

#### IV. Solicitation of Comments Regarding the Use of "Plain Language"

Section 722 of the Gramm-Leach-Bliley Act of 1999 requires the Board to use "plain language" in all proposed and final rules published after January 1, 2000. The Board invites comments on whether the proposed rules are clearly stated and effectively organized, and how the Board might make the proposed text easier to understand.

#### V. Initial Regulatory Flexibility Analysis

In accordance with section 3(a) of the Regulatory Flexibility Act, the Board has reviewed the proposed amendments to Regulation DD. The proposed amendments are not expected to have any significant impact on small entities. A final regulatory flexibility analysis will be prepared and will consider comments received during the public comment period.

#### VI. 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 part 230. This collection is mandatory (15 U.S.C. 4301 *et seq.*) to evidence compliance with the requirements of Regulation DD and the Truth in Savings Act (TISA). The respondents and recordkeepers are for-profit depository institutions, including small businesses. Institutions are required to retain records for twenty-four months. This regulation applies to all types of depository institutions, not just state member banks; however, under Paperwork Reduction Act regulations, the Federal Reserve accounts for the burden of the paperwork associated with the regulation only for state member banks. Other agencies account for the paperwork burden on their respective constituencies under this regulation.

The proposed revisions would provide depository institutions with a more uniform definition for "clear and conspicuous" disclosures and provide examples of how to satisfy the clear and conspicuous standard. While the proposal would amend Regulation DD and the staff commentary, it is expected

that these revisions would not increase the paperwork burden of depository institutions. With respect to state member banks, it is estimated that there are 976 respondents and recordkeepers. Current annual burden is estimated to be 146,644 hours.

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.

Comments on the collection of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (7100-0271), Washington, DC 20503, with copies of such comments sent to Cynthia Ayouch, Federal Reserve Board Clearance Officer, Division of Research and Statistics, Mail Stop 41, Board of Governors of the Federal Reserve System, Washington, DC 20551.

#### Text of Proposed Revisions

Certain conventions have been used to highlight the proposed revisions. New language is shown inside bold-faced arrows while language that would be deleted is set off with bold-faced brackets.

#### List of Subjects in 12 CFR Part 230

Advertising, Banks, banking, Consumer Protection, Federal Reserve System, Reporting and record keeping requirements, Truth in Savings.

For the reasons set forth in the preamble, the Board proposes to amend Regulation DD, 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 230.2 is amended by adding a new paragraph (w) to read as follows:

##### § 230.2 Definitions.

For the purposes of this regulation the following definitions apply:

\* \* \* \* \*

(w) *Clear and conspicuous* means that a disclosure is reasonably understandable and designed to call attention to the nature and significance of the information in the disclosure.

3. In Supplement I to Part 230:

a. Under Section 230.2 Definitions, a new paragraph title (w) *Clear and conspicuous* is added, and new paragraphs (w) 1. through (w) 3. are added.

b. Under Section 230.3 General disclosure requirements, under (a) *Form*, paragraph 1. is revised.

#### Supplement I to Part 230—Official Staff Interpretations

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##### Section 230.2 Definitions

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(w) *Clear and conspicuous*

1. *Reasonably understandable.* Examples of disclosures that are reasonably understandable include disclosures that:

i. Present the information in the disclosure in clear, concise sentences, paragraphs, and sections;

ii. Use short explanatory sentences or bullet lists whenever possible;

iii. Use definite, concrete, everyday words and active voice whenever possible;

iv. Avoid multiple negatives;

v. Avoid legal and highly technical business terminology whenever possible; and

vi. Avoid explanations that are imprecise and readily subject to different interpretations.

2. *Designed to call attention.* Examples of disclosures that are designed to call attention to the nature and significance of the information include disclosures that:

i. Use a plain-language heading to call attention to the disclosure;

ii. Use a typeface and type size that are easy to read. Disclosures in 12-point type generally meet this standard. Disclosures printed in less than 12-point type do not automatically violate the standard; however, disclosures in less than 8-point type would likely be too small to satisfy the standard;

iii. Provide wide margins and ample line spacing;

iv. Use boldface or italics for key words; and

v. In a document that combines disclosures with other information, use distinctive type size, style, and graphic devices, such as shading or sidebars, to call attention to the disclosures.

3. *Other information.* Except as otherwise provided, the clear and conspicuous standard does not prohibit adding to the required disclosures such items as contractual provisions, explanations of contract terms, state disclosures, and translations; or sending promotional material with the required disclosures. However, the presence of this other information may be a factor in determining whether the clear and conspicuous standard is met.

##### Section 230.3 General disclosure requirements

(a) *Form*

1. *Clear and conspicuous.* See § 230.2(w) and accompanying comments. [*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