FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 7820
February 20, 1976]

REGULATION Z

—Rescission of Certain Real Estate Disclosure Requirements
—Technical Correction of Fair Credit Billing Section
—Interpretations Regarding Semiannual Statements Sent to Customers

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

Real Estate Settlement Procedures Act

The Board of Governors of the Federal Reserve System on January 27, 1976 announced regulatory amendments to carry out recent legislative revisions in the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act.

The amendments to Regulation Z will eliminate the requirement for disclosure of closing costs in certain real estate transactions not covered by RESPA. This rescinds regulatory amendments proposed for comment by the Board of Governors on September 16, 1975 (see our Circular No. 7713, dated September 18, 1975) and announced by the Board last October 24, to go into effect on January 31, 1976. (At the instruction of the Board these amendments were not distributed by the Federal Reserve Banks, in anticipation of the repeal by Congress of the underlying legislation.)

The Board has also rescinded an interpretation (12 CFR 226.102) of Regulation Z, concerning the making of Truth in Lending disclosures together with RESPA disclosures.

The following is quoted from the text of the Board's Order in this matter:

Pursuant to its obligations under the Real Estate Settlement Procedures Act of 1974 (RESPA), Pub. L. 93-533, the Office of the Secretary of the Department of Housing and Urban Development published on May 22, 1975, in FR Doc. 75-13260 at Vol. 40, No. 100 of the *Federal Register*, beginning on page 22448, Regulation X, including a form (designated HUD 1) to be used to disclose real estate closing costs. As part of that form (Exhibit B on page 22457) a Truth in Lending statement was prescribed pursuant to §4 of RESPA. On May 16, 1975, by FR Doc. 75-12895 in Vol. 40, No. 96 of the *Federal Register*, beginning at page 21470, the Board of Governors of the Federal Reserve System (Board) published, as an interpretation of Regulation Z, §226.102, which was designed to eliminate confusion concerning the use of the Truth in Lending form prescribed in Regulation X and to clarify the interrelationship between the Truth in Lending Act and RESPA. On January 2, 1976, Pub. L. 94-205 became effective. This law amends §4 of RESPA in such a way as to no longer require the use of the Truth in Lending statement prescribed by Regulation X. Accordingly, the Board finds that §226.102 is not necessary and hereby rescinds it effective June 30, 1976. The Board understands that HUD will require the use of the first two pages of the HUD 1 form for transactions subject to RESPA until June 30, 1976. It is the Board's purpose in rescinding §226.102 effective June 30, 1976, to enable creditors to use, *on a permissive basis*, the Truth in Lending disclosure statement as prescribed by Regulation X prior to January 2, 1976. Although the use of the Truth in Lending disclosure statement formerly prescribed by Regulation X is not required, Truth in Lending disclosures as prescribed by Regulation Z must be made. Until June 30, 1976, § 226.102 applies only to the Truth in Lending statement (as provided in the above referenced Exhibit B) when used in conjunction with the Settlement statement required by the Department of Housing and Urban Development under Regulation X. If Truth in Lending disclosures are made in this manner, they must be made in accordance with the time requirements of Regulation Z. If some other method of making Truth in Lending disclosures is used by the creditor, §226.102 has no applicability.

On October 30, 1975 (40 *Federal Register* 50507), the Board published amendments to Regulation Z designed to provide disclosure of closing costs in certain real estate transactions. These amendments were

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adopted in order to implement the provisions of §121(c) of the Act which were added by §409 of Title IV of Pub. L. 93-495. On January 2, 1976, §121(c) was repealed by the passage of Pub. L. 94-205. Accordingly, the Board finds that the amendments to Regulation Z enacted to implement §409 are unnecessary and are hereby rescinded.

Fair Credit Billing correction

Paragraph (e) of § 226.14 (page 37 of Regulation Z, amended effective October 28, 1975) is corrected in the fifteenth line of that paragraph by adding the words "to pay" immediately following the words "the same number of days thereafter" and immediately before the word "as".

Semiannual statements

Following is the text of a statement issued February 3 by the Board of Governors:

The Board of Governors of the Federal Reserve System today issued two interpretations to the Fair Credit Billing section of its Regulation Z.

The interpretations relate to:

(1) The timing of the semiannual statement creditors must send to their customers explaining the procedures for correcting billing errors. This interpretation also permits a creditor to omit any portion of the semiannual notice that does not apply to a particular credit plan.

(2) Modification of semiannual statements sent in states that have their own substantially similar Fair Credit Billing Acts.

Enclosed is a copy of the interpretations to Regulation Z; additional copies will be furnished upon request.

* * *

Questions regarding any of the above matters should be directed to our Bank Regulations Department.

PAUL A. VOLCKER,
President.

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Board of Governors of the Federal Reserve System

TRUTH IN LENDING

INTERPRETATIONS OF REGULATION Z

Fair Credit Billing

This interpretation relates to situations in which a State adopts as law provisions identical to the Fair Credit Billing Amendments to Regulation Z published by the Board on September 19, 1975, (40 *Federal Register* 43199). The interpretation provides that in such cases it is permissible for creditors to alter or modify the statements prescribed in §§ 226.7(a)(9) and 226.7(d)(5) to provide a reference to the State's law and that a State law requiring or allowing such a modification is not inconsistent with the Act or Regulation Z as contemplated in § 226.6(b). The interpretation also sets out the manner in which such a reference must be made.

§ 226.606 — **Modification of semiannual statements pursuant to State law.**

(a) Sections 226.7(a)(9) and 226.7(d)(5) prescribe statements regarding customers' rights and creditors' responsibilities under certain sections of the Regulation. These statements contain specific references to the "Federal Truth in Lending Act," "Federal Fair Credit Billing Act," and the "Act."

(b) Certain States have adopted, or intend to adopt, regulations or statutes identical to the amendments to Regulation Z adopted by the Board on September 15, 1975, for the purpose of implementing the Fair Credit Billing Act. The question has arisen whether the statements prescribed by §§ 226.7(a)(9) and 226.7(d)(5) may be modified under these circumstances to include a reference to the State law immediately following the relevant reference to the Federal law, or whether separate statements are required under both the State law and Federal laws.

(c) In the circumstances described above, it is permissible for a creditor to modify the statements prescribed by §§ 226.7(a)(9) and 226.7 (d)(5) in the form of a reference to the relevant State law by name. Such a disclosure, if made immediately following the relevant reference to the titled Federal law in substantially the following manner: "and the [insert the name of the State and the State law involved]," is permissible under Regulation Z and any State law requiring such a disclosure is not inconsistent with the Act or Regulation within the meaning of § 226.6(b). It is similarly permissible to substitute "these Acts" for the words "the Act" where it appears in the statement required by § 226.7 (a)(9).

(Interprets and applies 12 C.F.R. 226.6 and 226.7.)

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

Creditors are required by the Fair Credit Billing Act to disclose to their customers their rights and the creditor's responsibilities under the Act. The Board in implementing the Act provided a comprehensive semiannual statement for this purpose and also provided for an alternate shorter statement which would be sent with each periodic billing statement. Several questions have arisen with regard to these requirements. This interpretation provides:

1. That the first semiannual statements (or shorter statement alternatives) must be mailed or delivered not later than seven months after October 28, 1975.

2. A method for determining when to mail or deliver such statements when a creditor switches from one optional statement to the other.

3. That the shorter statement alternative may be modified to omit any portions inapplicable to the credit plan for which it is sent and to change references in the statement to read "bank," "company," or the creditor's name.

§ 226.708 — **Timing and modification of semiannual statements.**

Sections 226.7(d)(1) through 226.7(d)(4) set out the method by which the statement required by § 226.7(a)(9) is to be provided to customers on a semiannual basis. Section 226.7 (d)(5) provides for a shorter statement which,

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as an alternative to the provisions of §§ 226.7 (d)(1) through 226.7(d)(4), may, under certain conditions, be provided with each periodic statement.

The question has arisen of when the first statement, either the longer statement required by § 226.7(a)(9) or the alternate shorter statement under § 226.7(d)(5), must be provided under § 226.7(d). Creditors must mail or deliver one or the other of these statements, pursuant to § 226.7(d), not later than seven months after October 28, 1975. In determining when to send the first statement pursuant to § 226.7(d), the initial statements prescribed by § 226.7 (a)(9) which are sent to customers with accounts in existence on October 28, 1975, pursuant to § 226.7(i), may not be considered a statement sent for purposes of § 226.7(d).

A second question has arisen regarding the timing of disclosures should a creditor change practices and provide the statement under § 226.7(d)(5) instead of the longer statement prescribed in § 226.7(a)(9). The same question has arisen with respect to the opposite case, i.e., when a creditor first makes disclosure under § 226.7(d)(5) and subsequently decides to make disclosure of the statement prescribed by § 226.7(a)(9) semiannually. If a creditor first discloses the § 226.7(a)(9) statement semiannually and subsequently decides to use the § 226.7(d)(5) alternative, the first statement which must be provided pursuant to § 226.7 (d)(5) must be mailed or delivered not later than the time that the next § 226.7(a)(9) statement would have been required had no change in the creditor's practice occurred. If a creditor first chooses to make disclosure pursuant to § 226.7(d)(5) and subsequently decides to provide the longer statement prescribed in § 226.7 (a)(9) semiannually, the creditor must mail or deliver such longer statement to those customers receiving periodic statements (not later than the mailing or delivery of such periodic statements) pursuant to § 226.7(b) for the billing cycle immediately subsequent to the billing cycle for which the last statements were mailed or delivered pursuant to § 226.7(d)(5). The timing of mailing or delivery of § 226.7(a)(9) statements on a semiannual basis subsequent thereto is to be determined in accordance with §§ 226.7 (d)(1), (2), (3), and (4).

A further question has arisen whether a creditor may delete portions of the statement prescribed in § 226.7(d)(5) which are inapplicable to its particular credit plan as in the case of the statement prescribed by § 226.7(a)(9). In line with the general policy of the Truth in Lending Act and Regulation Z which attempt to avoid disclosures which might be confusing to consumers, any portions of the § 226.7(d)(5) statement which are inapplicable to a credit plan may be deleted from the § 226.7(d)(5) statement by the creditor of that plan.

The question has also arisen whether references to the "creditor" in the statement prescribed by § 226.7(d)(5) may be altered or modified as is permitted with regard to the statement prescribed by § 226.7(a)(9). Such alteration or modification is permissible; wherever the word "creditor" appears or is referred to in the statement prescribed by § 226.7(d)(5), the creditor may substitute appropriate references, such as "company," "bank," "we" or a specific name.

(Interprets and applies 12 C.F.R. 226.7.)

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

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