

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 7686]
August 8, 1975

FAIR CREDIT BILLING PROPOSALS

—Revised Proposals To Amend Regulation Z

—Extension of Comment Period

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

The following statement was issued July 30 by the Board of Governors of the Federal Reserve System:

The Board of Governors of the Federal Reserve System today made public revised proposals for regulations to implement the Fair Credit Billing Amendments to the Truth in Lending Act.

On July 22 the Board published the substance of the revised proposals and announced that it would hold an informal hearing on August 5 and 6. The Board's original proposals were made public May 5. Time for comment on the revised proposals, originally scheduled to end August 12, has been extended through August 18.

Printed below is an excerpt from the *Federal Register* of August 1, containing the text of the revised proposals. Except for relatively minor changes, the text consolidates the material sent to you with our Circulars No. 7628 and No. 7678, dated May 9 and July 29, 1975, respectively. Comment on the revised proposals should be submitted by August 18 and may be sent to our Bank Regulations Department.

PAUL A. VOLCKER,
President.

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[Reg. Z]

TRUTH IN LENDING

Fair Credit Billing Amendments

On May 5, 1975, the Board of Governors published for comment in the *Federal Register* (40 F.R. 19489) proposed regulations implementing the Fair Credit Billing Act (Title III of Pub. L. 93-495). The comment period on this proposal was initially set to terminate on May 30 and was subsequently extended through June 20, 1975 (40 F.R. 23896). Following the receipt of approximately 300 comments the Board on July 24, 1975, announced in the *Federal Register* (40 F.R. 30986) its intent to publish revised regulations implementing the Fair Credit Billing Act (Title III of Pub. L. 93-495) for comment and to hold informal hearings August 5 and 6, 1975, on these revised proposals. The comment period on these revised regulations, initially set to terminate on August 12, has been extended to August 18, 1975.

The changes made in revised regulatory proposals contained herein are responsive to comments received. Many of the changes are minor adjustments in drafting to eliminate ambiguities. The more significant alterations in the proposed regulations which result in substantive revisions include:

(1) The definition of a billing error (§ 226.2(j)(1)) has been refined to specifically include:

(a) A misdescription or insufficient description of the transaction,

(b) A reflection of a transaction which was not made to the customer or to someone authorized to use his account and from which use the customer receives no benefit, or

(c) A misstatement as to the amount of the transaction or as to the date that the transaction took place.

(2) The definition of billing error (§ 226.2(j)(3)) has also been adjusted to reflect goods or services not accepted because they differ from what was specified by agreement in that they were delivered in the wrong quantity, to the wrong location, or were delivered late. However, any dispute with respect to the quality of goods or services in the physical possession of the customer is

expressly excluded from this particular definition of billing error.

(3) Section 226.4(1) relating to price differentials offered by sellers for payment in cash has been amended to include surcharges of up to five per cent. Such surcharges under the amended proposal may be imposed without the need to disclose them as part of the finance charge.

(4) Draft language has been included in § 226.6(b)(2) to set forth proposed rules regarding the treatment of inconsistent State laws under section 171(a) of the Act.

Particular difficulty has been experienced in drafting these provisions in light of (1) the need to carry out the Congressional direction that State law shall be preempted only to the extent inconsistent with Federal law and shall be preserved to the extent it gives "greater protection" to consumers; and (2) the difficulty of wending through the diversity of State provisions, of ascertaining which items can be considered in isolation or should be considered as steps in procedure and, in many instances, of deciding what constitutes "greater protection."

Comment is invited (especially from persons with experience with State law)

on the sufficiency and clarity of the proposed rules, as well as on any other aspects of the implementation of section 171(a).

(5) The statement of fair credit billing rights required to be given to new customers initially and semiannually thereafter (§ 226.7(a)(9) and § 226.7(d)) may be printed on both sides of one page and only those rights applicable to a given creditor's plan need be included.

(6) The required disclosure on the periodic statement of the outstanding balance at the beginning and close of the billing cycle in § 226.7(b)(1)(i) and (ix) has been expanded to include a specific indication when the outstanding balance is a credit balance.

(7) The provisions dealing with the identification of transactions on a periodic statement (§ 226.7(b)(1)(ii)) have been amended to cover cash advance transactions. In addition, the footnoted definition of related persons has been adjusted to include franchised or licensed sellers of the creditor's product, sellers who assign or sell open end customer sales accounts, and sellers who arrange for open end credit. These provisions implement section 411 of Title IV of Pub. L. 93-495 and were initially published in the FEDERAL REGISTER on June 24, 1975 (40 F.R. 26571).

(8) The rules regarding prompt crediting of payments (§ 226.7(g)) have been adjusted as follows:

(a) Each creditor must specify at least one location at which payments received will be credited as of the date of receipt.

(b) Payments received at such locations must be credited as of the date of receipt, except that during a transitional period, partial payments on accounts where finance charges are computed on the basis of daily balances or average daily balances received at such address must be credited promptly (but in no event later than 3 business days following the date of receipt). Delayed crediting in these cases is allowed to provide a transition period for creditors to overcome operational problems. The length of this transition period has yet to be determined.

(c) If the creditor accepts payments at locations other than that specified in paragraph (a) above, crediting of such payments may be delayed up to 3 business days, provided the customer is notified of the possibility of such delay.

(d) Payments need not be credited as of the date of receipt, if a delay in crediting does not result in the imposition of finance charges or later payment charges. In any event, the crediting date of payments would be disclosed on the customer's periodic statement under the proposed amendment to § 226.7(b)(iii).

(e) If the creditor fails to credit payments in accordance with the timing provisions of (b), (c), or (d), he must adjust the customer's account during the next billing cycle for any finance charges that were imposed as a result of the delay.

(9) The provisions relating to prompt refund of overpayments (§ 226.7(h))

have been adjusted to remove the reference to standing authorizations for refunds to customers. However, overpayments must be credited in the same manner as are regular payments, and refunds must be made within 5 business days of receipt of a specific refund request.

(10) The provision relating to the assertion of claims and defenses against a card issuer when the merchant fails to satisfactorily resolve disputes as to goods or services (§ 26.13(l)) has been adjusted to exclude cash advance check transactions which are unrelated to any specific purchase of goods or services. The regulation has been clarified to indicate that the mere honoring of a credit card does not remove the distance and dollar amount limitations set forth in the statutory section. A new provision has been added prohibiting the issuance of an adverse credit report merely because the customer asserts his statutory rights. The footnote discussing tort claims has been deleted as unnecessary, because of the statutory limitations on recovery to the amount outstanding in the customer's account.

(11) The provision relating to prompt notification of returns (§ 226.13(k)) has been amended to require that the seller, within 5 business days of any return, transmit notice thereof into the normal channels through which charges are handled and that the customer's card issuer credit the customer's account within 3 business days of receipt of such notice.

(12) The provisions prohibiting certain acts by card issuers (§ 226.13(l)) have been amended to require card issuers to notify participating merchants of the invalidity of any contract provisions prohibiting merchants from offering discounts for cash payments in lieu of use of a credit card or from imposing surcharges on credit card purchases. In addition, the provision prohibiting tie-in services has been clarified to the effect that a card issuer may not require a participating merchant to open a *deposit* account or to procure any other *service not essential to the operation of a credit card plan*. The term "device" has been omitted from this provision.

(13) The provision relating to the correction of billing errors (§ 226.14(a)) has been amended to permit the creditor to rely on a customer's oral agreement that any alleged error has been resolved to his satisfaction; the requirement of written notification by the customer indicating that the dispute has been resolved has been omitted.

(14) The provision relating to the adjustment of finance charges on disputed amounts (§ 226.14(b)) has been amended to clarify that the creditor need adjust the customer's account only where the investigation of a billing dispute indicates that an error has been made, including any error in the amount, description, or date of the transaction, failure to mail the statement to the customer's current address, in billing for goods or services not delivered or accepted by the customer in accordance with any agree-

ment, or any accounting error in the imposition of charges to the account. However, if the creditor has made no error, then he may collect finance charges as usual. In addition, this section has been clarified to the effect that a creditor need not remove from a customer's account and place into a suspense or other account any disputed amounts as well as finance charges on the disputed amounts during the error resolution period. However, the creditor must clearly disclose on the periodic statement that the customer need not pay any amount in dispute. A specific amount in dispute need not be identified or disclosed on the periodic statement.

(15) The provisions dealing with prohibited offsets (§ 226.14(c)) have been clarified to the effect that they only relate to accounts maintained by the creditor. In addition, these provisions have been amended to provide that the creditor must reverse any automatic debiting of a customer's account if he receives written notice of a billing error within 16 days of mailing the periodic statement.

(16) The provisions relating to credit reports on amounts in dispute (§ 226.14(e)) have been amended to require creditors, in the case where notification of a billing error has been received subsequent to the issuance of a delinquent credit report, to give notice of the billing dispute to only those parties who received the report of delinquency and who are in the business of collecting and disseminating information about the creditworthiness of customers. Notification to such parties must occur within one billing cycle.

Pursuant to the authority granted in 15 U.S.C. 1604 (1970) the Board proposes to amend Regulation Z, 12 CFR Part 226, as follows:

1. To implement section 302, § 226.1(a) would be amended as follows:

a. Section 226.1(a)(1) is revised as set forth below.

b. Section 226.1(a)(2) is amended by inserting the following sentence immediately before the last sentence to read as set forth below.

§ 226.1 Authority, scope, and 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, within the context of its related provisions, applies to all persons who are creditors, as defined in paragraph(s) of § 226.2.

(2) * * * In addition, this part is designed to assist the customer to resolve credit billing disputes in a fair and timely manner, to regulate certain billing and credit card practices, and to strengthen the legal rights of consumers. * * *

§§ 226.2, 226.13 [Amended]

2. Certain paragraphs of §§ 226.2 and 226.13 would be redesignated as shown below.

Old section No.	New section No.
226.13(a) (1) -----	226.2(a)
226.13(a) (2) -----	226.2(c)
226.13(a) (3) -----	226.2(l)
226.13(a) (4) -----	226.2(m)
226.13(a) (6) -----	226.2(r)
226.13(a) (7) -----	226.2(ii)
226.2(a) -----	226.2(b)
226.2(b) -----	226.2(d)
226.2(c) -----	226.2(e)
226.2(d) -----	226.2(f)
226.2(e) -----	226.2(g)
226.2(f) -----	226.2(h)
226.2(g) -----	226.2(i)
226.2(h) -----	226.2(k)
226.2(i) -----	226.2(n)
226.2(j) -----	226.2(o)
226.2(k) -----	226.2(p)
226.2(l) -----	226.2(q)
226.2(m) -----	226.2(s)
226.2(n) -----	226.2(t)
226.2(o) -----	226.2(u)
226.2(p) -----	226.2(v)
226.2(q) -----	226.2(w)
226.2(r) -----	226.2(x)
226.2(s) -----	226.2(y)
226.2(t) -----	226.2(z)
226.2(u) -----	226.2(aa)
226.2(v) -----	226.2(bb)
226.2(w) -----	226.2(dd)
226.2(x) -----	226.2(ee)
226.2(y) -----	226.2(ff)
226.2(z) -----	226.2(gg)
226.2(aa) -----	226.2(hh)
226.2(bb) -----	226.2(jj)
226.2(cc) -----	226.2(kk)
226.2(dd) -----	226.2(ll)

3. To implement sections 103 and 161, in § 226.2, redesignated paragraphs (h), (p), (q), (s), (u), and (x) would be revised and new paragraphs (j) and (cc) would be added as set forth below:

§ 226.2 Definitions and rules of construction.

(h) "Arrange for the extension of credit" means to provide or offer to provide consumer credit which is or will be extended by another person under a business or other relationship pursuant to which the person arranging such credit

(1) Receives or will receive a fee, compensation, or other consideration for such service, or

(2) Has knowledge of the credit terms and participates in the preparation of the contract documents required in connection with the extension of credit.

It does not include honoring a credit card or similar device where no finance charge is imposed at the time of that transaction.

(j) "Billing error" means:

(1) A reflection on or with a periodic statement of an extension of credit which was not made to the customer or to a person who had actual, implied, or apparent authority of the customer to use the account and from which use the customer received no benefit, or, if made, was misidentified, insufficiently identified, or was not in the amount indicated or on the date specified on or with the periodic statement, or

(2) A reflection on a periodic statement of an extension of credit or indebtedness for which the customer requests explanation or clarification, including requests for copies of documentary evidence of the indebtedness reflected therein, or

(3) A reflection on a periodic statement of an extension of credit for property or services not accepted by the customer or his designee, or not delivered to the customer or his designee in accordance with any agreement made in connection with the transaction,¹ or

(4) Any failure to properly reflect on a periodic statement, a payment or other credit to the customer's account, or

(5) A computation error or similar error of an accounting nature made by the creditor on a periodic statement, including errors in computing finance charges or late payment charges, or

(6) A failure to mail or deliver a customer's periodic statement to his current designated address, if the creditor has received notification of the change of address at least 10 days prior to the closing date of a billing cycle for which a finance charge, late payment charge, or an additional minimum payment is imposed.

(p) "Consumer credit" means credit offered or extended to a natural person, in which the money, property, or service which is the subject of the transaction is primarily for personal, family, household, or agricultural purposes. "Consumer loan" is one type of "consumer credit."

(q) "Credit" means the right granted by a creditor to a customer to defer payment of debt, incur debt and defer its payment, or purchase property or services and defer payment therefor. (See also paragraph (jj) of this section.)

(s) "Creditor" means a person who in the ordinary course of business regularly extends or arranges for the extension of consumer credit, or offers to extend or arrange for the extension of such credit, which is payable by agreement in more than four instalments, or for which the payment of a finance charge is or may be required, whether in connection with loans, sales of property or services, or otherwise. For purposes of the requirements of §§ 226.7(a) (6), (7), (8), and (9); 226.7(b) (1) (i), (ii), (iii), (ix), and (x); 226.7(b) (2); 226.7 (c), (d), (f), (g), (h), and (i); 226.13; and 226.14, the term "creditor" shall also include card issuers, whether or not the payment of a finance charge is or may be required. For purposes of the requirements of § 226.4(i) and 226.13(k), the term "creditor" shall include any person who honors a credit card.

¹ The delivery of property or services different from that described in any agreement, the delivery of the wrong quantity, late delivery, or delivery to the wrong location shall be considered to be a billing error subject to this paragraph, but any dispute with respect to the quality of property in the physical possession of the customer or services performed for the customer shall not be considered a billing error under this paragraph.

(u) "Customer" means (1) a cardholder or (2) a natural person to whom consumer credit is offered or to whom it is or will be extended, and includes a comaker, endorser, guarantor, or surety for such natural person who is or may be obligated to repay the extension of consumer credit.

(x) "Open end credit" means consumer credit extended on an account pursuant to a plan under which (1) the creditor may permit the customer to make purchases or obtain loans, from time to time, directly from the creditor or indirectly by use of a credit card, check, or other device, as the plan may provide; (2) the customer has the privilege of paying the balance in full or in instalments; and (3) a finance charge may be computed by the creditor from time to time on an outstanding unpaid balance. For purposes of the requirements of §§ 226.7(a) (6), (7), (8), and (9); 226.7(b) (1) (i), (ii), (iii), (ix), and (x); 226.7(b) (2); 226.7 (c), (d), (f), (g), (h), and (i); 226.13 (i), (j), and (k); and 226.14, the term includes consumer credit extended on an account by use of a credit card, whether or not a finance charge may be imposed. The term does not include negotiated advances under an open end real estate mortgage or a letter of credit.

(cc) "Proper written notification of a billing error" is any written notification (other than notice on a payment medium or other material accompanying the periodic statement if the creditor so stipulates in the disclosure required by § 226.7(a) (9), (d), and (i)), received at the address disclosed under § 226.7 (b) (1) (x) within 60 days of the first mailing or delivering to the customer's current designated address (as required in § 226.7(b)) of the periodic statement on which the disputed item(s) or amount(s) is reflected in which the customer

(1) Sets forth or otherwise enables the creditor to identify the name and account number (if any) of the customer,

(2) Indicates the customer's belief that the periodic statement contains a billing error and the suspected amount of such error, and

(3) Sets forth the reasons for such belief, to the extent applicable or known by the customer.

§ 226.3 [Amended].

4. Footnote in § 226.3 would be redesignated as follows: Footnote 1 is redesignated 1a, footnote 1a is redesignated 1b, and new footnote 1 is added to read as follows:

¹ The delivery of property or services different from that described in any agreement, the delivery of the wrong quantity, late delivery, or delivery to the wrong location shall be considered to be a billing error subject to this paragraph, but any dispute with respect to the quality of property in the physical possession of the customer or services performed for the customer shall not be considered a billing error under this paragraph.

5. To implement section 167, § 226.4(i) would be added as follows:

§ 226.4 Determination of finance charge.

(i) *Price differentials for payments in cash.* (1) Notwithstanding any other provision of this section, any price differential which a person offers, allows, or otherwise makes available for the purpose of inducing payment for a purchase by cash, check, or similar means rather than by use of a credit card account, whether or not a credit card is physically used, is not a finance charge: *Provided*, That:

(i) Such price differential does not exceed 5 per cent when computed or expressed as a percentage of the tag, posted, or advertised price of the property or services which are the subject of the transaction,

(ii) Such price differential is available to all prospective buyers, and that fact is clearly and conspicuously disclosed by a sign or display posted at or near each public entrance to the place of business wherein such price differential is offered, and at all locations within the place of business where a purchase may be paid for, and

(iii) If an offer of property or services is advertised in any medium or if offers are invited or accepted through the mail, over the telephone, or by means other than personal contact between the customer and the person offering such a price differential, and if customers are allowed to pay by use of a credit card or its underlying account and such fact is disclosed in the advertisement, telephone contact, or in other correspondence, the availability of a price differential for payments in cash must be clearly and conspicuously disclosed in any advertisement for such offerings and, in any case, before the transaction has been completed by use of the credit card or its underlying account.

(2) With respect to any price differential to cash purchasers in excess of 5 per cent, the total amount of any such price differential shall constitute a finance charge under § 226.4(a) to be disclosed in accordance with § 226.7(e).

(3) The availability of any price differential for payments in cash may be limited by the person offering such price differentials to certain types of property or services or to certain outlets maintained by the person, provided that such limitations are clearly and conspicuously disclosed, as applicable, in conjunction with any notice as prescribed by paragraphs (ii) and (iii) of this section.

6. To implement section 171(a) and to provide a transition period to obtain new forms, § 226.6 would be amended by revising paragraphs (b) (1) (i) and (2) (i) thru (v) and paragraph (k).

§ 226.6 General disclosure requirements.

(b) *Inconsistent State requirements.* (1) With respect to the requirements of

this Part, State law is inconsistent with the requirements of the Act and this Part, within the meaning of section 111(a) of the Act to the extent that it:

(1) Requires a creditor to make disclosures or take actions different from the requirements of this Part with respect to form, content, terminology, or time of delivery;

(2) (i) To the extent that any State law with respect to credit billing practices is inconsistent with Chapter 4 of the Act and the implementing provisions of this Part, such State law is preempted, but no such State law is inconsistent if it gives greater protection to the consumer that does this Part. The fact that a creditor must comply with a State law which is inconsistent with this Part does not excuse the creditor from the obligation to comply with this Part. The Board hereby determines that certain State laws are inconsistent and certain State laws are not, within the meaning of sections 171(a) and 111(a) of the Act, as set forth below.

(ii) Subject to the following provisions of § 226.6(b) (2), the issue of whether a State law is inconsistent with this Part, as contemplated by the preceding paragraph, depends upon whether or not a creditor can comply with the State law without violating this Part; if the creditor can comply with the State law without violating this Part, the State law is not inconsistent with this Part, but, if the creditor cannot comply with the State law without violating this Part, the State law is inconsistent with this Part.

(iii) With respect to any State law which is similar to section 161 of the Act in specifying particular actions to be taken by the customer and the creditor in the process of resolving billing errors, if compliance by the customer with such State law as to any stage of the process would constitute noncompliance with this Part, and, hence, cause the customer to lose any rights under this Part, then the State law as to that portion of the process is inconsistent with this Part: *Provided*, That a State law is not inconsistent with this Part to the extent that it permits a customer to set in motion the State procedure for resolving billing errors after the time allowed for setting in motion the comparable procedure under this Part has expired, and in such circumstances (when the time limit imposed by this Part has expired) the entire State law shall have full force and effect.

(iv) With respect to any State law which requires a creditor to notify a customer of the customer's rights or creditor's responsibilities under State law, similar to those under sections 161, 162, or 170 of the Act, such State law is inconsistent with this Part to the extent that it would require the creditor to notify the customer of any provision of State law duplicative of or inconsistent with this Part, and the creditor shall not notify the customer of any such provision. When a creditor gives written notice to any customer of the customer's

rights under any provision of State law which would permit a customer to set in motion the State procedure for resolving billing errors after the time allowed for setting in motion the comparable procedure under this Part has expired, the creditor shall clearly and conspicuously set forth in the notice that reliance upon the longer time period available under the State law may cause the customer to lose important rights which could be preserved by acting more promptly under the Federal law.

(v) To the extent that any State law applies to any case not clearly covered by the above determinations, the Board hereby determines that the State law is inconsistent, as contemplated by § 226.6 (b) (2) (i); but the Governor, Attorney General or any official of the State having responsibilities under such State law may apply to the Board for a contrary determination.

(k) *Transition period.* Any creditor who can demonstrate that he has taken bona fide steps, prior to October 28, 1975, to obtain printed forms which are necessary to comply with the requirements of this Part may, until such forms are received but in no event later than April 30, 1976, utilize existing supplies of printed forms for the purpose of complying with the disclosure requirements of this Part: *Provided*, That such forms are altered or supplemented as necessary to assure that all of the items of information the creditor is required to disclose to the customer are set forth clearly and conspicuously.

7. To implement sections 127(a) (8), 127(b) (11), 127(c), 163, 164, 165, and 167, § 226.7 would be amended as follows:

a. Paragraph (a) (9) is added as set forth below.

b. The text following the heading of paragraph (b) is redesignated as paragraph (b) (1).

c. Paragraphs (b) (1) through (9) are redesignated as paragraphs (b) (1) (i) through (ix).

d. Paragraph (b) (1) (x) is added as set forth below.

e. Redesignated paragraphs (b) (1) (i), (ii), (iii), (v), and (ix) are revised as set forth below.

f. Paragraph (b) (2) is added as set forth below.

g. Paragraph (c) (1) and (2) are revised, paragraph (c) (3) is amended by adding a last sentence, and (c) (4) is added to read as set forth below.

h. Paragraphs (d) and (e) are redesignated as paragraphs (e) and (f); new paragraphs (d), (g), (h), and (i) are added, and redesignated paragraph (e) is revised as set forth below.

§ 226.7 Open end credit accounts—specific disclosures.

(a) * * *
(9) The following notice: "NOTICE: See accompanying statement for important information regarding your rights

to dispute billing errors" and a separate statement containing substantially the following text,^{6b} as applicable, written clearly and conspicuously, shall accompany such a statement; or the following text without the preceding notice may be included on the statement required by paragraph (a) of this section if disclosed clearly and conspicuously; or the following text may be included on the reverse side of the statement required by paragraph (a) of this section with the following notice on the face of the statement: "NOTICE: See reverse side for important information regarding your rights to dispute billing errors.";

IN CASE OF ERRORS ON YOUR BILL

The Federal Truth in Lending Act requires prompt correction of billing mistakes.

1. If you want to preserve your rights under the Act, here's what to do if you think your bill is wrong or if you need more information about an item on your bill:

a. Do not write on the bill. On a separate sheet of paper write [Alternate: Write on the bill or other sheet of paper] (you may telephone your inquiry but *doing so will not preserve your rights under this law*) the following:

i. Your name and account number (if any).
ii. Describe the error and why (to the extent you can) you believe it is an error.

If you need only more information, explain the item you are not sure about, and if you wish, ask for evidence of the charge such as a copy of the charge slip. Do not send in your copy of a sales slip or other document unless you have a duplicate copy for your records.

iii. The dollar amount of the suspected error.

iv. Any other information (such as your address) which you think will help the creditor to identify you or the reason for your complaint or inquiry.

b. Send your billing error notice to the address on your bill which is listed after the words: "Send Inquiries to:" [Alternate: Send your billing error notice to: (creditor's name and address)].

Mail it as soon as you can, but in any case early enough to reach the creditor within 60 days after the bill was mailed to you. If you have authorized your bank to automatically pay from your checking or savings account any credit card bills from that bank, you can stop or reverse payment on any amount you think is wrong by mailing your notice within 16 days after the bill was sent to you. You do not have to meet this 16 day deadline, though, to get your bill corrected.

2. The creditor must acknowledge all letters pointing out possible errors within 30 days of receipt, unless the creditor is able to correct your bill during that 30 days. Within 90 days after receiving your letter, the creditor must either correct the error or show why the creditor believes the bill was correct. Once the creditor has explained the bill, the creditor has no further obligation to you even though you still believe that there is an error, except as provided in paragraph 5 below.

3. After the creditor has been notified, neither the creditor nor an attorney nor a collection agency may send you letters or take other collection action with respect to the amount in dispute; but periodic state-

ments may be sent to you, and the disputed amount can be applied against your credit limit. You cannot be threatened with damage to your credit rating or sued for the amount in question, nor can the disputed amount be reported to a credit bureau or to other creditors as delinquent until the creditor has answered your inquiry.

4. If it is determined that the creditor has made a mistake on your bill, you will not have to pay any finance charges on any disputed amount. If it turns out that the creditor has not made an error, you may have to pay finance charges on the amount in dispute, and you will have to make up any missed minimum or required payments on the disputed amount. The creditor must send you a statement of what you owe, and you must be given the time to pay which you normally are given to pay undisputed amounts before any more finance charges or late payment charges can be charged to you.

5. If the creditor's explanation does not satisfy you and you notify the creditor in writing within 10 days that you still refuse to pay the disputed amount, the creditor may report you to credit bureaus and other creditors and may pursue regular collection procedures. But the creditor must tell them that you do not think you owe the money, and the creditor must let you know to whom such reports were made. Once the matter has been settled between you and the creditor, the creditor must send follow-up notices to those to whom the creditor reported you as delinquent.

6. If the creditor does not follow these rules, the creditor is not allowed to collect the first \$50 of a disputed amount, even if the bill turns out to be correct.

7. If you have a problem with goods or services purchased with a credit card, you may have the right not to pay the remaining amount due on them, if you first try in good faith to return them or give the merchant a chance to correct the problem. There are two limitations on this right:

a. You must have bought them in your home state or within 100 miles of your current mailing address (whichever is farther); and

b. The purchase price must have been more than \$50.

However, these limitations do not apply if the merchant is owned or operated by the creditor, or if the creditor mailed you the advertisement for the goods or services.

(b) *Periodic statements required.* (1) Except in the case of an account which the creditor deems to be uncollectible or with respect to which delinquency collection procedures have been instituted, the creditor of any open end credit account shall mail or deliver to the customer's current designated address (if the creditor has received notice of the customer's change of address 10 days prior to the closing date of the previous billing cycle) for each billing cycle at the end of which there is an outstanding undisputed debit or credit balance in excess of \$1 in that account or with respect to which a finance charge is imposed, a statement or statements which the customer may retain, setting forth in accordance with paragraph (c) of this section each of the following items to the extent applicable:

(i) The outstanding balance in the account at the beginning of the billing cycle, using the term "previous balance," and in the case of a credit balance, an appropriate identification as such.

(ii) (A) In cases in which an actual copy of the document evidencing the credit transaction accompanies the periodic statement, the amount of the transaction and either the date of the transaction or the date the transaction is debited to the customer's account; or

(B) In cases in which an actual copy of the document evidencing the credit transaction does not accompany the periodic statement, is least:

(1) The date on which the transaction took place⁷ and the amount of the transaction; provided that, with respect to transactions in which the creditor and the seller are not the same person or related persons,^{7a} the creditor may rely upon and disclose the information supplied by the seller with respect to the date and amount of the transaction; and

(2) A brief identification^{7b} of the property or services purchased in cases in which the creditor and the seller are the same person or related persons, or the seller's name and address (city and state or foreign country, using understandable and generally accepted abbreviations if the creditor so desires) where the transaction took place in cases in which the creditor and the seller are not the same person or related persons.

(C) Notwithstanding the provisions of paragraphs (A) and (B), in cases in which a transaction involving a cash advance or overdraft checking plan is reflected on the periodic statement, at least:

(1) An actual copy of the document evidencing the transaction which shows the amount of the transaction and either the date of the transaction, the date the transaction was debited to the customer's account, or the date placed on the document or instrument by the customer (if the customer signed the document or instrument); or

⁷With respect to transactions which are not billed in full on any single statement but for which precomputed installments are billed periodically, the date the transaction takes place for purposes of this paragraph shall be deemed to be the date on which the amount is debited to the customer's account.

^{7a}For purposes of this paragraph, a person is not related to the creditor simply because he and the creditor have an agreement or contract pursuant to which he is authorized to honor the creditor's credit card under the terms specified in the agreement or contract. Franchised or licensed sellers of a creditor's product shall be considered to be related to the creditor for purposes of this paragraph. Sellers who assign or sell open end customer sales accounts to a creditor or arrange for such credit under an open end credit plan which allows the customer to use the credit only in transactions with that seller shall be considered related to the creditor for purposes of this paragraph.

^{7b}For purposes of this paragraph, designations such as "merchandise" or "miscellaneous" shall not be considered sufficient identification of goods or services, but a reference to a department in a sales establishment which accurately conveys the identification of the type(s) of property or services which are available in such department shall be sufficient under this paragraph. Identification may be made on an accompanying slip or by symbol relating to an identification list printed on the statement.

^{6b}Wherever the word "creditor" appears or is referred to in the statement, the creditor may substitute appropriate references, such as "company," "bank," "we" or a specific name.

(2) A description of the transaction, which characterizes it as a cash advance, loan, overdraft loan, or other designation as appropriate, and which includes the date of the transaction^{7c} or the date which appears on the document evidencing the transaction (if the customer signed the document or instrument).

This paragraph shall apply to any case in which a transaction involving the use of a cash advance check issued by the creditor for use with the open end credit account is reflected on a periodic statement.

(D) In a case in which any of the information with regard to the date of the transaction, the description of the goods and services purchased, or the seller's name and address as required by paragraph (B) is not available to the creditor, an identifying number or symbol which appears on the document evidencing the credit transaction given to the customer at the time of the transaction must be disclosed. The provisions of the first sentence of this paragraph shall not relieve the creditor of responsibility for maintaining procedures reasonably adapted to procure such information.

(iii) The amounts and dates of crediting to the account during the billing cycle for payments, using the term "payments," and for other credits including returns, rebates of finance charges, and adjustments, using the term "credits," and unless previously furnished a brief identification of each of the items included in such other credits.

* * * * *

(v) Each periodic rate, using the term "periodic rate" (or "rates"), that may be used to compute the finance charge (whether or not applied during the billing cycle), the range of balances to which it is applicable, and the corresponding annual percentage rate determined by multiplying the periodic rate by the number of periods in a year. The words "corresponding annual percentage rate," "corresponding nominal annual percentage rate," "nominal annual percentage rate," or "annual percentage rate" (or "rates") may be used to describe the corresponding annual percentage rate. The requirements of § 226.6(a) of this Part with respect to disclosing the term "annual percentage rate" more conspicuously than other required terminology shall not be applicable to the disclosure made under this paragraph, although such term (or words incorporating such term) may, at the creditor's option, be shown as conspicuously as the terminology required under (b)(1)(vi) of this paragraph. Where a minimum charge may be applicable to the account, the amount of such minimum charge shall be disclosed.^{7a}

* * * * *

^{7c} In cases in which an amount is debited to a customer's open end credit account under an overdraft checking plan, the date of debiting the open end credit account shall be considered the date of the transaction for purposes of this paragraph.

(ix) The closing date of the billing cycle and the outstanding balance in the account on that date, using the term "new balance," and in the case of a credit balance, appropriately identified as such, accompanied by the statement of the date by which, or the period, if any, within which, payment must be made to avoid additional finance charges, except that the creditor may, at his option and without disclosure, impose no such additional finance charges if payment is received after such date or termination of such period.

(x) An address to be used by the creditor, for the purpose of receiving billing inquiries from customers. Such address shall be preceded by the caption: "Send Inquiries To:", or other similar language indicating that the address is the proper location to send such inquiries.

(2) If the terms of the open end credit plan provide a time period within which the customer may repay any portion of the new balance without incurring an additional finance charge or a late payment charge, no such charge may be imposed with respect to any portion of such new balance unless the periodic statement disclosing such new balance is mailed or delivered to the customer's current designated address (if the creditor has received notice of the customer's change of address 10 days prior to the closing date of the previous billing cycle) at least 14 days prior to the date specified in the statement as being the date by which payment of the new balance must be made in order to avoid the imposition of that finance charge or late payment charge, except that such time limitation shall not apply in any case where the creditor has been prevented, delayed, or hindered in mailing or delivering such periodic statement within such time limit because of an act of God, war, civil disorder, natural disaster, or strike.

(c) * * *

(1) The information required to be disclosed under paragraph (b)(1)(ii) of this section and itemization of the amount of "credits" disclosed under paragraph (b)(1)(iii) of this section and of the amount of any finance charge required to be disclosed under paragraph (b)(1)(iv) of this section, may be made on the reverse side of the periodic statement or on a separate accompanying statement(s), provided that the totals of such respective amounts are disclosed on the face of the periodic statement; and

(2) The disclosures required under paragraph (b)(1)(v) and (b)(1)(viii) of this section, except the balance on which the finance charge was computed, may be made on the reverse side of the periodic statement or on the face of a single supplemental statement which shall accompany the periodic statement.

(3) The disclosure required by paragraph (b)(1)(x) of this section may be made on the reverse side of the periodic statement.

(4) If the creditor exercises any of the options provided under this paragraph, the face of the periodic statement shall contain one of the following notices, as applicable: "NOTICE: See reverse side

for important information" or "NOTICE: See accompany statement(s) for important information" or "NOTICE: See reverse side and accompanying statement(s) for important information," and the disclosures shall not be separated so as to confuse or mislead the customer or obscure or detract attention from the information required to be disclosed.

(d) *Semiannual statement required.*
(1) The creditor shall mail or deliver during two billing cycles per year to each customer entitled to receive a periodic statement under § 226.7(b) for such billing cycle, the statement required by § 226.7(a)(9), written clearly and conspicuously either on the face and reverse of a separate page or included with the disclosures required by paragraph (b) of this section.

(2) The semiannual statement shall be mailed or delivered not less than 5 nor more than 7 months after the month in which the last preceding such notice was mailed or delivered, provided that,

(i) In any case the creditor shall mail or deliver such statements at least twice in any 12 month calendar period, and

(ii) The first semiannual statement to any new customer may be mailed or delivered to that customer during the next regularly scheduled mailing or delivery of semiannual statements in which he is entitled to receive a semiannual notice under paragraph (d)(1) of this section.

(3) If the creditor chooses to alter the cycle of mailing or delivering semiannual statements, the creditor may mail or deliver the semiannual statement less than 5 months after the last preceding such statement was mailed or delivered, provided that the creditor mails or delivers at least 3 such statements in the next twelve months computed from the month in which the last preceding semiannual statement was mailed or delivered.

(4) Nothing in this section shall be construed to prohibit a creditor from mailing or delivering the statement required by this section more frequently than semiannually.

(e) *Finance charge imposed at the time of transaction.* (1) Any creditor, other than the creditor of the open end credit account, who imposes a finance charge not excepted by § 226.4(i) *Price differentials for payments in cash*, at the time of honoring a customer's credit card, shall make the disclosures required under paragraphs (b)(2) and (d) of § 226.8 *Credit other than open end—specific disclosures*, at the time of that transaction, and the annual percentage rate to be disclosed shall be determined by dividing the amount of the finance charge by the amount financed and multiplying the quotient (expressed as a percentage) by 12.

(2) The creditor of the open end credit account shall disregard any charge imposed under this paragraph for purposes of the disclosure requirements of paragraphs (a) and (b) of this section.

* * * * *

(g) *Prompt crediting of payments.* Regardless of the date of actual posting of

a payment to an account, such payment shall be credited to the customer's account as of the date such payment is received by the creditor and no finance charge or late payment charge shall be imposed with respect to the amount of such payment which is properly received by the creditor on or before the time indicated by the creditor as necessary to avoid imposition thereof: *Provided*, That:

(1) If a creditor fails to post the customer's payment in time to avoid the imposition of finance charges or late payment charges (except those charges resulting from the delays allowed in paragraphs (g) (3) and (5) of this section), the creditor shall adjust the customer's account so that the finance charges or late payment charges are credited to the account during the customer's next billing cycle.

(2) For the purpose of this paragraph, the creditor may specify reasonable requirements with respect to the form, amount, manner, location, and time for the crediting of payments, except that:

(i) If no particular hour of the day has been clearly indicated to the customer on the periodic statement as the time by which payment must be received by the creditor in order to obtain crediting to the customer's account on such date, payments made prior to the close of business on that day must be credited as of that date, and

(ii) If no location(s) has been clearly indicated on the periodic statement or on a return envelope accompanying the periodic statement as the location(s) at which payment may be made, then payment at any location where the creditor conducts business shall be credited as of the date such payment is presented, and

(iii) If no particular manner of payment has been clearly indicated on the periodic statement, then payment by check, cash, money order, bank draft, or other similar instrument in properly negotiable form shall constitute proper manner of payment.

(3) If the creditor accepts payment at locations other than those specified under paragraph (g) (2) (ii) of this section, the creditor shall credit the customer's account promptly (in no case later than 3 business days), provided that the possibility of such delay is clearly disclosed to the customer on the periodic statement.

(4) Payments need not be credited as of the date of receipt (but in any case must be credited promptly) if a delay in crediting does not result in the imposition of any finance charges or late payment charges for that billing cycle or a later billing cycle.

(5) If, because of operational limitations, the creditor is unable to credit a partial payment made on an average daily balance or daily balance account as of the date of receipt, a creditor may credit such payment promptly (in no case more than 3 business days) until

(h) *Crediting and refunding excess payments.* (1) Whenever a customer mails or delivers payment to the creditor

in excess of the new balance (as provided in § 226.7(b) (1) (ix)) to which the payment is to be applied, the creditor shall:

(i) Credit the customer's account with the total amount of the payment as of the date of receipt as specified in paragraph (g) of this section, or

(ii) Credit the customer's account with an amount equal to the total new balance in the manner prescribed by paragraph (g) of this section and promptly (in no case more than 5 business days from the creditor's receipt of the payment) refund the excess amount.

(2) Notwithstanding the provisions of paragraph (g) (1) of this section, a creditor shall refund any excess payments of \$1 or more promptly (in no case more than 5 business days from receipt of the customer's request) if the customer requests such a refund in writing.

(3) A creditor may refund any excess payment of any amount, whether or not requested by the customer.

(i) *Open and credit accounts existing on October 28, 1975.* In the case of any open end credit account in existence and in which a balance of more than \$1 remains unpaid at or after the closing date of the creditor's first full billing cycle after October 28, 1975, and which balance is deemed to be collectible and with respect to which delinquency collection procedures have not been instituted, the items described in paragraph (a) of this section, to the extent applicable and not previously required to be disclosed to the customer, shall be disclosed in the form prescribed in paragraph (a) of this section, and mailed or delivered to the customer not later than the time of mailing or delivery of the periodic statement required under paragraph (b) of this section for that billing cycle.

8. To implement section 103(f) and to clarify certain disclosure requirements with respect to credit other than open end which is extended on an account by use of a credit card, § 226.8(n) and (o) (6) would be revised and (q) would be added as follows:

§ 226.8 Credit other than open end—specific disclosures.

(n) *Periodic statements.* (1) If a creditor transmits a periodic billing statement¹² other than a delinquency notice, payment coupon book, or payment passbook, or a statement, billing, or advice relating exclusively to amounts to be paid by the customer as escrows for payment of taxes, insurance, and water, sewer, and land rents, it shall be in a form which the customer may retain and shall set forth:

(i) The annual percentage rate or rates unless exempted by § 226.8(b) (2); and

¹² Any statement, notice, or reminder of payment due on any transaction payable in instalments which is mailed or delivered periodically to the customer in advance of the due date of the instalment shall be a periodic billing statement for the purpose of this paragraph.

(ii) The date by which, or the period, if any, within which payment must be made in order to avoid late payment or delinquency charges.

(2) If the creditor is required to send a periodic statement under paragraph (q) of this section, the requirements of §§ 226.7(b) (1) (i), (ii), (iii), (ix) and (x), and § 226.7(b) (2) shall be met, as applicable, in addition to the disclosures required by this paragraph.

*(o) * * *

(6) If a transaction subject to § 226.8 (o) is debited to an open end credit account, disclosures shall be made as specified in paragraph (1) of this section and also as specified in § 226.7. The full amount of the obligation including the amount of the discount may be debited to the open end credit account, under § 226.7(b) (1) (ii), and the amount of any finance charge representing the discount need not be added to any other finance charge for the purpose of computing and disclosing the total amount of finance charge and the annual percentage rate under § 226.5(a) and § 226.7.^{13a}

(q) *Credit card accounts.* In addition to the requirements of this section, consumer credit other than open end which is extended on an account by use of a credit card shall also be subject to the requirements of §§ 226.7(a) (6), (7), (8), and (9); 226.7(b) (1) (i), (ii), (iii), (ix), and (x); 226.7(c), (d), (g), (h), and (i); 226.13(i), (j), and (k); and 226.14, to the extent not required by other portions of this section.

9. Section 226.11(a) (2) and (3) would be revised as follows:

§ 226.11 Comparative index of credit cost for open end credit.

(a) * * *

(2) Shall recompute the Comparative Index of Credit Cost in accordance with paragraph (b) of this section based upon any new open end credit account terms to be adopted and shall disclose the new Comparative Index of Credit Cost in accordance with paragraph (c) (2) of this section concurrently with the notice required under paragraph (f) of § 226.7.

(3) Shall, when making such disclosure under the provisions of paragraphs (a) (5) and (b) (1) (vii) of § 226.7, make the disclosure to all open end credit account customers; and

10. To implement section 171, § 226.12 (a) and (b) would be revised as follows:

§ 226.12 Exemption of certain State regulated transactions.

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

from the requirements of Chapters 2 and 4 of the Act and the corresponding provisions of this Part: *Provided, That:*

(1) The Board determines that, under the law of that State, that class of transactions is subject to requirements substantially similar to those imposed under Chapter 2 or Chapter 4 of the Act or both and the corresponding provisions of this Part; or in the case of Chapter 4, the consumer is afforded greater protection than is afforded under Chapter 4 of the Act, 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 (sections 121-131 of Chapter 2), 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 (section 132-133 of Chapter 2), and in Supplement V which will be issued on or before October 28, 1975, with respect to fair credit billing requirements (sections 161-171 of Chapter 4).

11. To implement sections 166, 167, 168, 169, and 170, § 226.13 would be amended as follows:

a. Paragraphs (a) (1) through (4), and (a) (6) and (7), are incorporated into § 226.2 as shown in the redesignation table of paragraph 2 above.

b. Paragraph (a) (5) is deleted.

c. Paragraphs (b) through (i) are redesignated as paragraphs (a) through (h).

d. Paragraphs (a) through (h) are revised and paragraphs (i), (j), (k), and (l) are added as set forth below.

§ 226.13 Credit card transactions—special requirements.

(a) *Issuance of credit cards.* Regardless of whether a credit card is to be used for personal, family, household, agricultural, business or commercial purposes, no credit card shall be issued to any person 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.

(b) *Conditions of liability of cardholder.* A cardholder shall be liable for unauthorized use of each credit card issued 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 (e) 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.

(c) *Other conditions of liability.* In addition to the conditions of liability in paragraph (b) 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.

(d) *Notice to cardholder.* The notice to cardholder pursuant to paragraph (b) (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]."

(e) *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 (b) (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 or-

dinarily required for transmission, whichever is earlier.

(f) *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 (b) and (c) of this section, have been met.

(g) *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.

(h) *Business use of credit cards.* If 10 or more credit cards are issued by one card issuer for use by the employees of a single business or other organization, nothing in this section prohibits the card issuer from agreeing by contract with such business or other organization as to liability for unauthorized use of any such credit cards without regard to the provisions of this section, but in no case may any business or other organization or card issuer impose liability on any employee of such business or other organization with respect to unauthorized use of such credit card except in accordance with and subject to the other liability limitations of this section.

(i) *Right of cardholder to assert claims or defenses against card issuer.*

(1) When a creditor who provides property or services fails to satisfactorily resolve a dispute as to property or services purchased by use of a credit card in connection with a consumer credit transaction, the cardholder may assert all claims (other than tort claims) and defenses arising out of the transaction and relating to such failure against the card issuer and the cardholder may withhold payment up to the amount of credit outstanding with respect to the property or services which gave rise to the dispute and any finance charges or late payment charges imposed on that amount if:

(i) The cardholder has made a good faith attempt to obtain satisfactory resolution of the disagreement or problem relative to the transaction from the person honoring the credit card,

(ii) The amount of credit extended by the card issuer to the customer to obtain the property or services which resulted in the assertion of the claim or defense by the cardholder exceeds \$50, and

(iii) The initial transaction which gave rise to the assertion of the claim or defense by the customer occurred in the same State as the cardholder's current designated address or within 100 miles from such address (whichever is greater), except that the limitations stated in paragraphs (ii) and (iii) of this section shall not apply when the person honoring the credit card:

(A) Is the same person as the card issuer, or

(B) Is controlled, directly or indirectly, by the card issuer, or

(C) Is under the direct or indirect control of a third person who also directly or indirectly controls the card issuer, or

(D) Controls, directly or indirectly, the card issuer, or

(E) Is a franchised dealer in the card issuer's products or services, or

(F) Has obtained the order for the transaction relative to which the claim(s) or defense(s) is asserted through a mail solicitation made by or participated in by the card issuer, in which the cardholder is solicited to enter into such transaction by using the credit card issued by the card issuer.

Simply honoring or indicating that a person honors a particular credit card shall not be deemed to be any of the relationships or connections described in paragraphs (A) through (F) for the purpose of removing the dollar and distance limitations.

(2) The amount of the claims or defenses assertable by the cardholder under this section may not exceed the amount of credit outstanding with respect to the transaction which gave rise to the assertion of the claim(s) or defense(s) at the time the cardholder first notifies the card issuer or the person honoring the credit card for such transaction of the existence of such claim(s) or defense(s). For purposes of determining the amount of credit outstanding with respect to such transactions as provided in the preceding sentence, payments and other credits to the cardholder's account will be deemed to have been applied, in the order indicated, to the payment of:

(i) Late charges in the order of entry to the account;

(ii) Finance charges in the order of entry to the account;

(iii) Any other debits in the order in which each debit entry was made to the account; and

(iv) When more than one item is included in a single extension of credit, credits are to be distributed pro rata according to prices and applicable taxes.

(3) This section does not apply to cash advances obtained with a credit card when the advance is unrelated to any specific credit sale item.

(4) If the customer refuses to pay the amount of credit outstanding with respect to the property or services which gave rise to the claim or defense under this section, the creditor may not report to any person that particular amount as delinquent.

(j) *Prohibition of offsets by card issuer.* (1) A card issuer may not take any action to offset a cardholder's indebtedness arising in connection with a consumer credit transaction under the relevant credit card plan against funds of the cardholder held on deposit with the

card issuer unless a court order¹⁶ is obtained.

(2) The prohibition in paragraph (j) (1) of this section does not apply to credit card plans whereby the cardholder authorizes the card issuer as a method of payment to periodically deduct all or a portion of the cardholder's credit card debt from his deposit account with the card issuer (subject to the limitations in § 226.14(c)): *Provided, That:*

(i) Such automatic debit was previously authorized in writing by the cardholder, or

(ii) With respect to such automatic debit accounts in existence on October 28, 1975, the card issuer has given notice of the provisions of paragraph (j) of this section to such accounts prior to renewal of the authorization (in no case later than October 28, 1976).

(k) *Prompt notification of returns.* (1) When any creditor other than the card issuer accepts the return of property or forgives a debt for services which is to be reflected as a credit to the customer's open end credit card account, he shall promptly (in no case later than 5 business days from the date the return is accepted) transmit a statement with respect thereto to the card issuer through the normal channels established by the card issuer for the transmittal of such statements.

(2) Upon receipt of a credit statement, the card issuer shall credit the customer's account promptly (in no case later than 3 business days from receipt of the refund statement) with the amount of the refund.

(3) If it is a creditor's policy to give cash refunds to cash customers, he must also give credit or cash refunds to credit card customers, unless he clearly and conspicuously discloses that he does not give credit or cash refunds for returns at the time the transaction is consummated. Nothing in this section shall be construed to require that a seller give refunds for returns nor shall it be construed to require the institution of any particular refund policy.

(l) *Prohibited acts of card issuers.* (1) No card issuer may, by contract or otherwise,

(i) Prohibit any person from offering any price differentials to all customers of such person, including cardholder customers, to induce such customers to pay by cash, check, or other similar means rather than by use of a credit card or its underlying account for the purchase of property or services; or

¹⁶ This paragraph does not alter or affect the right of a card issuer acting under State law to attach or otherwise levy upon funds of a cardholder held on deposit with the card issuer if that remedy is constitutionally available to creditors generally.

(ii) Require any person who honors the card issuer's credit card to open or maintain a deposit account or procure any other service not essential to the operation of the credit card plan from the card issuer, its subsidiary, agent, or any other person, as a condition of participation in a credit card plan.

(2) Within 30 days of the effective date of these regulations, any card issuer with existing contracts which include either one or both of the restrictive clauses prohibited in paragraph (1) shall inform all parties to the contract that such provisions are inapplicable and no longer enforceable.

12. To implement sections 161, 162, and 170, § 226.14 would be added as follows:

§ 226.14 Billing errors—resolution procedure.

(a) *Correction of billing errors.* After the creditor receives proper written notification of a billing error reflected on a periodic statement from a customer, unless the customer has subsequently agreed that the periodic statement is correct, the creditor shall:

(1) Not later than 30 days after receipt of such notification, mail or deliver written acknowledgment thereof to the customer's current designated address, unless the appropriate actions in paragraph (2) of this section are taken within such 30 day period; and

(2) Resolve the dispute not later than 2 complete billing cycles (in no event more than 90 days) from the date of receipt of the notice of billing error and prior to any action by the creditor to collect¹⁷ any portion of the amount(s) indicated by the customer as being in dispute or any finance charges or late payment charges computed on such disputed amount(s) by

(i) Correcting the customer's account in accordance with paragraph (b) (2) of this section and mailing or delivering to the customer a written notification of corrections;¹⁸ or

(ii) Correcting the customer's account by a differing amount from that indicated by the customer as being erroneously billed in accordance with paragraph (b) (2) of this section and mailing

¹⁷ If, despite reasonable procedures established by the creditor to assure compliance with this paragraph, the creditor or his agent, within 2 business days after receiving proper written notification of a billing error pursuant to this section, inadvertently takes action to collect in contravention of this paragraph, such inadvertent action to collect will not be considered in violation of this paragraph.

¹⁸ A notice on a subsequent billing statement clearly identifying any amount credited to the customer's account pursuant to a billing error notice is one type of a proper transmittal of a written notification of corrections.

or delivering to the customer an explanation of the change(s), accompanied by copies of documentary evidence of the customer's indebtedness as to the amount in dispute, if such evidence is requested by the customer; or

(iii) Mailing or delivering a written explanation or clarification to the customer, after having conducted a reasonable investigation setting forth, to the extent applicable, the reasons why the creditor believes the amount(s) was correctly shown on the periodic statement and, if the customer so requests, furnishing copies of documentary evidence of the customer's indebtedness with respect to a disputed amount. In any case where the customer alleges that the periodic statement reflects property or services not delivered to the customer or his designee in accordance with any agreement made in connection with the transaction giving rise to the disputed amount, a creditor may not construe such amount to be correctly shown on the billing statement unless the creditor determines, upon reasonable investigation, that such property or services were actually delivered, mailed, or otherwise sent to the customer or his designee and provides the customer with a written statement explaining such determination. In any case where the customer alleges that an amount of a transaction reflected on the periodic statement is improper because the person honoring the credit card has made an incorrect report to the card issuer of the amount which should have been charged, the card issuer may not construe such amount to be correctly reflected on the periodic statement unless the creditor determines, upon reasonable investigation, that the proper amount is shown on the periodic statement and provides the customer with a written statement explaining such determination.

After complying with the provisions of paragraph (a) of this section with respect to an alleged billing error, a creditor has no further responsibility under this section if the obligor continues to make substantially the same allegation with respect to such error, except as provided under paragraph (e) of this section.

(b) *Minimum payments and finance charges on disputed amounts.* (1) When a customer is permitted to make a minimum payment, he need only make a minimum payment calculated on the basis of amounts not in dispute. When the disputed amount is only a part of the total amount of an item, the customer remains obligated to pay the amount not in dispute, and any minimum payment and finance charges or late payment charges may be collected on the undisputed amount. If, at the completion of the error resolution procedure, it is determined that the customer owes some or all of the disputed amount, the creditor may require payment of any minimum payment amounts which the customer did not pay because of the dispute. The creditor may not, however, accel-

erate the customer's entire debt solely because the customer has exercised rights provided by the Act or this Part.

(2) With respect to an erroneous billing, the creditor must credit the customer's account in any amount erroneously billed plus any finance charges or late payment charges imposed as a result of the erroneous billing. An erroneous billing by a creditor includes, but is not limited to, a misidentification, insufficient identification, or incorrect date of a transaction; a mailing of the periodic statement to the wrong address; improper crediting of payments or other credits; computation errors; or a billing for property or services not accepted or delivered in accordance with any agreement; as well as mistakes in dollar amounts.

(3) After completion of the dispute resolution procedure in § 226.14(a), the creditor shall promptly mail or deliver to the customer a statement of -any amount owned by the customer according to the requirement of § 226.7(b)(2).

(4) Nothing in this section shall be construed to prohibit the mailing or delivery of periodic statements which include disputed amounts to the customer, provided that the creditor indicates to the customer on the face of the periodic statement that payment of the amount in dispute is not required pending the creditor's compliance with the provisions of this section.

(5) Nothing in this section shall prohibit any action by a creditor to collect any amount which has not been indicated by the customer to contain a billing error.

(c) *Automatic debit of disputed amounts.* (1) In the case of credit plans where the cardholder has agreed to permit the card issuer to periodically pay the cardholder's indebtedness by deducting the appropriate amount from the cardholder's deposit account, and if the card issuer receives a proper written notification of a billing error within 16 days from the date of mailing or delivery of the periodic statement on which the suspected billing error first appears, the card issuer shall:

(i) Prevent the automatic debiting of any disputed amounts if receipt of such notification precedes the automatic debiting of the cardholder's account, or

(ii) Promptly (in no case no more than one business day after receipt of the notice) restore to the cardholder's deposit account any portion of the disputed amount which was previously deducted, if receipt of such notification follows the automatic debiting of the cardholder's account for any disputed amounts.

(2) Nothing in this subsection shall limit the cardholder's right to dispute an amount he believes to be in error within 60 days of the mailing or delivery of the erroneous periodic statement, as otherwise provided in this section.

(d) *Closing of accounts.* A creditor may not, prior to complying with the requirements of paragraphs (a) and (b) of this section, restrict or close an account

with respect to which the customer has indicated a belief that such account contains a billing error solely because of the customer's refusal or failure to pay the amount indicated to be in error. This paragraph does not prohibit the creditor from applying any such amount to the customer's credit limitation.

(e) *Credit reports on amounts in dispute.* (1) After receiving a proper written notification of a billing error pursuant to this section, neither the creditor nor his agent may directly or indirectly threaten to report adversely to any person on the customer's credit standing or credit rating because of the customer's failure to pay the amount specified in such notification as being in error or any finance charge imposed on the disputed amount, nor shall such amount be reported as delinquent¹⁰ to any third person unless such amount remains unpaid after the creditor has complied with all the requirements of this section and has allowed that customer the same number of days thereafter as he customarily or by credit agreement allows, whichever is longer (in no case less than 10 days), for the customer to pay undisputed amounts so as to avoid the imposition of additional finance charges or late payment charges. If, despite reasonable procedures established by the creditor to assure compliance with this paragraph, the creditor or his agent, within 2 business days after receiving proper written notification of a billing error pursuant to this section, inadvertently takes action in contravention of this paragraph, such inadvertent action will not be considered in violation of this paragraph.

(2) If, within the time limit allowed for payment in paragraph (e)(1) of this section, the creditor receives a further written notification from the customer that any portion of a previously disputed amount is still in dispute, the creditor may not report to any third party that such amount is delinquent, unless the creditor also reports that the amount or account is in dispute and, at the same time, notifies the customer in writing of the name and address of each party to whom the creditor is reporting information concerning the disputed amount. If, pursuant to this section, a creditor has reported a disputed amount as being delinquent to any third person, the creditor shall report promptly in writing to any person to whom such report was made any subsequent resolution of the reported delinquency.

(3) If a creditor has reported an amount as being delinquent to a third party which is in the business of collecting and disseminating information relating to the credit worthiness of customers, and such amount is subsequently disputed by the customer in accordance with the requirements of paragraph (a) of this section, the creditor shall, within

¹⁰ Nothing in this paragraph prohibits a creditor from reporting the disputed amount or account as being in dispute.

one billing cycle after receipt by the creditor of proper written notification of the billing error, mail or deliver a written notice to each such third party to whom the delinquency was reported that the amount is in dispute.

(f) *Forfeiture penalty.* (1) Any creditor who fails to comply with the requirements of this section forfeits any right to collect from the customer the amount indicated by the customer as being in error, whether or not such amount is in fact in error, and any corresponding finance charges, provided that the amount so forfeited under this section shall not exceed \$50 for each item or transaction on a periodic statement indicated by the customer as being in error. In no case shall a creditor forfeit any amount for an error in a total figure or subtotal figure reflected on a statement which is caused solely by an error in another item which is the subject of a dis-

pute, nor shall a creditor suffer any forfeiture more than once for any item or transaction which may appear on a periodic statement.

(2) Nothing in this subsection shall be construed to limit a customer's right to recover under section 130 of the Act.

(g) *Exceptions to general rule.* This section does not apply to credit other than open end, whether or not a periodic statement is mailed or delivered, unless it is consumer credit extended on an account by use of a credit card.

13. Draft regulations to implement section 409 of Title IV of Pub. L. 93-495 will be issued by the Board at a later date.

14. The effective date of these regulations shall be October 28, 1975.

15. This notice is published pursuant to section 553(b) of Title 5, United States Code, and § 262.2(a) of the Rules of Procedure of the Board of Governors of

the Federal Reserve System (12 CFR 262.2(a)).

Interested persons are invited to submit relevant data, views, or arguments concerning this proposal, including possible effects on the cost and the availability of consumer credit. 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 August 18, 1975. 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,
July 30, 1975.

[SEAL]

THEODORE E. ALLISON,
Secretary of the Board.

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