

## Federal Reserve System

## § 227.1

the transaction, such as by common corporate ownership, and receives no direct or indirect financial benefits based on whether the transaction is consummated.

2. *Adjustments.* The requirement that the cost estimate be from an independent cost service provider does not prohibit a creditor from providing a cost estimate that reflects adjustments to account for factors such as special features, condition or location. However, the requirement that the estimate be obtained from an independent cost service provider means that any adjustments to the estimate must be based on adjustment factors available as part of the independent cost service used, with associated values that are determined by the independent cost service.

### Paragraph 43(b)(8)(ii)(C)

1. *Interest in the property.* A person has a direct or indirect interest in the property if, for example, the person has any ownership or reasonably foreseeable ownership interest in the manufactured home. To illustrate, a person who seeks a loan to purchase the manufactured home to be valued has a reasonably foreseeable ownership interest in the property.

2. *Interest in the transaction.* A person has a direct or indirect interest in the transaction if, for example, the person or an affiliate of that person also serves as a loan officer of the creditor or otherwise arranges the credit transaction, or is the retail dealer of the manufactured home. A person also has a prohibited interest in the transaction if the person is compensated or otherwise receives financial or other benefits based on whether the transaction is consummated.

3. *Training in valuing manufactured homes.* Training in valuing manufactured homes includes, for example, successfully completing a course in valuing manufactured homes offered by a State or national appraiser association or receiving job training from an employer in the business of valuing manufactured homes.

4. *Manufactured home valuation—example.* A valuation in compliance with § 226.43(b)(8)(ii)(C) would include, for example, an appraisal of the manufactured home in accordance with the appraisal requirements for a manufactured home classified as personal property under the Title I Manufactured Home Loan Insurance Program of the U.S. Department of Housing and Urban Development, pursuant to section 2(b)(10) of the National Housing Act, 12 U.S.C. 1703(b)(10).

*	*	*	*	*
	43(f)(2)	Timing		
*	*	*	*	*

2. *No waiver.* Regulation B, 12 CFR 1002.14(a)(1), allowing the consumer to waive the requirement that the appraisal copy be provided three business days before consummation, does not apply to higher-priced mortgage loans subject to § 226.43. A consumer of a higher-priced mortgage loan subject to § 226.43 may not waive the timing requirement to receive a copy of the appraisal under § 226.43(f)(2).

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## PART 227—UNFAIR OR DECEPTIVE ACTS OR PRACTICES (REGULATION AA)

### Subpart A—General Provisions

Sec.

227.1 Authority, purpose, and scope.

227.2 Consumer complaint procedure.

### Subpart B—Credit Practices Rule

227.11 Authority, purpose, and scope.

227.12 Definitions.

227.13 Unfair credit contract provisions.

227.14 Unfair or deceptive practices involving cosigners.

227.15 Unfair late charges.

227.16 State exemptions.

### Subpart C [Reserved]

SUPPLEMENT I TO PART 227—OFFICIAL STAFF COMMENTARY

AUTHORITY: 15 U.S.C. 57a(f).

### Subpart A—General Provisions

#### § 227.1 Authority, purpose, and scope.

(a) *Authority.* This part is issued by the Board under section 18(f) of the Federal Trade Commission Act, 15 U.S.C. 57a(f) (section 202(a) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, Pub. L. 93-637).

(b) *Purpose.* The purpose of this part is to prohibit unfair or deceptive acts or practices in violation of section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1). This part defines and contains requirements prescribed for the purpose of preventing specific unfair or deceptive acts or practices of banks. The prohibitions in this part do not limit the Board's or any other agency's authority to enforce the FTC Act with respect to any

§ 227.2

12 CFR Ch. II (1-1-14 Edition)

other unfair or deceptive acts or practices.

(c) *Scope.* This part applies to banks, including subsidiaries of banks and other entities listed in paragraph (c)(2) of this section. This part does not apply to savings associations as defined in 12 U.S.C. 1813(b). Compliance is to be enforced by:

(1) The Comptroller of the Currency, in the case of national banks and federal branches and federal agencies of foreign banks;

(2) The Board of Governors of the Federal Reserve System, in the case of banks that are members of the Federal Reserve System (other than banks referred to in paragraph (c)(1) of this section), branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act; and

(3) The Federal Deposit Insurance Corporation, in the case of banks insured by the Federal Deposit Insurance Corporation (other than banks referred to in paragraphs (c)(1) and (c)(2) of this section), and insured state branches of foreign banks.

(d) *Definitions.* Unless otherwise noted, the terms used in paragraph (c) of this section that are not defined in the Federal Trade Commission Act or in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

[75 FR 7926, Feb. 22, 2010]

§ 227.2 Consumer-complaint procedure.

(a) *Definitions.* For purposes of this section, unless the context indicates otherwise, the following definitions apply:

(1) "Board" means the Board of Governors of the Federal Reserve System.

(2) "Consumer complaint" means an allegation by or on behalf of an individual, group of individuals, or other entity that a particular act or practice of a State member bank is unfair or deceptive, or in violation of a regulation issued by the Board pursuant to a Fed-

eral statute, or in violation of any other act or regulation under which the bank must operate. Unless the context indicates otherwise, "complaint" shall be construed to mean a "consumer complaint" for purposes of this section.

(3) "State member bank" means a bank that is chartered by a State and is a member of the Federal Reserve System.

(b) *Submission of complaints.* (1) Any consumer having a complaint regarding a State member bank is invited to submit it to the Federal Reserve System. The complaint should be submitted in writing, if possible, and should include the following information:

(i) A description of the act or practice that is thought to be unfair or deceptive, or in violation of existing law or regulation, including all relevant facts;

(ii) The name and address of the State member bank that is the subject of the complaint; and

(iii) The name and address of the complainant.

(2) Consumer complaints should be made to—Federal Reserve Consumer Help Center, P.O. Box 1200, Minneapolis, MN 55480, Toll-free number: (888) 851-1920, Fax number: (877) 888-2520, TDD number: (877) 766-8533, E-mail address:

*ConsumerHelp@FederalReserve.gov*, Web site address: *www.federalreserveconsumerhelp.gov*.

(c) *Response to complaints.* Within 15 business days of receipt of a written complaint by the Board or a Federal Reserve Bank, a substantive response or an acknowledgment setting a reasonable time for a substantive response will be sent to the individual making the complaint.

(d) *Referrals to other agencies.* Complaints received by the Board or a Federal Reserve Bank regarding an act or practice of an institution other than a State member bank will be forwarded to the Federal agency having jurisdiction over that institution.

[74 FR 5559, Jan. 29, 2009]

## Federal Reserve System

## § 227.14

### Subpart B—Credit Practices Rule

SOURCE: Reg. AA, 50 FR 16697, Apr. 29, 1985, unless otherwise noted.

#### § 227.11 [Reserved]

#### § 227.12 Definitions.

For the purposes of this subpart, the following definitions apply:

(a) *Consumer* means a natural person who seeks or acquires goods, services, or money for personal, family, or household use other than for the purchase of real property.

(b)(1) *Cosigner* means a natural person who assumes liability for the obligation of a consumer without receiving goods, services, or money in return for the obligation, or, in the case of an open-end credit obligation, without receiving the contractual right to obtain extensions of credit under the account.

(2) *Cosigner* includes any person whose signature is requested as a condition to granting credit to a consumer, or as a condition for forbearance on collection of a consumer's obligation that is in default. The term does not include a spouse whose signature is required on a credit obligation to perfect a security interest pursuant to state law.

(3) A person who meets the definition in this paragraph is a *cosigner*, whether or not the person is designated as such on the credit obligation.

(c) *Earnings* means compensation paid or payable to an individual or for the individual's account for personal services rendered or to be rendered by the individual, whether denominated as wages, salary, commission, bonus, or otherwise, including periodic payments pursuant to a pension, retirement, or disability program.

(d) *Household goods* means clothing, furniture, appliances, linens, china, crockery, kitchenware, and personal effects of the consumer and the consumer's dependents. The term *household goods* does not include:

- (1) Works of art;
- (2) Electronic entertainment equipment (other than one television and one radio);
- (3) Items acquired as antiques; that is, items over one hundred years of age, including such items that have been re-

paired or renovated without changing their original form or character; and

(4) Jewelry (other than wedding rings).

(e) *Obligation* means an agreement between a consumer and a creditor.

(f) *Person* means an individual, corporation, or other business organization.

#### § 227.13 Unfair credit contract provisions.

It is an unfair act or practice for a bank to enter into a consumer credit obligation that contains, or to enforce in a consumer credit obligation purchased by the bank, any of the following provisions:

(a) *Confession of judgment*. A cognovit or confession of judgment (for purposes other than executory process in the State of Louisiana), warrant of attorney, or other waiver of the right of notice and the opportunity to be heard in the event of suit or process thereon.

(b) *Waiver of exemption*. An executory waiver or a limitation of exemption from attachment, execution, or other process on real or personal property held, owned by, or due to the consumer, unless the waiver applies solely to property subject to a security interest executed in connection with the obligation.

(c) *Assignment of wages*. An assignment of wages or other earnings unless:

(1) The assignment by its terms is revocable at the will of the debtor;

(2) The assignment is a payroll deduction plan or preauthorized payment plan, commencing at the time of the transaction, in which the consumer authorizes a series of wage deductions as a method of making each payment; or

(3) The assignment applies only to wages or other earnings already earned at the time of the assignment.

(d) *Security interest in household goods*. A nonpossessory security interest in household goods other than a purchase money security interest.

#### § 227.14 Unfair or deceptive practices involving cosigners.

(a) *Prohibited practices*. In connection with the extension of credit to consumers, it is:

**§ 227.15**

(1) A deceptive act or practice for a bank to misrepresent the nature or extent of cosigner liability to any person; and

(2) An unfair act or practice for a bank to obligate a cosigner unless the cosigner is informed prior to becoming obligated of the nature of the cosigner's liability.

(b) *Disclosure requirement.* (1) A clear and conspicuous disclosure statement shall be given in writing to the cosigner prior to becoming obligated. The disclosure statement shall be substantially similar to the following statement and shall either be a separate document or included in the documents evidencing the consumer credit obligation.

**NOTICE TO COSIGNER**

You are being asked to guarantee this debt. Think carefully before you do. If the borrower doesn't pay the debt, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.

You may have to pay up to the full amount of the debt if the borrower does not pay. You may also have to pay late fees or collection costs, which increase this amount.

The bank can collect this debt from you without first trying to collect from the borrower. The bank can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If this debt is ever in default, that fact may become a part of your credit record.

This notice is not the contract that makes you liable for the debt.

(2) In the case of open-end credit, the disclosure statement shall be given to the cosigner prior to the time that the cosigner becomes obligated for fees or transactions on the account.

(3) A bank that is in compliance with this paragraph may not be held in violation of paragraph (a)(2) of this section.

**§ 227.15 Unfair late charges.**

(a) In connection with collecting a debt arising out of an extension of credit to a consumer, it is an unfair act or practice for a bank to levy or collect any delinquency charge on a payment, when the only delinquency is attributable to late fees or delinquency charges assessed on earlier installments, and the payment is otherwise a

**12 CFR Ch. II (1-1-14 Edition)**

full payment for the applicable period and is paid on its due date or within an applicable grace period.

(b) For the purposes of this section, *collecting a debt* means any activity, other than the use of judicial process, that is intended to bring about or does bring about repayment of all or part of money due (or alleged to be due) from a consumer.

**§ 227.16 State exemptions.**

(a) *General rule.* (1) An appropriate state agency may apply to the Board for a determination that:

(i) There is a state requirement or prohibition in effect that applies to any transaction to which a provision of this subpart applies; and

(ii) The state requirement or prohibition affords a level of protection to consumers that is substantially equivalent to, or greater than, the protection afforded by this subpart.

(2) If the Board makes such a determination, the provision of this subpart will not be in effect in that state to the extent specified by the Board in its determination, for as long as the state administers and enforces the state requirement or prohibition effectively.

(b) *Applications.* The procedures under which a state agency may apply for an exemption under this section are the same as those set forth in appendix B to Regulation Z (12 CFR part 226).

**Subpart C [Reserved]**

**SUPPLEMENT I TO PART 227—OFFICIAL STAFF COMMENTARY**

**SUBPART A—GENERAL PROVISIONS FOR CONSUMER PROTECTION RULES**

**§ 227.1 Authority, purpose, and scope.**

**1(c) SCOPE**

1. *Penalties for noncompliance.* Administrative enforcement of the rule for banks may involve actions under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), including cease-and-desist orders requiring that actions be taken to remedy violations and civil money penalties.

2. *Industrial loan companies.* Industrial loan companies that are insured

## Federal Reserve System

## § 228.11

by the Federal Deposit Insurance Corporation are covered by the Board's rule.

[75 FR 7926, Feb. 22, 2010]

### PART 228—COMMUNITY REINVESTMENT (REGULATION BB)

Sec.

228.1–228.2 [Reserved]

#### Subpart A—General

228.11 Authority, purposes, and scope.

228.12 Definitions.

#### Subpart B—Standards for Assessing Performance

228.21 Performance tests, standards, and ratings, in general.

228.22 Lending test.

228.23 Investment test.

228.24 Service test.

228.25 Community development test for wholesale or limited purpose banks.

228.26 Small bank performance standards.

228.27 Strategic plan.

228.28 Assigned ratings.

228.29 Effect of CRA performance on applications.

#### Subpart C—Records, Reporting, and Disclosure Requirements

228.41 Assessment area delineation.

228.42 Data collection, reporting, and disclosure.

228.43 Content and availability of public file.

228.44 Public notice by banks.

228.45 Publication of planned examination schedule.

APPENDIX A TO PART 228—RATINGS

APPENDIX B TO PART 228—CRA NOTICE

AUTHORITY: 12 U.S.C. 321, 325, 1828(c), 1842, 1843, 1844, and 2901 through 2908.

SOURCE: 43 FR 47148, Oct. 12, 1978, unless otherwise noted.

§§ 228.1–228.2 [Reserved]

#### Subpart A—General

SOURCE: Reg. BB, 60 FR 22190, May 4, 1995, unless otherwise noted.

**§ 228.11 Authority, purposes, and scope.**

(a) *Authority.* The Board of Governors of the Federal Reserve System (the Board) issues this part to implement

the Community Reinvestment Act (12 U.S.C. 2901 *et seq.*) (CRA). The regulations comprising this part are issued under the authority of the CRA and under the provisions of the United States Code authorizing the Board:

(1) To conduct examinations of State-chartered banks that are members of the Federal Reserve System (12 U.S.C. 325);

(2) To conduct examinations of bank holding companies and their subsidiaries (12 U.S.C. 1844) and savings and loan holding companies and their subsidiaries (12 U.S.C. 1467a); and

(3) To consider applications for:

(i) Domestic branches by State member banks (12 U.S.C. 321);

(ii) Mergers in which the resulting bank would be a State member bank (12 U.S.C. 1828(c));

(iii) Formations of, acquisitions of banks by, and mergers of, bank holding companies (12 U.S.C. 1842);

(iv) The acquisition of savings associations by bank holding companies (12 U.S.C. 1843); and

(v) Formations of, acquisitions of savings associations by, conversions of, and mergers of, savings and loan holding companies (12 U.S.C. 1467a).

(b) *Purposes.* In enacting the CRA, the Congress required each appropriate Federal financial supervisory agency to assess an institution's record of helping to meet the credit needs of the local communities in which the institution is chartered, consistent with the safe and sound operation of the institution, and to take this record into account in the agency's evaluation of an application for a deposit facility by the institution. This part is intended to carry out the purposes of the CRA by:

(1) Establishing the framework and criteria by which the Board assesses a bank's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank; and

(2) Providing that the Board takes that record into account in considering certain applications.

(c) *Scope*—(1) *General.* This part applies to all banks except as provided in paragraph (c)(3) of this section.

(2) *Foreign bank acquisitions.* This part also applies to an uninsured State