percentage rate tolerance of  $\frac{1}{4}$  of 1 percent applies, in accordance with § 226.22(a)(3) of the regulation.

fl v.fi Examples of discounted variablerate transactions include:

fl A.fi A 30-year loan for \$100,000 with no prepaid finance charges and rates determined by the Treasury bill rate plus 2 percent. Rate and payment adjustments are made annually. Although the Treasury bill rate at the time of consummation is 10 percent, the creditor sets the interest rate for one year at 9 percent, instead of 12 percent according to the formula. The disclosures should reflect a composite annual percentage rate of 11.63 percent based on 9 percent for one year and 12 percent for 29 years. Reflecting those two rate levels, the payment schedule should show 12 payments of \$804.62 and 348 payments of \$1,025.31. The finance charge should be \$266,463.32 and the total of payments \$366,463.32.

fl B.fi Same loan as above, except with a 2 percent rate cap on periodic adjustments. The disclosures should reflect a composite annual percentage rate of 11.53 percent based on 9 percent for the first year, 11 percent for the second year, and 12 percent for the remaining 28 years. Reflecting those three rate levels, the payment schedule should show 12 payments of \$804.62, 12 payments of \$950.09, and 336 payments of \$1,024.34. The finance charge should be \$265,234.76 and the total of payments \$365,234.76.

fl C.fi Same loan as above, except with a 7½ percent cap on payment adjustments. The disclosures should reflect a composite annual percentage rate of 11.64 percent, based on 9 percent for one year and 12 percent for 29 years. Because of the payment cap, five levels of payments should be reflected. The payment schedule should show 12 payments of \$804.62, 12 payments of \$864.97, 12 payments of \$929.84, 12 payments of \$999.58, and 312 payments of \$1,070.04. The finance charge should be \$277,040.60, and the total of payments \$377,040.60.

fl D.fi This paragraph does not apply to variable-rate loans in which the initial interest rate is set according to the index or formula used for later adjustments but is not set at the value of the index or formula at consummation. For example, if a creditor commits to an initial rate based on the formula on a date prior to consummation, but the index has moved during the period between that time and consummation, a creditor should base its disclosures on the initial rate.

\* \* \* \*

fl 18. *Pawn Transactions.* For a transaction in which a consumer pledges or sells an item to a creditor in return for a sum of money, and retains the right to redeem the item for a greater sum (the redemption price) within a specified period of time:

i. The amount financed is the initial sum paid to the consumer.

ii. The finance charge is the difference between the initial sum paid to the consumer and the redemption price.

iii. The term of the transaction, for calculating the annual percentage rate, is the

specified period of time agreed to by the creditor and the consumer.  $\mathbf{\hat{h}}$ 

7. In Supplement I to Part 226, under Section 226.18—Content of Disclosures, under Paragraph 18(c)(1)(iii)., a new paragraph 2. would be added to read as follows:

\* \* \* \*

Section 226.18—Content of Disclosures \* \* \* \* \*

\* \* \* \* \* \* Paragraph 18(c)(1)(iii).

\* \* \* \* \*

fl 2. Creditor-imposed charges added to amounts paid to others. A creditor that offers an item for sale in both cash and credit transactions sometimes adds an amount (often referred to as an "upcharge") to a fee charged to a consumer by a third party for a service (such as for a maintenance or service contract) that is payable in an equal amount in both types of transactions, and retains that amount. At its option, the creditor may list the total charge (including the portion retained by it) as an amount paid to others, or it may choose to reflect the amounts in the manner in which they were actually paid to or retained by the appropriate parties.fi

8. In Supplement I to Part 226, under Section 226.20 Subsequent Disclosure Requirements, under Paragraph 20(a) Refinancings., paragraph 3. would be revised to read as follows:

Section 226.20—Subsequent Disclosure Requirements

\*

Paragraph 20(a) Refinancings.

\*

\*

\* \* \* \* \* 3. Variable-rate.

fl i.fl I a variable-rate feature was properly disclosed under the regulation, a rate change in accord with those disclosures is not a refinancing. fl For example, no new disclosures are required when the variablerate feature is invoked on a renewable balloon-payment mortgage that was previously disclosed as a variable-rate transaction.fl [For example, a renewable balloon-payment mortgage that was disclosed as a variable-rate transaction is not subject to new disclosure requirements when the variable-rate feature is invoked. However, even]

fl ii. Evenfi if it is not accomplished by the cancellation of the old obligation and substitution of a new one, a new transaction subject to new disclosures results if the creditor either:

fl A.fi Increases the rate based on a variable-rate feature that was not previously disclosed, or

fl B.fi Adds a variable-rate feature to the obligation. fl A creditor does not add a variable-rate feature by changing the index of a variable-rate transaction or substituting a new index for one that no longer exists.

iii.fi If either of fl the abovefi [these] two events occur in a transaction secured by a principal dwelling with a term longer than one year, the disclosures required under § 226.19(b) also must be given at that time. \* \* \* \* \*

9. In Supplement I to Part 226, a new Subpart E—Special Rules for Certain Home Mortgage Transactions would be added as follows:

fl Subpart E—Special Rules for Certain Home Mortgage Transactions

Section 226.31-General Rules

\*

*31(c) Timing of disclosure. Paragraph 31(c)(1) Disclosures for certain* 

*closed-end home mortgages.* 1. *Furnishing disclosures.* Disclosures are considered furnished when received by the consumer.

2. Pre-consummation waiting period. A creditor must furnish the special disclosures at least three business days prior to consummation. For purposes of § 226.32, "business day" means every calendar day except Sundays and federal legal holidays. For example, if disclosures are provided on Friday, consummation could occur any time on Tuesday, the third business day following receipt of disclosures.

Paragraph 31(c)(1)(i) Change in terms. 1. Redisclosure required. Creditors must provide new disclosures if the regular payment or any other disclosure required by § 226.32(c) becomes inaccurate.

Paragraph 31(c)(1)(ii) Telephone disclosures.

1. *Telephone disclosures.* Disclosures by telephone must be furnished at least three calendar days prior to consummation.

Paragraph 31(c)(1)(iii) Consumer's waiver of waiting period before consummation.

1. *Modification or waiver*. A consumer may modify or waive the right to the three-day waiting period only after receiving the disclosures required by § 226.32 and only if the circumstances meet the criteria for establishing a bona fide personal financial emergency in § 226.23(e). Whether these criteria are met are determined by the facts surrounding individual situations. The impending sale of the consumer's home at foreclosure is one example of a bona fide personal financial emergency. Each consumer entitled to the three-day waiting period must sign a written statement for the waiver to be effective.

Paragraph 31(c)(2) Disclosures for reverse mortgages.

1. Business days. For purposes of providing reverse mortgage disclosures, "business day" means a day on which the creditor's offices are open to the public for carrying on substantially all of its business functions.

2. *Open-end plans.* Disclosures for openend reverse mortgages must be provided three business days before the first transaction under the plan (see § 226.5(b)(1)).

*31(d) Basis of disclosures and use of estimates.* 

1. *Redisclosure*. When a disclosure required by § 226.32 is based on and labeled as an estimate and becomes inaccurate due to a change in terms that occurs before consummation, new disclosures must be provided.