

FEDERAL RESERVE BANK
OF NEW YORK

Circular No. 8366
June 2, 1978

AMENDMENT TO REGULATION Z
Retention of All Records of Credit Transactions

To All Member Banks in the
Second Federal Reserve District:

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

The Board of Governors of the Federal Reserve System today [May 22] amended its Regulation Z—Truth in Lending—to require certain lenders to retain for more than two years all records of credit transactions in their possession.

The amendment is effective immediately. It applies to all creditors—and lessors—under the supervision of the Federal Reserve Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board and the National Credit Union Administration.

These agencies jointly proposed, last October, a uniform statement of enforcement policy that, as proposed, calls for reimbursement to consumers for certain violations of Regulation Z. Such reimbursement may extend to violations that occurred more than two years before discovery. Before adoption of the new amendment, for which Consumer's Union petitioned the Board, Regulation Z called for retention of credit transaction records for no more than two years.

The Board's action is intended to avoid possible destruction, under the two-year record retention rule, of records that might show violations subject to reimbursement.

The amendment requires that creditors and lessors subject to the five Federal regulators retain credit transaction records until:

- (1) the agencies have taken final action on the uniform statement of enforcement policy they have proposed, and
- (2) completed one examination under those guidelines.

Interested persons are invited to review this rule and submit relevant views by July 14, 1978.

Enclosed is a copy of the amendment to Regulation Z. Questions 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

Preservation of Evidence of Compliance

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This amendment modifies the record retention requirements of § 226.6(i) as to those creditors and lessors under the jurisdiction of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Federal Reserve Board and the National Credit Union Administration. These agencies proposed uniform guidelines for enforcement of Regulation Z in October, 1977. Creditors and lessors affected by the amendment must retain all evidence of compliance in their possession, dating from July 1, 1969, until the agencies adopt final guidelines and complete at least one examination thereunder, subject to a minimum 2-year retention period. The Board has determined that providing notice and prior opportunity for comment are contrary to the public interest and has therefore dispensed with the provisions of 5 U.S.C. § 553.

EFFECTIVE DATE: [Upon publication in the *Federal Register*].

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

SUPPLEMENTARY INFORMATION:

(1) Prior to this action, § 226.6(i) permitted all creditors to dispose of records evidencing compliance with Regulation Z when more than 2 years had elapsed from the date disclosures were required to be made. Under the uniform statement of enforcement policy proposed by the Federal financial regulatory agencies (42 FR 55786), corrective action might be required for violations of Regulation Z occurring more than 2 years prior to the date of discovery of the violation by the enforcing agency. If the guidelines as finally adopted specify a correction period greater than 2 years, the record retention requirement for transactions prior to that time would have expired.

Thus, evidence of violations which might otherwise be subject to corrective action once the guidelines are adopted may have been destroyed before the guidelines are placed in effect.

(2) Pursuant to 5 U.S.C. § 553(e), Consumers Union has asked the Board to revise § 226.6(i) to require creditors to retain records until the enforcing agency has published final guidelines, has conducted one examination for compliance with the regulation and has assured that any required corrective action has been taken. In a Petition for Emergency Rulemaking submitted on April 24, 1978, Consumers Union alleged that destruction of records pending adoption and application of the guidelines would cause irreparable injury to consumers whose transactions might otherwise have been subject to corrective action in the form of reimbursement.

(3) The Board has determined that a revision of § 226.6(i) is necessary to preserve enforcement options. In making this determination, the Board takes no position on whether the guidelines as finally adopted will require reimbursement as a form of corrective action or whether violations occurring more than 2 years prior to discovery will be subject to corrective action. Depending on the course of action chosen by the agencies, the amendment may later be revised. However, the Board believes that the potential benefit to consumers outweighs the added responsibility which this rule places upon creditors and lessors.

(4) The revised rule retains the minimum 2-year retention period for all creditors and lessors. Under the revision, however, creditors and lessors subject to paragraph (2) must retain all records currently in their possession, even those as to which the 2-year period has elapsed, until all 3 of the conditions set forth in that paragraph have been satisfied.

(5) The Board has determined that compliance with the provisions of 5 U.S.C. § 553 relating to notice, public participation and deferred effective date would be contrary to the public interest. Pending completion of the general procedures required by that section, a large

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, March 28, 1978, and April 21, 1978.
- 3) This slip sheet.

number of additional records could be irretrievably lost, substantially reducing the utility of this amendment. In making this determination, the Board recognizes that this action could have been taken at an earlier time, which might have permitted compliance with normal procedural requirements. However, at the time the guidelines were first proposed, the participating agencies believed that final action would be taken shortly thereafter. In the Board's judgment, the record retention problem has become more acute as the deliberation process on the guidelines continues, increasing the need for the amendment. In view of the potential harm to consumers resulting from continuing to permit disposal of records, the Board believes that further delay for compliance with normal procedural requirements would not serve the public interest. Therefore, pursuant to 5 U.S.C. § 553(b)(B) and 5 U.S.C. § 553(d)(3), the Board is publishing this rule without notice and prior opportunity for comment, to become effective on publication.

(6) Although immediate adoption of this rule is considered essential for the reasons stated above, the Board will consider further revision of the rule. Interested persons are invited to review the rule and to submit relevant data, views or comments in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material submitted should be received not later than July 14, 1978, and should include the docket number R-0156. Copies of any comments received 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 Part 261.6(a)). Consideration will be given to any comments received and the Board will amend the rule as determined necessary or desirable.

Text of Amendment

(7) Pursuant to the authority granted in 15 U.S.C. § 1604 (1968), the Board hereby revises 12 CFR Part 226 as follows, effective [upon publication in the *Federal Register*]:

1. SECTION 226.6 — GENERAL DISCLOSURE REQUIREMENTS

* * *

(i) Preservation and inspection of evidence of compliance.

(1) Evidence of compliance with the requirements imposed under this Part, other than advertising requirements under § 226.10, shall be preserved by the creditor or lessor for a period of not less than 2 years after the date such disclosure is required to be made.

(2) With respect to a creditor or lessor subject to the administrative enforcement jurisdiction of the Comptroller of the Currency, Board of Directors of the Federal Deposit Insurance Corporation, Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), Administrator of the National Credit Union Administration or Board of Governors of the Federal Reserve System, all evidence of compliance with the requirements imposed under this Part, dating from July 1, 1969, other than advertising requirements under § 226.10, shall be retained until

(A) the administrative authority for that creditor or lessor completes one examination for compliance with the requirements imposed under this Part subsequent to adoption of a statement of enforcement policy,^{6a} and

(B) a period of not less than 2 years has elapsed from the date that disclosure was required to be made.

(3) Each creditor or lessor shall, when directed by the appropriate administrative enforcement authority designated in section 108 of the Act, permit that authority or its duly authorized representative to inspect its relevant records and evidence of compliance with this Part.

^{6a} "Statement of enforcement policy" refers to a final statement based on the Joint Notice of Proposed Statement of Enforcement Policy published at 42 Fed. Reg. 55786 (1977).

2. Footnote 6a to § 226.7(a)(4) is redesignated footnote 6b.

FEDERAL RESERVE BANK
OF NEW YORK

May 22, 1978

AMENDMENT TO REGULATION Z
Retention of All Records of Credit Transactions

*To All Member Banks in the
Second Federal Reserve District:*

Following is the text of a statement issued today by the Board of Governors of the Federal Reserve System amending its Regulation Z to require the retention of all records of credit transactions:

The Board of Governors of the Federal Reserve System today amended its Regulation Z—Truth in Lending—to require certain lenders to retain for more than two years all records of credit transactions in their possession.

The amendment is effective immediately. It applies to all creditors—and lessors—under the supervision of the Federal Reserve Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board and the National Credit Union Administration.

These agencies jointly proposed, last October, a uniform statement of enforcement policy that, as proposed, calls for reimbursement to consumers for certain violations of Regulation Z. Such reimbursement may extend to violations that occurred more than two years before discovery. Before adoption of the new amendment, for which Consumer's Union petitioned the Board, Regulation Z called for retention of credit transaction records for no more than two years.

The Board's action is intended to avoid possible destruction, under the two-year record retention rule, of records that might show violations subject to reimbursement.

The amendment requires that creditors and lessors subject to the five Federal regulators retain credit transaction records until:

- (1) the agencies have taken final action on the uniform statement of enforcement policy they have proposed, and
- (2) completed one examination under those guidelines.

Interested persons are invited to review this rule and submit relevant views by July 14, 1978.

The text of the amendment to Regulation Z will be sent to you shortly.

PAUL A. VOLCKER,
President.