

FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 77-12
January 19, 1977

REGULATION Z--TRUTH-IN-LENDING

Proposed Amendment on Disclosures of Dealer Participation

TO ALL BANKS, OTHER CREDITORS,
AND OTHERS CONCERNED IN THE
ELEVENTH FEDERAL RESERVE DISTRICT:

The Board of Governors of the Federal Reserve System has proposed amending its Regulation Z to require disclosure of a dealer participation in a consumer credit contract.

Comments on the proposed amendment should be directed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 4, 1977. All material should include the docket number R-0053.

Copies of the Board's press release and text of the proposed amendment are printed on the following pages.

Sincerely yours,

Robert H. Boykin

First Vice President



FEDERAL RESERVE

press release

For immediate release

December 30, 1976

The Board of Governors of the Federal Reserve System today issued for comment a proposal to amend its Truth in Lending regulation to require disclosure of a dealer participation in a consumer credit contract.

Comment should be received by the Board by February 4.

Last August the Board proposed an interpretation of the Regulation stating that the amount of a dealer participation need not be separately itemized in Truth in Lending disclosures presented to a customer. The dealer participation, if any, is already a part of the finance charge and annual percentage rate.

In a participation, the seller of a product such as an automobile shares a portion of the finance charge with the creditor who finances the purchase.

Comments received on the interpretation indicated to the Board that some consumer benefit might be derived from disclosure of the existence of a dealer participation. The proposed amendment does not require a separate itemization of the amount of a dealer participation. It would require that the disclosure statement given a customer notify the customer that the seller of the product may receive a portion of the finance charge involved in the transaction.

Final action on the proposed interpretation will be taken when the Board considers final action on the proposed amendment.

A copy of the Board's order in this matter is attached.

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p. 1268

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[Reg. Z; Docket No. R-0053]

TRUTH IN LENDING

Proposed Amendment on Disclosure of Dealer Participation

The Board of Governors of the Federal Reserve System has published for comment a proposed interpretation of Regulation Z relating to the separate disclosure of the portion of the finance charge which is allocated to sellers of consumer goods by a second creditor of a consumer credit transaction. Comments on that proposal have led the Board to believe that separate itemization of the portion of the finance charge payable to the dealer is probably not a necessary disclosure for consumers. However, disclosure of the fact that the seller will receive a portion of the finance charge may be meaningful to consumers wishing to shop for credit or bargain for a better price and possibly should be made a requirement under Regulation Z. To solicit comments on this issue, the Board hereby publishes a proposed amendment to Regulation Z to require disclosure of the fact that a seller may share in the finance charge imposed on consumer credit transactions.

On August 23, 1976, proposed Interpretation § 226.821 was published for comment in the FEDERAL REGISTER (41 FR 35536). The interpretation relates to the requirements of § 226.8(c)(8)(i) of Regulation Z with respect to identifica-

tion of allocations by creditors to sellers of a portion of the finance charge on credit used to finance the purchase of consumer goods. The amount of seller participation typically represents a portion of the interest component of a finance charge which is paid by a creditor to the seller for arranging or referring a direct loan from the second creditor. For convenient reference, the proposed interpretation is republished below:

§ 226.821 Disclosure of dealer participation.

(a) Section 226.8(c)(8)(i) requires the itemization of each component of a finance charge consisting of more than one type of charge. Section 226.4(a)(3) lists among the types of charges to be included in the finance charge a "finder's fee or similar charge." In certain credit transactions, such as the sale of automobiles and other consumer goods, where the finance charge is determined by application of a percentage rate or rates to the amount financed, a portion of that charge may be allocated to the dealer by the financial institution as a dealer participation. The question arises whether such allocations must be itemized as a separate component of the total finance charge in the nature of a finder's fee.

(b) The requirement for itemization of a finance charge which includes a finder's fee or other elements in addition to an interest component is intended to assure that the total finance charge disclosed to the customer properly reflects all components which must be included in that amount. Any component of the finance charge which is computed by the application of a percentage rate or rates to the amount financed constitutes a single charge of the type described in § 226.4(a)(1). As such, it must be included in the finance charge calculation and disclosure. A portion of such single component of the finance charge which is distributed to a dealer is not considered a "finder's fee or similar charge" and need not be separately identified or disclosed. The concept of a "finder's fee," as that term is used in § 226.4(a)(3), is intended to cover certain charges in the nature of brokerage fees which are imposed in addition to that portion of the finance charge attributable to the application of a percentage rate or rates to the amount financed. Any such separate fee must, of course, be separately itemized.

(Interprets and applies 12 CFR Part 226.8)

The Board has received more than 250 comments on this proposal. Comments from several Federal agencies and consumer representatives have indicated to the Board that certain consumer benefits might be derived from disclosure of the existence of a seller participation. These comments contend that consumer awareness of this element might encourage further comparison of credit terms and greater competition among credit sources. Because these comments suggest that the primary goals of the Truth in Lending Act might be better served by disclosure of this factor, the Board has determined that an amendment to Regulation Z, requiring such disclosure in the future, should be considered.

The amendment which the Board now proposes does not require separate item-

ization of the amount of a dealer participation. The Board believes that such an additional requirement would be unduly burdensome and would not significantly enhance consumers' awareness of the credit terms. Instead, the amendment would require that the disclosure statement simply notify the consumer that the seller or some other party to the transaction may receive a portion of the finance charge from the transaction. In the Board's view, disclosure of the fact of a seller participation could alert consumers to the possible benefits of further comparison shopping without unduly complicating the mathematical disclosures now required, and may be of assistance to consumers in evaluating the price offered by the seller.

For the reasons stated above, the Board proposes to amend Regulation Z to require disclosure of the fact that a seller arranging consumer credit may receive a portion of the finance charge imposed on the transaction from a creditor of that transaction. The Board invites written comments on the proposal, to be received not later than February 4, 1977. Comments should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and should include a reference to Docket No. R-0053.

The Board will take final action on the proposed Interpretation § 226.821 in connection with its final determination on this proposed amendment.

Pursuant to the authority granted in 15 U.S.C. 1604 (1970), the Board proposes to amend Regulation Z, 12 CFR Part 226 by adding a new § 226.8(c)(9) to read as follows:

§ 226.8 Credit Other Than Open End— Specific Disclosures.

(c) *Credit sales.* * * *

(9) A statement that the seller or other party to the transaction arranging credit may receive from another creditor in the transaction a portion of the finance charge imposed on that transaction.

By order of the Board of Governors,
December 30, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 77-451 Filed 1-5-77; 8:45 am]