

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 8336]
May 2, 1978

AMENDMENTS TO REGULATIONS B AND Z
Revised Procedures for Issuing Official Staff Interpretations

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, announcing a revision of its procedure for issuing official staff interpretations:

The Board of Governors of the Federal Reserve System has revised its procedure for issuing official staff interpretations of its Regulation B (Equal Credit Opportunity) and Regulation Z (Truth in Lending).

The Board said that it will issue all official staff interpretations of the regulations with an effective date 30 days after publication of the interpretation. Further, if an interpretation is challenged before the effective date, it will be reissued for public comment before final action is taken on it. The change in procedure is effective immediately.

The Board made the change after receiving a number of complaints about existing procedures. This has been to publish an official staff interpretation in the *Federal Register* within two weeks of issuance, to be effective upon publication. Those questioning this procedure have taken the view that an official staff interpretation is a "rule," as defined in the Administrative Procedures Act, calling for general notice and opportunity for comment before becoming effective.

An official staff interpretation provides a defense to any creditor acting in good faith in conformity with it. Official staff interpretations are limited to clarifications of technical points, or other matters not involving significant policy implications. They may be appealed to the Board.

Enclosed are copies of the amendments to Regulations B and Z. Questions regarding these amendments 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

EQUAL CREDIT OPPORTUNITY

AMENDMENT TO REGULATION B

(effective April 21, 1978)

Amendment to Procedures for Issuing Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Rule.

SUMMARY: This amendment to Regulation B, Equal Credit Opportunity, and Regulation Z, Truth in Lending, revises the Board's existing procedures for issuing official staff interpretations.

The amendment provides that official staff interpretations will be published in the *Federal Register* with a 30 day delayed effective date. If a request for public comment is received, the effective date will be suspended and the interpretation published for comment. Once the comments have been analyzed, a final version of the interpretation will be published. The current criteria for determining whether a question merits an official staff interpretation and the procedures for a request for reconsideration are eliminated.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT: Anne Geary, Chief Staff Attorney, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2761).

SUPPLEMENTARY INFORMATION: The Equal Credit Opportunity Act and Truth in Lending Act provide for the issuance of official staff interpretations. Regulations B and Z, which implement these laws, set forth procedures and criteria for requesting an official staff interpretation. Currently, official staff interpretations are issued when clarification of a technical ambiguity in the regulation is required or when a request does not involve significant policy implications. The interpretation is published in the *Federal Register* within a week or two of issuance, to be effective at the time of publication. The regulations also provide for reconsideration of an official staff interpretation

if a request is submitted within 30 days of publication.

The Board is amending Regulations B and Z to provide for a delayed effective date and for an opportunity for public comment on official staff interpretations. The Board believes this change in procedure is appropriate because it will enable the public to review official staff interpretations before they become final. If an official staff interpretation is challenged, the new procedures will enable the staff to reconsider it in the light of public comments.

The amendment provides that official staff interpretations will be published in the *Federal Register* within a week or two of issuance but will become effective only upon the expiration of thirty days. If a request for public comment is received or postmarked within the 30 days, the effective date of the interpretation will be suspended. Notice of the suspension of the effective date and the interpretation will then be published for public comment as soon as possible. Any comments received will be reviewed and a final interpretation issued to be effective upon publication in the *Federal Register*.

Explanation of Amendment

The references to official or formal Board interpretations have been deleted because the Administrative Procedure Act and the Board's Rules of Procedure (12 C.F.R. 262.3) independently provide opportunity for requests for Board action. Sections 202.1(d) and 226.1(d) deal only with staff action and procedures.

The language in the second and third sentences of subsection (d)(1) of the regulations regarding the signature of the requester or authorized agent, and copies of documents accompanying a request has been deleted because the Board believes that such requirements have proved unnecessary. In the same subsection, the language concerning a substantive response has been deleted as it is no longer applicable. The time for acknowledging the request for an official staff interpretation has been reduced from fifteen to five business days.

For Regulation B to be complete, retain:

- 1) Regulation B pamphlet, effective March 23, 1977.
- 2) Amendment effective March 13, 1978.
- 3) This slip sheet.

The provision for requests for reconsideration of official staff interpretations has been deleted because this amendment provides an opportunity for public comment and the Board's Rules of Procedure independently provide for Board consideration of the underlying issue.

The requirements in subsection (d)(4)(ii) that official staff interpretations deal with clarification of a technical ambiguity in the regulation or have no significant policy implications have been deleted because the Board has determined that these criteria are not sufficiently specific to be useful. However, official staff interpretations will not address policy questions, which will be referred to the Board for its consideration.

The prohibition on issuance of interpretations approving creditors' or lessors' forms or language has been moved from subsection (d)(3) to (d)(2)(i). The description of the two types of staff interpretations, followed by a description of the manner in which they may be obtained, will enable an interested party to determine, first, which kind of interpretation to seek and, second, how to request it.

A new subsection (d)(3) has been added to provide for requests for public comment on official staff interpretations. Such requests must be postmarked or received by the Secretary, Board of Governors of the Federal Reserve System, within 30 days of the interpretation's publication in the *Federal Register*. A statement of the reasons why public comment is appropriate must accompany the request.

Text of Amendment

Pursuant to the authority granted under § 703 of the Equal Credit Opportunity Act (15 U.S.C. 1691(b)), the Board amends Regulation B, 12 C.F.R. 202.1(d), as follows:

SECTION 202.1—AUTHORITY, SCOPE, ENFORCEMENT, PENALTIES AND LIABILITIES, INTERPRETATIONS

* * *

(d) Issuance of staff interpretations. (1) Unofficial staff interpretations will be issued at the staff's discretion where the protection of section 706(e) of the Act is neither re-

quested nor required, or where a rapid response is necessary.

(2) (i) Official staff interpretations will be issued at the discretion of designated officials. No such interpretation will be issued approving creditors' or lessors' forms or statements. Any request for an official staff interpretation of this Part must be in writing and addressed to the Director of the Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The request must contain a complete statement of all relevant facts concerning the credit or lease transaction or arrangement and must include copies of all pertinent documents.

(ii) Within 5 business days of receipt of the request, an acknowledgment will be sent to the person making the request. If, in the opinion of the designated officials, issuance of an official staff interpretation is appropriate, it will be published in the *Federal Register* to become effective 30 days after the publication date. If a request for public comment is received, the effective date will be suspended. The interpretation will then be republished in the *Federal Register* and the public given an opportunity to comment. Any official staff interpretation issued after opportunity for public comment shall become effective upon publication in the *Federal Register*.

(3) Any request for public comment on an official staff interpretation of this Part must be in writing and addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and postmarked or received by the Secretary's office within 30 days of the interpretation's publication in the *Federal Register*. The request must contain a statement setting forth the reasons why the person making the request believes that public comment would be appropriate.

(4) Pursuant to section 706(e) of the Act, the Board has designated the Director and other officials of the Division of Consumer Affairs as officials "duly authorized" to issue, at their discretion, official staff interpretations of this Part.

Board of Governors of the Federal Reserve System

TRUTH IN LENDING

AMENDMENT TO REGULATION Z

(effective April 21, 1978)

Amendment to Procedures for Issuing
Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Rule.

SUMMARY: This amendment to Regulation B, Equal Credit Opportunity, and Regulation Z, Truth in Lending, revises the Board's existing procedures for issuing official staff interpretations.

The amendment provides that official staff interpretations will be published in the *Federal Register* with a 30 day delayed effective date. If a request for public comment is received, the effective date will be suspended and the interpretation published for comment. Once the comments have been analyzed, a final version of the interpretation will be published. The current criteria for determining whether a question merits an official staff interpretation and the procedures for a request for reconsideration are eliminated.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT: Anne Geary, Chief Staff Attorney, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2761).

SUPPLEMENTARY INFORMATION: The Equal Credit Opportunity Act and Truth in Lending Act provide for the issuance of official staff interpretations. Regulations B and Z, which implement these laws, set forth procedures and criteria for requesting an official staff interpretation. Currently, official staff interpretations are issued when clarification of a technical ambiguity in the regulation is required or when a request does not involve significant policy implications. The interpretation is published in the *Federal Register* within a week or two of issuance, to be effective at the time of publication. The regulations also provide for reconsideration of an official staff interpretation if a request is submitted within 30 days of publication.

The Board is amending Regulations B and Z to provide for a delayed effective date and for an opportunity for public comment on official staff interpretations. The Board believes this change in procedure is appropriate because it will enable the public to review official staff interpretations before they become final. If an official staff interpretation is challenged, the new procedures will enable the staff to reconsider it in the light of public comments.

The amendment provides that official staff interpretations will be published in the *Federal Register* within a week or two of issuance but will become effective only upon the expiration of thirty days. If a request for public comment is received or postmarked within the 30 days, the effective date of the interpretation will be suspended. Notice of the suspension of the effective date and the interpretation will then be published for public comment as soon as possible. Any comments received will be reviewed and a final interpretation issued to be effective upon publication in the *Federal Register*.

Explanation of Amendment

The references to official or formal Board interpretations have been deleted because the Administrative Procedure Act and the Board's Rules of Procedure (12 C.F.R. 262.3) independently provide opportunity for requests for Board action. Sections 202.1(d) and 226.1(d) deal only with staff action and procedures.

The language in the second and third sentences of subsection (d)(1) of the regulations regarding the signature of the requester or authorized agent, and copies of documents accompanying a request has been deleted because the Board believes that such requirements have proved unnecessary. In the same subsection, the language concerning a substantive response has been deleted as it is no longer applicable. The time for acknowledging the request for an official staff interpretation has been reduced from fifteen to five business days.

The provision for requests for reconsideration of official staff interpretations has been deleted because this amendment provides an

For Regulation Z to be complete, retain:

- 1) Regulation Z pamphlet, amended to March 23, 1977.
- 2) Amendments effective April 11, 1977, July 20, 1977, October 10, 1977, and March 28, 1978.
- 3) This slip sheet.

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opportunity for public comment and the Board's Rules of Procedure independently provide for Board consideration of the underlying issue.

The requirements in subsection (d)(4)(ii) that official staff interpretations deal with clarification of a technical ambiguity in the regulation or have no significant policy implications have been deleted because the Board has determined that these criteria are not sufficiently specific to be useful. However, official staff interpretations will not address policy questions, which will be referred to the Board for its consideration.

The prohibition on issuance of interpretations approving creditors' or lessors' forms or language has been moved from subsection (d)(3) to (d)(2)(i). The description of the two types of staff interpretations, followed by a description of the manner in which they may be obtained, will enable an interested party to determine, first, which kind of interpretation to seek and, second, how to request it.

A new subsection (d)(3) has been added to provide for requests for public comment on official staff interpretations. Such requests must be postmarked or received by the Secretary, Board of Governors of the Federal Reserve System, within 30 days of the interpretation's publication in the *Federal Register*. A statement of the reasons why public comment is appropriate must accompany the request.

Text of Amendment

Pursuant to the authority granted under § 105 of the Truth in Lending Act (15 U.S.C. 1604), the Board amends Regulation Z, 12 C.F.R. 226.1(d), as follows:

SECTION 226.1—AUTHORITY, SCOPE, PURPOSE, ETC.

* * *

(d) Issuance of staff interpretations. (1) Unofficial staff interpretations will be issued at the staff's discretion where the protection of section 130(f) of the Act is neither requested nor required, or where a rapid response is necessary.

(2) (i) Official staff interpretations will be issued at the discretion of designated officials. No such interpretation will be issued approving creditors' or lessors' forms or statements. Any request for an official staff interpretation of this Part must be in writing and addressed to the Director of the Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The request must contain a complete statement of all relevant facts concerning the credit or lease transaction or arrangement and must include copies of all pertinent documents.

(ii) Within 5 business days of receipt of the request, an acknowledgment will be sent to the person making the request. If, in the opinion of the designated officials, issuance of an official staff interpretation is appropriate, it will be published in the *Federal Register* to become effective 30 days after the publication date. If a request for public comment is received, the effective date will be suspended. The interpretation will then be republished in the *Federal Register* and the public given an opportunity to comment. Any official staff interpretation issued after opportunity for public comment shall become effective upon publication in the *Federal Register*.

(3) Any request for public comment on an official staff interpretation of this Part must be in writing and addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and postmarked or received by the Secretary's office within 30 days of the interpretation's publication in the *Federal Register*. The request must contain a statement setting forth the reasons why the person making the request believes that public comment would be appropriate.

(4) Pursuant to section 130(f) of the Act, the Board has designated the Director and other officials of the Division of Consumer Affairs as officials "duly authorized" to issue, at their discretion, official staff interpretations of this Part.