

**Supporting Statement for the
Reporting, Recordkeeping, and Disclosure Requirements associated with
Regulation Z (Truth in Lending) and
Regulation AA (Unfair or Deceptive Acts or Practices)
(OMB No. 7100-0199)
Appraisals for Higher-Priced Mortgage Loans
(Docket No. R-1443) (RIN 7100-AD90)**

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to revise the recordkeeping, reporting, and disclosure requirements of Regulation Z (Truth in Lending Act (TILA))¹ and Regulation AA (Unfair or Deceptive Acts or Practices). The Paperwork Reduction Act (PRA) classifies these requirements as an information collection.

On September 5, 2012, a joint notice of proposed rulemaking (NPRM) was published in the *Federal Register* (77 FR 54722) for public comment to amend Regulation Z, which implements TILA.² This NPRM implements Section 129H of TILA, which was enacted on July 21, 2010, by Section 1400 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. TILA Section 129H, sets forth appraisal requirements applicable to “higher-risk mortgages.” For mortgages with an annual percentage rate that exceeds the average prime offer rate by a specified percentage, the proposed rule would require creditors to obtain an appraisal or appraisals meeting certain specified standards, provide applicants with a notification regarding the use of the appraisals, and give applicants a copy of the written appraisals used. The comment period expired November 5, 2012. The Agencies received more than 200 comment letters regarding the NPRM from banks, credit unions, other creditors, appraisers, appraisal management companies, industry trade associations, consumer groups, and others; however, only one comment specifically addressed the paperwork burden estimates. On February 13, 2013, a joint notice of final rulemaking (NFRM) was published in the *Federal Register* (78 FR 10368). The requirements provided in the final rule are substantially similar to those provided in the proposed rule. Compliance with this final rule is effective January 18, 2014.

TILA and Regulation Z ensure adequate disclosure of the costs and terms of credit to consumers. For open-end credit, creditors are required to disclose information about the initial costs and terms and to provide periodic statements of account activity, notices of changes-in-terms, and statements of rights concerning billing error procedures. The regulation also requires specific types of disclosures for credit and charge card accounts, and home-equity plans. For closed-end loans, such as mortgage and installment loans, cost disclosures are required to be provided prior to consummation. Special disclosures are required of certain products, such as

¹ Regulation Z implements TILA. TILA was enacted in 1968 and substantially revised in 1980 by the Truth in Lending Simplification and Reform Act. TILA is codified at 15 U.S.C. 1601 et seq. Regulation Z is located at 12 CFR Part 226.

² Office of the Comptroller of the Currency, Board of Governors of Federal Reserve System, National Credit Union Administration, Bureau of Consumer Financial Protection, and Federal Housing Finance Agency (collectively, the Agencies).

reverse mortgages, certain variable-rate loans, and certain mortgages with rates and fees above specified thresholds. TILA and Regulation Z also contain rules concerning credit advertising.

The information collection pursuant to Regulation Z is triggered by specific events. As Regulation Z contains no data reporting requirements, there are no reporting forms associated with the regulation. To ease the burden and cost of complying with Regulation Z (particularly for small entities), the Federal Reserve provides model forms, which are appended to the regulation. Creditors are required to “retain evidence of compliance” for 24 months (subpart D, section 226.25), but the regulation does not specify the types of records that must be retained.

Under the PRA, the Federal Reserve accounts for the paperwork burden associated with Regulation Z for the state member banks (SMBs) and other creditors supervised by the Federal Reserve that engage in lending covered by Regulation Z and, therefore, are “respondents” under the PRA.³ Other federal agencies account for the paperwork burden on other creditors. The current annual burden for 1,077 respondents⁴ is estimated to be 1,517,443 hours.

The Federal Reserve estimates that the NFRM will impose a one-time increase in the annual burden under Regulation Z for all respondents regulated by the Federal Reserve by 3,344 hours. The Federal Reserve estimates that on a continuing basis the NFRM will increase the annual burden by 5,121 hours. The total annual burden for the Regulation Z information collection is estimated to increase by 8,465 hours from 1,517,443 hours to 1,525,908 hours.

Background and Justification

TILA and Regulation Z require creditors to disclose certain credit costs and terms to consumers, using a specified format and terminology, at or before the time consumers enter into a consumer credit transaction and when the availability of consumer credit on particular terms is advertised. The purpose of the disclosures is to promote the informed use of consumer credit.

Although TILA does not specifically authorize exemptions for small business, Regulation Z contains several provisions designed to minimize burdens on these entities. The definition of creditor, for example, is limited to persons who, in the preceding calendar year, extended credit more than twenty-five times or extended credit secured by a dwelling more than five times.

In 1994, Congress enacted HOEPA as an amendment to TILA, to address abusive practices involving certain home-secured loans with high rates or high fees.⁵ The Board also added to a disclosure required three days before the closing of a HOEPA loan a statement of the total amount of the borrower’s obligation and whether optional credit insurance or debt-

3 Appendix I – Federal Enforcement Agencies – of Regulation Z defines the Federal Reserve-regulated institutions as: State member banks, 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.

4 The number of Federal Reserve-supervised creditors 1,077 was obtained from numbers published in the Board of Governors of the Federal Reserve System 97th Annual Report 2010: 829 SMBs, 195 Branches & agencies of foreign banks, 2 Commercial lending companies, and 51 Edge Act or agreement corporations.

5 15 U.S.C. 1601 *et seq.*

cancellation coverage is included in that amount. Regulation Z Model Form H-16 illustrates this revised disclosure, which became mandatory on October 1, 2002.

In November 2007, the Board published a final rulemaking (72 FR 63462) that amended Regulation Z to address the timing and delivery of electronic disclosures, consistent with the requirements of the Electronic Signatures in Global and National Commerce Act (E-Sign Act). This rule provides that that certain disclosures may be provided to a consumer in electronic form without regard to the consumer consent and other provisions of the E-Sign Act; and that, when an advertisement is accessed by the consumer in electronic form, the disclosures must be provided in electronic form on or with the advertisement.

In July 2008, the Board published a final rulemaking (72 FR 44522) that amended Regulation Z. The goals of the amendments are to protect consumers in the mortgage market from unfair, abusive, or deceptive lending and servicing practices while preserving responsible lending and sustainable homeownership; ensure that advertisements for mortgage loans provide accurate and balanced information and do not contain misleading or deceptive representations; and provide consumers transaction specific disclosures early enough to use while shopping for a mortgage. This final rulemaking was effective on October 1, 2009.

On May 19, 2009, the Board published a final rulemaking (74 FR 23289) that amended Regulation Z to implement provisions of the Mortgage Disclosure Improvement Act of 2008 (MDIA). MDIA required early, transaction specific disclosures for mortgage loans secured by dwellings other than the consumer's principal dwelling and requires waiting periods between the time when disclosures are given and consummation of the mortgage transaction. This final rulemaking was effective on July 30, 2009.

On August 14, 2009, the Board published a final rulemaking (74 FR 41194) that amended Regulation Z to implement provisions of Higher Education Opportunity Act (HEOA).⁶ Title X of the HEOA amends the TILA by adding disclosure and timing requirements that apply to private educational lenders making private education loans, which are defined as loans made expressly for postsecondary educational expenses. The HEOA's definition of private education loan excludes open-end credit, real estate-secured loans, and loans made, insured, or guaranteed by the federal government under title IV of the Higher Education Act of 1965 (20 USC 1070 *et seq.*). The HEOA also amends TILA by adding limitations on certain practices by private educational lenders and limitations on co-branding in the marketing of private student loans. Mandatory compliance with this final rulemaking was effective on February 14, 2010.

On February 22, 2010, the Board published a final rulemaking (75 FR 7658) (Docket No. R-1370) that amended Regulation Z to implement provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit Card Act). In general, the amendments: (1) protect consumers from unexpected increases in credit card interest rates by generally prohibiting increases in a rate during the first year after an account is opened and increases in a rate that applies to an existing credit card balance, (2) prohibit creditors from issuing a credit card to a

6 HEOA (Public Law 110-315; Sections 1021-1022) was enacted on August 14, 2008, and reauthorizes the HEA of 1965, as amended. http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_public_laws&docid=f:publ315.110.pdf

consumer who is under the age of 21 unless the consumer has the ability to make the required payments or obtains the signature of a parent or other cosigner with the ability to do so, (3) require creditors to obtain a consumer's consent before charging fees for transactions that exceed the credit limit, (4) limit the high fees associated with subprime credit cards, (5) ban creditors from using the "two-cycle" billing method to impose interest charges, and (6) prohibit creditors from allocating payments in ways that maximize interest charges. This NPRM represents the second stage of the Federal Reserve's implementation of the Credit Card Act. The mandatory compliance dates are February 22, 2010, for all provisions related to the Credit Card Act and July 1, 2010, for all other provisions of this final rule. Also, On February 22, 2010, the Board published a final rule (75 FR 7925), withdrawing a final rule amending Regulation Z (Docket No. R-1286) and the staff commentary to the regulation published on January 29, 2009, see (72 FR 5244).

On June 29, 2010, the Board published a final rulemaking (75 FR 37526) that amended Regulation Z to implement provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009. In particular, the final rule required that penalty fees imposed by card issuers be reasonable and proportional to the violation of the account terms. The final rule also requires credit card issuers to reevaluate at least every six months annual percentage rates increased on or after January 1, 2009. Mandatory compliance for the amendments was August 22, 2010 and December 1, 2010.

On September 24, 2010, the Board published a final rulemaking (75 FR 58489) that amended Regulation Z to implement Section 131(g) of TILA, which was enacted on May 20, 2009, as Section 404(a) of the Helping Families Save Their Homes Act. TILA Section 131(g) became effective immediately upon enactment and established a new requirement for notifying consumers of the sale or transfer of their mortgage loans. The purchaser or assignee that acquires the loan must provide the required disclosures in writing no later than 30 days after the date on which the loan is sold or otherwise transferred or assigned. Mandatory compliance for the amendments was January 1, 2011.

On October 28, 2010, the Board published an interim final rulemaking (IFRM) (75 FR 66554) that amended Regulation Z to implement Section 129E of TILA, which was enacted on July 21, 2010, by Section 1472 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. TILA Section 129E established new requirements for appraisal independence for consumer credit transactions secured by the consumer's principal dwelling. The amendments were designed to ensure that real estate appraisals used to support creditors' underwriting decisions are based on the appraiser's independent professional judgment, free of any influence or pressure that may be exerted by parties that have an interest in the transaction. The amendments also sought to ensure that creditors and their agents pay customary and reasonable fees to appraisers. Mandatory compliance with this IFRM was April 1, 2011.

On April 4, 2011, the Board published a final rulemaking (76 FR 18354) that amended Regulation Z to implement Section 1100E of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act), which was signed into law on July 21, 2010. The Dodd-Frank Act raises TILA's \$25,000 exemption threshold to \$50,000, effective July 21, 2011. In addition, the Dodd-Frank Act requires that, on or after December 31, 2011, the threshold shall

be adjusted annually for inflation by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), as published by the Bureau of Labor Statistics. Beginning on January 1, 2012, the \$50,000 threshold will be adjusted annually based on any annual percentage increase in the CPI-W. Mandatory compliance for the amendments was July 21, 2011.

Description of Information Collection

TILA and Regulation Z distinguish between two types of credit, regarding the specific disclosure requirements depending on the type of credit involved. Subpart B of the regulation prescribes disclosures for open-end credit, which includes most revolving credit lines, credit card accounts, home-equity lines of credit and overdraft lines of credit tied to checking accounts. Subpart C of the regulation prescribes the disclosures for closed-end credit. This category of credit refers generally to credit extended in a fixed amount for a specified period, typified by mortgages, installment loans, and credit sales. Subpart E of the regulation prescribes special disclosures for certain home mortgage transactions that carry rates or fees above a specified threshold and for reverse mortgages. Subpart F requires creditors that extend private education loans must provide disclosures about loan terms and features on or with the loan application and must also disclose information about federal student loan programs that may offer less costly alternatives. Subpart G requires public disclosure of contracts or other agreements between card issuers and institutions of higher education for the purpose of marketing a credit card and imposes restrictions related to marketing open-end credit to college students.

The disclosure requirements associated with Regulation Z are described below. The frequency of response varies according to the level of credit activity by a creditor.

Open-end Credit Disclosures (Subpart B)

No other federal law mandates these disclosures and procedures for responding to error allegations, although some states may have similar requirements.

Initial and Change-in-Term Disclosures (Sections 226.6 and 226.9(c)) - Creditors that offer open-end credit are required to inform consumers of costs and terms before they use the accounts and in general to inform them of certain subsequent changes in the terms of the accounts. Initial information must include the finance charge and other charges, the annual percentage rate (APR), a description of how balances (on which a finance charge is based) will be calculated, and any collateral that will secure repayment.

If the creditor changes any term initially disclosed, or increases the minimum periodic payment, a written change-in-term notice generally must be provided to the consumer at least fifteen days prior to the effective date of the change. Special rules and restrictions govern changes in the terms of home-equity plans.

Unfair or deceptive practices involving cosigners (Reg AA, Section 227.14) - 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.

Periodic Statements (Sections 226.7) - A written statement of activity on open-end accounts must be provided each billing cycle (typically monthly). The statement must be provided for each account that has a debit or credit balance of more than \$1 or on which a finance charge is imposed, and it must include a description of activity on the account, opening and closing balances, finance charges imposed, and payment information.

Amendments to section 226.3(b)(1)(i) and its accompanying commentary raise the threshold for exempt consumer credit transactions from \$25,000 to \$50,000. In addition, under section 226.3(b)(1)(ii), the threshold amount must be adjusted annually by any annual percentage increase in the CPI-W. As a result, changes to an open-end account or the threshold amount may result in an account no longer qualifying for the exemption in Section 226.3(b). In these circumstances the creditor must, within a reasonable period of time after the account ceases to be exempt (except as otherwise noted), provide the disclosures required by Section 226.6 reflecting the current terms of the account and begin to provide periodic statements consistent with Section 226.7.

Error Resolution Rules (Sections 226.13) - Creditors must notify consumers about their rights and responsibilities regarding billing problems. Creditors may provide either a complete statement of billing rights each year, or a summary on each periodic statement. The paperwork burden for the summary is included in the estimated burden for periodic statements.

When a consumer alleges a billing error, the creditor must provide an acknowledgment, within 30 days of receipt, that the creditor received the consumer's error notice, and must report on the results of its investigation within 90 days. If a billing error did not occur, the creditor must provide an explanation as to why the creditor believes an error did not occur and provide documentary evidence to the consumer upon request. The creditor must also give notice of the portion of the disputed amount and related finance or other charges that the consumer still owes and notice of when payment is due.

Credit and Charge Cards (Sections 226.5(a)) - Generally, card issuers must provide additional disclosures with solicitations, when an annual fee is to be charged, and when the issuer changes its credit insurance carrier.

Solicitations and applications. When offering cards to consumers by direct mail solicitation, card issuers must disclose in a highly-structured table key of terms of the account, such as the APR, information about variable rates, and fees such as annual fees, minimum finance charges, and transactions fees for purchases. Similar disclosure rules apply in telephone solicitations, and for “take-one” and magazine or catalog applications. Special rules apply for charge cards.

Annual fee. TILA also requires card issuers that charge an annual fee to notify a consumer at least 30 days before payment of the fee is due. The notice must include basic cost information for continued use of the card and how the consumer may close the account and avoid paying any fee.

Changes to insurance carriers. Card issuers that change credit insurance carriers must provide an advance notice to cardholders if increased cost or substantially decreased coverage would result from the switch in carriers. The notice must inform consumers about their right to cancel the insurance.

Home-Equity Plans (Sections 226.5(b)) - Creditors offering home-equity lines of credit must provide additional disclosures at application, when the credit plan is opened, and when consumers’ use of the plan is restricted.

Applications. Lenders must provide, on or with applications for home-equity plans, generic disclosures about the plan, including the possibility of negative amortization, draw requirements, and the method of determining the minimum periodic payment. Additional disclosures about variable-rate plans, including information about interest rate caps and an historical example showing what the APR and payments would have been for the preceding 15 years.

Account opening. Some of the information given with the application must be repeated when the consumer opens the account. The paperwork burden associated with this second round of disclosures is considered negligible, since it involves disclosures that were previously made to the consumer.

Restricting use of the plan. A creditor may prohibit additional credit extensions or reduce the credit limit in certain instances, such as if there is a drop in the value of the loan security. However, in these instances, the creditor must give the consumer written notice not later than three business days after the action takes effect, explaining why the action was taken.

Closed-end Credit Disclosures (Subpart C, Section 226.17)

The requirements of Subpart C apply to any creditor that extends consumer credit (unless over \$25,000 and not secured by a dwelling) if the credit is payable in more than four installments or is subject to a finance charge, and is not open-end credit. The required disclosures include credit terms such as the APR and finance charge, which reflect the total credit cost in percentage and dollar terms, respectively. Key information is highlighted for consumers through the use of certain terminology and a specific format.

For certain variable-rate mortgages, generic disclosures similar to those required for home-equity lines of credit must be provided at application. In addition, creditors must send periodic statements when payments change or at least annually if rates change without changes to payment amounts.

Interest Rate and Payment Summary for Mortgage Transactions (Sections 226.18(s) & (t)) -- Section 226.18(s), provides requirements for disclosure of the contract interest rate and the periodic payment for most transactions secured by real property or a dwelling. The information required by Section 226.18(s)(2)–(4) must be in the form of a table, as provided in Section 226.18(s)(1), substantially similar to Model Clause H–4(E), H–4(F), H–4(G), or H–4(H) in Appendix H. Section 226.18(t)(1) requires creditors to disclose that there is no guarantee that the consumer will be able to refinance the loan to obtain a lower interest rate and payment.

Advertising and Notification Requirements (Subparts B and C)

Advertising Rules (Subpart B, Section 226.16) (Subpart C, Section 226.24) -- These requirements apply to all persons who promote the availability of open-end or closed-end credit through commercial messages in any form, including print or electronic media, direct mailings, and displays. With some variations, Subparts B (for open-end credit) and C (for closed-end credit) both require advertisers to include certain basic credit information if the advertisement refers to specified credit terms or costs. The purpose of the advertising rules is to provide potential credit shoppers with accurate information that they can use in deciding among various credit sources. The frequency of response varies according to the level of credit advertising by a creditor. No other federal law requires advertisers of credit to include these specific credit terms and costs, although some states may have similar requirements.

Special Rules for Certain Home Mortgage Transactions (Subpart E)

Certain types of mortgage products trigger special disclosures, such as reverse and high-cost mortgages; the requirements have a minimal effect on the paperwork burden for SMBs.

Reverse Mortgages (Section 226.33) – Creditors offering reverse mortgages must provide rate disclosures and a notice to consumers at least three days before loan consummation or before the first transaction in an open-end plan. A reverse mortgage transaction is a loan secured by the equity in a home. Disbursements are made to homeowners until the homeowner dies, moves permanently, or sells the home. The creditor relies on the home’s future value for repayment. Creditors must disclose the projected total cost of credit for specified loan periods (short-term, life-expectancy, or long-term). Creditors must also furnish a notice to consumers that receiving disclosures or applying for the loan does not obligate the consumer to complete the transaction.

Home Ownership and Equity Protection Act (HOEPA) Mortgages (Section 226.34) -- Creditors offering mortgages with rates or fees above thresholds outlined in the HOEPA must provide cost disclosures and a notice at least three days before consummation. The cost disclosures include the APR, regular payment amount, the total amount borrowed and whether

the total amount borrowed includes the cost of optional insurance. A notice warns consumers about losing their home and reminds consumers that they are not obligated to complete the transaction. In addition, if the creditor changes any terms that are to be reflected on the disclosures, the creditor must generally provide the consumer with new disclosures and allow the consumer another three days to consider the transaction before consummation.

Notification of the Sale or Transfer of Mortgage Loans Amendment (Section 226.39)

-- The disclosure requirements in Section 226.39 apply only to persons that acquire more than one consumer mortgage transaction in any 12-month period. The disclosure must identify the loan that was acquired or transferred and, consistent with the statute, contain the following: (1) The identity, address, and telephone number of the covered person that owns the mortgage loan; (2) the date of the acquisition or transfer; (3) contact information that the consumer can use to reach an agent or party having authority to act on behalf of the covered person; (4) the location of the place where the transfer of the ownership of the debt is recorded. The disclosure must be mailed or delivered to the consumer on or before the 30th calendar day following the date that the covered person acquires the loan.

Valuation Independence (Subpart E, Section 226.42(g)(1))⁷ - Mandatory Reporting -

Any covered person that reasonably believes an appraiser has not complied with the Uniform Standards of Professional Appraisal Practice (USPAP) or ethical or professional requirements for appraisers under applicable state or federal statutes or regulations shall refer the matter to the appropriate state agency if the failure to comply is material. For purposes of this paragraph (g) (1), a failure to comply is material if it is likely to significantly affect the value assigned to the consumer's principal dwelling.

Special Rules for Private Education Loans (Subpart F)⁸

Disclosures for private education loans must be given at different times in the loan origination process.

Application or Solicitation Disclosures (Section 226.46(d)(1)) – Specifies the disclosures required by section 226.47(a) shall be provided on or with any application or solicitation. For purposes of this subpart, the term solicitation means an offer of credit that does not require the consumer to complete an application. The creditor may, at its option, disclose orally the information in a telephone application or solicitation. Alternatively, if the creditor does not disclose orally the information, the creditor must provide the disclosures or place them in the

⁷ The Federal Reserve estimated that 567 respondents (*Based on loan transactions reported for 2009 under the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. 2801 et seq.; 12 CFR part 203, the Federal Reserve estimates that 567 institutions engaged in such mortgage transactions are supervised by the Federal Reserve*) supervised by the Federal Reserve will take, on average, 40 hours (one business week) to update their systems, internal procedure manuals, and provide training for relevant staff to comply with the new reporting requirements in § 226.42(g)(1). This revision is estimated to result in a one-time increase in burden by 22,680 hours. The Federal Reserve believes that, on a continuing basis, since financial institutions are familiar with the existing provisions Title XI of FIRREA (12 U.S.C. 3348) and the Interagency Guidelines (SR letter 94– 55) which require similar reporting, implementation of requirements in § 226.42(g) should not be overly burdensome (Docket # R-1394).

⁸ Model forms for each of the following three disclosures are available in Appendix H-17 for the application or solicitation disclosures required in § 226.38(a), Appendix H-18 for the approval disclosures required in § 226.38(b), and Appendix H-19 for the final disclosures required in § 226.38(c).

mail no later than three business days after the consumer has applied for the credit, except that, if the creditor either denies the consumer's application or provides or places in the mail the disclosures no later than three business days after the consumer requests the credit, the creditor need not also provide the §226.47(a) disclosures.

Approval Disclosures (Section 226.46(d)(2)) – Requires that the disclosures specified in § 226.47(b) be provided before consummation on or with any notice to the consumer that the creditor has approved the consumer's application for a loan. If the creditor provides approval to the consumer by mail, the disclosures have to be mailed at the same time as the approval. If the creditor provides approval by telephone, the creditor must place the disclosures in the mail within three business days of the approval. The creditor may provide the disclosures solely in electronic form if the creditor has complied with the consumer consent and other applicable provisions of the E-Sign Act (15 U.S.C. § 7001 *et seq.*); otherwise, the creditor must place the disclosures in the mail within three business days.

Final Disclosures (Section 226.46(d)(3)) – Requires the final disclosures to be provided to the consumer after the consumer accepts the loan, but does not base the timing on when the private education loan funds are disbursed. Section 226.48(d) prohibits the creditor from disbursing funds until at least three business days after the consumer receives the final disclosures.

Special Rules Applicable to Credit Card Accounts and Open-End Credit Offered to College Students (Subpart G)

TILA Section 140(f), as added by Section 304 of the Credit Card Act, requires the public disclosure of contracts or other agreements between card issuers and institutions of higher education for the purpose of marketing a credit card and imposes restrictions related to marketing open-end credit to college students. 15 U.S.C. 1650(f). The Federal Reserve implemented these provisions in Section 226.57.

Reporting and Marketing Rules for College Student Open-End Credit (Section 226.57(d))⁹ – Requires card issuers that are a party to one or more college credit card agreements to submit annual reports to the Board regarding those agreements. Card issuers must submit annual reports by the first business day on or after March 31 of each calendar year. The annual report must include the method or formula used to determine the amount of payments from an issuer to an institution of higher education or affiliated organization during the reporting period. In addition, each annual report must include a copy of any memorandum of understanding that directly or indirectly relates to the college credit card agreement or that controls or directs any obligations or distribution of benefits between any such entities.

Internet Posting of Credit Card Agreements (Section 226.58) – Requires that card issuers post on their web sites the credit card agreements they offer to the public. Card issuers must also submit these agreements to the Board quarterly for posting on the Board's public Web

⁹ Attachment I – Consumer and College Credit Card Agreement in final rulemaking (75 FR 7658) contains the submission technical specifications document and initial submission requirements. Note – Attachment I does not appear in the Code of Federal Regulations.

site. This requirement is applicable to any card issuer that issues credit cards under a credit card account under an open-end (not home-secured) consumer credit plan, as defined in Section 226.2(a)(15).¹⁰

Subpart E—Special Rules for Certain Home Mortgage Transactions Appraisals for Higher-Priced Mortgage Loans (HPML) Amendment (Section 226.43)

The collection of information requirements in the final rule are found in paragraphs (c) (1), (c)(2), (d), (e)(1), and (f) of 12 CFR 226.43. This information is required to protect consumers and promote the safety and soundness of creditors making HPMLs subject to 12 CFR 226.43(c). This information is used by creditors to evaluate real estate collateral securing HPMLs subject to 12 CFR 226.43(c) and by consumers entering these transactions.

Section 226.43(c)(1) (Initial Written Appraisal) – In General, a creditor shall not extend a higher-risk mortgage loan to a consumer without obtaining, prior to consummation, a written appraisal performed by a certified or licensed appraiser who conducts a physical visit of the interior of the property that will secure the transaction. This is consistent with TILA section 129H(a) and (b)(1).

Section 226.43(c)(2) (Safe Harbor) – In General, to qualify for the safe harbor provided under the final rule, a creditor is required to review the Written Appraisal as specified in the text of the rule and Appendix N.

Section 226.43(d) (Additional Written Appraisal) – In General, a creditor is required to obtain an additional appraisal for a HPML that is subject to 12 CFR 226.34(c) if (1) the seller acquired the property securing the loan 90 or fewer days prior to the date of the consumer’s agreement to acquire the property and the resale price exceeds the seller’s acquisition price by more than 10 percent; or (2) the seller acquired the property securing the loan 91 to 180 days prior to the date of the consumer’s agreement to acquire the property and the resale price exceeds the seller’s acquisition price by more than 20 percent. The Additional Written Appraisal must meet the requirements described in the final rule and also analyze: (1) the difference between the price at which the seller acquired the property and the price the consumer agreed to pay, (2) changes in market conditions between the date the seller acquired the property and the date the consumer agreed to acquire the property, and (3) any improvements made to the property between the date the seller acquired the property and the date on which the consumer agreed to acquire the property.

Section 226.43(e)(1) (Required Disclosure) – In General, within three business days of an application, a creditor is required to provide a disclosure that informs consumers of the purpose of the appraisal, that the creditor will provide the consumer a copy of any appraisal, and that the consumer may choose to have a separate appraisal conducted at the expense of the consumer (*Initial Appraisal Disclosure*). If a loan is a HPML subject to 12 CFR 226.43(c), then the creditor is required to obtain a written appraisal prepared by a certified or licensed appraiser who

¹⁰ A de minimis exception from the requirement to post on issuers’ publicly available Web sites, and submit to the Board for posting on the Board’s public web site, agreements applies to issuers with fewer than 10,000 open credit card accounts.

conducts a physical visit of the interior of the property that will secure the transaction (Written Appraisal), and provide a copy of the Written Appraisal to the consumer.

Section 226.43(f)(1) (Copy of Appraisals) - A creditor is required to provide a copy of the Additional Written Appraisal to the consumer.

Time Schedule for Information Collection

Information collection pursuant to these recordkeeping and disclosure requirements is event-generated and must be provided to the borrower within the time periods established by the law and regulation as discussed above. Creditors must keep evidence of compliance for 24 months.

Consultation Outside of the Agency and Discussion of Public Comments

On September 5, 2012, a joint NPRM was published in the *Federal Register* (77 FR 54722) for public comment to amend Regulation Z, which implements TILA. The comment period expired November 5, 2012. The Agencies received one comment that specifically addressed the paperwork burden estimates. The commenter asserted that the Agencies' proposed PRA estimates to comply with the new requirements were understated, but the commenter did not provide alternative estimates. The Agencies recognize that the amount of time required of institutions to comply with the requirements may vary; however, the Agencies continue to believe that estimates provided are reasonable averages. On February 13, 2013, a joint NFRM was published in the *Federal Register* (78 FR 10368). The requirements provided in the final rule are substantially similar to those provided in the proposed rule. Compliance with this final rule is effective January 18, 2014.

Sensitive Questions

This information collection contains no questions of a sensitive nature, as defined by OMB guidelines.

Legal Status

The Board's Legal Division has confirmed that title I of the Consumer Credit Protection Act authorizes the Board to issue regulations to carry out the provisions of that Act (15 USC §§ 1601, 1604(a)). The information collections are mandatory. Since the Federal Reserve does not collect any information, no issue of confidentiality arises. Transaction- or account-specific disclosures and billing error allegations are not publicly available and are confidential between the creditor and the consumer. General disclosures of credit terms that appear in advertisements or take-one applications are available to the public.

Estimate of Respondent Burden

The current total annual burden, for the recordkeeping, reporting, and disclosure requirements, is estimated to be 1,517,443 hours as shown in the table below. The table provides the estimated annual burden for the 1,077 creditors regulated by the Federal Reserve to which

Regulation Z applies.

No paperwork burden is deemed to be associated with the recordkeeping requirement of Regulation Z (subpart D, section 226.25) because the regulation does not specify records to be retained as evidence of compliance. Regulation Z permits institutions to provide credit and charge card renewal and insurance notices on or with periodic statements. Accordingly, the burden associated with these disclosures is not separately identified but incorporated in the burden estimate for periodic statements.

The initial appraisal disclosure requires a creditor to provide a short, written disclosure within three days of application. Because the disclosure is classified as a warning label supplied by the Federal government, the Federal Reserve is assigning it no burden for purposes of this PRA analysis.¹¹

The Federal Reserve estimates that respondents will take, on average, 15 minutes for each HPML that is subject to 12 CFR 226.43 to review the written appraisal and to provide a copy of the written appraisal. The Federal Reserve estimates further that respondents will take, on average, 15 minutes for each HPML that is subject to 12 CFR 226.43 to investigate and verify the need for an additional written appraisal and, where necessary, an additional 15 minutes to review the additional written appraisal and to provide a copy of the additional written appraisal to the consumer. For the small fraction of loans requiring an additional written appraisal, the burden is similar to that of the written appraisal.

Finally, respondents must also review the instructions and legal guidance associated with the final rule and train loan officers regarding the requirements of the final rule. The Federal Reserve estimates this one-time update to be 3,344 hours.¹²

Accordingly, the Federal Reserve estimates that the new disclosure requirements will increase the total annual burden, for respondents supervised by the Federal Reserve, from 1,517,443 to 1,525,908 hours. This total estimated burden increase represents averages for all respondents supervised by the Federal Reserve. The Federal Reserve expects that the amount of time required to implement the change for a given institution may vary based on the size and complexity of the respondent. These recordkeeping, reporting, and disclosure requirements represent 11.60 percent of total Federal Reserve System paperwork burden.

¹¹ The public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public is not included within the definition of “collection of information.” 5 CFR 1320.3(c)(2).

¹² Estimated one-time burden is calculated assuming a fixed burden per institution to review the regulations and fixed burden per estimated loan officer in training costs. As a result of the different size and mortgage activities across institutions, the average per-institution one-time burdens vary across the Agencies.

Current	<i>Number of respondents</i>	<i>Estimated annual frequency</i>	<i>Estimated response time</i>	<i>Estimated annual burden hours</i>
<u>Subpart B Open-end Credit (226.5-226.16):</u>				
Credit and Charge cards				
Application and Solicitations (Section 226.5(a))	226	12	8 hours	21,696
<u>Home-Equity Plans (Section 226.5(b)):</u>				
Application disclosure	651	790	1.5 min	12,857
Restriction disclosure	651	10	3 min	326
Account opening disclosures (Section 226.6)	878	1,150	1.5 min	25,243
Reg AA Cosigner disclosure (Section 227.14(b))	878	1,150	1 min	16,828
Change-in-terms disclosures (Section 226.9(c))	878	3,750	1 min	54,875
Periodic statements (Section 226.7)	1,077	12	8 hours	103,392
Periodic statements (Section 226.7) (for exempt transactions (226.3(b)(1)(i)))	1,077	1	8 hours	8,616
<u>Error resolution (Section 226.13):</u>				
Credit cards	226	145	30 min	16,385
Other Open-end credit	1,077	2	30 min	1,077
<u>Subpart C:</u>				
Closed-end Credit Disclosures (Section 226.17)	1,077	2,472	6.5 min	288,421
Section 226.18 (s)&(t)(1) One-time (R-1366)	1,077	1	120 hours	129,240
Section 226.18 (s)&(t)(1) Ongoing (R-1366)	1,077	12	40 hours	516,960
<u>Subparts B & C (Sections 226.16 & 226.24):</u>				
Advertising rules	1,077	5	25 min	2,244
<u>Subpart E:</u>				
Pre-closing disclosure (Sections 226.31-226.45)	30	250	3 min	375
Mortgage transfer disclosure (Section 226.39)	68	12	8 hours	6,528
Valuation Independence (Section 226.42) One-time R-1394	567	1	40 hours	22,680
<u>Subpart F:</u>				
Private student loan disclosures (Section 226.46)	1,075	12	17 hours	219,300
<u>Subpart G:</u>				
Reporting and Marketing Rules for College Student Open- End Credit (Section 226.57(d)) and Internet posting of credit card agreements (college) Section 226.58	2,200	4	8 hours	<u>70,400</u>
				<i>Total</i>
				1,517,443

Proposed	<i>Number of respondents¹³</i>	<i>Estimated annual frequency</i>	<i>Estimated response time</i>	<i>Estimated annual burden hours</i>
Subpart B Open-end Credit (226.5-226.16):				
Credit and Charge cards				
Application and Solicitations (Section 226.5(a))	226	12	8 hours	21,696
<u>Home-Equity Plans (Section 226.5(b)):</u>				
Application disclosure	651	790	1.5 min	12,857
Restriction disclosure	651	10	3 min	326
Account opening disclosures (Section 226.6)	878	1,150	1.5 min	25,243
Reg AA Cosigner disclosure (Section 227.14(b))	878	1,150	1 min	16,828
Change-in-terms disclosures (Section 226.9(c))	878	3,750	1 min	54,875
Periodic statements (Section 226.7)	1,077	12	8 hours	103,392
Periodic statements (Section 226.7) (for exempt transactions (226.3(b)(1)(i)))	1,077	1	8 hours	8,616
<u>Error resolution (Section 226.13):</u>				
Credit cards	226	145	30 min	16,385
Other Open-end credit	1,077	2	30 min	1,077
Subpart C:				
Closed-end Credit Disclosures (Section 226.17)	1,077	2,472	6.5 min	288,421
Section 226.18 (s)&(t)(1) One-time (R-1366)	1,077	1	120 hours	129,240
Section 226.18 (s)&(t)(1) Ongoing (R-1366)	1,077	12	40 hours	516,960
Subparts B & C (Sections 226.16 & 226.24):				
Advertising rules	1,077	5	25 min	2,244
Subpart E:				
Pre-closing disclosure (Sections 226.31-226.45)	30	250	3 min	375
Mortgage transfer disclosure (Section 226.39)	68	12	8 hours	6,528
Valuation Independence (Section 226.42) One-time R-1394	567	1	40 hours	22,680
Section 226.43 (R-1443)				
One-time update	418	1	8 hours	3,344
Initial appraisal	418	24	15 min	2,508
Investigate & verify additional appraisal	418	24	15 min	2,508
Review & provide a copy of additional appraisal	418	1	15 min	105
Subpart F:				
Private student loan disclosures (Section 226.46) ¹⁴	1,075	12	17 hours	219,300
Subpart G:				
Reporting and Marketing Rules for College Student Open-End Credit (Section 226.57(d)) and Internet posting of credit card agreements (college) Section 226.58	2,200	4	8 hours	<u>70,400</u>
				1,525,908
				8,465

13 Appendix I – Federal Enforcement Agencies – of Regulation Z defines the Federal Reserve-regulated institutions as: SMBs, 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 (Edge Act or agreement corporations).

14 This count excludes the two Commercial lending companies.

With the new requirements, the total estimated annual cost to respondents will increase by \$422,403, from \$75,720,406 to \$76,142,809.¹⁵

Estimate of Cost to the Federal Reserve System

Since the Federal Reserve does not collect any information, the cost to the Federal Reserve System is negligible.

¹⁵ Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rate (30% Office & Administrative Support at \$18, 45% Financial Managers at \$59, 15% Lawyers at \$63, and 10% Chief Executives at \$85). Hourly rate for each occupational group are the (rounded) mean hourly wages from the Bureau of Labor and Statistics (BLS), Occupational Employment and Wages 2012, www.bls.gov/news.release/ocwage.nr0.htm Occupations are defined using the BLS Occupational Classification System, www.bls.gov/soc/