

(1) A description of all fees, periodic service charges, and penalties which may be charged or assessed against the account (or against the account holder in connection with such account), the amount of any such fees, charge, or penalty (or the method by which such amount will be calculated), and the conditions under which any such amount will be assessed.

(2) All minimum balance requirements that affect fees, charges, and penalties, including a clear description of how each such minimum balance is calculated.

(3) Any minimum amount required with respect to the initial deposit in order to open the account.

(c) **INFORMATION ON INTEREST RATES.**—The schedule required under subsection (a) with respect to any account shall include the following information:

(1) Any annual percentage yield.

(2) The period during which any such annual percentage yield will be in effect.

(3) Any annual rate of simple interest.

(4) The frequency with which interest will be compounded and credited.

(5) A clear description of the method used to determine the balance on which interest is paid.

(6) The information described in paragraphs (1) through (4) with respect to any period after the end of the period referred to in paragraph (2) (or the method for computing any information described in any such paragraph), if applicable.

(7) Any minimum balance which must be maintained to earn the rates and obtain the yields disclosed pursuant to this subsection and a clear description of how any such minimum balance is calculated.

(8) A clear description of any minimum time requirement which must be met in order to obtain the yields disclosed pursuant to this subsection and any information described in paragraph (1), (2), (3), or (4) that will apply if any time requirement is not met.

(9) A statement, if applicable, that any interest which has accrued but has not been credited to an account at the time of a withdrawal from the account will not be paid by the depository institution or credited to the account by reason of such withdrawal.

(10) Any provision or requirement relating to nonpayment of interest, including any charge or penalty for early withdrawal, and the conditions under which any such charge or penalty may be assessed.

(d) **OTHER INFORMATION.**—The schedule required under subsection (a) shall include such other disclosures as the Board may determine to be necessary to allow consumers to understand and compare accounts, including frequency of interest rate adjustments, account restrictions, and renewal policies for time accounts.

(e) **STYLE AND FORMAT.**—Schedules required under subsection (a) shall be written in clear and plain language and be presented in a format designed to allow consumers to readily understand the terms of the accounts offered.

**SEC. 265. DISCLOSURE REQUIREMENTS FOR CERTAIN ACCOUNTS.**

The Board shall require, in regulations which the Board shall prescribe, such modification in the disclosure requirements under

this Act relating to annual percentage yield as may be necessary to carry out the purposes of this Act in the case of—

- (1) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a period of less than 1 year;
- (2) variable rate accounts;
- (3) accounts which, pursuant to law, do not guarantee payment of a stated rate;
- (4) multiple rate accounts; and
- (5) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a stated term.

**SEC. 266. DISTRIBUTION OF SCHEDULES.**

12 USC 4305.

(a) **IN GENERAL.**—A schedule required under section 264 for an appropriate account shall be—

- (1) made available to any person upon request;
- (2) provided to any potential customer before an account is opened or a service is rendered; and
- (3) provided to the depositor, in the case of any time deposit which is renewable at maturity without notice from the depositor, at least 30 days before the date of maturity.

(b) **DISTRIBUTION IN CASE OF CERTAIN INITIAL DEPOSITS.**—If—

- (1) a depositor is not physically present at an office of a depository institution at the time an initial deposit is accepted with respect to an account established by or for such person; and

(2) the schedule required under section 264(a) has not been furnished previously to such depositor,

the depository institution shall mail the schedule to the depositor at the address shown on the records of the depository institution for such account no later than 10 days after the date of the initial deposit.

(c) **DISTRIBUTION OF NOTICE OF CERTAIN CHANGES.**—If—

- (1) any change is made in any term or condition which is required to be disclosed in the schedule required under section 264(a) with respect to any account; and

(2) the change may reduce the yield or adversely affect any holder of the account,

all account holders who may be affected by such change shall be notified and provided with a description of the change by mail at least 30 days before the change takes effect.

(d) **DISTRIBUTION IN CASE OF ACCOUNTS ESTABLISHED BY MORE THAN 1 INDIVIDUAL OR BY A GROUP.**—If an account is established by more than 1 individual or for a person other than an individual, any distribution described in this section with respect to such account meets the requirements of this section if the distribution is made to 1 of the individuals who established the account or 1 individual representative of the person on whose behalf such account was established.

(e) **NOTICE TO ACCOUNT HOLDERS AS OF THE EFFECTIVE DATE OF REGULATIONS.**—For any account for which the depository institution delivers an account statement on a quarterly or more frequent basis, the depository institution shall include on or with any regularly scheduled mailing posted or delivered within 180 days after publication of regulations issued by the Board in final form, a statement that the account holder has the right to request an account schedule

containing the terms, charges, and interest rates of the account, and that the account holder may wish to request such an account schedule.

12 USC 4306.

**SEC. 267. PAYMENT OF INTEREST.**

(a) **CALCULATED ON FULL AMOUNT OF PRINCIPAL.**—Interest on an interest-bearing account at any depository institution shall be calculated by such institution on the full amount of principal in the account for each day of the stated calculation period at the rate or rates of interest disclosed pursuant to this Act.

(b) **NO PARTICULAR METHOD OF COMPOUNDING INTEREST REQUIRED.**—Subsection (a) shall not be construed as prohibiting or requiring the use of any particular method of compounding or crediting of interest.

(c) **DATE BY WHICH INTEREST MUST ACCRUE.**—Interest on accounts that are subject to this Act shall begin to accrue not later than the business day specified for interest-bearing accounts in section 606 of the Expedited Funds Availability Act, subject to subsections (b) and (c) of such section.

12 USC 4307.

**SEC. 268. PERIODIC STATEMENTS.**

Each depository institution shall include on or with each periodic statement provided to each account holder at such institution a clear and conspicuous disclosure of the following information with respect to such account:

- (1) The annual percentage yield earned.
- (2) The amount of interest earned.
- (3) The amount of any fees or charges imposed.
- (4) The number of days in the reporting period.

12 USC 4308.

**SEC. 269. REGULATIONS.****(a) IN GENERAL.—**

(1) **REGULATIONS REQUIRED.**—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Board, after consultation with each agency referred to in section 270(a) and public notice and opportunity for comment, shall prescribe regulations to carry out the purpose and provisions of this Act.

(2) **EFFECTIVE DATE OF REGULATIONS.**—The regulations prescribed under paragraph (1) shall take effect not later than 6 months after publication in final form.

(3) **CONTENTS OF REGULATIONS.**—The regulations prescribed under paragraph (1) may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of accounts as, in the judgment of the Board, are necessary or proper to carry out the purposes of this Act, to prevent circumvention or evasion of the requirements of this Act, or to facilitate compliance with the requirements of this Act.

(4) **DATE OF APPLICABILITY.**—The provisions of this Act shall not apply with respect to any depository institution before the effective date of regulations prescribed by the Board under this subsection (or by the National Credit Union Administration Board under section 12(b), in the case of any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act).

**(b) MODEL FORMS AND CLAUSES.—**

(1) **IN GENERAL.**—The Board shall publish model forms and clauses for common disclosures to facilitate compliance with this Act. In devising such forms, the Board shall consider the use by depository institutions of data processing or similar automated machines.

(2) **USE OF FORMS AND CLAUSES DEEMED IN COMPLIANCE.**—Nothing in this Act may be construed to require a depository institution to use any such model form or clause prescribed by the Board under this subsection. A depository institution shall be deemed to be in compliance with the disclosure provisions of this Act if the depository institution—

(A) uses any appropriate model form or clause as published by the Board; or

(B) uses any such model form or clause and changes it by—

(i) deleting any information which is not required by this Act; or

(ii) rearranging the format,

if in making such deletion or rearranging the format, the depository institution does not affect the substance, clarity, or meaningful sequence of the disclosure.

(3) **PUBLIC NOTICE AND OPPORTUNITY FOR COMMENT.**—Model disclosure forms and clauses shall be adopted by the Board after duly given notice in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

Federal  
Register,  
publication.

#### SEC. 270. ADMINISTRATIVE ENFORCEMENT.

12 USC 4309.

(a) **IN GENERAL.**—Compliance with the requirements imposed under this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act—

(A) by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) in the case of insured depository institutions (as defined in section 3(c)(2) of such Act);

(B) by the Federal Deposit Insurance Corporation in the case of depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act which are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

(C) by the Director of the Office of Thrift Supervision in the case of depository institutions described in clause (v) and or (vi) of section 19(b)(1)(A) of the Federal Reserve Act which are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

(2) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of depository institutions described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) **ADDITIONAL ENFORCEMENT POWERS.**—

(1) **VIOLATION OF THIS ACT TREATED AS VIOLATION OF OTHER ACTS.**—For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act.

(2) **ENFORCEMENT AUTHORITY UNDER OTHER ACTS.**—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this Act, any other authority conferred on such agency by law.

(c) **REGULATIONS BY AGENCIES OTHER THAN THE BOARD.**—The authority of the Board to issue regulations under this Act does not impair the authority of any other agency referred to in subsection (a) to make rules regarding its own procedures in enforcing compliance with the requirements imposed under this Act.

12 USC 4310.

**SEC. 271. CIVIL LIABILITY.**

(a) **CIVIL LIABILITY.**—Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under this Act or any regulation prescribed under this Act with respect to any person who is an account holder is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than \$100 nor greater than \$1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of \$500,000 or 1 percent of the net worth of the depository institution involved; and

(3) in the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) **CLASS ACTION AWARDS.**—In determining the amount of any award in any class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure of compliance was intentional.

(c) **BONA FIDE ERRORS.**—

(1) **GENERAL RULE.**—A depository institution may not be held liable in any action brought under this section for a violation of this Act if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) **EXAMPLES.**—Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with

respect to a depository institution's obligation under this Act is not a bona fide error.

(d) **NO LIABILITY FOR OVERPAYMENT.**—A depository institution may not be held liable in any action under this section for a violation of this Act if the violation has resulted in—

(1) an interest payment to the account holder in an amount greater than the amount determined under any disclosed rate of interest applicable with respect to such payment; or

(2) a charge to the consumer in an amount less than the amount determined under the disclosed charge or fee schedule applicable with respect to such charge.

(e) **JURISDICTION.**—Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within 1 year after the date of the occurrence of the violation involved.

(f) **RELIANCE ON BOARD RULINGS.**—No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any regulation or order, or any interpretation of any regulation or order, of the Board, or in conformity with any interpretation or approval by an official or employee of the Board duly authorized by the Board to issue such interpretation or approval under procedures prescribed by the Board, notwithstanding, the fact that after such act or omission has occurred, such regulation, order, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(g) **NOTIFICATION OF AND ADJUSTMENT FOR ERRORS.**—A depository institution shall not be liable under this section or section 270 for any failure to comply with any requirement imposed under this Act with respect to any account if—

(1) before—

(A) the end of the 60-day period beginning on the date on which the depository institution discovered the failure to comply;

(B) any action is instituted against the depository institution by the account holder under this section with respect to such failure to comply; and

(C) any written notice of such failure to comply is received by the depository institution from the account holder,

the depository institution notifies the account holder of the failure of such institution to comply with such requirement; and

(2) the depository institution makes such adjustments as may be necessary with respect to such account to ensure that—

(A) the account holder will not be liable for any amount in excess of the amount actually disclosed with respect to any fee or charge;

(B) the account holder will not be liable for any fee or charge imposed under any condition not actually disclosed; and

(C) interest on amounts in such account will accrue at the annual percentage yield, and under the conditions, actually disclosed (and credit will be provided for interest already accrued at a different annual percentage yield and under different conditions than the yield or conditions disclosed).

(h) **MULTIPLE INTERESTS IN 1 ACCOUNT.**—If more than 1 person holds an interest in any account—

(1) the minimum and maximum amounts of liability under subsection (a)(2)(A) for any failure to comply with the requirements of this Act shall apply with respect to such account; and

(2) the court shall determine the manner in which the amount of any such liability with respect to such account shall be distributed among such persons.

(i) CONTINUING FAILURE TO DISCLOSE.—

(1) CERTAIN CONTINUING FAILURES TREATED AS 1 VIOLATION.—Except as provided in paragraph (2), the continuing failure of any depository institution to disclose any particular term required to be disclosed under this Act with respect to a particular account shall be treated as a single violation for purposes of determining the amount of any liability of such institution under subsection (a) for such failure to disclose.

(2) SUBSEQUENT FAILURE TO DISCLOSE.—The continuing failure of any depository institution to disclose any particular term required to be disclosed under this Act with respect to a particular account after judgment has been rendered in favor of the account holder in connection with a prior failure to disclose such term with respect to such account shall be treated as a subsequent violation for purposes of determining liability under subsection (a).

(3) COORDINATION WITH SECTION 270.—This subsection shall not limit or otherwise affect the enforcement power under section 270 of any agency referred to in subsection (a) of such section.

12 USC 4311.

SEC. 272. CREDIT UNIONS.

(a) IN GENERAL.—No regulation prescribed by the Board under this Act shall apply directly with respect to any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) REGULATIONS PRESCRIBED BY THE NCUA.—Within 90 days of the effective date of any regulation prescribed by the Board under this Act, the National Credit Union Administration Board shall prescribe a regulation substantially similar to the regulation prescribed by the Board taking into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts.

12 USC 4312.

SEC. 273. EFFECT ON STATE LAW.

The provisions of this Act do not supersede any provisions of the law of any State relating to the disclosure of yields payable or terms for accounts to the extent such State law requires the disclosure of such yields or terms for accounts, except to the extent that those laws are inconsistent with the provisions of this Act, and then only to the extent of the inconsistency. The Board may determine whether such inconsistencies exist.

12 USC 4313.

SEC. 274. DEFINITIONS.

For the purposes of this Act—

(1) ACCOUNT.—The term “account” means any account offered to 1 or more individuals or an unincorporated nonbusiness association of individuals by a depository institution into which a customer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.

(2) **ANNUAL PERCENTAGE YIELD.**—The term “annual percentage yield” means the total amount of interest that would be received on a \$100 deposit, based on the annual rate of simple interest and the frequency of compounding for a 365-day period, expressed as a percentage calculated by a method which shall be prescribed by the Board in regulations.

(3) **ANNUAL RATE OF SIMPLE INTEREST.**—The term “annual rate of simple interest”—

(A) means the annualized rate of interest paid with respect to each compounding period, expressed as a percentage; and

(B) may be referred to as the “annual percentage rate”.

(4) **BOARD.**—The term “Board” means the Board of Governors of the Federal Reserve System.

(5) **DEPOSIT BROKER.**—The term “deposit broker”—

(A) has the meaning given to such term in section 29(f)(1) of the Federal Deposit Insurance Act; and

(B) includes any person who solicits any amount from any other person for deposit in an insured depository institution.

(6) **DEPOSITORY INSTITUTION.**—The term “depository institution” has the meaning given such term in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(7) **INTEREST.**—The term “interest” includes dividends paid with respect to share draft accounts which are accounts within the meaning of paragraph (3).

(8) **MULTIPLE RATE ACCOUNT.**—The term “multiple rate account” means any account that has 2 or more annual rates of simple interest which take effect at the same time or in succeeding periods and which are known at the time of disclosure.

## TITLE III—REGULATORY IMPROVEMENT

### Subtitle A—Activities

#### SEC. 301. LIMITATIONS ON BROKERED DEPOSITS AND DEPOSIT SOLICITATIONS.

(a) **IN GENERAL.**—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended—

(1) in subsection (a), by striking “troubled institution” and inserting “insured depository institution that is not well capitalized”;

(2) in subsection (c), by inserting “which is adequately capitalized” after “insured depository institution”;

(3) in subsection (d), by striking all after “unsound practice;” and inserting the following:

“(2) is necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business; and

“(3) is consistent with the conservator’s fiduciary duty to minimize the institution’s losses.

Effective 90 days after the date on which the institution was placed in conservatorship, the institution may not accept such deposits.”; Effective date.



(4) by redesignating subsections (e) through (g) as subsections (f) through (h), respectively, and inserting after subsection (d) the following:

“(e) **RESTRICTION ON INTEREST RATE PAID.**—Any insured depository institution which, under subsection (c) or (d), accepts funds obtained, directly or indirectly, by or through a deposit broker, may not pay a rate of interest on such funds which, at the time that such funds are accepted, significantly exceeds—

“(1) the rate paid on deposits of similar maturity in such institution’s normal market area for deposits accepted in the institution’s normal market area; or

“(2) the national rate paid on deposits of comparable maturity, as established by the Corporation, for deposits accepted outside the institution’s normal market area.”;

(5) in subsection (f), as redesignated, by striking “troubled”; and

(6) by striking subsection (h), as redesignated.

(b) **NOTIFICATION AND RECORDKEEPING.**—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 29 the following:

12 USC 1831f-1.

“**SEC. 29A. DEPOSIT BROKER NOTIFICATION AND RECORDKEEPING.**

“(a) **NOTIFICATION.**—

“(1) **IN GENERAL.**—A deposit broker, as defined in section 29(g), shall not solicit or place any deposit with an insured depository institution, unless such deposit broker has provided the Corporation with written notice that it is a deposit broker.

“(2) **TERMINATION OF DEPOSIT BROKER STATUS.**—When a deposit broker referred to in paragraph (1) ceases to act as a deposit broker it shall provide the Corporation with a written notice that it is no longer acting as a deposit broker.

“(3) **FORM AND CONTENT.**—The notices required by paragraphs (1) and (2) shall be in such form and contain such information concerning the deposit solicitation and placement activities of a deposit broker as the Corporation may prescribe as necessary or appropriate to carry out the purposes of this subsection.

“(b) **RECORDS.**—The Corporation may prescribe regulations requiring each deposit broker that has filed a notice under subsection (a)(1) to maintain separate records relating to the total amounts and maturities of the deposits placed by such broker for each insured depository institution during specified time periods. Such regulations shall specify the format in which and the period for which such records shall be preserved, as well as the time period within which the deposit broker shall furnish to the Corporation copies of such records (or designated portions thereof) as the Corporation may request.

“(c) **PERIODIC REPORTS.**—

“(1) **IN GENERAL.**—The Corporation may prescribe regulations requiring each deposit broker that has filed a notice under subsection (a)(1) to file with the Corporation separate quarterly reports relating to the total amounts and maturities of the deposits placed by such broker for each depository institution during the applicable quarter. Such regulations shall specify the form and content of such reports, as well as the applicable reporting period.

“(2) **DESIGNATED AGENT.**—The Corporation may designate another entity as its agent for the purpose of receiving and