

## § 230.9

(2) *Indoor signs.* (i) Signs inside the premises of a depository institution (or the premises of a deposit broker) are not subject to paragraphs (b), (c), (d) or (e)(1) of this section.

(ii) If a sign exempt by paragraph (e)(2) of this section states a rate of return, it shall:

(A) State the rate as an “annual percentage yield,” using that term or the term “APY.” The sign shall not state any other rate, except that the interest rate may be stated in conjunction with the annual percentage yield to which it relates.

(B) Contain a statement advising consumers to contact an employee for further information about applicable fees and terms.

[57 FR 43376, Sept. 21, 1992, as amended at 58 FR 15081, Mar. 19, 1993; Reg. DD, 60 FR 5130, Jan. 26, 1995; Reg. DD, 63 FR 40638, July 30, 1998; Reg. DD, 63 FR 52107, Sept. 29, 1998]

## § 230.9 Enforcement and record retention.

(a) *Administrative enforcement.* Section 270 of the act contains the provisions relating to administrative sanctions for failure to comply with the requirements of the act and this part. Compliance is enforced by the agencies listed in that section.

(b) *Civil liability.* Section 271 of the Act contains the provisions relating to civil liability for failure to comply with the requirements of the act and this part; Section 271 is repealed effective September 30, 2001.

(c) *Record retention.* A depository institution shall retain evidence of compliance with this part for a minimum of two years after the date disclosures are required to be made or action is required to be taken. The administrative agencies responsible for enforcing this part may require depository institutions under their jurisdiction to retain records for a longer period if necessary to carry out their enforcement responsibilities under section 270 of the act.

[57 FR 43376, Sept. 21, 1992, as amended by Reg. DD, 63 FR 52107, Sept. 29, 1998]

## § 230.10 Electronic communication.

(a) *Definition.* “Electronic communication” means a message transmitted electronically between a depository institution and a consumer in a

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format that allows visual text to be displayed on equipment, for example, a personal computer monitor.

(b) *General rule.* In accordance with the Electronic Signatures in Global and National Commerce Act (the E-Sign Act) (15 U.S.C. 7001 *et seq.*) and the rules of this part, a depository institution may provide by electronic communication any disclosure required by this part to be in writing.

(c) *When consent is required.* Under the E-Sign Act, a depository institution is required to obtain a consumer’s affirmative consent when providing disclosures related to a transaction. For purposes of this requirement, the disclosures required under §§ 230.4(a)(2) and 230.8 are deemed not to be related to a transaction.

(d) *Address or location to receive electronic communication.* A depository institution that uses electronic communication to provide disclosures required by this part shall:

(1) Send the disclosure to the consumer’s electronic address; or

(2) Make the disclosure available at another location such as an Internet web site; and

(i) Alert the consumer of the disclosure’s availability by sending a notice to the consumer’s electronic address (or to a postal address, at the depository institution’s option). The notice shall identify the account involved (if applicable) and the address of the Internet web site or other location where the disclosure is available; and

(ii) Make the disclosure available for at least 90 days from the date the disclosure first becomes available or from the date of the notice alerting the consumer of the disclosure, whichever comes later.

(3) *Exceptions.* A depository institution need not comply with paragraph (d)(2)(ii) of this section for disclosures required under § 230.4(a)(2), and need not comply with paragraphs (d)(2)(i) and (ii) of this section for disclosures required under § 230.8.

(e) *Redelivery.* When a disclosure provided by electronic communication is returned to a depository institution undelivered, the depository institution shall take reasonable steps to attempt redelivery using information in its files.