

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 7189]
July 20, 1973

REGULATION Z
Amendments and Interpretation

To All State Member Banks, and Others Concerned,
in the Second Federal Reserve District:

Following is the text of a statement issued July 3 by the Board of Governors of the Federal Reserve System:

The Board of Governors of the Federal Reserve System today announced amendment of its Regulation Z, Truth in Lending, primarily intended to encourage advertising of open end credit terms. The Board also issued an interpretation specifying how oral inquiries about consumer credit rates should be answered.

The amendment reduces the amount of information a creditor must furnish in advertising open end credit plans (including revolving retail credit accounts and bank card plans). In their advertising, creditors are still required to include certain minimum Truth in Lending disclosures — the annual percentage rate, any free-ride period, the method of determining finance charges and balances on which finance charges are imposed. Advertising of the period of repayment (for instance, "up to 24 months to pay") is added as a term requiring the same minimum disclosures with respect to an open end plan, but advertising of "no down payment" is eliminated as a specific term triggering such requirements.

The amendment would also require full disclosure in an advertisement when a down payment is advertised in percentage terms, as well as in dollar amounts. The advertised term "10% down" (or alternatively, "90% financing"), for example, would require a creditor to include a full disclosure of typical terms in the advertisement.

The interpretation specifies that answers to oral inquiries about the cost of consumer credit on an annual basis must be in terms of "annual percentage rates", and not in terms of add-on or discount rates.

The amendments were published for comment December 18, 1972. The Board acted after considering comments received and the amendments as adopted incorporated several technical changes suggested.

In submitting the amendments to the *Federal Register*, the Board of Governors made the following additional statement:

1. The amendments will, in large part, simplify and clarify the advertising restrictions of the Regulation. For example, the amount of information which must be included in an open end credit advertisement once a specific "triggering" term is used has been reduced and the prohibition against use of the "add-on" or "discount" rate in advertisements has been clarified. Among other changes, the amendments add the "period of repayment" as a "triggering" term in open end credit which requires additional disclosures. The amendments clarify the fact that the amount of downpayment, either in dollars or percentages, triggers full disclosure.

2. These amendments are promulgated pursuant to § 105 of the Truth in Lending Act (15 U.S.C. § 1604). Notice of proposed rule making was published on December 29, 1972, (37 *Fed. Reg.* 28765). After consideration of all relevant matter submitted by interested parties, the range of balances to which annual percentage rates apply was reinserted in the information required to be shown under § 226.10(c)(4) once the full advertisement of open end credit terms is triggered. A technical change was made to § 226.2(u).

3. The amendments are designed to stimulate the competitive advertising of specific open end credit terms within the constraints of the statute. They also harmonize the separate requirements for open and closed end credit, where appropriate. The amendments make numerous technical changes to the existing provisions.

4. Section 226.6(a) has been clarified to provide that the requirement that the "annual percentage rate" and "finance charge" be shown more conspicuously than other terminology does not apply to advertising since such a requirement may be either impractical (e.g., in radio advertisements) or inequitable (where a creditor wishes to emphasize a favorable term for competitive purposes). However, an addition has been made to § 226.10(d) specifying that all required disclosures must be made "clearly and conspicuously." This requirement (which is already contained in § 226.10(c) with respect to open end credit) would prevent the advertiser from burying the required disclosures with insufficient emphasis in the text of the advertisement.

5. The amendments simplify § 226.10(c) by deleting the present requirements of showing a number of items in open end credit advertisements once a specific credit term is advertised. The deleted terms are the periodic rates, the conditions under which other charges may be imposed, the method by which the other charges will be determined, and the minimum periodic payment required. Such advertisements must still

(OVER)

include the annual percentage rate(s), any free ride period, and the method of determining finance charges and the balances on which they are imposed. "No downpayment" has been removed as a specific term which triggers full disclosure since the term is implied in almost any statement about an open end credit plan e.g., "charge it with your credit card."

6. The "period of repayment" has been added to § 226.10(c) as one of the specific terms requiring full disclosure. This harmonizes the requirements of open end credit with those presently applicable to closed end credit regarding the "period of repayment." For example, "up to 24 months to pay" would be a triggering term regardless of whether the credit plan involved open or closed end credit.

7. Section 226.10(d)(1) clarifies the fact that any expression of the finance charge on an annual basis in closed end credit must be solely as an "annual percentage rate" and not in conjunction with, for example, the add-on rate. With regard to the use of oral quotations of add-on or discount rates in response to consumer inquiries about the cost of credit, the Board has issued a concurrent interpretation (§ 226.101) indicating that the annual percentage rate and not the add-on or discount rate should be used in such circumstances. Under the amendment the simple interest component of the finance charge could be shown along with the annual percentage rate. For example, the interest rate on a home mortgage could also be advertised where points may result in a higher annual percentage rate. Likewise, where finance charges are computed based upon the application of a periodic rate (for example by credit unions), that rate may be shown in conjunction with the annual percentage rate — e.g., a monthly periodic rate. These additional rates could not, however, be shown more conspicuously than the annual percentage rate.

8. Sections 226.10(c) and 226.10(d)(2) have been clarified to provide that advertisement of the amount of the downpayment or other payment, either in dollars or percentages, will trigger the full disclosure requirements (whether or not the cash price is also given). The requirement for closed end credit that the amount of the downpayment must be given once full disclosure is otherwise triggered has been clarified to refer only to credit sales. (§ 226.10(d)(2)(ii)). However, statements as to downpayments remain "triggering" terms under § 226.10(c) and (d)(2) for loans as well as credit sales. Where, for example, full disclosure is triggered by a lender's statement such as "95% loans," examples of typical extensions of credit may be used pursuant to interpretation § 226.1001 "Advertising of Credit Terms in Other Than Open End Credit" (issued 4/22/69) to comply with the full disclosure requirements. Section 226.10(d)(2)(v) has also been modified to specify that the "deferred payment price" disclosure is required in a credit sale, while the "total of payments" is required in a loan or other non-sale transaction.

Enclosed is a copy of the amendments referred to above. In addition, printed below is the text of the interpretation. Additional copies of this circular and its enclosure will be furnished upon request.

ALFRED HAYES,
President.

[Reg. Z]

PART 226 — TRUTH IN LENDING

Use of "Annual Percentage Rate" in Oral Communications

The interpretation is designed to make it clear that in responding to oral inquiries from consumers about the cost of consumer credit, the creditor should quote the cost in terms of the annual percentage rate and not the add-on or discount rate.

§ 226.101 Use of "annual percentage rate" in oral communications.

(a) Under § 226.1(a)(2), a stated purpose of the Truth in Lending Act and Regulation Z is to assure that every customer who has need for consumer credit is given meaningful information with respect to the cost of that credit so that he may readily compare the various credit terms available to him from different sources and avoid the uninformed use of credit. Under § 226.6(a), a creditor is required to make disclosures using certain prescribed terminology, including the "annual percentage rate." The question arises as to the propriety of a creditor quoting annual rates other than "annual percentage rate" in response to consumer inquiries about the cost of credit, where such other rates could not be used in an advertisement under the proscriptions of § 226.10.

(b) The Truth in Lending Act and Regulation Z are intended to facilitate "shopping" between competitive credit plans. If a customer inquires about the cost of credit and the creditor responds by quoting an add-on or discount rate, he may mislead the customer since the use of such rates is prohibited in consumer credit advertising and such rates are significantly lower than the annual percentage rate which must be shown on the creditor's disclosure statement. The quotation of these rates can frustrate the stated purpose of the Act and prevent the customer from making an informed use of credit.

(c) In response to any oral inquiry by a customer about the cost of credit, a creditor when quoting annual rates should use only those rates permitted to be used in advertisements under § 226.10. Irrespective of the method used by the creditor to compute finance charges, the annual rate of the creditor's total finance charges should be quoted only in terms of the "annual percentage rate."

(Interprets and applies 15 U.S.C. 1663 and 15 U.S.C. 1664)

Board of Governors of the Federal Reserve System

TRUTH IN LENDING

AMENDMENTS TO REGULATION Z

Effective November 1, 1973, sections 226.2 (u), 226.6(a), 226.10(c) and 226.10(d) of Regulation Z are amended to read as follows:

SECTION 226.2 — DEFINITIONS AND RULES OF CONSTRUCTION

* * *

(u) **"Periodic rate"** means a percentage rate of finance charge which is or may be imposed by a creditor against a balance for a period. (See also § 226.5(a)(3).) * * *

SECTION 226.6 — GENERAL DISCLOSURE REQUIREMENTS

(a) **Disclosures; general rule.** The disclosures required to be given by this Part shall be made clearly, conspicuously, in meaningful sequence, in accordance with the further requirements of this section, and at the time and in the terminology prescribed in applicable sections. Except with respect to the requirements of § 226.10, where the terms "finance charge" and "annual percentage rate" are required to be used, they shall be printed more conspicuously than other terminology required by this Part and all numerical amounts and percentages shall be stated in figures and shall be printed in not less than the equivalent of 10 point type, .075 inch computer type, or elite size typewritten numerals, or shall be legibly handwritten. * * *

SECTION 226.10 — ADVERTISING CREDIT TERMS

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(c) **Advertising of open end credit.** No advertisement to aid, promote, or assist directly or indirectly the extension of open end credit may set forth any of the terms described in paragraph (a) of § 226.7, the Comparative Index of Credit Cost, or that a specified down-payment or periodic payment is required (either in dollars or as a percentage), the period of repayment or any of the following items, unless it also clearly and conspicuously sets forth all the following items in terminology prescribed under paragraph (b) of § 226.7:

(1) An explanation of the time period, if any, within which any credit extended may be paid without incurring a finance charge.

(2) The method of determining the balance upon which a finance charge may be imposed.

(3) The method of determining the amount of the finance charge, including the determination of any minimum, fixed, check service, transaction, activity, or similar charge, which may be imposed as a finance charge.

(4) Where one or more periodic rates may be used to compute the finance charge, each corresponding annual percentage rate determined by multiplying the periodic rate by the number of periods in a year and, where there is more than one corresponding annual percentage rate, the range of balances to which each is applicable.¹⁵

(d) **Advertising of credit other than open end.** No advertisement to aid, promote, or assist directly or indirectly any credit sale including the sale of residential real estate, loan, or other extension of credit, other than open end credit, subject to the provisions of this Part, shall state

(1) The rate of the finance charge except as an "annual percentage rate," using that term. No other rate of finance charge may be stated, except that:

(i) where the total finance charge includes, as a component, interest computed at a simple annual rate, the simple annual rate may be stated in conjunction with, but not more conspicuously than, the annual percentage rate, or

(ii) where the finance charge is computed solely by the application of a periodic rate to an unpaid balance, the periodic rate may be stated in conjunction with, but not more conspicuously than, the annual percentage rate.

15. A creditor imposing minimum charges is not required to adjust the disclosure of the range of balances to which each rate would apply in order to reflect the range of the balances below which the minimum charge applies. If a creditor does not impose a finance charge when the outstanding balance is less than a certain amount, the creditor is not required to disclose that fact or the balance below which no such charge will be imposed.

(OVER)

(2) That no downpayment is required, or the amount of the downpayment or of any instalment payment required (either in dollars or as a percentage), the dollar amount of any finance charge, the number of instalments or the period of repayment, or that there is no charge for credit, unless it also clearly and conspicuously sets forth all of the following items in terminology prescribed under § 226.8:

(i) the cash price or the amount of the loan, as applicable.

(ii) in a credit sale, the amount of the downpayment required or that no downpayment is required, as applicable.

(iii) the number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended.

(iv) the amount of the finance charge expressed as an annual percentage rate. The exemptions from disclosure of an annual percentage rate permitted in paragraph (b)(2) of § 226.8 shall not apply to this subdivision.

(v) except in the case of the sale of a dwelling or a loan secured by a first lien on a dwelling to purchase that dwelling, the deferred payment price in a credit sale, or the total of payments in a loan or other extension of credit which is not a credit sale, as applicable.