

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 8270]
February 8, 1978]

AMENDMENT TO REGULATION Z
Billing Requirements for Cash Advance Check Transactions

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

Following is the text of a statement issued by the Board of Governors of the Federal Reserve System, relating to an amendment to its Regulation Z, "Truth-in-Lending," effective March 28, 1978.

The Board of Governors of the Federal Reserve System announced today [*January 26, 1978*] that it is modifying provisions of its Truth in Lending Regulation Z relating to billing for cash advance check transactions. The revised rule will become effective March 28, 1978.

The modification will permit creditors to use—in addition to methods already in use for identifying transactions involving cash advance checks—the date on which a creditor charges a cash advance check to the customer's account (the debiting date) in billing the customer.

However, the revised rule provides also:

1. If the date of debiting is used to identify a cash advance check charge, and the customer makes any inquiry about that item, the inquiry must be treated as a notification of a billing error, triggering the provisions of the Fair Credit Billing Act for settling billing errors.

2. No finance charge on the transaction will be allowed during the time a credit card issuer takes to provide required supporting documentary evidence to a customer who questions a billing using the debiting date.

Creditors may continue to use the date a cash advance check is used by the customer (the transaction date), or the date written on the check by the customer, as presently allowed.

The Board proposed to modify the rules for identifying transactions involving cash advance checks on September 29, 1977. The proposal, now adopted, was designed to facilitate compliance with the Fair Credit Billing provisions of Truth in Lending and at the same time to maintain requirements adequate to allow customers to identify transactions billed to them. While considering the change, the Board postponed the date for full implementation of the section of Regulation Z relating to cash advance check transactions from October 28, 1977 to March 28, 1978.

Enclosed is a copy of the amendment to Regulation Z. (The Board's Order postponing full implementation of Section 226.7(k)(3)(ii) of the regulation until March 28, 1978, issued with our Circular No. 8178, may be discarded). Questions regarding this matter 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

AMENDMENT TO REGULATION Z

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board hereby adopts an amendment to § 226.7(k)(3)(ii) of Regulation Z relating to descriptive billing of nonsale credit transactions, such as cash advance check transactions, on open end credit accounts. In lieu of disclosing the date of the cash advance check transaction or the date which appears on the document or instrument evidencing the transaction (if the customer signed the document or instrument), the amendment permits creditors to disclose the date of debiting the transaction to the customer's account, provided that the creditor treats any subsequent inquiry from the customer related to the transaction as a billing error and an erroneous billing under the provisions of the Fair Credit Billing Act. The purpose of the amendment is to facilitate compliance with the descriptive billing provisions of Regulation Z by creditors who have experienced operational difficulties in disclosing transaction dates, while assuring that customers may obtain, without cost, clarification as to the transaction to which a debiting date relates if there is difficulty in determining that information from a periodic statement which discloses only the debiting date. Under the amendment, creditors that disclose the debiting date must reasonably identify it as such. Creditors with the capability of disclosing the date of the transaction or the date which appears on the document or instrument evidencing the transaction (if the customer signed the document or instrument) are permitted to do so.

EFFECTIVE DATE: March 28, 1978.

FOR FURTHER INFORMATION CONTACT: Glenn E. Loney, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202) 452-3946.

SUPPLEMENTARY INFORMATION: Section 226.7(k)(3)(ii) of Regulation Z, which was to have become fully effective on

October 28, 1977, would have required, in connection with descriptive billing of nonsale credit transactions, that creditors disclose the date of the transaction or the date which appears on the document or instrument evidencing the transaction (if the customer signed the document or instrument). Prior to the effective date of § 226.7(k)(3)(ii), certain creditors petitioned the Board to provide an alternative to that requirement which would allow them to substitute for disclosure of the transaction date the date on which a nonsale credit transaction, particularly a cash advance check transaction, is debited to a customer's account. These creditors asserted that requiring disclosure of the transaction date or the date on the document would give rise to serious operational difficulties.

In response to the concerns and asserted difficulties engendered by § 226.7(k)(3)(ii), the Board suspended the effective date of that section of Regulation Z until March 28, 1978, and on October 4, 1977, published for comment (42 FR 53969) a proposed amendment to the regulation which it now adopts in final form.

This amendment to § 226.7(k)(3)(ii) permits creditors to disclose on their periodic descriptive billing statements the date on which a nonsale credit transaction is debited to a customer's account rather than the date of the transaction or the date on the document or instrument evidencing the transaction. If a creditor elects to disclose only the debiting date, it must treat any subsequent inquiry by a customer seeking clarification of a transaction as a billing error and an erroneous billing under the provisions of the Fair Credit Billing Act and Regulation Z. Upon receipt of such an inquiry, in proper written form, the creditor is required to resolve the error and to supply documentary evidence of the transaction whether or not the customer requests it, and the creditor is prohibited from collecting any finance charge or other charge that accrues in connection with the transaction as a result of the error.

Comments received by the Board tend to support the earlier assertions regarding the difficulty of capturing and disclosing a transaction date or the date appearing on the credit

For this regulation to be complete, retain:

- 1) Regulation Z pamphlet, amended to March 23, 1977.
- 2) Amendments effective April 11, 1977, October 10, 1977, and July 20, 1977.
- 3) This slip sheet.

document for cash advance check transactions. Furthermore, commenters provided data which tend to confirm that cash advance transactions on open end accounts are relatively infrequent and substantially larger in amount than other transactions on such accounts. Therefore, the Board believes that adoption of the amendment to § 226.7(k)(3)(ii) will facilitate compliance with the regulation by creditors while not unduly hampering consumers' understanding of the transaction activity reflected on their periodic descriptive billing statements. Because of the relative infrequency of cash advance transactions and the relatively large amounts involved in such transactions when compared with other transactions, the Board anticipates that consumers will, in most instances, be able to identify cash advance transactions from a description containing the debiting date and the other information required to be disclosed. In those instances where a creditor discloses the debiting date of a nonsale credit transaction rather than the date of the transaction or the date on the document evidencing the transaction and a customer has an inquiry regarding the transaction, the Board believes that the amended § 226.7(k)(3)(ii) will enable the customer to obtain sufficient information to clarify any questions he or she may have without incurring additional charges caused by a delay in paying due to an inability to identify the transaction.

The final sentence of the amendment to § 226.7(k)(3)(ii) provides that, "If the debiting date is disclosed, it must be reasonably identified as such on the periodic statement." Some comments received by the Board questioned the need for this requirement. The purpose of this provision is twofold: (1) to eliminate the possibility of confusion which might result when debiting dates for some transactions appear on a periodic statement on which transactions are identified by another date, such as the date of the transaction; and (2) to provide consumers with an indication as to the rele-

vance of the date which is disclosed in connection with nonsale credit transactions on a periodic statement which discloses only the debiting dates of such transactions.

Therefore, pursuant to the authority granted in 15 U.S.C. § 1604 (1970), the Board hereby amends § 226.7(k)(3)(ii) of Regulation Z, 12 C.F.R. Part 226, as follows (inasmuch as footnote 9(e) to § 226.7(k)(3)(ii) is unaffected by this amendment, the text of the footnote is not reproduced below):

SECTION 226.7—OPEN END CREDIT ACCOUNTS—SPECIFIC DISCLOSURES

* * *

(k) ***

(3) ***

(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), or the date of debiting the amount to the account, provided that if only the debiting date is disclosed and the customer submits a proper written notification of a billing error related to the transaction, the creditor shall treat such inquiry as a billing error under §§ 226.2(j) and 226.14, and as an erroneous billing under § 226.14(b), and shall supply documentary evidence of the transaction whether or not the customer requests it, within the time period allowed under § 226.14 for resolution of a billing error without charge to the customer. If the date of debiting is disclosed, it must be reasonably identified as such on the periodic statement.