

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 7952]
September 13, 1976]

AMENDMENTS TO REGULATION Z

Identification of Transactions; Miscellaneous Amendments

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

Following is the text of a statement issued August 31 by the Board of Governors of the Federal Reserve System:

The Board of Governors of the Federal Reserve System today announced adoption of changes in its Regulation Z (Truth in Lending) for identifying transactions charged to consumers using open-end charge accounts such as charges on credit card billing statements, or department store accounts.

The action is effective immediately. The amendments to Regulation Z, as adopted, differed only slightly from proposals published for comment May 12, 1976.

The portions of Regulation Z amended by the Board were originally adopted effective last October 28, together with other amendments to the regulation implementing the separate but related Fair Credit Billing Act. The original identification-of-transaction rules would have required that, effective July 1, 1976, when other information was not available to identify a sale, a number or symbol (for instance, a voucher number) must appear on the billing statement. The May 12 proposal to change this rule suspended the July 1 deadline.

As adopted, this provision is amended as follows:

—In a two-party transaction (generally involving only the customer and the merchant) if the seller cannot provide a description of the property or services otherwise required to identify the transaction on a billing statement, a voucher number may be used instead.

—If, however, the customer cannot identify the transaction from the voucher number, the creditor would be required to treat any resulting inquiry from the customer as a billing error. This would trigger the billing error settlement procedures under the Fair Credit Billing Act, including: no finance charge on the transaction until the matter is settled, an additional period free of finance charges if the creditor normally allows such a period after billing, and provision of a copy of the sales voucher to the customer without charge.

Creditors in three-party transactions (involving the customer, merchant and credit card issuer other than the merchant) would have had this alternative available to them under the May 12 proposals, but not under the amendment as adopted.

The amendments 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 Fair Credit Billing Act billing error procedures.

—Provide that disclosure of a seller's name in the same way as it appears on a sales voucher is adequate identification of the seller.

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

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

On September 19, 1975, the Board published amendments to Regulation Z in the *Federal Register* setting forth disclosure requirements for identifying transactions reflected on open end credit account periodic statements and for other purposes (40 FR 4320). Subsequently, questions were raised regarding these requirements and on May 18, 1976, the Board published for comment in the *Federal Register* (41 FR 20421) proposed amendments intended to clarify certain requirements, add flexibility as necessary, and insure that consumers would be able to procure complete information regarding their open end credit accounts quickly and without undue expense.

Comments were received and analyzed during the comment period, which ended June 18. On the basis of those comments and its own analysis the Board has adopted the regulations which follow.

Identification of Transactions

Under these amendments the requirements for identifying transactions on open end credit periodic statements are changed in the following ways:

1. To enhance the clarity of the text, a new section 226.7(k) is added to the Regulation. This new section would contain the requirements for identifying transactions. Section 226.7(b)(1)(ii), which formerly contained the identification-of-transactions requirements, would merely reference §226.7(k) and require that the disclosures set forth therein be made on or with periodic statements.

2. As adopted in the September 19 publication, the Regulation required the creditor to 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. Because of questions that were raised regarding the usefulness of the number or symbol to the consumer and regarding the cost to creditors of instituting a capability to capture the number or symbol for potential use in all transactions when it may, in fact, be needed for only a few, the Board proposed in its May 18 publication to permit a creditor to provide an identifying number or symbol when any of the primarily required information is not available or, alternatively, to 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, under the proposal of May 18, the creditor would have been required to provide documentary evidence of the transaction without charge. These alternatives were to be available to those creditors that have procedures in place adapted to provide the primarily required information.

As finally adopted herein a creditor may not supply merely a voucher number when, despite the maintenance of procedures reasonably adapted to procure the primarily required information, the creditor fails to obtain it. In such cases these amendments require the creditor to treat any inquiry as a billing error and an erroneous billing and, unless previously furnished with a periodic statement, provide copies of documentary evidence of the transaction free of charge. Providing an identifying number or symbol would, of course, be permissible. Further, creditors that use "descriptive" billing systems are required to substitute the date of debiting the amount of a transaction to the account for the primarily required date whenever the primarily required date is not available and treat any inquiry regarding the absence of the date as a billing error and an erroneous billing under the procedures discussed previously herein. Previously, the regulations and proposals for comment had required that the identifying number or symbol be substituted whenever the primarily required date was not available. It seems that the debiting date is a more useful substitute for the primarily required date.

This addition to the Regulation is designed to provide an alternative to the requirement that an identifying number or symbol be provided in all cases when the primarily required information is not available. It is designed to insure a better and more complete description to the customer without financial disadvantage, to provide creditors with an alternative to the costly requirement of developing the additional capability to provide a voucher number for all transactions when their systems are designed to provide the primary information, and to supply an incentive for the creditor to provide a complete description in the first instance. As noted above, under this alternative the creditor remains obligated to maintain procedures reasonably adapted to procure the primarily required information.

3. In the May 18 proposal, the Board asked for comment regarding difficulties, and possible solutions to those difficulties, which creditors may have regarding describing property or services purchased in transactions at merchant establishments which sell a single homogeneous line of merchandise or which use a central checkout facility. A significant proportion of the comments received addressed this issue, pointing out that in these two-party situations it is often inconvenient to the customer and burdensome and time consuming to the creditor to itemize the property or services purchased in such transactions. The regulation is, therefore, amended herein to provide that a two-party creditor may freely substitute a voucher number or other identifying symbol which appears on the document evidencing the transaction for the description of property or services. However, if this alternative is used customer inquiries must be treated as billing errors and erroneous billings under §226.14 and, if a proper written notification of a billing error is received regarding the description of the goods or services, the creditor must provide the customer with documentary evidence of the transaction. This is meant to be a generally available alternative which a creditor may use to program its billing system in the first instance.

This alternative will allow the creditor to evaluate and make its own market judgment as to whether to provide the more complete description and avoid, to a large extent, the billing error resolution process which may otherwise result from using a voucher number system or, alternatively, to institute the voucher number system and face the potential expense of answering the inquiries which may be engendered thereby. This solution to the problem was suggested in some of the comments. As discussed further in a later paragraph herein, a transition period is provided to enable creditors to design systems which will comply with the ultimate requirements of the Act or the Regulation by October 28, 1977. During this transition period some experience may be gained using the voucher number alternative and, to the extent that it may be representative, may aid creditors in determining whether this type of system should be used.

4. This amendment provides an alternative similar to that discussed in paragraph 2 for the transition period which lasts until October 28, 1977, provided to enable creditors to adjust forms, procedures, and

computer programs. During the transition phase these amendments allow the creditor to provide that information which is available while requiring that any inquiry regarding the identification of the transaction be treated as a billing error and as an erroneous billing when the primarily required information is not available. The amendments also retain the alternative of supplying the identifying number or symbol when primarily required information regarding the merchant's name and address or description of property or services is not available during the transition period. Further, during the transition period the date of debiting an amount to the account may be substituted for the otherwise required dates.

The language regarding the transition period for compliance, which ends October 28, 1977, has been changed from the September 19 publication in two respects. First, the language has been changed to further clarify the fact that the alternatives provided in the 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, during this transition phase.

Second, because of the importance and complexities of the issues involved and the need for interested parties to fully evaluate the requirements of this Regulation, the Board has extended the beginning date of the second transition period toward compliance with the ultimate requirements of the regulation to October 28, 1976. The Board believes this to be adequate time, given the earlier rulemaking proceedings on this subject, for interested parties to adapt their procedures to the rule. Because of the need for this added transition period as reflected by the issues raised by the comments, the Board herein rescinds its earlier suspension of the transition period. No requirements other than those embodied in earlier rulemaking proceedings have been imposed during the transition periods.

5. These amendments provide guidance regarding the disclosure of an address for certain types of three-party 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 (for example, with a transaction that occurs by telephone, mail order, in the customer's home, or at a nonfixed location, such as aboard a public conveyance), the amendments provide some flexibility. They permit the creditor to (a) omit the address in cases where supplying an address would, 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 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, however.

6. Guidance for disclosing the seller's name for three-party transactions is provided. Previously, the creditor was required to disclose a seller's name which appeared on the sales voucher. The May 18 publication provided that if the name on the voucher was alphabetically abbreviated a more complete spelling could be provided. It further provided that if the name was encoded on the sales voucher in a manner not understandable to customers the encoded symbol and a more complete spelling of the seller's name must be provided on or with the periodic statement. This provision was designed to provide certainty in the method of disclosure and to provide a description which a customer can verify and understand.

Some creditors commented that the Regulation needed more flexibility in this respect and that they should be permitted to provide a seller's name other than by reference to what appears on the sales voucher. The Regulation as finally adopted provides that disclosure of a seller's name which appears on a sales voucher (or a more complete spelling of such a name if it has been alphabetically abbreviated) is adequate. However, the Regulation no longer *requires* that this be the name disclosed. Other names may be adequate for these purposes as well. The Regulation, therefore, provides the certainty that some creditors desire and the flexibility others feel they need.

7. Footnote 9b (footnote 7c as it appeared in the September 19 amendments) has been positioned within the Regulation to indicate that all references to "the same person or related persons" in §226.7(k) are governed by the guidelines set forth in that footnote.

8. Section 226.7(k)(1) regarding "country club" billing has been changed from the May 18 publication by the addition of the words "at the creditor's option" immediately preceding the words "either the date of the transaction or the date the transaction is debited to the customer's account." This is intended to allow "country club" billers to program their systems and to choose between providing the date of transaction or the date of the debiting. Whichever method they choose for any particular types of transactions should be consistent. Should the date which they choose to disclose be unavailable despite procedures instituted to capture that date, the alternative to treat the absence of the information as a billing error and an erroneous billing, as discussed earlier, would be available to them.

9. Recognizing the difficulties of procuring the primarily required information for transactions in foreign countries, the amendment allows the creditor to (a) disclose the date on which the amount of the transaction is debited to the customer's account instead of any other required date and (b) use the error resolution procedure discussed in paragraph 2 in all cases without the obligation to maintain the 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

The miscellaneous amendments as proposed in the May 18 publication are herein adopted.

1. The proposal amends §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 adopted 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, are not changed or suspended.

2. The amendment to §226.7(c)(1) is intended to clarify the Board's intent in its publication of September 19, 1975. The language of §226.7(c)(1) permits certain information to be disclosed other than on the face of the 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 has been expressed that the section, as amended by the September 19 publication, required disclosure of the 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 amendment to §226.13(i) adds a footnote to paragraph 4 specifically permitting the 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 creditors must have a dual credit reporting system which would have to reflect the different kinds of disputes that may be raised.

Enclosed is a copy of the amendments to Regulation Z. Questions thereon may be directed to our Bank Regulations Department.

Additional copies of the amendments will be furnished upon request.

PAUL A. VOLCKER,
President.

Board of Governors of the Federal Reserve System

TRUTH IN LENDING

AMENDMENTS TO REGULATION Z

On August 27, 1976, Regulation Z was amended as follows:

1. To fully implement §411, Title IV, Pub. L. 93-495, subparagraph (ii) of §226.7(b)(1) will be amended, and a new paragraph (k) of §226.7 will be added, to read 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, at the creditor's option, 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) For transactions in which the creditor and the seller are the same person or related persons,^{9b} the amount of the transaction, the date on which the transaction took place,^{9c} and a brief identification^{9d} of any property or services purchased or an identifying number or symbol reasonably unique for that transaction with that creditor which appears on the document evidencing the transaction given to the customer; provided, that, if the creditor dis-

closes such an identifying number or symbol, the absence of the identification of the property or services otherwise required must be treated as a billing error under §§226.2(j) and 226.14 and as an erroneous billing under §226.14(b) if the customer submits a proper written notice of a billing error relating to such absence, and the creditor must provide documentary evidence of the transaction to the customer free of charge whether or not the customer requests it.

(ii) For transactions in which the seller and the creditor are not the same person or related persons, the amount of the transaction, the date on which the transaction took place, and the seller's name and the address (city and State or foreign country, using understandable and generally accepted abbreviations if the creditor desires) where the transaction took place.

(3) Notwithstanding the provisions of §§226.7(k)(1) and 226.7(k)(2), transactions involving nonsale credit, such as a cash advance

^{9b} For purposes of §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 §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).

^{9c} 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 §226.7(k) shall be deemed to be the date on which the amount is debited to the customer's account.

^{9d} For purposes of §226.7(k), 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.

For this Regulation to be complete, retain:

- 1) Regulation Z pamphlet, effective October 28, 1975.
- 2) Amendments effective July 30 and August 6, 1976.
- 3) This slip sheet.

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

(4) If, despite the maintenance of procedures reasonably adapted to procure the information required by §§226.7(k)(1), (2), and (3) such information is unavailable to the creditor, the date of debiting the amount to the account shall be substituted for the date otherwise required (except that the date of debiting need not be provided if an actual copy of the document evidencing the transaction is provided with the periodic statement) and the creditor shall disclose as much of the other required information as is available and omit any information which is not available, provided, that, if the customer submits a proper written notification of a billing error relating to the absence of the primarily required date or other information, such absence shall be treated as a billing error under §§226.2(j) and 226.14 and as an erroneous billing under §226.14(b) and, unless previously furnished with a periodic statement, documentary evidence of the transaction must be furnished whether or not the customer requests it, within the time period allowed in §226.14 for resolution of a billing error, without charge to the customer.

(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) shall apply and the creditor need not maintain pro-

^{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.

cedures reasonably adapted to procure the information otherwise required by §226.7(k).

(6) In complying with the disclosure requirements of §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 sufficient) 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) With regard to disclosing the seller's name for purposes of §226.7(k)(2)(ii), disclosure of a seller's name which appears on the document evidencing the transaction (or a more complete spelling of such a name if the name is alphabetically abbreviated on the document evidencing the transaction) is sufficient for purposes of §226.7(k)(2)(ii).

(7)(i) As an alternative to the provisions of §§226.7(k)(1) through 226.7(k)(5), from October 28, 1976, 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 infor-

mation 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)(7)(i), inclusive, is October 28, 1976. Until October 28, 1976, 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) is 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) is amended to read as follows:

(c) * * *

(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) is 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.

5. Section 226.7(b)(1)(ii), as adopted by the Board on September 15, 1975, and published in the *Federal Register* on September 19, 1975 (40 FR 43200) is hereby rescinded. The suspension of the effective date of the transition period as adopted by the Board on May 7, 1976, and published in the *Federal Register* on May 18, 1976 (41 FR 20395) is hereby rescinded.