24) may be provided to the consumer in electronic form, and the disclosures required for mail, telephone or facsimile orders (Regulation Z section 226.17(g)) may be made available to the consumer or to the public in electronic form, under the circumstances set forth in those sections, without regard to the consumer consent or other provisions of the E-SIGN Act.²⁹

Regulation Z permits a creditor to make the usual preconsummation disclosures after consummation under certain limited conditions. Specifically, if a creditor receives a purchase order or a request for credit from a consumer by mail, telephone or facsimile, without a face-to-face or telephone solicitation, the creditor may delay the disclosures until the due date of the first payment, provided the creditor has made certain information available to the consumer or the public before the order is received.³⁰ The Final Rule retains the Interim Rule provision stating that this exception does not apply where a creditor offers

19. 72 Fed. Reg. 71058 (2007) (revising Official Staff Comment, 12 CFR pt. 226, supp. I, § 226.5b(a)(3) cmt. 1. (2007)).

20. 72 Fed. Reg. 63462 (2007) (revising 12 CFR § 226.5b(c) (2001)).

21. 12 CFR § 226.15b (2001).

22. 72 Fed. Reg. 63462 (2007) (revising 12 CFR § 226.15(b) (2001)).

23. 72 Fed. Reg. 63462 (2007) (revising Official Staff Comment, 12 CFR pt. 226, supp. I, § 226.15(b) cmt. 1 (2001)).

24. 12 CFR § 226.16(b) (2001).

25. *Id.* § 226.16(c)(1).

26. *Id.* § 226.16(c)(2).

27. 72 Fed. Reg. 63462 (2007) (revising Official Staff Comment, 12 CFR pt. 226, supp. I, § 226.16(c)(1) cmt. 2 (2001)).

28. 12 CFR § 226.17(a)(1) (2001).

29. 72 Fed. Reg. 63462 (2007) (revising 12 CFR § 226.17(a)(1) (2001)).

30. 12 CFR § 226.17(g) (2001).

its products by electronic communication.³¹ However, where the exception does apply (*i.e.*, if the consumer requests credit by telephone, mail or facsimile), the applicable disclosures may be made available to the consumer or to the public either in electronic form, such as at a creditor's website, without regard to the consumer consent or other provisions of the ESIGN Act, or in paper form.³²

VIII. Adjustable Rate Mortgage Loans

Creditors are required to provide the Consumer Handbook on Adjustable Rate Mortgages (ARMs), and a loan program disclosure to consumers, at the time an application for an ARM loan is provided to the consumer or before the consumer pays a nonrefundable fee, whichever is earlier.³³ The Final Rule provides that a creditor must provide the applicable disclosures on or with a blank application that is made available to the consumer in electronic form, such as on a creditor's website.³⁴

Creditors have some flexibility in satisfying this requirement. For example, the disclosures could automatically appear on the website when the application appears. In the alternative, the disclosures could be located on the same web page as the application without necessarily appearing on the initial screen. In this case, however, the application must contain a clear and conspicuous reference to the location of the disclosures and indicate that the disclosures contain rate, fee and other cost information, as applicable.

In addition, the creditor could provide a link to the electronic disclosures on or with the application, as long as consumers cannot bypass the disclosures before submitting the application. The link would take the consumer to the disclo-

tures, but the consumer would not be required to scroll completely through the disclosures. Finally, the disclosures could be located on the same web page as the application, without necessarily appearing on the initial screen, immediately preceding the button that the consumer will click to submit the application. Whatever method is used, however, the creditor is not required to confirm that the consumer has read the disclosures.³⁵

The Official Staff Commentary attempts to clarify through additional examples how creditors can meet the requirement for providing disclosures "on or with" applications and solicitations in particular circumstances. Whether the disclosures must be in electronic form or not depends on: (1) If a consumer accesses an ARM loan application electronically (other than as described at (2) immediately below), such as online at a home computer, the creditor must provide the disclosures in electronic form (such as with the application form on its website) in order to meet the requirement to provide disclosures in a timely manner on or with the application--if the creditor instead mailed paper disclosures to the consumer, this requirement would not be met; or (2) in contrast, if a consumer is physically present in the creditor's office, and accesses an ARM loan application electronically, such as via a terminal or kiosk (or if the consumer uses a terminal or kiosk located on the premises of an affiliate or third party that has arranged with the creditor to provide applications to consumers), the creditor may provide disclosures in either electronic or paper form, provided the creditor complies with the applicable timing, delivery, and retainability requirements.³⁶

IX. Closed-End Credit Rescission

As noted above, a creditor must supply two copies of the notice of the right to rescind to each consumer who has the

right to cancel a credit transaction.³⁷ As noted, if a consumer mails one copy to the creditor to rescind the transaction, the consumer will retain one copy as an explanation of his or her rights during the rescission process. The Final Rule retains the Interim Rule provision that provides a creditor need only deliver one copy of the notice of the right to rescind to each consumer entitled to rescind if delivery occurs in electronic form in accordance with the consumer consent and other applicable provisions of the ESIGN Act.³⁸ Once again, the Final Rule deleted the Interim Rule provision that each co-owner must agree to receive disclosures electronically and must designate an electronic address for receiving the rescission notice.³⁹

X. Closed-End Credit Advertising

As noted, Regulation Z requires a creditor to provide certain additional information to consumers if an advertisement contains certain trigger terms.⁴⁰ Under the Final Rule, creditors are permitted to apply the catalog rules in connection with an electronic advertisement, such as an advertisement appearing on an Internet website.⁴¹ If the advertisement is contained in a catalog or contains multiple pages, a creditor is permitted to place all of the required disclosures in a single table so long as the consumer was referred to the table each time a trigger term appeared in the document.⁴² The table must include all required disclosures for a representative scale of credit amounts up to the level of the more commonly sold higher-priced items.⁴³

31. 72 Fed. Reg. 63462 (2007) (revising 12 CFR § 226.17(g) (2001)).

32. *Id.*

33. 12 C.F.R. § 226.19(b) (2001).

34. 72 Fed. Reg. 63462 (2007) (adding new 12 C.F.R. § 226.19(c)).

35. 72 Fed. Reg. 63462 (2007) (revising Official Staff Comment. 12 CFR pt. 226, supp. 1, § 226.19(b) cmt. 2.v. (2001)).

36. 72 Fed. Reg. 71058 (2007) (revising Official Staff Comment. 12 CFR pt. 226, supp. 1, § 226.19(c) cmt. 1. (2001)).

37. 12 CFR § 226.23(b)(1) (2001).

38. 72 Fed. Reg. 63462 (2007) (revising 12 CFR § 226.23(b)(1) (2001)).

39. 72 Fed. Reg. 63462 (2007) (revising Official Staff Comment. 12 CFR pt. 226, supp. 1, § 226.23(b) cmt. 1. (2001)).

40. 12 CFR § 226.24(c) (2001).

41. 72 Fed. Reg. 63462 (2007) (revising 12 CFR § 226.24(d)(1) and (2) (2001)).

42. 12 CFR § 226.24(d)(1) (2001).

43. *Id.* § 226.24(d)(2).

The Final Rule did not adopt the Proposed Rule requirement that when an advertisement is accessed by the consumer in electronic form (such as when the consumer views the advertisement on his/her computer) the applicable disclosures must be provided to the consumer in electronic form on or with the advertisement.⁴⁴ As noted above with respect to open-end transactions, the FRB stated that, under the existing regulation, providing paper disclosures for an advertisement in electronic form, or vice versa, would not be in compliance because the disclosures would not be set forth in the advertisement itself. The Final Rule retains the Interim Rule revisions to the FRB's Official Staff Commentary to suggest that a creditor may use a link as one method to refer the consumer from the trigger term page to the page that contains the table.⁴⁵

Finally, the Final Rule deleted the Interim Rule provision stating that, in an advertisement using electronic communication, the consumer must be able to view the corresponding or equivalent APR simultaneously, and that the requirement is not satisfied if the consumer can view the APR only by use of a link that takes the consumer to another location.⁴⁶

XI. HOEPA and Reverse Mortgage Loans

Regulation Z requires creditors to provide the HOEPA and reverse mortgage loan disclosures in writing and in a form that the consumer may keep.⁴⁷ The Final Rule provides that the HOEPA and reverse mortgage disclosures may be provided to the consumer in electronic form, subject to compliance with the consumer consent and other applicable provisions of the ESIGN Act.⁴⁸

XII. Requirements for Electronic Communication

As noted above, the Final Rule deleted the cross-references to section 226.36 from Regulation Z, all of section 226.36 (which constituted all of Subpart F) from Regulation Z, and the accompanying sections of the FRB Official Staff Commentary.⁴⁹ The Final Rule also deleted, as unnecessary, certain provisions that restate or cross-reference the ESIGN Act's general rules regarding electronic disclosures, including the consumer consent provi-

sions and electronic signatures. Further, the Final Rule deleted the requirement to send the applicable disclosures to a consumer's e-mail address, or to post the disclosures on a website and send a notice alerting the consumer to the disclosures.

In the Proposed Rule, the FRB indicated that it had reconsidered the required sending of disclosures by e-mail in light of concerns about data security, identity theft, and "phishing" that have become more pronounced since the Interim Rule was issued. In the Final Rule, the FRB indicated it was preferable to not mandate the use of any particular means of electronic delivery of disclosures and to allow creditors the flexibility to use whatever method may be best suited to particular types of disclosure.

In addition, the Final Rule deleted the ninety-day retention requirement for disclosures posted on a website. However, the FRB has indicated it will continue to monitor creditors' electronic disclosure practices with regard to the ability of consumers to retain Regulation Z disclosures, and will consider further revisions to Regulation Z if it appears necessary.⁵⁰

44. 72 Fed. Reg. 21141 (2007) (proposed addition of new 12 CFR § 226.24(d)(3)).

45. 72 Fed. Reg. 63462 (2007) (revising Official Staff Comment, 12 CFR pt. 226, supp. I, § 226.24(d) cmt. 4 (2001)).

46. 72 Fed. Reg. 63462 (2007) (revising Official Staff Comment, 12 CFR pt. 226, supp. I, § 226.24(b) cmt. 6 (2001)).

47. 12 CFR § 226.31(b)(1) (2001).

48. 72 Fed. Reg. 63462 (2007) (revising 12 CFR § 226.31(b) (2001)).

49. 72 Fed. Reg. 63462 (2007) (revising 12 C.F.R. § 226.36 (2001) and Official Staff Comment, 12 C.F.R. pt. 226, supp. I, § 226.36 (2001)).

50. 72 Fed. Reg. 63462 (2007).

The CCFL— MEMBERSHIP INFORMATION

The Conference on Consumer Finance Law was organized approximately 83 years ago by leaders of the American Bar Association and the financial services industry. Membership dues are \$95 per year, and this includes a subscription to the *Quarterly Report*.

Members should have demonstrable expertise in the field of financial services, including but not limited to: consumer credit, payments systems, secured transactions, real estate, banking, bankruptcy, or debtor-creditor law. If you would like to become a member or if you know another who meets these qualifications and would like to recommend him or her for membership in the Conference, please forward name and a summary of professional background, along with your recommendation, to the Editor of the *Quarterly Report*.

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