

quarantine period prior to establishment of the 7-day quarantine, the savings in charges by removing the 7-day quarantine requirement will be between \$26 and \$61 per head (\$35 minus \$9, and \$70 minus \$9).

With the combined savings of reduced user fees and other quarantine charges, the removal of the VEE quarantine requirements will reduce importers' costs by an estimated \$36 to \$71 per head. Based on the average 1993 price of approximately \$310 per head for horses imported from Mexico, these reduced costs will represent a savings of between 11 and 23 percent of the value of each horse.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This document contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 92

Animal disease, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 92 is amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for part 92 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, 371.2(d).

§ 92.308 [Amended]

2. In § 92.308, paragraph (a)(1) is amended by removing the reference “§ 92.317” and adding in its place the reference “§§ 92.317 and 92.324”.

§ 92.324 [Amended]

3. In § 92.324, the first sentence is amended by removing the words “, for not less than 7 days and” and by removing the words “approved by the

Administrator and constructed so as to prevent the entry of mosquitoes and other hematophagous insects”.

§ 92.326 [Amended]

4. In § 92.326, the first sentence is amended by removing the reference “92.323, and 92.324” and adding in its place the reference “and 92.323”.

Done in Washington, DC, this 20th day of January 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95-1976 Filed 1-25-95; 8:45 am]

BILLING CODE 3410-34-P-M

FEDERAL RESERVE SYSTEM

12 CFR Part 230

[Regulation DD; Docket No. R-0836]

Truth in Savings

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interim rule.

SUMMARY: The Board has adopted an interim rule amending Regulation DD (Truth in Savings) to permit institutions to disclose an annual percentage yield (APY) equal to the contract interest rate for time accounts with maturities greater than one year that do not compound but require interest distributions at least annually. This interim rule does not apply to or affect institutions that permit but do not require (or that bar) interest distributions before maturity. This amendment resolves questions about the APY disclosure for these accounts during consideration of public comments on a related proposal published elsewhere in today's **Federal Register**.

EFFECTIVE DATE: January 18, 1995.

FOR FURTHER INFORMATION CONTACT: Jane Ahrens, Senior Attorney, Kyung Cho-Miller, or Obrea Otey Poindexter, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452-3667 or 452-2412; for questions associated with the regulatory flexibility analysis, Gregory Elliehausen, Economist, Office of the Secretary, at (202) 452-2504; for the hearing impaired *only*, Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452-3544.

SUPPLEMENTARY INFORMATION:

I. Background

The Truth in Savings Act (12 U.S.C. 4301 *et seq.*) requires depository institutions to provide disclosures to

consumers about their deposit accounts, including an annual percentage yield (APY) on interest-bearing accounts calculated under a method prescribed by the Board. The APY is the primary uniform measurement for comparison shopping among deposit accounts. The law also contains rules about advertising, including the advertising of accounts at depository institutions offered to consumers by deposit brokers. The Board's Regulation DD (12 CFR part 230), which was adopted in September 1992 and became effective in June 1993, implements the act. (See 57 FR 43337, September 21, 1992, and 58 FR 15077, March 19, 1993.)

In adopting Regulation DD, the Board considered various approaches for calculating the APY, reflecting several competing interests and concerns. The current APY formula is simple and easy to use. It assumes that interest remains on deposit until maturity. This assumption produces an APY that has the effect of reflecting the time value of money for accounts that remain on deposit until maturity. It does not always reflect the time value of money when there are interest payments prior to maturity.

II. Proposals Affecting the APY

As deposit brokers began complying with the APY formula and Regulation DD's advertising rules, the Securities Industry Association (SIA) asked the Board to reconsider how the APY is calculated. The SIA objected to the fact that, for multi-year certificates of deposit (CDs) that are noncompounding but pay interest at least annually, the formula produces an APY that is less than the contract interest rate. Disclosure of an APY lower than the interest rate did not, according to the SIA, always allow for meaningful comparison shopping among deposit accounts. The SIA believed that the APY should at least equal the contract interest rate.

In December 1993, the Board published a proposal that would have factored into the APY calculation the specific time intervals for interest paid on the account—that is, the time value of money (58 FR 64190, December 6, 1993); an additional internal rate of return formula would have been added to the regulation. The proposal also offered an alternative limited change in the APY disclosure for multi-year noncompounding CDs; under this approach, institutions would disclose an APY equal to the contract interest rate if the CDs paid interest at least annually. The proposal was withdrawn in May 1994, based on considerations of

cost and burden at that time (59 FR 24376, May 11, 1994).

Simultaneously with the withdrawal of the December 1993 proposal, in May 1994 the Board published a related proposal that addressed depository institutions' compounding and crediting practices. Under the May proposal, institutions offering accounts that pay interest by check (or transfer) or by posting interest to the account would have to post interest at least as often as they pay out interest by check. That is, for accountholders leaving the interest in the account, interest would compound on at least as frequent a basis as the interest payments made to others. For example, if an institution offers a two-year CD, permits consumers to receive accrued interest in monthly interest checks, and also permits interest to remain in the account, the institution would have to credit and compound interest at least monthly. If an institution sends consumers the interest payments (and does not permit consumers to leave interest in the account), the institution would treat the interest payment frequency as compounding in the APY calculation. For example, for a two-year CD that requires consumers to receive an annual interest payment, the APY would reflect annual compounding.

In July, the Board extended the time to provide comments on the proposed amendments. At the same time, the Board reopened comment on a limited alternative that had been published in December 1993 and withdrawn in May 1994; that alternative equates the APY and the contract interest rate for noncompounding multi-year CDs that pay interest at least annually. (59 FR 35271, July 11, 1994)

The Board received about 550 comments on the proposal (including comments on the alternative approach involving noncompounding multi-year CDs). About 95% of the comments were from financial institutions. The remaining 5% were from trade associations, data processors and others. Approximately 450 comments addressed the proposed amendments affecting the APY formula; about 2% were in favor of the proposal, 98% were opposed, most of them because of the proposed matching of compounding and crediting frequencies. About 100 commenters addressed the alternative that would equate the APY to the interest rate; nearly 60% supported this approach.

On January 4, 1995, the Board adopted one part of the May 1994 proposal. The Board voted to amend the definition of the APY to reflect the frequency of interest payments; it

declined to adopt another portion of the May proposal that would have affected institutions' crediting and compounding policies. The Board also declined to adopt the alternative proposal published in July 1994 that equated the APY and the interest rate for multi-year, noncompounding certificates of deposit that make interest payments at least annually. Subsequently, the Board received petitions for reconsideration from both the major banking industry trade associations and consumer advocates.

On January 17, the Board granted the petitions and decided to publish for public comment a modified version of the May 1994 proposal, which would factor the time value of interest payments into the APY calculation using the current formula, but would not require institutions to match crediting and compounding policies for accounts where consumers may receive interest payments or leave interest in the account. The Board is also soliciting comment on a second approach that would factor the time value of interest payments into the APY calculation using an additional internal rate of return formula. (See Docket R-0869 elsewhere in today's **Federal Register**.)

In order to address immediately one anomaly created by the current rule, the Board is adopting as an interim rule an APY disclosure for noncompounding multi-year CDs.

III. Equating the APY and Interest Rate for Multi-Year Noncompounding CDs

The interim rule represents a modified version of the July proposal: Institutions may disclose an APY equal to the contract interest rate for noncompounding multi-year CDs that require interest distributions at least annually. Institutions that prohibit withdrawal of interest or that permit (but do not require) interest distributions are not affected. The Board believes that this narrow rule provides a targeted response to questions about the APY disclosure for the class of accounts that currently must disclose an APY that is lower than the stated interest rate. The Board believes adopting the interim rule is necessary to limit any consumer confusion and to allow more effective comparison shopping by consumers.

The interim rule is based on concerns expressed by commenters in the earlier rulemakings and upon further analysis by the Board. For example, commenters voiced concern that under the July 1994 proposal, which covered noncompounding multi-year CDs that paid—or offered to pay—interest at least annually, the same APY could be

disclosed for compounding and noncompounding CDs (such as a noncompounding two-year CD with annual interest checks and a two-year CD that also offers annual interest checks or annual compounding) and this might discourage compounding. The Board believes the interim rule responds to these concerns. The interim rule does not apply to a multi-year CD that provides optional periodic withdrawals of interest. That account must compound at least annually to quote an APY equal to the contract interest rate. Under the existing rules, for example, if a consumer invests \$1,000 in a two-year CD and Institution A offers a noncompounding two-year CD at a 6% interest rate and *permits* interest withdrawals or requires interest payouts only at maturity, the APY is 5.83%. Under the interim rule, if Institution B offers a noncompounding two-year CD at the same interest rate and *requires* annual interest checks, the APY is 6.00%.

In addition to narrowing the scope of the amendment, the Board is requiring a brief narrative for account disclosures and advertisements if institutions choose to comply with the interim rule and state an APY equal to the contract interest rate. The Board believes this narrative will further minimize possible consumer confusion about the effect of interest payments on the APY and earnings from the account.

The interim rule being adopted by the Board will permit new APY disclosures to be made in certain circumstances pending final resolution of this matter. As the Board moves toward a permanent resolution of this issue, it will consider commenters' views on retaining the interim rule.

IV. Regulatory Revisions: Section-by-Section Analysis

Section 230.4—Account Disclosures *4(b) Content of account disclosures* *4(b)(6) Features of time accounts* *4(b)(6)(iii) Withdrawal of interest prior to maturity*

The regulation requires a disclosure for institutions offering time accounts that compound interest and permit a consumer to withdraw accrued interest during the account term. The disclosure states that the APY assumes interest remains on deposit until maturity and that a withdrawal of interest will reduce earnings. Under the interim rule, the Board is adding a brief narrative for institutions that state an APY equal to the contract interest rate for noncompounding multi-year CDs that require interest payouts at least annually. The Board believes a

statement alerting customers to the fact that interest cannot remain in the account will assist consumers in comparison shopping between multi-year CDs with annual compounding and multi-year CDs that do not compound but require interest payouts during the account term, without adding an undue burden on institutions.

Section 230.8—Advertising

8(c) *When additional disclosures are required*

8(c)(6) *Features of time accounts*

The regulation requires institutions advertising APYs to disclose other key features about the account. Under the interim rule, the Board is adding a brief narrative that parallels the disclosure required by § 230.4(b)(6)(iii). If an institution states an APY equal to the contract interest rate in advertising a noncompounding multi-year CD that requires interest payments, the fact that interest payouts are mandatory and that interest cannot remain in the account must be stated. The Board believes that the disclosure will assist consumers in comparison shopping between multi-year CDs that compound annually and multi-year CDs that do not compound but require interest payouts at least annually, without adding undue burden on institutions.

Appendix A to Part 230—Annual Percentage Yield Calculation

Part I. Annual Percentage Yield for Account Disclosures and Advertising Purposes

E. Time Accounts With a Stated Maturity Greater Than One Year That Pay Interest at Least Annually

Under the interim rule, the amendments to Appendix A affect institutions offering noncompounding multi-year CDs that require interest payouts at least annually. A new paragraph E is added to clarify how APYs may be determined for such accounts. Two examples are added, including an example calculating the APY for a stepped-rate account covered by the amendments.

The statute provides that the APY shall be calculated under a method prescribed by the Board in regulations, and authorizes the Board to provide for adjustments and exceptions for any class of accounts that, in the Board's judgment, are necessary or proper to carry out the purposes of the act, prevent circumvention of the act's requirements, or facilitate compliance. Based on the comments received and further analysis, the Board finds that an interim rule permitting institutions to disclose an APY equal to the contract

interest rate for noncompounding multi-year CDs that require interest distributions at least annually is necessary to carry out the purposes of the act—enabling consumers to make informed decisions about deposit accounts. The exception is narrowly drawn, and reflects the value of receiving payments at least annually on accounts that do not permit accountholders to keep interest on deposit until maturity.

Appendix B to Part 230—Model Clauses and Sample Forms

B-1 Model Clauses for Account Disclosures

(h) *Disclosures relating to time accounts*
 (h)(v) *Required interest distribution*

Under the interim rule, the Board is adding a model clause to describe the effect of interest payments on earnings.

V. Regulatory Flexibility Analysis and Paperwork Reduction Act

The Board's Office of the Secretary has prepared a regulatory analysis on the interim rule. A copy of the analysis may be obtained from Publications Services, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452-3245.

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 35; 5 CFR 1320.13), the revisions were reviewed by the Board under the authority delegated to the Board by the Office of Management and Budget after consideration of comments received during the public comment period.

The interim rule revises the APY that may be disclosed for noncompounding CDs greater than one year that require interest payouts at least annually. It also adds a brief narrative for account disclosures and advertisements for accounts that disclose the contract interest rate as the APY. The Board believes the burden associated with the amendment affects a narrow class of accounts and is likely to be minimal. New calculations are permissive, and the Board believes only a small number of institutions will be affected. Based on its analysis of the impact of the amended regulation, the Board believes that there is no net change in the Board's current estimate of paperwork burden associated with Regulation DD. The annual information disclosure burden for state member banks is estimated to be 1.7 million hours.

List of Subjects in 12 CFR Part 230

Advertising, Banks, banking, Consumer protection, Federal Reserve

System, Reporting and recordkeeping requirements, Truth in savings.

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 230.4 is amended by adding a new sentence at the end of paragraph (b)(6)(iii) to read as follows:

§ 230.4 Account disclosures.

* * * * *

(b) * * *

(6) * * *

(iii) * * * For accounts that do not compound interest on an annual or more frequent basis, with a stated maturity greater than one year that require interest payouts at least annually and that disclose an APY determined in accordance with section E of Appendix A of this part, a statement that interest cannot remain on deposit and that payout of interest is mandatory.

* * * * *

3. Section 230.8 is amended by adding a new paragraph (c)(6)(iii) to read as follows:

§ 230.8 Advertising.

* * * * *

(c) * * *

(6) * * *

(iii) *Required interest payouts.* For noncompounding time accounts with a stated maturity greater than one year that do not compound interest on an annual or more frequent basis, that require interest payouts at least annually, and that disclose an APY determined in accordance with section E of Appendix A of this part, a statement that interest cannot remain on deposit and that payout of interest is mandatory.

* * * * *

4. In Part 230, Appendix A is amended as follows:

a. The second sentence in the introductory text to Part I is revised;

b. The first sentence of the introductory text to Part I, A. General Rules is revised; and

c. A new section E is added to Part I.

The revisions and addition read as follows:

Appendix A to Part 230—Annual Percentage Yield Calculation

* * * * *

Part I. Annual Percentage Yield for Account Disclosures and Advertising Purposes

* * * Special rules apply to accounts with tiered and stepped interest rates, and to certain time accounts with a stated maturity greater than one year.

A. General Rules

Except as provided in Part I.E. of this appendix, the annual percentage yield shall be calculated by the formula shown below.* * *

* * * * *

E. Time Accounts with a Stated Maturity Greater than One Year that Pay Interest At Least Annually

1. For time accounts with a stated maturity greater than one year that do not compound interest on an annual or more frequent basis, and that require the consumer to withdraw interest at least annually, the annual percentage yield may be disclosed as equal to the interest rate.

Example

(1) If an institution offers a \$1,000 two-year certificate of deposit that does not compound and that pays out interest semi-annually solely by check or transfer, at a 6.00% interest rate the annual percentage yield may be disclosed as 6.00%.

2. For time accounts covered by this paragraph that are also stepped-rate accounts, the annual percentage yield may be disclosed as equal to the composite interest rate.

Example

(1) If an institution offers a \$1,000 three-year certificate of deposit that does not compound and that pays out interest annually solely by check or transfer, at a 5.00% interest rate for the first year, 6.00% interest rate for the second year, and 7.00% interest rate for the third year, the institution may compute the composite interest rate and APY as follows:

- (a) Multiply each interest rate by the number of days it will be in effect;
- (b) Add these figures together; and
- (c) Divide by the total number of days in the term.

(2) Applied to the example, the products of the interest rates and days the rates are in effect are (5.00%×365 days) 1825, (6.00%×365 days) 2190, and (7.00%×365 days) 2555 days, respectively. The sum of these products, 6570 days, is divided by 1095, the total number of days in the term. The composite interest rate and APY are both 6.00%.

* * * * *

5. In Part 230, Appendix B, under B-1 Model Clauses For Account Disclosures, a new paragraph (h)(v) is added to read as follows:

Appendix B to Part 230—Model Clauses and Sample Forms

* * * * *

B-1—Model Clauses for Account Disclosures

* * * * *

(h) * * *

(v) Required interest distribution.

This account requires the distribution of interest and does not allow interest to remain in the account.

* * * * *

By order of the Board of Governors of the Federal Reserve System, January 18, 1995.

William W. Wiles,
Secretary of the Board.

[FR Doc. 95-1785 Filed 1-25-95; 8:45am]

BILLING CODE 6210-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74 and 201

[Docket No. 92C-0293]

Listing of Color Additives Subject to Certification; FD&C Yellow No. 5; Confirmation of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of December 30, 1994, of the final rule that appeared in the **Federal Register** of November 29, 1994 (59 FR 60893) (effective date corrected in the **Federal Register** of December 2, 1994 (59 FR 61929)), and amended the color additive regulations to provide for the safe use of FD&C Yellow No. 5 and FD&C Yellow No. 5 Aluminum Lake for coloring drugs and cosmetics intended for use in the area of the eye.

DATES: Effective date confirmed: December 30, 1994.

FOR FURTHER INFORMATION CONTACT: Robert L. Martin, Center for Food Safety and Applied Nutrition (HFS-217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204-0001, 202-418-3074.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 29, 1994 (59 FR 60893) (effective date corrected in the **Federal Register** of December 2, 1994 (59 FR 61929)), FDA amended 21 CFR 74.1705 and 74.2705 to provide for the safe use of FD&C Yellow No. 5 and FD&C Yellow No. 5 Aluminum Lake for coloring drugs and cosmetics intended for use in the area of the eye.

FDA gave interested persons until December 29, 1994, to file objections or requests for a hearing. The agency received no objections or requests for a hearing on the final rule. Therefore, FDA finds that the final rule published in the **Federal Register** of November 29, 1994, should be confirmed as corrected on December 2, 1994.

List of Subjects

21 CFR Part 74

Color additives, Cosmetics, Drugs.

21 CFR Part 201

Drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 401, 402, 403, 409, 501, 502, 505, 601, 602, 701, 721 (21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for a hearing were filed in response to the November 29, 1994, final rule. Accordingly, the amendments promulgated thereby became effective December 30, 1994.

Dated: January 19, 1995.

William K. Hubbard,

Interim Deputy Commissioner for Policy.

[FR Doc. 95-2005 Filed 1-25-95; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S-206]

Safety Standards for Fall Protection in the Construction Industry

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final rule; delay of effective date.

SUMMARY: The Occupational Safety and Health Administration (OSHA) issued a final rule on Fall Protection in the Construction Industry (59 FR 40672, August 9, 1994), which is scheduled to become effective on February 6, 1995. The Agency has determined that interested persons did not receive adequate notice that subpart M would apply to non-building steel erection activities. Accordingly, OSHA is delaying the application of the final rule to steel erection activities, as well as the effectiveness of certain items in the final rule, until August 6, 1995. OSHA intends to reopen the subpart M rulemaking record in a subsequent **Federal Register** notice for comment regarding the appropriate fall protection measures to be taken to protect employees engaged in non-building steel erection activities from fall hazards.