

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 7878]
May 19, 1976

TRUTH IN LENDING

Proposed Amendments to Regulation Z

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

The Board of Governors of the Federal Reserve System has announced several proposed amendments to its Regulation Z—Truth in Lending—that modify certain rules for identifying transaction charges on open-end billing statements and make several other technical changes in the regulation. Following is the text of the statement issued by the Board of Governors on May 12.

The Board of Governors of the Federal Reserve System today proposed several modifications to its Truth in Lending rules for identifying transactions charged to consumers using open-end charge accounts (such as charges on a credit card billing statement).

The principal proposal would amend that portion of the Board's Regulation Z implementing a law (Public Law 93-495) providing for minimum disclosure requirements on such billing statements.

Comment will be received through June 18.

The "identification of transaction" amendments to Regulation Z became effective last October 28 (together with other amendments to Regulation Z implementing the related but separate Fair Credit Billing Act). Regulation Z implements the Truth in Lending Act, to which the identification of transaction law is an addition (as is the Fair Credit Billing Act).

As originally adopted, the rules for identification of transactions permitted creditors to continue to identify charges on open-end billing statements as they have been doing, until July 1, 1976. One requirement to be met beginning July 1 was that when other information is not available to identify a transaction, a number, or symbol (such as a voucher number) must appear on the billing statement.

Creditors—stating that they expect to be able in most cases to satisfy the basic identification disclosure requirements—have objected that the voucher number requirement would result in costly collection of data that they would use in only a few cases.

The Board therefore proposed an alternative procedure. Under the proposal, creditors unable to satisfy the basic identification of transaction requirements would be permitted to disclose such information as they have available. But they would be required to treat any resulting inquiry from the consumer as triggering the billing error procedures of Regulation Z. This would involve remission of any finance charges when the required information is not disclosed. Creditors would also be required, if they used this alternative, to furnish documentary evidence of the transactions without charge.

The proposals would also:

—Provide that, when a transaction did not take place at a seller's fixed business location, an appropriate identifying designation may be used for transactions that take place by mail, by phone, at a customer's home or on a public conveyance, such as a plane or train.

—In the case of purchases in a foreign country, allow the creditor to identify the transaction by date of debit, instead of date of purchase, and require the creditor to treat any resulting inquiry by the customer as triggering the billing error procedures of Regulation Z.

—Require a more meaningful designation of a seller's name if it is abbreviated on a sales voucher in a way that makes identification difficult, or is encoded (as by a store number).

Since final action may not be taken on these proposals before July 1, the Board suspended the requirements that would have gone into effect on that date until further notice, but not later than September 1.

In requesting public response, the Board said that it would like in particular to receive comments or information concerning the following:

1. The impact of the proposed changes in the regulation on problems some consumers and creditors may have regarding transactions which occur in foreign countries.
2. Identification of any special or unusual types of transactions which may present problems of disclosure under the regulation as proposed, and which should be addressed at this time.
3. Problems involved in identifying purchases that are difficult to describe by departmental category (such as merchandise that might be bought at a variety or speciality shop).
4. Problems or suggestions consumers may have regarding identifying transactions on their open-end credit account statements in general.

The Board's proposed amendments to Regulation Z include a number of other proposed changes, of a technical nature, not related to identification of transactions.

Printed below is the text of the proposed amendments to Regulation Z. Comments thereon should be submitted by June 18, and may be sent to our Bank Regulations Department.

PAUL A. VOLCKER,
President.

[Reg. Z]

PART 226—TRUTH IN LENDING

(Docket No. R-0036)

Description of Transactions; Miscellaneous Amendments

On September 19, 1975, the Board published in the *Federal Register* amendments to Regulation Z setting forth disclosure requirements for identifying transactions reflected on open end credit account periodic statements and for other purposes (40 FR 43200). Since those amendments were adopted, questions have been raised which may require further amendment of the Regulation. Accordingly, the Board is publishing for comment these proposed amendments to Regulation Z which are intended to clarify certain requirements of the Regulation, add flexibility to the requirements as necessary, and insure that consumers are able to procure complete information regarding their open end credit accounts quickly and without undue expense. Although the proposed amendments would have some impact on so-called "country club" billing systems, their main effect would be on creditors who use the so-called "descriptive" billing systems.

Identification of Transactions

Under the proposal the requirements for identifying transactions on open end credit periodic statements as required by § 226.7 (b)(1)(ii) would be changed in the following ways:

1. To enhance the clarity of the text, a new § 226.7(k) would be added to the Regulation. This new section would contain the requirements for identifying transactions. Section 226.7(b)(1)(ii) would merely reference § 226.7(k) and require that the disclosures set forth therein be made.

2. Presently, § 226.7(b)(1)(ii)(D) requires that, after October 28, 1977, the creditor must provide a reference number or identifying symbol (such as a sales voucher number) which appears on the document evidencing the transaction in those cases in which the primarily required information is not available. Questions have been raised regarding the usefulness in many cases of such a number or symbol to the consumer and regarding the cost to creditors of instituting a capability to capture the number or symbol for potential transmission in all transactions when it may, in fact, be needed for only a few. The proposed amendment would permit a creditor, as at present, to provide an identifying number or symbol when any of the primarily required information is not available. Alternatively, it would permit the creditor to disclose only that information which is available and treat any inquiry regarding the description or identification of the transaction as a billing error and an erroneous billing subject to the provisions of § 226.14. Further, the creditor would be required to provide documentary evidence of the transaction without charge.

This addition to the Regulation is designed to provide an alternative to the requirement that an identifying number or symbol be provided when the primarily required information is not available. It is designed to insure a better and more complete description to the consumer without financial disadvantage, to provide creditors with an alternative to the costly requirement

of developing the capability to provide a voucher number for all transactions and to supply an incentive for the creditor to provide a complete description in the first instance. The creditor remains obligated under the proposed language to maintain procedures reasonably adapted to procure the primarily required information.

3. The proposed amendment would provide an alternative similar to that discussed in paragraph 2 for the *transition period* provided to creditors to adjust forms, procedures, and computer programs which lasts until October 28, 1977. The regulation as published on September 19, 1975, would have required the creditor to provide an identifying number or symbol when the information regarding the seller's name and address or description of merchandise or services purchased was not available. Further, it would have required the creditor to disclose the date of debiting the credit transaction to the customer's account when the primarily required date is unavailable. This proposal would allow the creditor the alternative of providing that information which is available to him while requiring the creditor to treat any inquiry regarding the identification of the transaction as a billing error and an erroneous billing when the primarily required information is not available. The proposal would retain the alternative of supplying the identifying number or symbol when primarily required information is not available during the transition period.

4. The language regarding the transition period for compliance, which ends October 28, 1977, has been changed in two other respects. First, the language has been changed to further clarify the fact that the alternatives provided in this section are generally available and that creditors do not need to institute procedures reasonably adapted to procure the information which will be required to be disclosed after October 28, 1977, in the first instance during this transition phase.

Second, by a separately adopted amendment of even date, the Board suspends the July 1, 1976, beginning date for the changeover to the transition period which is due to expire October 28, 1977. This is done, because the amendatory process may not be completed in time, without rescinding or repealing the entire § 226.7(b)(1)(ii). Consequently, the requirements currently imposed by § 226.7(b)(1)(ii)(E)(3) will remain in effect until dates for the transition period can be established in accordance with the outcome of the amendatory processes. The Board will supply a new date to be not later than September 1, 1976, for the beginning of this transition period when this amendatory process is completed. This new date will take into account the added flexibility which may be added by these amendments when determining the lead time necessary for compliance.

5. The proposed amendments would also provide guidance regarding the disclosure of an address in certain types of transactions which are not encompassed within the usual scenario of a purchase made at a fixed seller location, recognizing that it is often problematic to assign one address or designation which is helpful to customers in all situations. Where the transaction occurs, for example, by telephone or mail order, in the customer's home or at a non-fixed location, such as aboard a public conveyance, the proposed amendments would provide some flexibility. They would permit the creditor to (a) omit the address, which would be especially helpful in cases where supplying an address

could, in itself, be misleading, or (b) supply an address or appropriate designation, such as "mail order," which, in the creditor's opinion, is helpful in identifying the transaction or in relating the transaction to a document previously furnished. Use of the disclosure provisions of this paragraph should not be for the purpose of evading or circumventing the Act or Regulation Z, however.

6. Guidance for disclosing the seller's name in certain cases is also provided by the amendment. It would permit the creditor to provide a more complete spelling of a seller's name which has been alphabetically abbreviated on the document evidencing the transaction.

Additionally, when a seller's name has been encoded in a way which is not meaningful to consumers (for example, where only a store number is supplied on a sales voucher), the creditor must provide the code symbol and a more complete spelling of the seller's name. This is intended to provide a basis for identifying the transaction if copies of sales vouchers are not retained or allowing the customer to relate the description to a sales voucher which he may have retained.

7. Proposed footnote 9d (footnote 7c as currently written) has been positioned within the regulation to indicate that all references to "the same person or related persons" in proposed § 226.7(k) are governed by the guidelines set forth in that footnote.

8. The language regarding the disclosure of an identifying number or symbol which appears on the document evidencing the transaction has been changed to indicate that such a number or symbol need be supplied only once even though more than one of the primarily required pieces of information may be unavailable.

9. Recognizing the difficulties of procuring the primarily required information for transactions in foreign countries, the amendment would (a) allow the creditor to disclose the date the amount of the transaction is debited to the customer's account and (b) use the error resolution procedure as discussed in paragraph (2) in all cases without the obligation to maintain procedures adapted to procure the information in every instance. This provision is meant to be permissive and a creditor may, of course, disregard it and fully comply with the requirements otherwise imposed by § 226.7(k).

Miscellaneous Amendments

1. The proposal would amend § 226.7(b)(1)(iii) to provide that the date of crediting a payment or credit to the customer's account need not be disclosed in those situations where the failure to credit on any particular day will not result in the imposition of any finance charges or other charges upon the customer. This amendment is proposed in the belief that such a disclosure is of little or no value or economic concern to the consumer but does impose a substantial cost upon creditors to make the necessary changeover for their billing systems if they have not provided such a date heretofore. The requirement that payments to a customer's account be credited promptly, however, would not be changed or suspended thereby.

2. The proposal would amend § 226.7(c)(1) to clarify the Board's intent in its publication of September 19, 1975. The proposed language for § 226.7(c)(1) permits certain information to be disclosed other than on the face of a periodic statement provided that the

totals of the respective debits and credits under each of the paragraphs referenced therein are disclosed on the face of the periodic statement. Concern had been expressed that the section, as amended by the September 19 publication, requires disclosure of a total of all purchases or other loan transactions and finance charges on the face of the periodic statement. This was not the Board's intent.

3. The proposal amends § 226.13(i) by adding a footnote to paragraph 4 specifically permitting a creditor to report disputed amounts under § 226.13(i) as "in dispute" but not as "delinquent." This is consistent with the treatment of credit reports under § 226.14 and avoids the implication that a creditor must have a dual credit reporting system which would have to reflect the different kinds of disputes that may be raised.

The Board invites written comment on the proposed amendments. In particular, the Board would like to receive comments or information concerning the following:

1. The impact of the proposed changes to the regulation on problems that some consumers and creditors may have regarding transactions which occur in foreign countries.

2. Identification of any special or unusual types of transactions which may present problems of disclosure under the proposed regulations and which should be addressed at this time.

3. The problems of creditors in describing on periodic statements property or services obtained from sellers providing a homogeneous merchandise line or property or services which are difficult to describe by departmental category, because purchases are made at a central cash register location or for other reasons. Any proposed solutions to those problems should be included.

4. The problems or suggestions consumers may have regarding identifying transactions on their open end credit account statements in general.

The deadline for receipt of written comments on the proposed amendments is June 18, 1976. Comments should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Comments should include a reference to Docket No. R-0036.

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

1. To fully implement § 411, Title IV, Pub. L. 93-495, § 226.7(b)(1)(ii) would provide, and a new § 226.7(k) would be added, as follows:

SECTION 226.7—OPEN END CREDIT
ACCOUNTS—SPECIFIC DISCLOSURES

* * *

(b) Periodic statements required. (1)***

* * *

(ii) The information required by § 226.7(k).

* * *

(k) Identification of transactions. (1) Each extension of credit for which an actual copy of the document evidencing the credit transaction (which does not include a so-called "facsimile draft") accompanies the

periodic statement on which the transaction is first reflected shall be identified by disclosing on the periodic statement, or on accompanying statement(s) or document(s), the amount of the transaction and either the date of the transaction or the date the transaction is debited to the customer's account.

(2) Each extension of credit for which an actual copy of the document evidencing the credit transaction does not accompany the periodic statement shall be identified by disclosing on or with the periodic statement on which that credit transaction is first reflected at least:

(i) The date on which the transaction took place,^{9b} and the amount of the transaction; and

(ii) A brief identification^{9c} of any property or services purchased for transactions in which the creditor and the seller are the same person or related persons,^{9d} or the seller's name (as disclosed on the document evidencing the transaction provided to the customer) and the address (city and State or foreign country, using understandable and generally accepted abbreviations if the creditor so desires) where the transaction took place for transactions in which the creditor and the seller are not the same person or related persons.

(3) Notwithstanding the provisions of §§ 226.7(k)(1) and 226.7(k)(2), transactions involving nonsale credit, such as a cash advance or an overdraft or other checking plan transactions, shall be identified on or with the periodic statement upon which the transaction is first reflected by providing at least:

(i) 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

(ii) A description of the transaction, which characterizes it as a cash advance, loan, overdraft loan, or other designation as appropriate, and which includes the amount of the transaction and the date of the transaction^{9e} or the date which appears on the document or

^{9b} With respect to transactions which are not billed in full on any single statement but for which precomputed instalments 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.

^{9c} For purposes of this paragraph, designations such as "merchandise" or "miscellaneous" shall not be considered sufficient identification of property 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.

^{9d} For purposes of paragraph 226.7(k) a person is not related to the creditor simply because the person and the creditor have an agreement or contract pursuant to which the person 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 paragraph 226.7(k). 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 § 226.7(k).

^{9e} 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.

instrument evidencing the transaction (if the customer signed the document or instrument).

(4)(i) For any transaction for which any of the information required to be disclosed under §§ 226.7(k)(1), (2), or (3), as applicable, is not available the creditor shall disclose that information which is available and shall:

(A) Without affecting the customer's ability to make inquiry under § 226.14, disclose an identifying number or symbol which appears on the document evidencing the transaction given to or used by the customer at the time of or in connection with the transaction, which identifying number or symbol need only be disclosed once for any transaction; or

(B) Treat the absence of the information required by §§ 226.7(k)(1), (2), or (3), as applicable, as a billing error, as provided in §§ 226.2(j) and 226.14. If a customer submits a proper written notification of a billing error relating to the absence of such information and the information was, in fact, not disclosed as required by §§ 226.7(k)(1), (2), or (3), as applicable, the transaction shall be treated as an erroneous billing under § 226.14(b) and documentary evidence of the transaction must be furnished whether or not the customer requests it (despite the provisions of §§ 226.2(j) and 226.14(a)(2)), within the time period allowed in § 226.14 for resolution of a billing error, without charge to the customer.

(ii) The provisions of § 226.7(k)(4)(i) shall not relieve the creditor of responsibility for maintaining procedures reasonably adapted to enable the creditor to obtain the primarily required information at the time the amount of the transaction is transmitted to the creditor for debiting to the customer's account.

(5) In any case in which a transaction occurs other than in a State:

(i) The creditor may disclose the date of debiting the amount of the transaction to the open end credit account in place of any other date required elsewhere in § 226.7(k); and

(ii) The provisions of § 226.7(k)(4)(i)(B) shall apply and the creditor need not maintain procedures reasonably adapted to procure the information otherwise required by § 226.7(k).

(6) In complying with the disclosure requirements of paragraphs 226.7(k)(1), (2), (3), or (4):

(i) The creditor may rely upon and disclose the information supplied by the seller with respect to the date and amount of transactions for which the creditor and the seller are not the same person or related persons.

(ii) With regard to disclosing the seller's address where the transaction took place for purposes of § 226.7(k)(2)(ii), the creditor may omit the address or provide an address or other suitable designation which, in the creditor's opinion, will assist the customer in identifying the transaction or in relating the transaction, as reflected, to a document(s) evidencing the transaction previously furnished when no meaningful address is readily available because the transaction took place at a location which is not fixed (for example, aboard a public conveyance), or in the customer's home (in which case "customer's home" or a similar description is suf-

ficient) or because the transaction was the result of a mail or telephone order (in which case "telephone order," "mail order," or similar description is sufficient); provided that any such disclosure made or omitted shall not be for the purpose of circumvention or evasion of this Part.

(iii)(A) If the seller's name as required by § 226.7(k)(2)(ii) is alphabetically abbreviated or otherwise incomplete on the document evidencing the transaction, the creditor may provide a more complete spelling of the seller's name.

(B) If the seller's name as required by § 226.7(k)(2)(ii) is encoded other than by alphabetic abbreviation (for example, by number or symbol not meaningful to the customer) on the document evidencing the transaction, the creditor must disclose the encoded symbol as well as a more complete designation of the seller's name in terms understandable by customers.

(7)(i) As an alternative to the provisions of §§ 226.7(k)(1) through 226.7(k)(5), from [date to be supplied upon completion of amendatory process] until October 28, 1977: (A) the creditor may disclose the date of debiting the amount of the transaction to the customer's account for the date of the transaction or the date placed on the document evidencing a credit transaction if, due to operational limitations, either such date is unavailable to the creditor for purposes of billing; and the creditor may disclose an identifying number or symbol which appears on the document evidencing the credit transaction given to or used by the customer at the time of or in connection with the credit transaction in place of the seller's name and address or description of the property or services purchased if, due to operational limitations, such information is unavailable to the creditor for purposes of billing; or (B) the creditor may identify the transaction by disclosing such information as is reasonably available and treating the absence of the information required by §§ 226.7(k)(1), (2), or (3), as applicable, as a billing error, as provided in §§ 226.2(j) and 226.14. If a customer submits a proper written notification of a billing error relating to the absence of such information and the information was, in fact, not disclosed as required by §§ 226.7(k)(1), (2), or (3), as applicable, the transaction shall be treated as an erroneous billing under § 226.14(b) and documentary evidence of the transaction must be furnished whether or not the customer requests it (despite the provisions of §§ 226.2(j) and 226.14(a)(2)), within the time period allowed in § 226.14 for resolution of a billing error, without charge to the customer.

(ii) The effective date of §§ 226.7(k)(1) through 226.7(k)(6)(i), inclusive, is [date to be supplied upon completion of amendatory process]. Until [date to be supplied upon completion of amendatory process], the creditor shall disclose the date of each extension of credit or the date such extension of credit is debited to the account during the billing cycle, the amount of such extension of credit and, unless previously furnished, a brief identification^{9f} of any goods or services purchased or the extension of credit.

^{9f} Identification may be made on an accompanying slip or by symbol relating to an identification list printed on the statement.

2. Section 226.7(b)(1)(iii) would be amended by the deletion of the period at the end thereof and the addition of the following: " , except that the date of crediting to the customer's account need not be provided if a delay in crediting does not result in the imposition of any finance charges, late payment charges, or other charges for that billing cycle or a later billing cycle."

3. Section 226.7(c)(1) would be amended to read:

(c) **Location of disclosures.*****

(1) The information required to be disclosed under paragraph (b)(1)(ii) of this section and itemization of the amounts and dates required to be 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 the respective debits and credits under each of those paragraphs are disclosed on the face of the periodic statement.

4. Section 226.13(i)(4) would be amended to add a footnote as follows:

SECTION 226.13—CREDIT CARD
TRANSACTIONS—
SPECIAL REQUIREMENTS

* * *

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

* * *

(4) If the cardholder refuses to pay the amount of credit outstanding with respect to the property or services which gave rise to the claim(s) or defense(s) under this section, the creditor may not report to any person that particular amount as delinquent until the dispute is settled or judgment is rendered.^{15a}

^{15a} Nothing in this paragraph prohibits a creditor from reporting the disputed amount or account as being in dispute.

By separate order of even date the Board has proposed amendments to § 226.7(b)(1)(ii) of Regulation Z for comment. These proposed amendments, should they be finally adopted, would change and clarify the requirements for identifying transactions reflected on open end credit periodic statements.

Because of the uncertainty which may be engendered by the pendency of that amendatory process and to provide enough time to receive and evaluate public comment on that proposal, the July 1, 1976, beginning date for the transition period provided in § 226.7(b)(1)(ii)(E)(2) and the ending date for the transition period provided in § 226.7(b)(1)(ii)(E)(3) must be suspended. This is done herein without repealing or rescinding the entire § 226.7(b)(1)(ii). Consequently, the requirements currently imposed by § 226.7(b)(1)(ii)(E)(3) will remain in effect until dates for the transition periods can be established in accordance with the outcome of the amendatory processes regarding the proposed changes to § 226.7(b)(1)(ii). The new beginning date for the transition period shall be not later than September 1, 1976, and may be embodied in a corresponding section of any final regulation adopted pursuant to the proposals to amend this section.

In determining the new changeover date from one transition period to the other, the Board will take into account the increased flexibility which may be added by the proposed amendments when determining the lead time necessary for compliance.

In consideration of the foregoing and pursuant to the authority granted in 15 U.S.C. § 1604 (1970) the Board amends Regulation Z, 12 C.F.R. Part 226 as follows:

Section 226.7(b)(1)(ii) as presently written is hereby amended by the suspension of the July 1, 1976, date for the transition periods provided in paragraphs (E)(2) and (E)(3) thereof; provided that such suspension shall end not later than September 1, 1976.