

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 8099]
April 26, 1977]

PROPOSED INTERPRETATION OF REGULATION Z

Requirements Applicable to Credit Card Issuers
That Bill on a Transaction-by-Transaction Basis

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

Following is the text of a statement issued April 13 by the Board of Governors of the Federal Reserve System:

The Board of Governors of the Federal Reserve System today proposed an interpretation of Regulation Z (Truth in Lending) affecting credit card issuers which bill customers in full on a transaction-by-transaction basis and impose no finance charges.

The Board will receive comment through May 16, 1977.

Most credit cards extend open-end credit, such as the credit available with a bank credit card, or a department store card, and customers are billed, usually monthly, for their purchases. A balance may be left after the customer makes a payment. Certain credit card issuers, however, such as some automobile rental companies, require payment in full for each transaction, and send bills only when there has been a transaction. No finance charges are imposed.

The proposal would permit such credit card issuers to continue sending bills to their customers on a transaction-by-transaction basis, and would not require them to send out periodic bills. The proposal would also require such card issuers to make only such disclosures, and conform only to other requirements of Regulation Z, that are consistent with and applicable to their billing systems.

Printed below is an excerpt from the *Federal Register* of April 20, 1977, containing the text of the proposed interpretation and an explanatory notice by the Board of Governors regarding the proposal. Comments on the proposal should be submitted by May 16 and may be sent to our Consumer Affairs Division.

PAUL A. VOLCKER,
President.

[12 CFR Part 226]

[Reg. Z; Docket No. R-0094]

APPLICATION OF CERTAIN REQUIREMENTS TO CREDIT CARD PLANS INVOLVING TRANSACTION-BY-TRANSACTION BILLING AND THE IMPOSITION OF NO FINANCE CHARGE

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: This proposed interpretation of Regulation Z indicates the provisions applicable to certain two-party credit card plans in connection with which the card issuers bill their customers in full on a transaction-by-transaction basis, rather than on an account basis using periodic statements, and in connection with which no finance charge is imposed. These credit card issuers are subject to the Act and Regulation Z simply because the Fair Credit Billing Act amendments adjusted the definition of "creditor" to impose certain require-

ments upon all card issuers even though those requirements are generally applicable only to open end creditors. The Board is directed to apply those requirements to such card issuers "to the extent appropriate." This proposed interpretation is designed to indicate which of the requirements are appropriate for such card issuers.

DATE: Comments must be received on or before May 16, 1977.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material submitted should include the docket number R-0094.

FOR FURTHER INFORMATION CONTACT:

D. Edwin Schmelzer, Chief, Fair Credit Practices Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2412).

SUPPLEMENTARY INFORMATION: Section 103(f) of the Truth in Lending Act, as implemented by § 226.2 (s) and (x) of Regulation Z, requires all credit card issuers to comply with certain provisions of the Act and Regulation Z even though those provisions are generally applicable only to creditors of open end credit plans. There are certain two-party credit cards which are issued in connection with which no finance charge is imposed and billing for payment in full is accomplished on a transaction-by-transaction basis, rather than on an account basis using periodic statements. This proposed interpretation is designed to indicate, as permitted by section 103(f) of the Act, the Board's opinion regarding which sections of the regulation are applicable to such credit card programs.

The interpretation would permit such card issuers to continue sending bills in the form of invoices or other statements to each customer for each transaction in which the card is used. It would not require that the card issuer convert to

using a periodic billing statement which involves the maintenance of accounts for each customer.

The interpretation would require such card issuers, prior to the first transaction in which the card is used, to disclose any charges (other than a finance charge) which relate to the deferral of payment by use of the cards, such as a late payment or delinquency charge (§ 226.7(a)(6)). The card issuer would be required to make disclosures regarding any security interest which may be retained (§ 226.7(a)(7)). The card issuer would also be required to provide the statement of rights and responsibilities under the Fair Credit Billing Act prior to the first use of the card (§ 226.7(a)(9)).

The proposal would not require a disclosure regarding minimum payments (§ 226.7(a)(8)). Since the only types of credit cards considered herein are ones which require payment in full for each transaction at the time of billing, that disclosure is, by definition, inapplicable.

The proposal would not require such card issuers to disclose the "previous balance" (§ 226.7(b)(1)(i)), the amounts of "payments" and "credits" (§ 226.7(b)(1)(iii)), or the closing date and "new balance" (§ 226.7(b)(1)(ix)). Those disclosures relate mainly to systems which periodically bill their customers on an account basis and do not appear to be germane to the type of system under consideration in this proposal.

The requirements to provide an identification of each transaction (§ 226.7(b)(1)(ii)) and to provide an address for receipt of billing error inquiries (§ 226.7(b)(1)(x)) would be deemed to apply to such systems. The proposal would permit the card issuer to comply with those sections by placing the relevant information on the invoice or other statement sent to the customer for each transaction.

The provisions requiring the card issuer to send a periodic statement at least 14 days prior to the end of a "free period" (§ 226.7(b)(2)) would be deemed inapplicable to such credit card systems since there are no finance charges imposed under the credit card systems covered by this interpretation and, consequently, no "free periods."

The proposal would permit the card issuer to make use of the exceptions from the general requirement that all disclosures appear on the front of the periodic statement (§ 226.7(c)). All references to a "periodic statement" in § 226.7(c) would be read to indicate the invoice or other statement sent to the customer for each transaction.

This proposal would require the card issuer to send the statement prescribed by § 226.7(a)(9) to each customer on a semiannual basis (§ 226.7(d)). The interpretation would permit the card issuer to comply with that section by sending the statement required by § 226.7(a)(9) within the time periods provided in § 226.7(d), or by sending either the statement prescribed by § 226.7(a)(9) or the statement prescribed by § 226.7(d)(5) with every invoice or other billing statement sent to its customers. The timing of this disclosure would be computed without reference to billing cycles

and periodic statements, which do not exist in such programs. Consequently, if the card issuer decided to give the statement semiannually instead of with every invoice, this proposal would permit sending the statement only to those customers who receive a transaction invoice during the chosen months.

This proposal would require the card issuer to notify customers of changes in terms (§ 226.7(f)). However, since there are no billing cycles or periodic statements used in such plans, the time period for notifying customers of changes in the terms of the plan would be 15 days prior to the date the change is to be instituted, rather than 15 days prior to the first billing cycle in which the change is to take place. Additionally, the interpretation would require advance notice only of those types of changes in terms which, if undertaken by open end creditors generally, would require notice to all customers prior to imposition of the change on the customers' accounts.

The proposal would exempt such card issuers from complying with the requirements which call for prompt crediting of payments (§ 226.7(g)), unless the plan includes the possibility of the imposition of a specific charge for late payment, delinquency, or default.

The proposal would apply the provisions regarding crediting and refunding excess payments (§ 226.7(h)) to such credit plans. However, compliance with those requirements may be achieved by such credit card issuers by accounting for the amount received in excess of the required payment by a credit memorandum or other reasonable means, rather than by crediting to an account. Since no periodic statement is required for such systems, this interpretation would require the card issuer to notify the customer of the existence of an excess payment, unless a refund is sent within 5 business days of its receipt.

The card issuer would be required to comply with all relevant portions of § 226.13, except § 226.13(k) which is inapplicable to two-party credit card systems generally.

The proposal would require the card issuer to comply with the error resolution requirements of the regulation (§ 226.14). However, the proposal would also provide that all references therein to a "periodic statement" should be read to indicate the invoice or other billing statement for the relevant transaction. All actions referenced in § 226.14 with regard to correcting and adjusting a customer's account would be permitted to be taken by issuing a refund or new invoice to the customer, or by other appropriate means consistent with the purposes of the section. Since there are no accounts to be adjusted, and no periodic statement upon which any such adjustments can be reflected, this change in the regulation's requirement with respect to this type of credit card is deemed necessary to the purposes of the Act and regulation.

To aid in the consideration of this material 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 May 16, 1977. All materials submitted should include the docket number R-0094. Such information will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

Pursuant to 15 U.S.C. 1602(f) and 15 U.S.C. 1604, the Board hereby publishes for comment the following proposed interpretation of Regulation Z.

§ 226.709 Application of limited requirements to card issuers which bill customers on a transaction-by-transaction basis.

(a) It has come to the Board's attention that certain credit cards are issued, the card issuer and the seller being the same person or related persons, in connection with which no finance charge is imposed and customers are billed in full for each use of the card on a transaction-by-transaction basis by sending an invoice or other statement to the customer. No cumulative account which reflects the transactions by each customer during a period of time, such as a month, is maintained.

(b) Section 103(f) of the Act requires all credit card issuers to comply with certain provisions even though those provisions are generally applicable only to creditors of open end credit plans and requires the Board to apply these provisions to all card issuers "to the extent appropriate." The question arises as to which of those provisions, as implemented by this Part, appropriately apply to such card issuers.

(c) Such card issuers may bill customers on a transaction-by-transaction basis, and need not maintain a cumulative account for each customer for which a periodic statement must be sent.

(d) Prior to the first use of the credit card the card issuer shall provide the customer with a statement setting forth the disclosures required by § 226.7(a)(9) and, as applicable, § 226.7(a)(6) and § 226.7(a)(7). The disclosure required by § 226.7(a)(6) shall be limited to those charges that are or may be imposed as a result of the deferral of payment by use of the card, such as late payment or delinquency charges. Such card issuers need not provide the disclosure required by § 226.7(a)(8).

(e) The disclosures required by § 226.7(b)(1)(i), (iii) and (ix) need not be given by such credit card issuers. The requirements of § 226.7(b)(1)(ii) and § 226.7(b)(1)(x) are applicable to such card issuers and compliance may be achieved by placing the required disclosures on the invoice or statement sent to the customer for each transaction. Section 226.7(b)(2) does not apply to these credit card issuers.

(f) The provisions of § 226.7(c), including those which permit certain required disclosures to be made other than on the front of a periodic statement, shall apply. All references to the "periodic statement" in § 226.7(c) shall be read to indicate the invoice or other bill-

ing document sent to the customer for each transaction.

(g) The provisions of § 226.7(d) shall apply to such credit card issuers. Compliance therewith may be achieved (1) by mailing or delivering the statement required by § 226.7(a)(9) to each customer who receives a transaction invoice during a one-month period chosen by the card issuer which meets the timing requirements of § 226.7(d)(2), (3), and (4), or (2) by sending either the statement prescribed by § 226.7(a)(9) or the statement prescribed by § 226.7(d)(5) with each invoice sent to a customer.

(h) The provisions of § 226.7(f) apply to these credit card issuers, except that (1) notice of the change in terms shall be given at least 15 days prior to the date upon which the change takes effect, rather than 15 days prior to the beginning date of the billing cycle in which it takes effect, and (2) the card issuer need notify cardholders in advance of only those changes in terms which, if under-

taken by creditors of open end credit plans generally, would necessitate notice to all customers prior to imposing the change on their accounts.

(i) The provisions of § 226.7(g) shall apply to such credit card issuers if the credit card plan includes the possible imposition of a specific charge for late payment, default, or delinquency. Otherwise, they do not apply to such credit card issuers.

(j) The provisions of § 226.7(h) shall apply to such credit card issuers, except that all requirements to credit amounts to an account may be complied with by other reasonable means, such as by a credit memorandum. Since no periodic statements are provided or required for the credit card systems subject to this interpretation, a notice of excess payment should be sent to the customer within a reasonable period of time following its occurrence unless a refund of the excess payment is mailed or delivered to the customer within 5 business

days of its receipt by the card issuer.

(k) The card issuer shall comply with all the provisions of § 226.13, including § 226.13(i) and (j) to the extent that they are applicable to the credit card plan, except that § 226.13(k) is inapplicable.

(l) The card issuer shall comply with the provisions of § 226.14, as applicable. All references in § 226.14 to the "periodic statement" shall be read to indicate the invoice or other statement for the relevant transaction. All actions referenced in § 226.14 with regard to correcting and adjusting a customer's account may be taken by issuing a refund or a new invoice, or by other appropriate means, consistent with the purposes of the section.

By order of the Board of Governors of the Federal Reserve System, April 11, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

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