the amount of credit extended exceeds
the applicable threshold amount or in
which there is an express written com-
mmitment to extend credit in excess of
the applicable threshold amount, un-
less the extension of credit is:
(A) Secured by any real property, or
by personal property used or expected
to be used as the principal dwelling of
the consumer; or
(B) A private education loan as de-

fined in §226.46(b)(5).
(ii) Annual adjustments. The thresh-
old amount in paragraph (b)(1)(i) of this
section is adjusted annually to reflect
increases in the Consumer Price Index
for Urban Wage Earners and Clerical
Workers, as applicable. See the official
staff commentary to this paragraph (b)
for the threshold amount applicable to
a specific extension of credit or express
written commitment to extend credit.
(2) Transition rule for open-end ac-
counts exempt prior to July 21, 2011.
An
open-end account that is exempt on
July 20, 2011 based on an express writ-
ten commitment to extend credit in ex-
cess of $25,000 remains exempt until De-
cember 31, 2011 unless:
(i) The creditor takes a security in-
terest in any real property, or in per-
sonal property used or expected to be
used as the principal dwelling of the
consumer; or
(ii) The creditor reduces the express
written commitment to extend credit
to $25,000 or less.
(c) Public utility credit. An exten-
sion of credit that involves public utility
services provided through pipe, wire,
other connected facilities, or radio or
similar transmission (including exten-
sions of such facilities), if the charges
for service, delayed payment, or any
discounts for prompt payment are filed
with or regulated by any government
unit. The financing of durable goods or
home improvements by a public utility
is not exempt.
(d) Securities or commodities accounts.
Transactions in securities or commod-
ities accounts in which credit is ex-
tended by a broker-dealer registered
with the Securities and Exchange Com-
mision or the Commodity Futures
Trading Commission.
(e) Home fuel budget plans. An instal-
ment agreement for the purchase of
home fuels in which no finance charge
is imposed.
(f) Student loan programs. 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.).
(g) Employer-sponsored retirement
plans. An extension of credit to a par-
ticipant in an employer-sponsored re-


duction plan qualified under Section
401(a) of the Internal Revenue Code, a
tax-sheltered annuity under Section
403(b) of the Internal Revenue Code, or
an eligible governmental deferred com-

pensation plan under Section 457(b) of
the Internal Revenue Code (26 U.S.C.
401(a); 26 U.S.C. 403(b); 26 U.S.C. 457(b)),
provided that the extension of credit is
comprised of fully vested funds from
such participant’s account and is made
in compliance with the Internal Rev-

enue Code (26 U.S.C. 1 et seq.).
§226.4 Finance charge.
(a) Definition. The finance charge is
the cost of consumer credit as a dollar
amount. It includes any charge payable
directly or indirectly by the consumer
and imposed directly or indirectly by
the creditor as an incident to or a con-
dition of the extension of credit. It
does not include any charge of a type
payable in a comparable cash trans-

action.
(1) Charges by third parties. The fi-
nance charge includes fees and
amounts charged by someone other
than the creditor, unless otherwise ex-
cluded under this section, if the cred-
itor:
(i) Requires the use of a third party
as a condition of or an incident to the
extension of credit, even if the con-
sumer can choose the third party; or
(ii) Retains a portion of the third-
party charge, to the extent of the por-
tion retained.
(2) Special rule; closing agent charges.
Fees charged by a third party that con-
ducts the loan closing (such as a settle-
ment agent, attorney, or escrow or
title company) are finance charges
only if the creditor—
(1) Requires the particular services
for which the consumer is charged;
(ii) Requires the imposition of the charge; or
(iii) Retains a portion of the third-party charge, to the extent of the portion retained.

(3) Special rule; mortgage broker fees. Fees charged by a mortgage broker (including fees paid by the consumer directly to the broker or to the creditor for delivery to the broker) are finance charges even if the creditor does not require the consumer to use a mortgage broker and even if the creditor does not retain any portion of the charge.

(b) Examples of finance charges. The finance charge includes the following types of charges, except for charges specifically excluded by paragraphs (c) through (e) of this section:

(1) Interest, time price differential, and any amount payable under an add-on or discount system of additional charges.
(2) Service, transaction, activity, and carrying charges, including any charge imposed on a checking or other transaction account to the extent that the charge exceeds the charge for a similar account without a credit feature.
(3) Points, loan fees, assumption fees, finder’s fees, and similar charges.
(4) Appraisal, investigation, and credit report fees.
(5) Premiums or other charges for any guarantee or insurance protecting the creditor against the consumer’s default or other credit loss.
(6) Charges imposed on a creditor by another person for purchasing or accepting a consumer’s obligation, if the consumer is required to pay the charges in cash, as an addition to the obligation, or as a deduction from the proceeds of the obligation.
(7) Premiums or other charges for credit life, accident, health, or loss-of-income insurance, written in connection with a credit transaction.
(8) Premiums or other charges for insurance against loss of or damage to property, or against liability arising out of the ownership or use of property, written in connection with a credit transaction.
(9) Discounts for the purpose of inducing payment by a means other than the use of credit.
(10) Charges or premiums paid for debt cancellation or debt suspension coverage written in connection with a credit transaction, whether or not the coverage is insurance under applicable law.

(c) Charges excluded from the finance charge. The following charges are not finance charges:

(1) Application fees charged to all applicants for credit, whether or not credit is actually extended.
(2) Charges for actual unanticipated late payment, for exceeding a credit limit, or for delinquency, default, or a similar occurrence.
(3) Charges imposed by a financial institution for paying items that overdraw an account, unless the payment of such items and the imposition of the charge were previously agreed upon in writing.
(4) Fees charged for participation in a credit plan, whether assessed on an annual or other periodic basis.
(5) Seller’s points.
(6) Interest forfeited as a result of an interest reduction required by law on a time deposit used as security for an extension of credit.
(7) Real-estate related fees. The following fees in a transaction secured by real property or in a residential mortgage transaction, if the fees are bona fide and reasonable in amount:
   (i) Fees for title examination, abstract of title, title insurance, property survey, and similar purposes.
   (ii) Fees for preparing loan-related documents, such as deeds, mortgages, and reconveyance or settlement documents.
   (iii) Notary and credit-report fees.
   (iv) Property appraisal fees or fees for inspections to assess the value or condition of the property if the service is performed prior to closing, including fees related to pest-infestation or flood-hazard determinations.
   (v) Amounts required to be paid into escrow or trustee accounts if the amounts would not otherwise be included in the finance charge.
(8) Discounts offered to induce payment for a purchase by cash, check, or other means, as provided in section 167(b) of the Act.

(d) Insurance and debt cancellation and debt suspension coverage. (1) Voluntary
credit insurance premiums. Premiums for credit life, accident, health, or loss-of-income insurance may be excluded from the finance charge if the following conditions are met:

(i) The insurance coverage is not required by the creditor, and this fact is disclosed in writing.

(ii) The premium for the initial term of insurance coverage is disclosed in writing. If the term of insurance is less than the term of the transaction, the term of insurance also shall be disclosed. The premium may be disclosed on a unit-cost basis only in open-end credit transactions, closed-end credit transactions by mail or telephone under §226.17(g), and certain closed-end credit transactions involving an insurance plan that limits the total amount of indebtedness subject to coverage.

(iii) The consumer signs or initials an affirmative written request for the insurance after receiving the disclosures specified in this paragraph, except as provided in paragraph (d)(4) of this section. Any consumer in the transaction may sign or initial the request.

(2) Property insurance premiums. Premiums for insurance against loss of or damage to property, or against liability arising out of the ownership or use of property, including single interest insurance if the insurer waives all right of subrogation against the consumer, may be excluded from the finance charge if the following conditions are met:

(i) The insurance coverage may be obtained from a person of the consumer’s choice, and this fact is disclosed. (A creditor may reserve the right to refuse to accept, for reasonable cause, an insurer offered by the consumer.)

(ii) If the coverage is obtained from or through the creditor, the premium for the initial term of insurance coverage shall be disclosed. If the term of insurance is less than the term of the transaction, the term of insurance shall also be disclosed. The premium may be disclosed on a unit-cost basis only in open-end credit transactions, closed-end credit transactions by mail or telephone under §226.17(g), and certain closed-end credit transactions involving an insurance plan that limits the total amount of indebtedness subject to coverage.

(iii) The following are disclosed, as applicable, for debt suspension coverage: That the obligation to pay loan principal and interest is only suspended, and that interest will continue to accrue during the period of suspension.

(iv) The consumer signs or initials an affirmative written request for coverage after receiving the disclosures specified in this paragraph, except as provided in paragraph (d)(4) of this section. Any consumer in the transaction may sign or initial the request.

(4) Telephone purchases. If a consumer purchases credit insurance or debt cancellation or debt suspension coverage for an open-end (not home-secured) plan by telephone, the creditor must make the disclosures under paragraphs (d)(1)(i) and (ii) or (d)(3)(i) through (iii) of this section, as applicable, orally. In such a case, the creditor shall:
§ 226.5  General disclosure requirements.

(a) Form of disclosures. (1) General. (i) The creditor shall make the disclosures required by this subpart clearly and conspicuously.

(ii) The creditor shall make the disclosures required by this subpart in writing,7 in a form that the consumer may keep,8 except that:

(A) The following disclosures need not be written: Disclosures under § 226.6(b)(3) of charges that are imposed as part of an open-end (not home-se-

cured) plan that are not required to be disclosed under § 226.6(b)(2) and related disclosures of charges under § 226.9(c)(2)(i)(B); disclosures under § 226.9(c)(2)(vi); disclosures under § 226.9(d) when a finance charge is imposed at the time of the transaction; and disclosures under § 226.56(b)(1)(i).

(B) The following disclosures need not be in a retainable form: Disclosures that need not be written under paragraph (a)(1)(i)(A) of this section; disclosures for credit and charge card applications and solicitations under § 226.5a; home-equity disclosures under § 226.5b(d); the alternative summary billing-rights statement under § 226.9(a)(2); the credit and charge card renewal disclosures required under § 226.9(e); and the payment require-
ments under § 226.10(b), except as provided in § 226.7(b)(13).

(iii) The disclosures required by this subpart may be provided to the con-
sumer in electronic form, subject to compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 et seq.). The disclosures required by §§ 226.5a, 226.5b, and 226.16 may be provided to the consumer in electronic form without regard to the consumer consent or other provisions of the E-Sign Act in the circumstances set forth in those sections.

(2) Terminology. (i) Terminology used in providing the disclosures required by this subpart shall be consistent.

(ii) For home-equity plans subject to § 226.5b, the terms finance charge and annual percentage rate, when required to be disclosed with a corresponding amount or percentage rate, shall be more conspicuous than any other re-
quired disclosure.9 The terms need not be more conspicuous when used for periodic statement disclosures under § 226.7(a)(4) and for advertisements under § 226.16.

(iii) If disclosures are required to be presented in a tabular format pursuant to paragraph (a)(3) of this section, the term penalty APR shall be used, as applic-
able. The term penalty APR need not be used in reference to the annual percentage rate that applies with the

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1 [Reserved]
2 [Reserved]
3 [Reserved]