

“(C) The benefits provided to consumers as a result of receiving written offers of credit or insurance.

“(D) Whether consumers incur significant costs or are otherwise adversely affected by the receipt of written offers of credit or insurance.

“(E) Whether further restricting the ability of lenders and insurers to provide written offers of credit or insurance to consumers would affect—

“(i) the cost consumers pay to obtain credit or insurance;

“(ii) the availability of credit or insurance;

“(iii) consumers’ knowledge about new or alternative products and services;

“(iv) the ability of lenders or insurers to compete with one another; and

“(v) the ability to offer credit or insurance products to consumers who have been traditionally underserved.”

[For definitions of terms used in section 213(e) of Pub. L. 108-159, set out above, see section 2 of Pub. L. 108-159, set out as a Definitions note under section 1681 of this title.]

#### FEDERAL RESERVE STUDY OF HOME EQUITY LENDING AND APPROPRIATE INTEREST RATE INDEX

Pub. L. 103-325, title I, §157, Sept. 23, 1994, 108 Stat. 2197, provided that: “During the period beginning 180 days after the date of enactment of this Act [Sept. 23, 1994] and ending 2 years after that date of enactment, the Board of Governors of the Federal Reserve System shall conduct a study and submit to the Congress a report, including recommendations for any appropriate legislation, regarding—

“(1) whether a consumer engaging in an open end credit transaction (as defined in section 103 of the Truth in Lending Act [15 U.S.C. 1602]) secured by the consumer’s principal dwelling is provided adequate protections under Federal law, including section 127A of the Truth in Lending Act [15 U.S.C. 1637a]; and

“(2) whether a more appropriate interest rate index exists for purposes of subparagraph (A) of section 103(aa)(1) of the Truth in Lending Act (as added by section 152(a) of this Act [15 U.S.C. 1602(aa)(1)(A)]) than the yield on Treasury securities referred to in that subparagraph.”

#### HEARINGS ON HOME EQUITY LENDING

Pub. L. 103-325, title I, §158, Sept. 23, 1994, 108 Stat. 2197, as amended by Pub. L. 111-203, title X, §1096, July 21, 2010, 124 Stat. 2102, provided that:

“(a) HEARINGS.—Not less than once during the 3-year period beginning on the date of enactment of this Act [Sept. 23, 1994], and regularly thereafter, the Bureau, in consultation with the Advisory Board to the Bureau, shall conduct a public hearing to examine the home equity loan market and the adequacy of existing regulatory and legislative provisions and the provisions of this subtitle [see Short Title of 1994 Amendment note above] in protecting the interests of consumers, and low-income consumers in particular.

“(b) PARTICIPATION.—In conducting hearings required by subsection (a), the Bureau shall solicit participation from consumers, representatives of consumers, lenders, and other interested parties.”

#### STUDY BY FEDERAL RESERVE BOARD OF GOVERNORS COVERING EFFECT OF CHARGE CARD TRANSACTIONS UPON CARD ISSUERS, MERCHANTS, AND CONSUMERS

Pub. L. 97-25, title II, §202, July 27, 1981, 95 Stat. 145, directed Board of Governors of Federal Reserve System, not later than 2 years after July 27, 1981, to prepare a study and submit its findings to Congress on the effect of charge card transactions upon card issuers, merchants, and consumers.

#### INFERENCE OF LEGISLATIVE INTENT IN SECTION CAPTIONS AND CATCHLINES

Section 502 of Pub. L. 90-321 provided that: “Captions and catchlines are intended solely as aids to convenient

reference, and no inference as to the legislative intent with respect to any provision enacted by this Act [enacting this chapter, section 891 to 896 of Title 18, Crimes and Criminal Procedure, and provisions set out as notes under this section, sections 1631 and 1671 of this title, and section 891 of Title 18] may be drawn from them.”

#### GRAMMATICAL USAGES

Pub. L. 90-321, title V, §503, May 30, 1968, 82 Stat. 167, provided that: “In this Act [enacting this chapter, sections 891 to 896 of Title 18, Crimes and Criminal Procedure, and provisions set out as notes under this section, sections 1631 and 1671 of this title, and section 891 of Title 18]:

“(1) The word ‘may’ is used to indicate that an action either is authorized or is permitted.

“(2) The word ‘shall’ is used to indicate that an action is both authorized and required.

“(3) The phrase ‘may not’ is used to indicate that an action is both unauthorized and forbidden.

“(4) Rules of law are stated in the indicative mood.”

#### DEFINITION

Pub. L. 111-203, title XIV, §1495, July 21, 2010, 124 Stat. 2207, provided that: “For purposes of this title [see Tables for classification], the term ‘designated transfer date’ means the date established under section 1062 of this Act [12 U.S.C. 5582].”

### § 1602. Definitions and rules of construction

(a) The definitions and rules of construction set forth in this section are applicable for the purposes of this subchapter.

(b) The term “Board” refers to the Board of Governors of the Federal Reserve System.

(c) The term “organization” means a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

(d) The term “person” means a natural person or an organization.

(e) The term “credit” means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(f) The term “creditor” refers only to a person who both (1) regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required, and (2) is the person to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the preceding sentence, in the case of an open-end credit plan involving a credit card, the card issuer and any person who honors the credit card and offers a discount which is a finance charge are creditors. For the purpose of the requirements imposed under part D of this subchapter and sections 1637(a)(5), 1637(a)(6), 1637(a)(7), 1637(b)(1), 1637(b)(2), 1637(b)(3), 1637(b)(8), and 1637(b)(10) of this title, the term “creditor” shall also include card issuers whether or not the amount due is payable by agreement in more than four installments or the payment of a finance charge is or may be required, and the Board shall, by regulation, apply these requirements to such card issuers, to the extent appropriate, even though the requirements are by their terms applicable only to creditors offer-

ing open-end credit plans. Any person who originates 2 or more mortgages referred to in subsection (aa) of this section in any 12-month period or any person who originates 1 or more such mortgages through a mortgage broker shall be considered to be a creditor for purposes of this subchapter. The term “creditor” includes a private educational lender (as that term is defined in section 1650 of this title) for purposes of this subchapter.

(g) The term “credit sale” refers to any sale in which the seller is a creditor. The term includes any contract in the form of a bailment or lease if the bailee or lessee contracts to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the property and services involved and it is agreed that the bailee or lessee will become, or for no other or a nominal consideration has the option to become, the owner of the property upon full compliance with his obligations under the contract.

(h) The adjective “consumer”, used with reference to a credit transaction, characterizes the transaction as one in which the party to whom credit is offered or extended is a natural person, and the money, property, or services which are the subject of the transaction are primarily for personal, family, or household purposes.

(i) The terms “open end credit plan” and “open end consumer credit plan” mean a plan under which the creditor reasonably contemplates repeated transactions, which prescribes the terms of such transactions, and which provides for a finance charge which may be computed from time to time on the outstanding unpaid balance. A credit plan or open end consumer credit plan which is an open end credit plan or open end consumer credit plan within the meaning of the preceding sentence is an open end credit plan or open end consumer credit plan even if credit information is verified from time to time.

(j) The term “adequate notice,” as used in section 1643 of this title, means a printed notice to a cardholder which sets forth the pertinent facts clearly and conspicuously so that a person against whom it is to operate could reasonably be expected to have noticed it and understood its meaning. Such notice may be given to a cardholder by printing the notice on any credit card, or on each periodic statement of account, issued to the cardholder, or by any other means reasonably assuring the receipt thereof by the cardholder.

(k) The term “credit card” means any card, plate, coupon book or other credit device existing for the purpose of obtaining money, property, labor, or services on credit.

(l) The term “accepted credit card” means any credit card which the cardholder has requested and received or has signed or has used, or authorized another to use, for the purpose of obtaining money, property, labor, or services on credit.

(m) The term “cardholder” means any person to whom a credit card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a credit card to another person.

(n) The term “card issuer” means any person who issues a credit card, or the agent of such person with respect to such card.

(o) The term “unauthorized use,” as used in section 1643 of this title, means a use of a credit card by a person other than the cardholder who does not have actual, implied, or apparent authority for such use and from which the cardholder receives no benefit.

(p) The term “discount” as used in section 1666f of this title means a reduction made from the regular price. The term “discount” as used in section 1666f of this title shall not mean a surcharge.

(q) The term “surcharge” as used in this section and section 1666f of this title means any means of increasing the regular price to a cardholder which is not imposed upon customers paying by cash, check, or similar means.”

(r) The term “State” refers to any State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States.

(s) The term “agricultural purposes” includes the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures those agricultural products, including but not limited to the acquisition of farmland, real property with a farm residence, and personal property and services used primarily in farming.

(t) The term “agricultural products” includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof.

(u) The term “material disclosures” means the disclosure, as required by this subchapter, of the annual percentage rate, the method of determining the finance charge and the balance upon which a finance charge will be imposed, the amount of the finance charge, the amount to be financed, the total of payments, the number and amount of payments, the due dates or periods of payments scheduled to repay the indebtedness, and the disclosures required by section 1639(a) of this title.

(v) The term “dwelling” means a residential structure or mobile home which contains one to four family housing units, or individual units of condominiums or cooperatives.

(w) The term “residential mortgage transaction” means a transaction in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained against the consumer’s dwelling to finance the acquisition or initial construction of such dwelling.

(x) As used in this section and section 1666f of this title, the term “regular price” means the tag or posted price charged for the property or service if a single price is tagged or posted, or the price charged for the property or service when payment is made by use of an open-end credit plan or a credit card if either (1) no price is tagged or posted, or (2) two prices are tagged

or posted, one of which is charged when payment is made by use of an open-end credit plan or a credit card and the other when payment is made by use of cash, check, or similar means. For purposes of this definition, payment by check, draft, or other negotiable instrument which may result in the debiting of an open-end credit plan or a credit cardholder's open-end account shall not be considered payment made by use of the plan or the account.

(y) Any reference to any requirement imposed under this subchapter or any provision thereof includes reference to the regulations of the Board under this subchapter or the provision thereof in question.

(z) The disclosure of an amount or percentage which is greater than the amount or percentage required to be disclosed under this subchapter does not in itself constitute a violation of this subchapter.

(aa)(1) A mortgage referred to in this subsection means a consumer credit transaction that is secured by the consumer's principal dwelling, other than a residential mortgage transaction, a reverse mortgage transaction, or a transaction under an open end credit plan, if—

(A) the annual percentage rate at consummation of the transaction will exceed by more than 10 percentage points the yield on Treasury securities having comparable periods of maturity on the fifteenth day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or

(B) the total points and fees payable by the consumer at or before closing will exceed the greater of—

- (i) 8 percent of the total loan amount; or
- (ii) \$400.

(2)(A) After the 2-year period beginning on the effective date of the regulations promulgated under section 155 of the Riegle Community Development and Regulatory Improvement Act of 1994, and no more frequently than biennially after the first increase or decrease under this subparagraph, the Board may by regulation increase or decrease the number of percentage points specified in paragraph (1)(A), if the Board determines that the increase or decrease is—

- (i) consistent with the consumer protections against abusive lending provided by the amendments made by subtitle B of title I of the Riegle Community Development and Regulatory Improvement Act of 1994; and
- (ii) warranted by the need for credit.

(B) An increase or decrease under subparagraph (A) may not result in the number of percentage points referred to in subparagraph (A) being—

- (i) less than 8 percentage points; or
- (ii) greater than 12 percentage points.

(C) In determining whether to increase or decrease the number of percentage points referred to in subparagraph (A), the Board shall consult with representatives of consumers, including low-income consumers, and lenders.

(3) The amount specified in paragraph (1)(B)(ii) shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index, as reported on June 1 of the year preceding such adjustment.

(4) For purposes of paragraph (1)(B), points and fees shall include—

(A) all items included in the finance charge, except interest or the time-price differential;

(B) all compensation paid to mortgage brokers;

(C) each of the charges listed in section 1605(e) of this title (except an escrow for future payment of taxes), unless—

- (i) the charge is reasonable;
- (ii) the creditor receives no direct or indirect compensation; and
- (iii) the charge is paid to a third party unaffiliated with the creditor; and

(D) such other charges as the Board determines to be appropriate.

(5) This subsection shall not be construed to limit the rate of interest or the finance charge that a person may charge a consumer for any extension of credit.

(bb) The term "reverse mortgage transaction" means a nonrecourse transaction in which a mortgage, deed of trust, or equivalent consensual security interest is created against the consumer's principal dwelling—

- (1) securing one or more advances; and
- (2) with respect to which the payment of any principal, interest, and shared appreciation or equity is due and payable (other than in the case of default) only after—
  - (A) the transfer of the dwelling;
  - (B) the consumer ceases to occupy the dwelling as a principal dwelling; or
  - (C) the death of the consumer.

(Pub. L. 90-321, title I, §103, May 29, 1968, 82 Stat. 147; Pub. L. 91-508, title V, §501, Oct. 26, 1970, 84 Stat. 1126; Pub. L. 93-495, title III, §303, Oct. 28, 1974, 88 Stat. 1511; Pub. L. 94-222, §3(a), Feb. 27, 1976, 90 Stat. 197; Pub. L. 96-221, title VI, §§602, 603(a), (b), 604, 612(a)(2), (b), Mar. 31, 1980, 94 Stat. 168, 169, 175, 176; Pub. L. 97-25, title I, §102, July 27, 1981, 95 Stat. 144; Pub. L. 97-320, title VII, §702(a), Oct. 15, 1982, 96 Stat. 1538; Pub. L. 103-325, title I, §§152(a)-(c), 154(a), Sept. 23, 1994, 108 Stat. 2190, 2191, 2196; Pub. L. 110-315, title X, §1011(b), Aug. 14, 2008, 122 Stat. 3481; Pub. L. 111-24, title I, §108, May 22, 2009, 123 Stat. 1743; Pub. L. 111-203, title X, §1100A(1), (2), title XIV, §§1401, 1431, July 21, 2010, 124 Stat. 2107, 2137, 2157.)

#### AMENDMENT OF SECTION

*Pub. L. 111-203, title X, §§1100A(1), (2), 1100H, July 21, 2010, 124 Stat. 2107, 2113, provided that, effective on the designated transfer date, this section is amended—*

*(1) by redesignating subsections (b) through (bb) as subsections (c) through (cc), respectively;*

*(2) by inserting after subsection (a) the following:*

*"(b) Bureau.—The term 'Bureau' means the Bureau of Consumer Financial Protection.";* and

*(3) by striking "Board" each place that term appears and inserting "Bureau".*

*Pub. L. 111-203, title XIV, §§1400(c), 1401, 1431, July 21, 2010, 124 Stat. 2136, 2137, 2157, provided that, effective on the date on which final regulations implementing that amendment*

take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, this section is amended—

(1) in subsec. (aa), by striking all that precedes paragraph (2) and inserting the following:

“(aa) High-cost Mortgage.—

“(1) Definition.—

“(A) In general.—The term ‘high-cost mortgage’, and a mortgage referred to in this subsection, means a consumer credit transaction that is secured by the consumer’s principal dwelling, other than a reverse mortgage transaction, if—

“(i) in the case of a credit transaction secured—

“(I) by a first mortgage on the consumer’s principal dwelling, the annual percentage rate at consummation of the transaction will exceed by more than 6.5 percentage points (8.5 percentage points, if the dwelling is personal property and the transaction is for less than \$50,000) the average prime offer rate, as defined in section 1639c(b)(2)(B) of this title, for a comparable transaction; or

“(II) by a subordinate or junior mortgage on the consumer’s principal dwelling, the annual percentage rate at consummation of the transaction will exceed by more than 8.5 percentage points the average prime offer rate, as defined in section 1639c(b)(2)(B) of this title, for a comparable transaction;

“(ii) the total points and fees payable in connection with the transaction, other than bona fide third party charges not retained by the mortgage originator, creditor, or an affiliate of the creditor or mortgage originator, exceed—

“(I) in the case of a transaction for \$20,000 or more, 5 percent of the total transaction amount; or

“(II) in the case of a transaction for less than \$20,000, the lesser of 8 percent of the total transaction amount or \$1,000 (or such other dollar amount as the Board shall prescribe by regulation); or

“(iii) the credit transaction documents permit the creditor to charge or collect prepayment fees or penalties more than 36 months after the transaction closing or such fees or penalties exceed, in the aggregate, more than 2 percent of the amount prepaid.

“(B) Introductory rates taken into account.—For purposes of subparagraph (A)(i), the annual percentage rate of interest shall be determined based on the following interest rate:

“(i) In the case of a fixed-rate transaction in which the annual percentage rate will not vary during the term of the loan, the interest rate in effect on the date of consummation of the transaction.

“(ii) In the case of a transaction in which the rate of interest varies solely in accordance with an index, the interest rate determined by adding the index rate in effect on the date of consummation of the transaction to the maximum margin permitted at any time during the loan agreement.

“(iii) In the case of any other transaction in which the rate may vary at any time dur-

ing the term of the loan for any reason, the interest charged on the transaction at the maximum rate that may be charged during the term of the loan.

“(C) Mortgage insurance.—For the purposes of computing the total points and fees under paragraph (4), the total points and fees shall exclude—

“(i) any premium provided by an agency of the Federal Government or an agency of a State;

“(ii) any amount that is not in excess of the amount payable under policies in effect at the time of origination under section 203(c)(2)(A) of the National Housing Act (12 U.S.C. 1709(c)(2)(A)), provided that the premium, charge, or fee is required to be refundable on a pro-rated basis and the refund is automatically issued upon notification of the satisfaction of the underlying mortgage loan; and

“(iii) any premium paid by the consumer after closing.”;

(2) in subsec. (aa)(2), by striking subparagraph (B) and inserting the following new subparagraph:

“(B) An increase or decrease under subparagraph (A)—

“(i) may not result in the number of percentage points referred to in paragraph (1)(A)(i)(I) being less than 6 percentage points or greater than 10 percentage points; and

“(ii) may not result in the number of percentage points referred to in paragraph (1)(A)(i)(II) being less than 8 percentage points or greater than 12 percentage points.”;

(3) in subsec. (aa)(4), by striking subparagraph (B) and inserting the following:

“(B) all compensation paid directly or indirectly by a consumer or creditor to a mortgage originator from any source, including a mortgage originator that is also the creditor in a table-funded transaction;”;

(4) in subsec. (aa)(4), by redesignating subparagraph (D) as subparagraph (G) and by inserting after subparagraph (C) the following new subparagraphs:

“(D) premiums or other charges payable at or before closing for any credit life, credit disability, credit unemployment, or credit property insurance, or any other accident, loss-of-income, life or health insurance, or any payments directly or indirectly for any debt cancellation or suspension agreement or contract, except that insurance premiums or debt cancellation or suspension fees calculated and paid in full on a monthly basis shall not be considered financed by the creditor;

“(E) the maximum prepayment fees and penalties which may be charged or collected under the terms of the credit transaction;

“(F) all prepayment fees or penalties that are incurred by the loan consumer if the loan refinances a previous loan made or currently held by the same creditor or an affiliate of the creditor; and”;

(5) in subsec. (aa), by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

“(5) Calculation of points and fees for open-end consumer credit plans.—In the case of open-end consumer credit plans, points and fees shall be calculated, for purposes of this section and section 1639 of this title, by adding the total points and fees known at or before closing, including the maximum prepayment penalties which may be charged or collected under the terms of the credit transaction, plus the minimum additional fees the consumer would be required to pay to draw down an amount equal to the total credit line.”; and

(6) by adding at the end the following new subsections:

“(cc) Definitions Relating to Mortgage Origination and Residential Mortgage Loans.—

“(1) Commission.—Unless otherwise specified, the term ‘Commission’ means the Federal Trade Commission.

“(2) Mortgage originator.—The term ‘mortgage originator’—

“(A) means any person who, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain—

“(i) takes a residential mortgage loan application;

“(ii) assists a consumer in obtaining or applying to obtain a residential mortgage loan; or

“(iii) offers or negotiates terms of a residential mortgage loan;

“(B) includes any person who represents to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such person can or will provide any of the services or perform any of the activities described in subparagraph (A);

“(C) does not include any person who is (i) not otherwise described in subparagraph (A) or (B) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such subparagraph, or (ii) an employee of a retailer of manufactured homes who is not described in clause (i) or (iii) of subparagraph (A) and who does not advise a consumer on loan terms (including rates, fees, and other costs);

“(D) does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless such person or entity is compensated by a lender, a mortgage broker, or other mortgage originator or by any agent of such lender, mortgage broker, or other mortgage originator;

“(E) does not include, with respect to a residential mortgage loan, a person, estate, or trust that provides mortgage financing for the sale of 3 properties in any 12-month period to purchasers of such properties, each of which is owned by such person, estate, or trust and serves as security for the loan, provided that such loan—

“(i) is not made by a person, estate, or trust that has constructed, or acted as a contractor for the construction of, a residence on the property in the ordinary course of business of such person, estate, or trust;

“(ii) is fully amortizing;

“(iii) is with respect to a sale for which the seller determines in good faith and documents that the buyer has a reasonable ability to repay the loan;

“(iv) has a fixed rate or an adjustable rate that is adjustable after 5 or more years, subject to reasonable annual and lifetime limitations on interest rate increases; and

“(v) meets any other criteria the Board may prescribe;

“(F) does not include the creditor (except the creditor in a table-funded transaction) under paragraph (1), (2), or (4) of section 1639b(c) of this title; and

“(G) does not include a servicer or servicer employees, agents and contractors, including but not limited to those who offer or negotiate terms of a residential mortgage loan for purposes of renegotiating, modifying, replacing and subordinating principal of existing mortgages where borrowers are behind in their payments, in default or have a reasonable likelihood of being in default or falling behind.

“(3) Nationwide mortgage licensing system and registry.—The term ‘Nationwide Mortgage Licensing System and Registry’ has the same meaning as in the Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

“(4) Other definitions relating to mortgage originator.—For purposes of this subsection, a person ‘assists a consumer in obtaining or applying to obtain a residential mortgage loan’ by, among other things, advising on residential mortgage loan terms (including rates, fees, and other costs), preparing residential mortgage loan packages, or collecting information on behalf of the consumer with regard to a residential mortgage loan.

“(5) Residential mortgage loan.—The term ‘residential mortgage loan’ means any consumer credit transaction that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real property that includes a dwelling, other than a consumer credit transaction under an open end credit plan or, for purposes of sections 1639b and 1639c of this title and section 1638(a) (16), (17), (18), and (19) of this title, and sections 1638(f) and 1640(k) of this title, and any regulations promulgated thereunder, an extension of credit relating to a plan described in section 101(53D) of title 11.

“(6) Secretary.—The term ‘Secretary’, when used in connection with any transaction or person involved with a residential mortgage loan, means the Secretary of Housing and Urban Development.

“(7) Servicer.—The term ‘servicer’ has the same meaning as in section 2605(i)(2) of title 12.

“(dd) Bona Fide Discount Points and Prepayment Penalties.—For the purposes of determining the amount of points and fees for purposes of subsection (aa), either the amounts described in paragraph (1) or (2) of the following paragraphs, but not both, shall be excluded:

“(1) Up to and including 2 bona fide discount points payable by the consumer in connection with the mortgage, but only if the interest rate from which the mortgage’s interest rate will be discounted does not exceed by more than 1 percentage point—

“(A) the average prime offer rate, as defined in section 1639c of this title; or

“(B) if secured by a personal property loan, the average rate on a loan in connection with which insurance is provided under title I of the National Housing Act (12 U.S.C. 1702 et seq.).

“(2) Unless 2 bona fide discount points have been excluded under paragraph (1), up to and including 1 bona fide discount point payable by the consumer in connection with the mortgage, but only if the interest rate from which the mortgage’s interest rate will be discounted does not exceed by more than 2 percentage points—

“(A) the average prime offer rate, as defined in section 1639c of this title; or

“(B) if secured by a personal property loan, the average rate on a loan in connection with which insurance is provided under title I of the National Housing Act (12 U.S.C. 1702 et seq.).

“(3) For purposes of paragraph (1), the term ‘bona fide discount points’ means loan discount points which are knowingly paid by the consumer for the purpose of reducing, and which in fact result in a bona fide reduction of, the interest rate or time-price differential applicable to the mortgage.

“(4) Paragraphs (1) and (2) shall not apply to discount points used to purchase an interest rate reduction unless the amount of the interest rate reduction purchased is reasonably consistent with established industry norms and practices for secondary mortgage market transactions.”

See Effective Date of 2010 Amendment notes below.

#### REFERENCES IN TEXT

The Riegle Community Development and Regulatory Improvement Act of 1994, referred to in subsec. (aa)(2)(A)(i), is Pub. L. 103-325, Sept. 23, 1994, 108 Stat. 2160. Section 155 of the Act is set out below. For classification of subtitle B of title I of the Act, known as the “Home Ownership and Equity Protection Act of 1994”, see Short Title of 1994 Amendment note set out under section 1601 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4701 of Title 12, Banks and Banking, and Tables.

#### AMENDMENTS

2009—Subsec. (i). Pub. L. 111-24 substituted “terms ‘open end credit plan’ and ‘open end consumer credit plan’ mean” for “term ‘open end credit plan’ means” in first sentence and inserted “or open end consumer credit plan” after “credit plan” wherever appearing in second sentence.

2008—Subsec. (f). Pub. L. 110-315 inserted at end “The term ‘creditor’ includes a private educational lender (as that term is defined in section 1650 of this title) for purposes of this subchapter.”

1994—Subsec. (f). Pub. L. 103-325, § 152(c), inserted at end “Any person who originates 2 or more mortgages referred to in subsection (aa) of this section in any 12-month period or any person who originates 1 or more such mortgages through a mortgage broker shall be considered to be a creditor for purposes of this subchapter.”

Subsec. (u). Pub. L. 103-325, § 152(b), substituted “the due dates” for “and the due dates” and inserted before period at end “, and the disclosures required by section 1639(a) of this title”.

Subsec. (aa). Pub. L. 103-325, § 152(a), added subsec. (aa).

Subsec. (bb). Pub. L. 103-325, § 154(a), added subsec. (bb).

1982—Subsec. (f). Pub. L. 97-320 struck out provision that a person who regularly arranged for the extension

of consumer credit payable in more than four installments or for which the payment of a finance charge was or might have been required from persons not creditors was a creditor, and provision that this subchapter applied to any creditor, irrespective of his or its status as a natural person or any type of organization, who was a card issuer.

1981—Subsecs. (x) to (z). Pub. L. 97-25 added subsec. (z) and, effective Apr. 10, 1982, redesignated subsecs. (x), (y), and (z) as (y), (z), and (x), respectively.

1980—Subsec. (f). Pub. L. 96-221, § 602(a), substituted provisions defining term “creditor” as referring only to a person who both regularly extends consumer credit, subject to specified conditions, and is the person to whom the debt arising is initially payable on the face of the indebtedness or by agreement, and notwithstanding such provisions, also refers to a person regularly arranging for the extension of consumer credit, and a card issuer and any person honoring the credit card, subject to specified conditions, for provisions defining term “creditor” as referring only to creditors who regularly extend, or arrange for the extension of credit payable in more than four installments or where a finance charge is or may be required, and substituted “(a)(5)” for “(a)(6)”, “(a)(6)” for “(a)(7)”, “(a)(7)” for “(a)(8)”, “(b)(8)” for “(b)(9)”, and “(b)(10)” for “(b)(11)”.

Subsec. (g). Pub. L. 96-221, § 602(b), substituted “in which the seller is a creditor” for “with respect to which credit is extended or arranged by the seller”.

Subsec. (h). Pub. L. 96-221, § 603(a), struck out applicability to agricultural purposes.

Subsec. (i). Pub. L. 96-221, § 604, inserted provisions respecting the reasonable contemplations of the creditor, and verification of credit information from time to time.

Subsecs. (s), (t). Pub. L. 96-221, § 603(b), added subsecs. (s) and (t). Former subsecs. (s) and (t) redesignated (x) and (y), respectively.

Subsec. (u). Pub. L. 96-221, § 612(a)(2), added subsec. (u).

Subsecs. (v), (w). Pub. L. 96-221, § 612(b), added subsecs. (v) and (w).

Subsecs. (x), (y). Pub. L. 96-221, § 603(b), redesignated former subsecs. (s) and (t) as (x) and (y), respectively.

1976—Subsecs. (p) to (t). Pub. L. 94-222 added subsecs. (p) and (q) and redesignated former subsecs. (p) to (r) as (r) to (t), respectively.

1974—Subsec. (f). Pub. L. 93-495 inserted provision requiring the credit to be payable by agreement in more than four installments and defining term “creditor” for the purposes of the requirements imposed under the enumerated sections of this chapter.

1970—Subsecs. (j) to (r). Pub. L. 91-508 added subsecs. (j) to (o) and redesignated former subsecs. (j) to (l) as (p) to (r), respectively.

#### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 1100A(1), (2) of Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

Amendment by sections 1401 and 1431 of Pub. L. 111-203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111-203, set out as a note under section 1601 of this title.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-24, § 3, May 22, 2009, 123 Stat. 1735, provided that: “This Act [enacting sections 1616, 1651, 1665c to 1665e, 1666i-1, 1666i-2, and 1693l-1 of this title and section 1a-7b of Title 16, Conservation, amending this section and sections 1632, 1637, 1640, 1650, 1666b, 1666c, 1666j, 1681b, 1681j, and 1693m to 1693r of this title, enacting provisions set out as notes under this section and sections 1637, 1638, 1666b, 1681j, and 1693l-1 of this title and

section 5311 of Title 31, Money and Finance, and amending provisions set out as notes under sections 1638 and 1693 of this title] and the amendments made by this Act shall become effective 9 months after the date of enactment of this Act [May 22, 2009], except as otherwise specifically provided in this Act.”

#### EFFECTIVE DATE OF 1982 AMENDMENT

Section 702(b) of Pub. L. 97-320 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the effective date of title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980 [two years and six months after Mar. 31, 1980, see Effective Date of 1980 Amendment note below].”

#### EFFECTIVE DATE OF 1981 AMENDMENT

Section 102(b) of Pub. L. 97-25 provided that the amendment made by that section is effective Apr. 10, 1982.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Section 625 of title VI of Pub. L. 96-221, as amended by Pub. L. 97-25, title III, §301, July 27, 1981, 95 Stat. 145; Pub. L. 97-110, title III, §301, Dec. 26, 1981, 95 Stat. 1515, provided that:

“(a) Except as provided in section 608(b) [set out as an Effective Date of 1980 Amendment note under section 1607 of this title], the amendments made by this title [enacting section 1646 of this title, amending sections 57a, 1602 to 1606, 1610, 1612, 1613, 1631, 1632, 1635, 1637, 1638, 1640, 1641, 1643, 1663, 1664, 1665a, 1666, 1666d, 1667d, and 1691f of this title, repealing sections 1614, 1636, and 1639 of this title, and enacting provisions set out as a note under section 1601 of this title] shall take effect upon the expiration of two years and six months after the date of enactment of this title [Mar. 31, 1980].

“(b) All regulations, forms, and clauses required to be prescribed under the amendments made by this title shall be promulgated at least one year prior to such effective date.

“(c) Notwithstanding subsections (a) and (b), any creditor may comply with the amendments made by this title, in accordance with the regulations, forms, and clauses prescribed by the Board, prior to such effective date. Any creditor who elects to comply with such amendments and any assignee of such a creditor shall be subject to the provisions of sections 130 and 131 of the Truth in Lending Act, as amended by sections 615 and 616, respectively, of this title [sections 1640 and 1641 of this title].”

#### EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-495, see section 308 of Pub. L. 93-495, set out as an Effective Date note under section 1666 of this title.

#### REGULATIONS

Pub. L. 111-24, § 2, May 22, 2009, 123 Stat. 1735, provided that: “The Board of Governors of the Federal Reserve System (in this Act [see Short Title of 2009 Amendment note set out under section 1601 of this title] referred to as the ‘Board’) may issue such rules and publish such model forms as it considers necessary to carry out this Act and the amendments made by this Act.”

Section 155 of title I of Pub. L. 103-325 provided that: “Not later than 180 days after the date of enactment of this Act [Sept. 23, 1994], the Board of Governors of the Federal Reserve System shall issue such regulations as may be necessary to carry out this subtitle [subtitle B (§§151-158) of title I of Pub. L. 103-325, see Short Title of 1994 Amendment note set out under section 1601 of this title], and such regulations shall become effective on the date on which disclosure regulations are required to become effective under section 105(d) of the Truth in Lending Act [15 U.S.C. §1604(d)].”

#### APPLICABILITY OF 1994 AMENDMENTS AND REGULATIONS TO SUBSECTION (aa) MORTGAGES

Section 156 of title I of Pub. L. 103-325 provided that: “This subtitle [subtitle B (§§151-158) of title I of Pub. L.

103-325, see Short Title of 1994 Amendment note set out under section 1601 of this title], and the amendments made by this subtitle, shall apply to every mortgage referred to in section 103(aa) of the Truth in Lending Act [15 U.S.C. 1602(aa)] (as added by section 152(a) of this Act) consummated on or after the date on which regulations issued under section 155 [set out above] become effective.”

#### § 1603. Exempted transactions

This subchapter does not apply to the following:

(1) Credit transactions involving extensions of credit primarily for business, commercial, or agricultural purposes, or to government or governmental agencies or instrumentalities, or to organizations.

(2) Transactions in securities or commodities accounts by a broker-dealer registered with the Securities and Exchange Commission.

(3) Credit transactions, other than those in which a security interest is or will be acquired in real property, or in personal property used or expected to be used as the principal dwelling of the consumer and other than private education loans (as that term is defined in section 1650(a) of this title), in which the total amount financed exceeds \$25,000.

(4) Transactions under public utility tariffs, if the Board determines that a State regulatory body regulates the charges for the public utility services involved, the charges for delayed payment, and any discount allowed for early payment.

(5) Transactions for which the Board, by rule, determines that coverage under this subchapter is not necessary to carry out the purposes of this subchapter.

(6) Repealed. Pub. L. 96-221, title VI, §603(c)(3), Mar. 31, 1980, 94 Stat. 169.

(7) Loans made, insured, or guaranteed pursuant to a program authorized by title IV of the Higher Education Act of 1965 [20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.]

(Pub. L. 90-321, title I, §104, May 29, 1968, 82 Stat. 147; Pub. L. 93-495, title IV, §402, Oct. 28, 1974, 88 Stat. 1517; Pub. L. 96-221, title VI, §603(c), Mar. 31, 1980, 94 Stat. 169; Pub. L. 97-320, title VII, §701(a), Oct. 15, 1982, 96 Stat. 1538; Pub. L. 104-208, div. A, title II, §2102(a), Sept. 30, 1996, 110 Stat. 3009-398; Pub. L. 110-315, title X, §1022, Aug. 14, 2008, 122 Stat. 3488; Pub. L. 111-203, title X, §§1100A(2), 1100E(a)(1), July 21, 2010, 124 Stat. 2107, 2111.)

#### AMENDMENT OF SECTION

*Pub. L. 111-203, title X, §§1100A(2), 1100E(a)(1), 1100H, July 21, 2010, 124 Stat. 2107, 2111, 2113, provided that, effective on the designated transfer date, this section is amended as follows:*

*(1) by striking “Board” each place that term appears and inserting “Bureau”; and*

*(2) in paragraph (3), by striking “\$25,000” and inserting “\$50,000”.*

*See Effective Date of 2010 Amendment note below.*

#### REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in par. (7), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as