

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 8171]
August 29, 1977

INTERPRETATION OF REGULATION Z
Simplification of Procedures for Certain Credit Card Issuers

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

The Board of Governors of the Federal Reserve System has issued an interpretation of its Regulation Z—Truth in Lending—to simplify procedures for credit-card issuers that bill customers in full on a transaction-by-transaction basis and impose no finance charges.

Following is the text of the Board of Governors' press release in this matter:

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

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 debt 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 interpretation permits such credit card issuers to continue sending bills to their customers only when a transaction has occurred. The interpretation also requires such card issuers to conform only to provisions of Regulation Z that are clearly consistent with their type of billing.

Enclosed is a copy of the interpretation, which has been reprinted from the *Federal Register* of August 25, 1977. Questions thereon may be directed to our Consumer Affairs Division (Tel. No. 212-791-5919).

PAUL A. VOLCKER,
President.

Board of Governors of the Federal Reserve System

TRUTH IN LENDING

INTERPRETATION OF REGULATION Z

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

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

PART 226—TRUTH IN LENDING

Application of Certain Requirements to Credit Card Plans Involving Transaction-By-Transaction Billing and Imposition of No Finance Charge

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This 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 because the Fair Credit Billing Act amendments adjusted the definition of "creditor" to impose certain requirements 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 interpretation indicates which of the requirements are appropriate for such card issuers.

EFFECTIVE DATE: August 17, 1977.

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.

Discussion: 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 even though those provisions are generally applicable only to creditors of open end credit plans. Certain two-party credit card plans impose no finance charge and bill for payment in full on a transaction-by-transaction basis, rather than on an account basis using periodic statements. This interpretation specifies which sections of the regulation should appropriately be applied to such credit card programs.

The interpretation permits 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 does not require that the card issuer convert to a periodic billing statement which involves

the maintenance of an account for each customer.

The interpretation requires 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 card, such as a late payment or delinquency charge (§ 226.7(a)(6)). The card issuer is required to make disclosures regarding any security interest which may be retained (§ 226.7(a)(7)). The card issuer is also 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 interpretation does 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.

The interpretation does 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 interpretation.

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)) apply to such systems. The interpretation permits 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)) are also not applicable to such credit card systems, since there are no finance charges imposed by such credit card systems and, consequently, no "free periods."

The interpretation permits 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) are to be read to indicate the invoice or other statement sent to the customer for each transaction.

This interpretation requires the card issuer to send the statement prescribed by § 226.7(a)(9) to each customer on a semiannual basis (§ 226.7(d)). However, the interpretation permits 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) (i.e., two times during a 12 month calendar period provided that the statements must not be sent less than five or more than seven months apart in order to be considered "semiannual"), 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 is to be computed without reference to billing cycles and periodic statements, which do not exist in such programs. Consequently, if the card issuer decides to give the statement semiannually instead of with every invoice, this interpretation permits sending the statement only to those customers who receive a transaction invoice during the chosen months.

This interpretation requires 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, customers must be notified of changes in the terms of the plan 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 requires 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 interpretation exempts the affected 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 interpretation applies 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 our account. Since no periodic statement is required for such systems, this interpretation requires 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 is required to comply with all relevant portions of § 226.13, regarding credit card requirements, except § 226.13(k) which is inapplicable to two-party credit card systems generally.

The interpretation requires the card issuer to comply with the error resolution requirements of the regulation

(§ 226.14. However, the interpretation provides 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 are 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 requirements with respect to this type of credit card is deemed necessary for the purposes of the Act and regulation.

It should be emphasized that this interpretation applies only to two-party credit card issuers that bill on a transaction-by-transaction basis and impose no finance charge. It applies only in those transactions in which the card issued by that credit card issuer is used. It does not apply to other types of card issuers, such as those that use a cumulative account billing system, even if no finance charge is imposed.

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

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

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 means of an invoice or other statement reflecting each use of the card. No cumulative account which reflects the transactions by each customer during a period of time, such as a month, is maintained.

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.

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.

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).

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.

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 billing document sent to the customer for each transaction.

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.

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

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.

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.

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.

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, August 17, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

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