

**FEDERAL RESERVE BANK
OF NEW YORK**

[Circular No. 7915]
July 13, 1976

CONSUMER CREDIT

Authorization for Staff Interpretations of Regulations B and Z

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

Following is the text of a statement issued June 28 by the Board of Governors of the Federal Reserve System:

The Board of Governors of the Federal Reserve System today amended its regulations to implement recent changes in consumer credit protection laws intended to make compliance easier, especially for small creditors.

The action is effective July 30, 1976.

The Board amended its Regulation B (Equal Credit Opportunity) and Regulation Z (Truth in Lending) to authorize certain members of its staff to issue interpretations of the regulations. Creditors acting in conformity with these interpretations cannot be held liable for violating the regulations or the laws that the regulations implement.

Congress recently amended the Truth in Lending and Equal Credit Opportunity Acts giving the Board authority to permit such interpretations by its staff, in response to concerns expressed by creditors (especially small creditors, with limited access to legal counsel) about the difficulty of complying with the many complex requirements of the Acts.

The official staff interpretations will clarify technical points in the Board's Regulations B and Z that do not have broad policy implications. The staff interpretations will be published in the *Federal Register*.

The Board simultaneously established procedures for Board review of staff interpretations upon formal request by interested parties.

In submitting the amendments for publication in the *Federal Register*, the Board of Governors issued the following additional statement:

Pursuant to §706(e) of the Equal Credit Opportunity Act as amended by P. L. 94-239 and §130(f) of the Truth in Lending Act as amended by P. L. 94-222 relating to the issuance of official staff interpretations, the Board of Governors of the Federal Reserve System has amended Regulations B and Z to designate the Director and other officials of the Office of Saver and Consumer Affairs as officials "duly authorized" to issue, at their discretion, interpretations of Regulations B and Z.

The purpose of this designation is to implement the recent legislation which would provide a defense against liability under §§112 and 130 of the Truth in Lending Act and §706 of the Equal Credit Opportunity Act to creditors who act in good faith in conformity with an interpretation or approval issued by a duly authorized official or employee of the Federal Reserve System. The Board expects that creditor compliance with the Acts will be enhanced, thereby reducing litigation over technical violations, as a result of the issuance of official staff interpretations.

Under the designation there will be three categories of regulatory interpretations: official Board interpretations, official staff interpretations and unofficial staff interpretations. Board interpretations will be issued only on potentially controversial issues of general applicability which involve substantial ambiguities in the regulations and raise significant policy questions.

Official staff interpretations will be issued only in those cases which in the opinion of the Director and other officials of the Office of Saver and Consumer Affairs require clarification of technical ambiguities in the regulations or where the issues presented are less sweeping or have no significant policy implications.

Unofficial staff interpretations would be available where the protection of the Act is neither requested nor required, or where a speedy response is considered more important than such protection.

The Board will continue to exercise discretion to determine what is or is not a proper subject for an official Board interpretation. The Board will, upon formal request of interested parties, reconsider positions taken in staff interpretations. While the requirements of 5 U.S.C. §553 pertaining to notice and public par-

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ticipation do not apply to interpretations, the Board may request public comment on certain interpretations which are deemed to present controversial or significant policy questions. The Board believes that such procedures will result in a more informed decision-making process in certain significant cases.

The Board believes that staff review and approval of individual forms would be impracticable in light of the inordinate burden on Board resources and the complexity of relating numerous forms to varied methods of operation. Consequently, the Board has specifically excluded approval of particular creditors' forms from the authority of the designated officials, although this does not preclude approval of standardized examples of forms.

This authorization has no retroactive effect on previously issued staff opinion letters. However, the designated officials may in the future give official effect to specific previously stated staff opinions.

Official Board and staff interpretations will be published in the *Federal Register*. Identifying details will be deleted from official staff interpretations prior to publication, but such identifying details subsequently will be made available for public inspection.

The requirements of 5 U.S.C. §553 with respect to notice and public participation were not followed in connection with these amendments because they are rules of agency organization and are exempt from such procedures under 5 U.S.C. §553(b).

Enclosed is a copy of the amendments, effective July 30, 1976, to Regulations B and Z. Inquiries thereon may be directed to our Bank Regulations Department. Additional copies of the enclosures will be furnished upon request.

PAUL A. VOLCKER,
President.

Board of Governors of the Federal Reserve System

EQUAL CREDIT OPPORTUNITY

AMENDMENT TO REGULATION B

Effective July 30, 1976, §202.13 has been amended by revising paragraph (b), redesignating paragraph (c) as paragraph (d), and adding a new paragraph (c). Paragraphs (b) and (c) of §202.13 will read as follows:

SECTION 202.13—PENALTIES AND LIABILITIES

* * *

(b) Section 706(e) relieves a creditor from civil liability resulting from any act done or omitted in good faith in conformity with any rule, regulation or interpretation by the Board of Governors of the Federal Reserve System, or with any interpretation or approval issued by a duly authorized official or employee of the Federal Reserve System, notwithstanding that after such act or omission has occurred, such rule, regulation or interpretation is amended, rescinded or otherwise determined to be invalid for any reason.

(c)(1) Any request for formal Board interpretation or official staff interpretation of Regulation B must be addressed to the Director of the Office of Saver and Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Each request for interpretation must contain a complete statement, signed by the person making the request or a duly authorized agent, of all relevant facts of the transaction or credit arrangement relating to the request. True copies of all pertinent documents must be submitted with the request. The relevance of such documents must, however, be set forth in the request and the documents must not merely be incorporated by reference. The request must contain an analysis of the bearing of the facts on the issues and specifying the pertinent provisions of the statute and regulation. Within fifteen business days of receipt of the request, a substantive response will be sent to the person making the request or an acknowledgement will be sent which sets a reasonable time within which a substantive response will be given.

(2) Any request for reconsideration of an

official staff interpretation of Regulation B must be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, within thirty days of the publication of such interpretation in the *Federal Register*. Each request for reconsideration must contain a statement setting forth in full the reasons why the person making the request believes reconsideration would be appropriate, and must specify and discuss the applicability of the relevant facts, statute and regulations. Within fifteen business days of receipt of such request for reconsideration, a response granting or denying the request will be sent to the person making the request, or an acknowledgement will be sent which sets a reasonable time within which such response will be given.

(3) Pursuant to §706(e) of the Act, the Board has designated the Director and other officials of the Office of Saver and Consumer Affairs as officials "duly authorized" to issue, at their discretion, official staff interpretations of this Part. This designation shall not be interpreted to include authority to approve particular creditors' forms in any manner.

(4) The type of interpretation issued will be determined by the Board and the designated officials by the following criteria:

(i) Official Board interpretations will be issued upon those requests which involve potentially controversial issues of general applicability dealing with substantial ambiguities in this Part and which raise significant policy questions.

(ii) Official staff interpretations will be issued upon those requests which, in the opinion of the designated officials, require clarification of technical ambiguities in this Part or which have no significant policy implications.

(iii) Unofficial staff interpretations will be issued where the protection of §706(e) of the Act is neither requested nor required, or where time strictures require a rapid response.

For this Regulation to be complete, retain:

- 1) Regulation B pamphlet, effective October 28, 1975.
- 2) Amendments effective May 13, 1976 and June 30, 1976.
- 3) This slip sheet.

PRINTED IN NEW YORK

[Enc. Cir. No. 7915]

Board of Governors of the Federal Reserve System

TRUTH IN LENDING

AMENDMENT TO REGULATION Z

Effective July 30, 1976, paragraph (c) of §226.1 is revised, and paragraph (d) of that section is added, to read as follows:

SECTION 226.1—AUTHORITY, SCOPE, PURPOSE, ETC.

* * *

(c) **Penalties and liabilities.** Section 112 of the Act provides criminal liability for willful and knowing failure to comply with any requirement imposed under the Act and this Part. Section 134 provides for criminal liability for certain fraudulent activities related to credit cards. Section 130 provides for civil liability in individual or class actions for any creditor who fails to comply with any requirement imposed under Chapter 2 or Chapter 4 of the Act and the corresponding provisions of this Part. Section 130 also provides creditors a defense against civil and criminal liability for any act done or omitted in good faith in conformity with the provisions of this Part or any interpretation thereof by the Board, or with any interpretations or approvals issued by a duly authorized official or employee of the Federal Reserve System, notwithstanding that after such act or omission has occurred, such rule, regulation or interpretation is amended, rescinded or otherwise determined to be invalid for any reason. Section 130 further provides that a multiple failure to disclose in connection with a single account shall permit but a single recovery. Section 115 provides for civil liability for an assignee of an original creditor where the original creditor has violated the disclosure requirements and such violation is apparent on the face of the instrument assigned, unless the assignment is involuntary. Pursuant to §108 of the Act, violations of the Act or this Part constitute violations of other Federal laws which may provide further penalties.

(d)(1) Any request for formal Board interpretation or official staff interpretation of Regu-

lation Z must be addressed to the Director of the Office of Saver and Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Each request for interpretation must contain a complete statement, signed by the person making the request or a duly authorized agent, of all relevant facts of the transaction or credit arrangement relating to the request. True copies of all pertinent documents must be submitted with the request. The relevance of such documents must, however, be set forth in the request and the documents must not merely be incorporated by reference. The request must contain an analysis of the bearing of the facts on the issues and it must specify the pertinent provisions of the statute and regulation. Within fifteen business days of receipt of the request, a substantive response will be sent to the person making the request or an acknowledgement will be sent which sets a reasonable time within which a substantive response will be given.

(2) Any request for reconsideration of an official staff interpretation of Regulation Z must be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, within thirty days of the publication of such interpretation in the *Federal Register*. Each request for reconsideration must contain a statement setting forth in full the reasons why the person making the request believes reconsideration would be appropriate, and must specify and discuss the applicability of the relevant facts, statute and regulations. Within fifteen business days of receipt of such request for reconsideration, a response granting or denying the request will be sent to the person making the request, or an acknowledgement will be sent which sets a reasonable time within which such response will be given.

(3) **Designation of official to issue interpretations.** Pursuant to §130(f) of the Act, the

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- 1) Regulation Z pamphlet, effective October 28, 1975.
- 2) This slip sheet.

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Board has designated the Director and other officials of the Office of Saver and Consumer Affairs as officials "duly authorized" to issue, at their discretion, official staff interpretations of this Part. This designation shall not be interpreted to include authority to approve particular creditors' forms in any manner.

(4) The type of interpretation issued will be determined by the Board and the designated officials by the following criteria:

(i) Official Board interpretations will be issued upon those requests which involve poten-

tially controversial issues of general applicability dealing with substantial ambiguities in this Part and which raise significant policy questions.

(ii) Official staff interpretations will be issued upon those requests which, in the opinion of the designated officials, require clarification of technical ambiguities in this Part or which have no significant policy implications.

(iii) Unofficial staff interpretations will be issued where the protection of §130(f) of the Act is neither requested nor required, or where time strictures require a rapid response.