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**Evans, Sandra E**

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**From:** Schoenbucher Karen [kschoenbucher@southwestbank.com]  
**Sent:** Wednesday, February 25, 2004 2:30 PM  
**To:** regs.comments@federalreserve.gov; comments@fdic.gov; regs.comments@occ.treas.gov;  
regs.comments@ots.treas.gov  
**Subject:** EGRPRA

I would like to take this opportunity to comment on three of my favorite regulations.

HMDA Reg C has always been fun & challenging. I've had lots of interesting experiences with it, but thought I'd finally gotten it down pat. Well then along came HOEPA & the Rate Spread. I found it almost too much to believe when the 4th item in the training package (St Louis Fed) under the Goals said "Clarify & simplify the rule." To me, nothing could be further from the truth. How & to what type of loan HOEPA applies to sooooo confusing! We're trying to build a road map to follow this one. It would have been easier to ask the question "Do you sell or add Credit Life Ins to this loan" and give an answer! As for the Rate Spread, I think if you'd simply asked for either the stated interest rate & APR or the APR only, that would have been more meaningful than trying to again figure out what loans this applies to & to compare the APR to a Treasury Security Rate. This may mean something to someone somewhere, but we're at a loss on our end.

TIL Reg Z is sometimes confusing to most people because we feel that all most customers want to know is "What's my interest rate and monthly payment amount?" The components of what goes into making up the APR calculation should or could be simplified if someone could come up with an updated chart from the original that Alan Dombrow first created (see my attachment which may not be all inclusive) that would just spell out what is & is not included in the APR & Finance Charges. We've been dealing with this for some years now, and it's time to lay all the cards out on the table & get everyone on the same page. I cannot answer a question about these two items without referring either to Alan's chart or my own.

And on a related matter, RESPA & the HUD-1. I've read all about HUD's proposal to make changes & all I can say is Heaven help us all if their ideas get approved. It is hard enough to get a realistic picture out to the customer in 3 days, let alone have that become a contract for fees to be paid at closing. The GFE is just that, an "Estimate" of the costs. But things change all the time, and to make one estimate a contract is unrealistic. The GFE & early TIL should be an estimate based only of the facts known at the time of application. And please don't review the final HUD-1 to the GFE, too many variables come into play and as I said, things change between the time an application is taken & the loan closes.

Thanks for letting me put in my two cents worth. Karen

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02/25/2004

**REGULATION Z - FEE CHART**

Revised: 2/19/04

Regzfeechart.xls

FEE TYPE	Paid To	APR & Prepaid Finance Charge	Included In Finance Charge
1. Loan Origination Fee or Loan Points	Bank	Yes	Yes
2. Odd Days Interest (From Close Date to 1st Pmt Date)	Bank	Yes	Yes
3. Real Estate Appraisal Cost	3rd Party	No	No-1
4. Appraisal "Review" Cost	3rd Party	No	No-1
5. Lender's Inspections DURING Construction	Bank/3rd Party	Yes	Yes
6. Escrow Waiver Fee (If Required)	3rd Party	Yes	Yes
7. Loan Commitment Fee (If Collected by the Bank)	Bank	Yes	Yes
8. Escrow Fee (Charge for Conducting the Closing)	Atty/Title Co	Yes	Yes-7
9. Settlement/Closing Fee (aka Doc Prep Fee)	Atty/Title Co-8	No	No
10. Abstract, Title Search or Tax Certificate Fee	Atty/Title Co	No	No-1
11. Title Examination	Atty/Title Co	No	No-1
12. Title Insurance Binder	Title Co	No	No-1
13. Documentation Preparation Fee	Atty/Title Co-8	No	No-1
14. Notary or Credit Report Fees	3rd Party	No	No-1
15. Attorney's Fee	Atty/Title Co	No	No-1
16. Lender's Mortgagee Title Insurance	Title Co	No	No-1
17. Courier or Messenger Service (ie, FedEx, etc.)	3rd Party	Maybe	Maybe-2
18. Recording or Filing Fees	3rd Party	No	No-3
19. Survey Cost	3rd Party	No	No-1
20. Other Inspections (Pest, Septic, Water)	3rd Party	No	No-4
21. Flood Hazard Determination Fee	3rd Party	Yes	Yes
22. Tax Service Fee (for Annual Monitoring, etc.)	3rd Party	Yes	Yes
23. Fee for "Completion" - Escrow Services	Title Co	Yes	Yes
24. Credit Life and/or A & H Insurance & GAP Ins.	3rd Party	No	No-5
25. Tax, Title & License Fees	3rd Party	No	No-3
26. Tax Search for Taxes Due, Paid, Liens, etc.	3rd Party	No	No-1
27. Mortgage "Broker" Fees	Mortgage Co	Always	Always-6
28. Mortgage Loan Underwriting Fee	Bank/Mort Co	Yes	Yes
29. Mortgage Loan Processing Fee	Bank/Mort Co-8	Yes	Yes

\*Prepaid Finance Charges are Finance Charges that the **Borrower pays** in Cash, at or before the loan closing. To be "Prepaid" the charge must be: (1) a Finance Charge, (2) paid separately in Cash or by Check, and (3) paid at or before closing. If the fee is paid by someone other than the Borrower, then it is **NOT** included in the Finance Charge. Also, if the charge would be payable in a "comparable" cash transaction, it is NOT included.

- 1-Not included in the Finance Charge on Real Estate Secured loans, including Home Improvement or Home Equity Loans or Lines of Credit, secured by a Lien on the Property.
- 2-This is Included in the Finance Charge "ONLY" if it was REQUIRED by the Bank or a portion of the Fee was retained by the Bank. It is not a "Finance Charge" if NOT required by the Bank.
- 3-Not included in the Finance Charge if properly disclosed in the Fed Box, or on the TIL or Note, as an item in the "Itemization of Amount Financed", UNLESS the amount is FINANCED IN THE LOAN AMOUNT, i.e., it is included in the Finance Charge, but is NOT a Prepaid.
- 4-Not included if NOT REQUIRED as a condition of Loan Approval. MUST be included if required by the Bank as a condition of Loan Approval.
- 5-Not included in the Finance Charge if: (a) the Insurance is optional, i.e., we have disclosed that it is not required; (b) the Amount of the Premium has been disclosed; and (c) the Borrower has signed a Statement requesting the coverage, ie, they signed the Note or TIL Disclosure in the Credit Life Section on the forms.
- 6-Effective: 10-21-96 - A 'FEE' paid to a "Mortgage Broker" is a Finance Charge regardless of the circumstances under which it was paid, and the Bank MUST disclose it and ADD it to the Finance Charge disclosed to the Customer.
- 7-Effective 10-1-98, the Title Company's "Escrow Fee" for handling or conducting the Closing on ANY loan to an Individual Consumer Secured by a Residential Dwelling.
- 8-From 10/1993 Opinion #490, Texas Disciplinary Rules of Professional Conduct, a Bank may not charge a Doc Prep Fee because we are not licensed to practice law. However, a Processing Fee is allowed to cover the costs associated with nonlawyer personnel involved in the preparation, copying, etc. of loan related documents.