

FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular 71-23
January 25, 1971

AMENDMENT TO REGULATION Z
(Implementing Credit Card Legislation)

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

Attached is a press release issued by the Board of Governors of the Federal Reserve System on January 20, 1971, regarding amendments to Regulation Z implementing the credit card legislation recently enacted by Congress. Also attached are the amendments referred to therein, which are effective January 25, 1971.

Section 226.13 has been added to the regulation, while section 226.1 has been amended to incorporate references to credit cards. Section 226.12 has been expanded to permit states to apply for exemptions from Federal credit card controls in certain cases.

The Board also added Supplement IV to Regulation Z, effective January 25, 1971, dealing with procedures and criteria for state exemptions from the Federal credit card provisions. This Supplement has not been included with this circular, as it is not thought to be of general interest. Copies are available, however, from the Federal Reserve Bank of Dallas on request.

A current version of Regulation Z now includes the pamphlet; an amendment to §226.8(o) effective August 11, 1969; the addition of §226.8(p) and an amendment of §226.9(g) effective November 6, 1969; an amendment of §226.12 effective March 12, 1970; an amendment of §226.7(e) effective October 23, 1970; and the current amendments. (The August 11, 1969, amendment of §226.8(o) is included in a number of the Regulation Z pamphlets.)

Yours very truly,

P. E. Coldwell

President

Attachments

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TRUTH IN LENDING

AMENDMENTS TO REGULATION Z

CREDIT CARDS — ISSUANCE AND LIABILITY

Effective January 25, 1971, § 226.1 and § 226.12 are amended and § 226.13 is added as follows:

SECTION 226.1—AUTHORITY, SCOPE, PURPOSE, ETC.

(a) **Authority, scope and purpose.** (1) This Part comprises the regulations issued by the Board of Governors of the Federal Reserve System pursuant to Title I (Truth in Lending Act) and Title V (General Provisions) of the Consumer Credit Protection Act, as amended (15 U.S.C. § 1601 et seq.). Except as otherwise provided herein, this Part applies to all persons who in the ordinary course of business regularly extend, or offer to extend, or arrange, or offer to arrange, for the extension of consumer credit as defined in paragraph (k) of § 226.2, and to all persons who issue credit cards.

(2) This Part implements the Act, the purpose of which is to assure that every customer who has need for consumer credit is given meaningful information with respect to the cost of that credit which, in most cases, must be expressed in the dollar amount of finance charge, and as an annual percentage rate computed on the unpaid balance of the amount financed. Other relevant credit information must also be disclosed so that the customer may readily compare the various credit terms available to him from different sources and avoid the uninformed use of credit. This Part also implements the provision of the Act under which a customer has a right in certain circumstances to cancel a credit transaction which involves a lien on his residence. Advertising of consumer credit terms must comply with specific requirements, and certain credit terms may not be advertised unless the creditor usually and customarily extends such terms. This Part also contains prohibitions against the issuance of unsolicited credit cards and limits on the cardholder's liability for unauthorized use of a credit card. Neither the Act nor this Part is intended to control charges for consumer credit, or interfere with trade practices

except to the extent that such practices may be inconsistent with the purpose of the Act.

(b) **Administrative enforcement.** (1) As set forth more fully in section 108 of the Act, administrative enforcement of the Act and this Part with respect to certain creditors and credit card issuers is assigned to the Comptroller of the Currency, Board of Directors of the Federal Deposit Insurance Corporation, Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), Administrator of the National Credit Union Administration, Interstate Commerce Commission, Civil Aeronautics Board, Secretary of Agriculture, and Board of Governors of the Federal Reserve System.

(2) Except to the extent that administrative enforcement is specifically committed to other authorities, compliance with the requirements imposed under the Act and this Part will be enforced by the Federal Trade Commission.

(c) **Penalties and liabilities.** Section 112 of the Act provides for criminal liability for willful and knowing failure to comply with any requirement imposed under the Act and this Part, and section 130 of the Act provides for civil liability on the part of any creditor who fails to disclose any information required under Chapter 2 of the Act and under the corresponding provisions of this Part. Section 134 provides for criminal liability for the fraudulent use of a credit card to obtain goods or services having a retail value aggregating \$5,000 or more. Pursuant to section 108 of the Act, violations of the Act or this Part constitute violations of other Federal laws which may provide further penalties.

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SECTION 226.12—EXEMPTION OF CERTAIN STATE REGULATED TRANSACTIONS

(a) **Exemption for State regulated transactions.** In accordance with the provisions of Supplements II and IV to Regulation Z, any State may make

application to the Board for exemption of any class of transactions within that State from the requirements of Chapter 2 of the Act and the corresponding provisions of this Part: Provided, That

(1) Under the law of that State, that class of transactions is subject to requirements substantially similar to those imposed under Chapter 2 of the Act and the corresponding provisions of this Part; and

(2) There is adequate provision for enforcement.

(b) **Procedures and criteria.** The procedures and criteria under which any State may apply for the determination provided for in paragraph (a) of this section are set forth in Supplement II to Regulation Z with respect to disclosure and rescission requirements (§§ 121-131 of Chapter 2) and Supplement IV with respect to the prohibition of the issuance of unsolicited credit cards and the liability of the cardholder for unauthorized use of a credit card (§§ 132-133 of Chapter 2).

(c) **Civil liability.** In order to assure that the concurrent jurisdiction of Federal and State courts created in section 130(e) of the Act shall continue to have substantive provisions to which such jurisdiction shall apply, and generally to aid in implementing the Act with respect to any class of transactions exempted pursuant to paragraph (a) of this section and Supplement II, the Board pursuant to sections 105 and 123 hereby prescribes that:

(1) No such exemption shall be deemed to extend to the civil liability provisions of sections 130 and 131; and

(2) After an exemption has been granted, the disclosure requirements of the applicable State law shall constitute the disclosure requirements of this Act, except to the extent that such State law imposes disclosure requirements not imposed by this Act. Information required under such State law with the exception of those provisions which impose disclosure requirements not imposed by this Act shall, accordingly, constitute the "information required under this Chapter" (Chapter 2 of the Act) for the purpose of section 130(a).

(d) **Exemptions granted.** Exemptions granted by the Board to particular classes of credit transactions within specified States are set forth in Supplement III to Regulation Z.

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SECTION 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 whether such card is issued by the same or a successor card issuer.

(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 with respect to such card.

(4) "Cardholder" means any person to whom a credit card is issued or 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 to defer payment of debt, incur debt and defer its payment, or to obtain money, property, labor or services and defer payment therefor.

(6) "Credit card" means any card, plate, coupon book, or other single credit device existing for the purpose of being used from time to time upon presentation to obtain 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, and
- (ii) from which the cardholder receives no benefit.

(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 whether such card is issued by the same or a successor card issuer.

(c) **Conditions of liability of cardholder.** A cardholder shall be liable for unauthorized use of a credit card only if,

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

(2) Such liability does not exceed the lesser of \$50 or the amount of money, property, labor, or services obtained by such use prior to notification of the card issuer pursuant to paragraph (f) of this section;

(3) The card issuer has given adequate notice to the cardholder of his potential liability on the credit card or within two years preceding the unauthorized use; and

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

(d) **Other conditions of liability.** In addition to the conditions of liability in paragraph (c) of this section, no cardholder shall be liable for the unauthorized use of any credit card which was issued after January 24, 1971, and, regardless of the date of its issuance, after January 24, 1972, no cardholder shall be liable for the unauthorized use of any credit card, unless the card issuer has provided a method whereby the user of such card can be identified as the person authorized to use it, such as 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, or by any other means reasonably assuring the receipt thereof by the cardholder. An acceptable form of notice must state that liability shall not exceed \$50 (or any lesser amount), that notice of loss, theft, or possible unauthorized use may be given orally or in writing, and the name

and address of the party to receive the notice. It may include any additional information which is not inconsistent with the provisions of this section. An example of an acceptable notice is as follows:

"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 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 loss, theft, or possible 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, notice may be given to the card issuer or his designee in person or by telephone or by letter, telegram, radiogram, cablegram, or other written communication which sets forth the pertinent information. Notice by mail, telegram, radiogram, cablegram, or other written communication shall be considered given at the time of receipt or, whether or not received, at the expiration of the time ordinarily required for transmission, whichever is earlier.

(g) **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.

(h) **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.

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In addition, for cards issued after January 24, 1971--and after January 24, 1972 for all cards no matter when issued--a cardholder is liable for unauthorized use only if the card issuer has provided a method by which the user of a card can be identified as the person authorized to use it.

Major provisions of the regulatory amendments:

--Define a credit card as "any card, plate, coupon book, or other single credit device existing for the purpose of being used from time to time upon presentation to obtain money, property, labor or services on credit." Such instruments as notes, checks, drafts and gift certificates are not covered by this definition and consequently are not subject to the \$50 liability limit for unauthorized use.

--Specify the information to be provided by the card issuer in advising cardholders of their potential liability for unauthorized use. This information is to be provided on the credit card or at two year intervals.

--Specify a method of identification of the user of the credit card such as by signature, photograph, or fingerprint on the card, or electronic or mechanical confirmation.

--Specify that the cardholder's notice of loss, theft, or possible unauthorized use will be considered given at the time of receipt or at the expiration of the time ordinarily required for transmission.

Regulation Z, in its provisions covering rescission and disclosure of the terms of a credit transaction, requires creditors to

-3-

preserve for two years evidence that they met those requirements of Truth in Lending. No such provision is included in the regulatory amendments relating to credit cards and no record retention requirements are applicable.

Attached is a copy of the amendments.

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FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 71-46

February 12, 1971

RATES FOR DISCOUNTS AND ADVANCES

To All Member Banks in the
Eleventh Federal Reserve District:

Effective February 13, 1971, this bank has decreased its rates on discounts and advances as shown below:

	FROM	TO
Section 13 and 13a	5%	4 $\frac{3}{4}$ %
Section 10(b)	5 $\frac{1}{2}$ %	5 $\frac{1}{4}$ %
Last paragraph of Section 13	7%	6 $\frac{3}{4}$ %

There is printed on the reverse side hereof a copy of revised Supplement A of our Bulletin No. 2 which sets forth all of the rates in effect at this bank. This should be inserted in the ring binder previously furnished your bank, in place of the supplement which is no longer in effect.

Yours very truly,

P. E. Coldwell

President

Supplement A

RATES FOR DISCOUNTS AND ADVANCES

The following rates with respect to discounts and advances under the Federal Reserve Act are now in effect at this bank:

Discounts for and advances to member banks:	Per Annum	Effective from:
(a) Section 13 advances and discounts under section 13 and 13a.....	4¾%	February 13, 1971
(b) Section 10(b) advances.....	5¼%	February 13, 1971
Advances (up to 90 days) to individuals, partnerships and corporations:		
Advances under the last paragraph of section 13 secured by direct obligations of the United States.....	6¾%	February 13, 1971