

index is to be readily available to, and verifiable by, the borrower. It also must be beyond the control of the lending bank. Proposed § 34.22 makes no changes to the substance of current § 34.7.

Rate changes (Current Section 34.8)

Current § 34.8 sets forth the limitation found in section 1204 of the Competitive Equality Banking Act of 1987 (CEBA), Pub. L. 100-86, 100 Stat. 552 (12 U.S.C. 3806(a)), which requires a consumer credit ARM loan to include a limitation on the maximum rate of interest that may apply during the term of the loan. The proposal removes § 34.8 because it is an unnecessary restatement of the statute. Moreover, CEBA vests rulemaking authority with the Federal Reserve, which has implemented section 1204 of CEBA at 12 CFR 226.30.

Prepayment Fees (Proposed Section 34.23)

Current § 34.9 provides that national banks may impose fees for prepayments of ARM loans, notwithstanding any State law to the contrary. The proposal makes no substantive change to this section.

Disclosure (Current Section 34.10)

This section requires a national bank that offers consumer ARM loans to provide the disclosures required by the Truth-in-Lending Act (15 U.S.C. 1601, et seq.), as implemented by the Federal Reserve in Reg. Z.

Earlier versions of the OCC rule regarding disclosure requirements made this statement appropriate at one time. Previously, the OCC's rule required specific ARM loan disclosures that were similar to that now required by Reg. Z. See, e.g., 48 FR 9506 (March 7, 1983); 46 FR 18943 (March 27, 1981). In 1987, the OCC proposed to amend its rule to eliminate those disclosure requirements since they were redundant in light of Reg. Z, but also proposed to include a reminder to national banks that documents evidencing ARM loans, as that term was defined in the proposal, still were to contain the Reg. Z disclosures. 52 FR 36958 (October 2, 1987). Ultimately, this proposal was adopted (53 FR 7885 (March 11, 1988)), thereby eliminating overlap between the two regulations.

The proposed rule that was promulgated in 1987 defined "ARM loan" in a way that made it appropriate to clarify that only ARM loans to consumers needed to comply with the disclosure requirements set forth in Reg. Z. The 1987 proposal defined "ARM loan" as applying to an "extension of consumer credit," which raised

questions concerning the permissibility under part 34 of making ARM loans to businesses. To address this concern, the final rule adopted in 1988 used the definition of "ARM loan" that appears in the current regulation and clarified in § 34.10 that the disclosures required under Reg. Z must be provided only to consumers in ARM loan transactions.

The OCC believes that the reminder to comply with Reg. Z disclosures when making a consumer ARM loan was appropriate when the OCC-imposed disclosure requirements were removed, but now is unnecessary. Accordingly, the proposal removes this section in its entirety. The proposal also removes the term "consumer credit," since it was used only in § 34.10.

Nonfederally Chartered Commercial Banks (Proposed Section 34.24)

Section 807(b) of the Garn-St Germain Act (Pub. L. 97-320, 96 Stat. 1545 (12 U.S.C. 3801 note)) requires the OCC to identify those provisions of its ARM regulation that are inappropriate for nonfederally chartered banks. In implementing section 807(b), the OCC determined that all of the provisions of subpart B were appropriate, and so stated in current § 34.11. Proposed § 34.25 retains this statement in order to comply with the statute, and removes certain unnecessary citations to statutory authority.

Transition Rule (Proposed Section 34.25)

Current § 34.12 provides that national banks were authorized to make or administer loans during a "window period" beginning on the date the current rule was adopted (March 11, 1988) and ending October 1, 1988, if the loans complied with the OCC rules in effect before the March 11, 1988 amendment. Following October 1, 1988, all ARM loans have been required to comply with part 34, as revised.

The proposed changes remove what are now unnecessary references to the window period. The proposal retains the remainder of this section to assist the reader who wishes to determine if a given loan complied with applicable laws in effect when the loan was made. Commenters are requested to address whether retention of this provision is still useful.

Subpart C—Appraisals

The OCC is not proposing any changes to the rules governing the use of appraisals.

Subpart D—Real Estate Lending Standards

The OCC is not proposing any changes to the real estate lending standards.

Subpart E—OREO

Definitions (Section 34.81)

Current § 34.81 contains the definitions used in subpart E. The proposal makes two changes to these definitions in addition to stylistic edits. First, proposed § 34.81 defines OREO to include only "debts previously contracted" (DPC) real estate and former banking premises. The proposal removes the term "covered transactions real estate" from the definition of OREO, thereby rendering the definition of covered transactions real estate unnecessary. Second, the proposal removes the term "transaction value" and corresponding definition. These proposed changes are addressed in order, below.

The current rule defines covered transactions real estate as DPC property or former banking premises that a national bank is in the process of selling in accordance with current § 34.83(a)(6) (i.e., receiving at least 10 percent of the property's sales price through cash, principal and interest payments, and/or private mortgage insurance). However, there is no special rule for the divestiture or disposition of covered transactions real estate. The regulation treats such real estate as OREO, and imposes the same requirements as are imposed on other forms of OREO. Accordingly, there is no reason to identify covered transaction real estate as a special class of OREO property.

This proposed change to the definition of OREO is not intended to change the ability of national banks to dispose of OREO through the means specified in current § 34.83(a)(6). Rather, it is intended simply to remove a term that is unnecessary and potentially confusing.

The proposal also removes the term "transaction value" because it, too, is unnecessary and potentially confusing. Current subpart E of part 34 defines transaction value as "the recorded investment amount," a term that also is defined. However, subpart C defines "transaction value" differently, creating potential confusion. Since "transaction value" is used only once in part 34 (in current § 34.84(a)(1)(ii)) outside of the current definition section in subpart E, and since the entire substance of that term's definition is "the recorded investment amount," the OCC proposes to replace "transaction value" with