

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 8641]
September 26, 1979]

REGULATION Z

Rescission Notices on Loans Secured by Borrower's Home

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

Rescission Notices

The Board of Governors of the Federal Reserve System has announced that it is rescinding an amendment to its Regulation Z, "Truth in Lending," that allows an exemption from the notice-of-rescission requirements of the regulation for individual transactions under certain open end credit plans secured by a borrower's residence. The Board of Governors also is rescinding related Board and official staff interpretations. The rescission of the amendment and interpretations is effective March 31, 1980.

Following is the text of the Board's announcement:

Truth in Lending requires that where a home is used as collateral for a consumer loan the lender must give notice that the borrower has a three-day "cooling off" period in which to cancel the deal.

In July 1978 the Board announced that it had amended its Regulation Z exempting from this notice requirement individual advances under open end credit arrangements (such as use of a credit card) when the creditor and the seller are not the same or related persons. The amendment required that the right of rescission notice must be given, in the case of such open end credit transactions secured by a home mortgage, only when the credit plan is first opened, when the credit limit is increased, whenever terms of the account are changed, whenever a security interest in a home is added to an existing open end credit plan and once annually.

The Board first proposed the amendment to be revoked in December 1977 and adopted it, after substantial modification on the basis of comment received, in July 1978. Following adoption of the amendment, the Board was urged to reconsider on grounds that interested parties may not have been aware of the proposed action. Consequently, in February of this year the Board requested comment whether the amendment should be repealed. The Board acted after considering some 160 comments received in answer to its February request.

The Board also rescinded related Board and staff interpretations.

Enclosed is a copy of the Board's notice regarding the rescission of the Regulation Z amendment and related interpretations. Questions on this matter may be directed to our Regulations Division (Tel. No. 212-791-5914).

Transactions Involving Required Deposit Balances

The Board of Governors also has suspended the effective date of official staff interpretations FC-0165 and FC-0166 of Regulation Z, both of which concern disclosures for transactions involving required deposit balances. These interpretations were originally published in the *Federal Register* of August 8, 1979, and were republished for public comment in the *Federal Register* of September 19, 1979. Copies of the interpretations also are available upon request directed to our Regulations Division.

Comments must be received by October 19, and may be mailed to our Regulations Division or to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. They may also be delivered to Room B-2223, 20th and Constitution Avenue, N.W., Washington, D.C., between 8:45 a.m. and 5:15 p.m. weekdays.

THOMAS M. TIMLEN,
First Vice President.

Board of Governors of the Federal Reserve System

TRUTH IN LENDING

RESCISSION OF AMENDMENT TO AND
INTERPRETATIONS OF REGULATION Z

(Effective March 31, 1980)

Right of Rescission

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Rule.

SUMMARY: Effective in August 1978, the Board amended Regulation Z by creating an alternative in certain circumstances to the three-day cancellation right otherwise applicable to each individual advance under open-end credit accounts secured by consumers' residences. This action rescinds that amendment. It also rescinds a Board interpretation that provided sample disclosures that creditors could use to meet certain of the amendment's requirements and rescinds an official staff interpretation of the applicability of the amendment to nonsale credit advances.

EFFECTIVE DATE: March 31, 1980.

FOR FURTHER INFORMATION CONTACT: Robert C. Plows, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3667).

SUPPLEMENTARY INFORMATION: On December 9, 1977 (42 FR 62146), the Board proposed an amendment to § 226.9(g) of Regulation Z (12 CFR Part 226) to provide an exception to the requirement that a customer have a three-day "cooling off" period in which to cancel each separate advance under an open-end credit plan (such as a credit card or cash advance checking account) where credit extended under the plan is secured by the customer's principal residence. The proposal was substantially modified based upon the comments that were received and was adopted effective August 3, 1978 (43 FR 34111). It permits a creditor that is not the seller of the goods or services

being purchased on credit to extend open-end credit without each separate advance being subject to the right of rescission.

The amendment, incorporated in § 226.9(g)(6), was accompanied by Board Interpretation § 226.904, which sets forth model disclosures that creditors may use to comply with certain notice requirements of the amendment. A technical change, revising the language, but not the substance, of the model disclosures was adopted effective October 31, 1978 (43 FR 50672).

In addition, the staff issued Official Staff Interpretation FC-0159 (43 FR 56877), which states that the exception to the right of rescission in § 226.9(g)(6) is available to a creditor that extends essentially nonsale credit, for example, a cash advance loan in the form of traveler's checks. The staff interpretation has been suspended pending the Board's decision on the question of whether to retain the exemption in § 226.9(g)(6).

After the exemption was adopted, the Board was urged to reconsider the matter because interested parties may not have been aware of the proposal when it was initially published and may not, therefore, have submitted comments on the possible risks and benefits to customers that might result from the amendment. Accordingly, on February 15, 1979 (44 FR 9761), the Board asked for comment on whether it should suspend or repeal the amendment and Board interpretation, whether the amendment should be modified to provide additional protections to customers, and whether creditors that intend to offer open-end credit plans under the amendment should be required to notify the Board of that intention and provide the Board with a copy of the initial Truth in Lending disclosures to be made in connection with the plans. The Board also requested information about plans

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, April 21, 1978, May 30, 1978 (date of publication in *Federal Register*), August 3, 1978 (until March 31, 1980), August 31, 1978 (date of publication in *Federal Register*), and March 5, 1979 (until February 27, 1981).
- 3) This slip sheet.

currently being offered pursuant to the amendment.

Some 160 comments were received from the credit industry, consumer representatives, government agencies, members of the Congress and the Board's Consumer Advisory Council, and others. After carefully considering all of the comments, the Board has decided to rescind the amendment and the related Board and staff interpretations. In reaching that decision, the Board took into consideration the concern expressed by some members of the Congress and the Board's Consumer Advisory Council, consumer representatives, and federal, state, and local government agencies that consumers might be led unawares into more debt than they could afford and might as a result lose their homes—a consequence that the right of rescission is intended to help prevent.

The Board also considered three other factors: the potentially unfair competitive advantage that the amendment gives to nonseller creditors; the fact that few creditors are offering plans pursuant to the amendment; and the fact that creditors can feasibly offer lines of credit secured by a customer's residence even if each use of the line is subject to the right of rescission.

Regarding that final point, while credit extended through conventional credit cards cannot practically be secured by the customer's residence given the three-day cancellation right for each advance, the convenience of flexible repayment under an open-end credit arrangement, as well as more favorable terms reflecting the ex-

istence of a security interest in a residence, can be made available in compliance with § 226.9 for customers who have specific, foreseeable credit needs. For example, a creditor could offer an open-end credit plan pursuant to which cash advances would be made to the customer after the notice of the right of rescission had been given and the three-day "cooling off" period had expired.

The Board's action revoking the amendment and interpretations will become effective on March 31, 1980, in order to provide ample time for the orderly modification or termination of the limited number of open-end credit plans now in existence that are secured by the customer's principal residence. In order to provide guidance to nonseller creditors during the transition, the Board is republishing Official Staff Interpretation FC-0159. FC-0159 will take effect immediately and will remain in effect until March 31, 1980. The result of revoking the amendment and related interpretations will be to require that a notice of the right of rescission be given in connection with each credit advance occurring after March 30, 1980, pursuant to any open-end credit plan secured by a customer's principal residence.

Therefore, pursuant to the authority granted in § 105 of the Truth in Lending Act (15 U.S.C. 1604 (1970)), the Board amends § 226.9(g) of Regulation Z (12 CFR Part 226) by deleting § 226.9(g)(6). It also revokes Board Interpretation § 226.904 and Official Staff Interpretation FC-0159. This action shall take effect on March 31, 1980.