

FEDERAL RESERVE BANK OF DALLAS
DALLAS, TEXAS 75222

Circular No. 70-288
December 2, 1970

PROPOSED AMENDMENT TO REGULATION Z

To All Banks, Other Creditors, and Others Concerned
in the Eleventh Federal Reserve District:

The Board of Governors of the Federal Reserve System announced on November 24, 1970, a proposed amendment to its Truth in Lending Regulation Z to implement credit card legislation recently enacted by Congress.

A copy of the Board's press release and the proposed amendment is attached. Interested persons are invited to submit relevant data, views, or arguments. Such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D. C. 20551, to be received not later than December 28, 1970.

Yours very truly,

P. E. Coldwell

President

Attachments



FEDERAL RESERVE

press release

For immediate release

November 24, 1970

The Board of Governors of the Federal Reserve System today issued for comment a proposed amendment to its Truth in Lending Regulation Z to implement credit card legislation recently enacted by Congress. Comments should be submitted to the Board no later than December 28.

The proposed amendment, in the form of an addition to Regulation Z, implements Title V of an Act (Public Law 91-508) that was signed last October 26 and relates to bank records and foreign transactions, credit cards, and consumer credit reporting. The credit card portion of the Act prohibits the mailing of unsolicited cards and generally sets a \$50 limit on a cardholder's liability for unauthorized use of a credit card.

That portion of the Act prohibiting mailings of unsolicited cards was effective immediately, while the section relating to limits on liability becomes effective on January 24, 1971.

As proposed, the amendment would incorporate the provisions of the Act and would:

1. Generally permit a creditor to send a renewal for a credit card if the original card had been requested or used.
2. Specify that the method of identification for a cardholder under the liability section must be by signature, photograph or fingerprint on the card, or by electronic or mechanical confirmation.

3. Contain a model notice form for the card issuer to use in advising a customer of his potential liability for unauthorized use.

4. Specify that notice of a lost or stolen card may be given by the cardholder by telephone, letter, telegram, radiogram, cablegram or other written communication. The regulation would also provide that notice shall be considered given at the time of mailing, at the time of filing for transmission in the case of a telegram, radiogram or cablegram, or at the time of delivery to the card issuer for other written notice.

5. Require card issuers to retain records of requests for cards, including oral requests, for at least two years. This is similar to an existing requirement in Regulation Z relating to retention of disclosure records.

A copy of the proposed amendment is attached.

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[Reg. Z]

TRUTH IN LENDING

Credit Cards--Issuance and Liability

Pursuant to the authority contained in the Truth in Lending Act (15 U.S.C. 1601), as amended by Public Law 91-508, October 26, 1970, the Board of Governors proposes to amend Part 226 by adding § 226.13 as follows:

§ 226.13 Credit Cards--Issuance and Liability

(a) Supplemental definitions applicable to this section.

In addition to the definitions set forth in § 226.2, as applicable, the following definitions apply to this section:

(1) "Accepted credit card" means any credit card which the cardholder has requested or applied for and received, or has signed, or has used, or has authorized another person to use for the purpose of obtaining money, property, labor, or services on credit. Any credit card issued in renewal of, or in substitution for, an accepted credit card becomes an accepted credit card when received by the cardholder.

(2) "Adequate notice" means a printed notice to a cardholder which sets forth the pertinent facts clearly and conspicuously so that a person against whom it is to operate could reasonably be expected to have noticed it and understood its meaning.

(3) "Card issuer" means any person who issues a credit card, or the agent of such person for the purpose of issuing such card.

(4) "Cardholder" means any person to whom a credit card is issued and any person who has agreed with the card issuer to pay obligations arising from the issuance of a credit card to another person.

(5) "Credit" means the right granted by a card issuer to a cardholder to defer payment of debt, incur debt and defer its payment, or purchase property or services and defer payment therefor.

(6) "Credit card" means any card, plate, coupon, coupon book, or other credit device existing or created for the purpose of obtaining money, property, labor, or services on credit.

(7) "Unauthorized use" means the use of a credit card by a person other than the cardholder

(i) who does not have actual, implied or apparent authority for such use, or

(ii) who has only apparent authority for such use if the cardholder receives no benefit from the use.

(b) Issuance of credit cards. No credit card shall be issued except:

(1) In response to a request or application therefor, or

(2) As a renewal of, or in substitution for, an accepted credit card.

(c) Liability of cardholder. A cardholder shall be liable for the unauthorized use of a credit card only if,

(1) The credit card is an accepted credit card;

(2) Such liability is not in excess of \$50;

(3) The card issuer has given adequate notice to the cardholder of the potential liability for unauthorized use;

(4) The card issuer has provided the cardholder with an addressed notification requiring no postage to be paid by the cardholder to be mailed by the cardholder in the event of the loss, theft, or possible unauthorized use of the credit card; and

(5) The unauthorized use occurs before the cardholder has notified the card issuer that an unauthorized use of the credit card has occurred or may occur as the result of loss, theft, or other occurrence.

(d) Other conditions of liability. Notwithstanding the provisions of paragraph (c) of this section, no cardholder shall be liable for the unauthorized use of any credit card which was issued on or after January 24, 1971, and, after January 24, 1972, no cardholder shall be liable for the unauthorized use of any credit card regardless of the date of its issuance, unless:

(1) The conditions of liability specified under paragraph (c) of this section are met; and

(2) The card issuer has provided a method whereby a cardholder can be identified by signature, photograph, or fingerprint on the credit card or by electronic or mechanical confirmation.

(e) Notice to cardholder. The notice to cardholder pursuant to paragraph (c)(3) of this section may be given by printing the notice on the credit card, on the periodic statement of account, or on the statement required under paragraph (a) of section 226.7, or by any other means reasonably assuring the receipt thereof by the cardholder. An acceptable form of notice should read substantially as follows, but it may include any additional information which is not inconsistent with the provisions of this section:

"You may be liable for the unauthorized use of your credit card [_____ or other term which describes the credit device]. You will not be liable for unauthorized use which occurs after you notify [name of card issuer or his designee] at [_____ address_____] orally or in writing of loss, theft, or possible unauthorized use. In any case liability shall not exceed [insert--\$50.00 or any lesser amount under other applicable law or under any agreement with the cardholder]."

(f) Notice to card issuer. For the purposes of this section, a cardholder notifies a card issuer by taking such steps as may be reasonably required in the ordinary course of business to provide the card issuer with the pertinent information with respect to such loss, theft, or other unauthorized use of any credit card, whether or not any particular officer, employee, or agent of the card issuer does, in fact, receive such notice or information. Irrespective of the form of notice provided under paragraph (c)(4) of this section, at the option of the cardholder such notice may be

given to the card issuer or his designee by telephone or by letter, telegram, radiogram, cablegram, or other written communication which sets forth the pertinent information. Notice by mail shall be considered given at the time of mailing; notice by telegram, radiogram, cablegram, or other such communication shall be considered given at the time of filing for transmission, and notice by other writing shall be considered given at the time of delivery to the card issuer.

(g) Preservation of records. A card issuer shall preserve evidence of a request or application for a credit card for a period of not less than 2 years after the date of request. A written notation of the date, name of applicant, and the manner in which the request was received will serve as evidence when such request is not made in writing.

(h) Action to enforce liability. In any action by a card issuer to enforce liability for the use of a credit card, the burden of proof is upon the card issuer to show that the use was authorized or, if the use was unauthorized, then the burden of proof is upon the card issuer to show that the conditions of liability for the unauthorized use of a credit card, as set forth in paragraphs (c) and (d) of this section, have been met.

(i) Effect on other applicable law or agreement. Nothing in this section imposes liability upon a cardholder for the unauthorized use of a credit card in excess of his liability for such use under other applicable law or under any agreement with the card issuer.

(j) Effective date. The provisions of this section are effective January 24, 1971.

The proposed amendment implements Title V of an Act (Public Law 91-508) dealing with Bank Records and Foreign Transactions; Credit Cards; and Consumer Credit Reporting. Title V is an amendment to the Truth in Lending Act (82 Stat. 146). The statutory provisions have been incorporated into the proposed amendment to the Regulation so that it may be used by affected creditors as a single source of the requirements of both Title V and the Regulation. Section 132 of the new Act dealing with issuance of credit cards became effective on October 26, 1970.

The Regulation allows a creditor to send a renewal of a credit card provided the original card or a renewal thereof was requested and received, signed or used.

The Act provides that a method whereby the cardholder can be identified must be provided by the issuer for cards issued after January 24, 1971, and for all cards after January 24, 1972, in order for the card issuer to hold the cardholder liable for unauthorized use. The Regulation specifies that such identification must be by signature, photograph, or fingerprint on the card or by electronic or mechanical confirmation. It also specifies that a card issuer's notice to the cardholder of his potential liability should read substantially as the form of notice set forth in the Regulation.

The Regulation provides that a cardholder may notify the card issuer of loss, theft, or possible unauthorized use by using the form of notice provided by the issuer or by telephone, letter, telegram, radiogram, cablegram, or other written communication. Notice is considered given at time of mailing,

filing for transmission in the case of telegram, radiogram, cablegram, or delivery in the case of other written communication. Evidence of requests for cards must be preserved for 2 years.

To aid in the consideration of these matters by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D. C. 20551, to be received not later than December 28, 1970. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information.

By order of the Board of Governors, November 24, 1970.

(Signed) Kenneth A. Kenyon
Kenneth A. Kenyon
Deputy Secretary

[SEAL]