

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 7834]
March 10, 1976

PROPOSED AMENDMENTS TO REGULATION Z

Disclosure of Single-Component Finance Charges

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

On November 21, 1975, the Board of Governors of the Federal Reserve System issued an interpretation of its Regulation Z—Truth in Lending—which provided that where a finance charge contained only one component, the creditor need not identify that component beyond describing it as a “finance charge.” The interpretation was enclosed with our Circular No. 7761, dated December 2, 1975.

In light of a recent procedural challenge to that interpretation, the Board of Governors now proposes to amend Regulation Z and to invite public comment thereon. The proposed amendments reflect the Board's earlier position in this matter. Following is the text of a statement issued March 2 by the Board of Governors:

The Board of Governors of the Federal Reserve System today proposed to amend Regulation Z—Truth in Lending—to spell out the way in which finance charges made up of one or more than one type of charge must be described.

The Board invited comment, through April 9, 1976, on a proposal to amend Regulation Z to state explicitly that where only one type of finance charge is made in an extension of credit the nature of the charge need not be stated.

The Board also invited comment on two further alternatives. The alternative proposals are:

- To require description of the charge even where there is only one type of finance charge;
- To omit all itemizing of the components of a finance charge even if more than one type of charge is involved.

In some instances of extensions of credit there may be charges other than for interest, such as a loan fee, or an investigation fee. Both the proposed amendment and an existing interpretation of Regulation Z permit the use of the term “Finance Charge” alone where only one type of charge is involved. Under both the present rule and the proposed amendment where more than one type of charge is involved, each type must be described.

The proposed amendment would replace the existing interpretation of the regulation issued by the Board November 21, 1975. The proposal is identical in substance to the interpretation. The interpretation has been challenged in court on procedural grounds. In proposing the regulatory amendment and possible alternatives, the Board said it believes its interpretation correctly construed Regulation Z and met procedural requirements. However, in view of the legal challenge to the interpretation the Board decided to propose the regulatory amendment and alternatives in order to obtain data, views and arguments to assist the Board in deciding if any change is needed, and, if so, what should be the nature of the change.

Printed on the reverse side is the text of the Board's proposal. Comments on the proposal should be submitted by April 9, 1976, and may be sent to our Bank Regulations Department.

PAUL A. VOLCKER,
President.

(OVER)

[12 CFR PART 226]

(Docket No. R-0021)

TRUTH IN LENDING

**Notice of Proposed Rulemaking on Disclosure of
Single-Component Finance Charges**

The Board of Governors of the Federal Reserve System (hereafter Board) proposes to amend sections 226.8(c)(8)(i) and 226.8(d)(3) of Regulation Z to specifically provide that a finance charge consisting solely of one type of charge need not be individually described as to the nature of the charge. In such cases, use of the term "finance charge" is sufficient identification pursuant to Regulation Z. The amendments would not affect the requirement for a description of each amount included in the finance charge where the total charge is composed of more than one element.

The proposed amendments reflect the position stated by the Board in Interpretation § 226.820, issued on November 21, 1975. That interpretation was intended to alleviate the uncertainty resulting from the decision in *Ives v. W. T. Grant Co.*, (2nd Cir. 1975), 4 CCH CCG ¶ 98,561, in which the United States Court of Appeals for the Second Circuit held that failure to individually describe the type of charge when there is a single-element finance charge violated the Truth in Lending Act. Those district courts which had recently considered this issue were divided on the necessity for such description. The growing uncertainty over the proper interpretation of §§ 226.8(c)(8)(i) and 226.8(d)(3) in such cases indicated to the Board the need for an official statement on this issue. As the agency responsible for promulgating §§ 226.8(c)(8)(i) and 226.8(d)(3), pursuant to its implementing authority under the Truth in Lending Act, the Board issued Interpretation § 226.820 to clarify the application of those sections to transactions involving single-element finance charges. That interpretation reaffirmed the position taken in the illustrative forms in the first Regulation Z pamphlet, as well as in various opinion letters issued by the Board's staff.

A recent suit filed against the Board in the United States District Court for the District of Connecticut calls into question the position stated in Interpretation § 226.820. In *Hatten v. Board of Governors*, (D.C. Conn., Civ. No. N76-14, filed January 7, 1976), plaintiffs allege, *inter alia*, that Interpretation § 226.820 was a substantive rule of general applicability as to which the Board was obligated to follow the notice-and-comment rulemaking procedures of the Administrative Procedure Act.

The Board believes that Interpretation § 226.820 was exempt from the usual rulemaking procedures of the APA pursuant to 5 U.S.C. § 553(d)(2) and that it correctly construed the present language of the Truth in Lending Act and Regulation Z. However, to remove any uncertainty that may exist regarding this matter, and further to provide an opportunity to consider some broader related issues, the Board has decided to solicit

public comment on the question of whether Regulation Z should be changed to: (1) make it even clearer that required itemization of finance charges is limited to multiple-element finance charges, or (2) require such itemization even in the case of a single-element finance charge, or (3) eliminate the requirement for itemization in all cases. Pending final Board action in this rulemaking proceeding, Interpretation § 226.820 will remain in effect.

Pursuant to the authority granted in 15 U.S.C. 1604 (1968), the Board proposes to amend Regulation Z, 12 CFR Part 226, as follows:

**SECTION 226.8—CREDIT OTHER THAN
OPEN END—SPECIFIC DISCLOSURES**

* * *

(c) Credit sales.

* * *

(8) * * *

(i) The total amount of the finance charge, using the term "finance charge," and where the total charge consists of two or more types of charges, a description of the amount of each type, and

* * *

(d) Loans and other nonsale credit.

* * *

(3) * * * the total amount of the finance charge,¹¹ using the term "finance charge," and where the total charge consists of two or more types of charges, a description of the amount of each type.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, comments, or arguments. 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 April 9, 1976. All material submitted should include the docket number R-0021.

This notice is published pursuant to § 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)).

By order of the Board of Governors, February 27, 1976.

¹¹ The disclosure required by this subparagraph need not be made with respect to interim student loans made pursuant to federally insured student loan programs under Public Law 89-329, Title IV Part B of the Higher Education Act of 1965, as amended.