

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 8880]
July 18, 1980

CONSUMER CREDIT RESTRAINT

Additional Questions and Answers—Thirteenth Series

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

Printed below is the thirteenth in a series of questions and answers, representing the views of the legal staffs of the Federal Reserve Bank of New York and of the Board of Governors of the Federal Reserve System, regarding the Credit Restraint Program. This series of questions and answers relates to the consumer restraint program (Subpart A of the Board's regulation on Credit Restraint).

Any questions concerning the Credit Restraint Program may be directed to the persons listed in our Circular No. 8794, dated April 9, 1980.

ANTHONY M. SOLOMON,
President.

Special Deposits on Consumer Credit

Subpart A

A-90. Q: How will the phasing out of the consumer credit restraint regulation affect creditors that have made or contemplate making changes in the terms of open-end or 30-day accounts in reliance on the rules for changing the terms of consumer credit accounts (Section 229.6)?

A: The Board has amended these rules to provide a transitional period that permits a creditor to implement a change under the rules. A creditor that wishes to change account terms must mail or deliver the required notice to the accountholder on or before September 5, 1980. If the notice is mailed by September 5, the notice and subsequent change in terms will be valid even if the consumer receives the notice, uses the account, or assents in writing to the new terms after September 5. If a change-in-terms notice is mailed after September 5, it must comply with Regulation Z (Truth in Lending) and other applicable Federal and State laws.

A-91. Q: Will creditors be able to effect a change in terms or to mail or deliver a notice of change in terms for open-end credit accounts under Regulation Z through September 5?

A: No. Section 229.6 of the April 2 rules continues to preempt inconsistent Federal and State laws and to supersede Section 226.7(f) of Regulation Z until that date.

A-92. Q: Some creditors mail notices of changes in terms in cycles; therefore, not all the notices are mailed on the same day. If a creditor begins mailing its notices before September 5, but does not complete the mailing to all its accountholders until after September 5, will Section 229.6 govern all the change-in-terms notices?

A: No. These rules will not govern the notices mailed after September 5. Therefore, creditors must complete their mailing on or before September 5 if they want to take advantage of the change-in-terms procedure under the consumer credit restraint regulation for all notices mailed. Notices sent out after that date will be subject to the applicable notice provision of Regulation Z and any other applicable law. Inactive accounts also are subject to this timing requirement.

A-93. Q: After the consumer credit restraint regulation terminates, may creditors that notified consumers of proposed changes in account terms

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and that offered the option required in the April 2 rules simply impose the new terms on all consumers, even those who have not used the account or assented in writing to the new terms, or must creditors at that point follow the provisions of Regulation Z and other applicable law?

A: The creditor must either continue to monitor its accounts to ascertain whether the consumer has used the account or assented in writing to the change before imposing the new terms, or else renotify the affected consumers of changes in accordance with Regulation Z and other applicable laws.

A-94. Q: During the period of credit controls, some creditors had change-in-terms notices printed that comply with the April 2 requirements. These creditors have decided, however, to wait until after September 5 to change account terms so that they can effect the changes under Regulation Z and other applicable laws instead. Must these creditors reprint their notice forms or may they modify and use the forms that were printed when Section 229.6 was in effect?

A: Creditors may modify Section 229.6 notices to conform with the requirements of Regulation Z and other applicable State and Federal laws if they do so clearly. For example, creditors may not send a notice that gives a consumer the two options mandated by Section 229.6 and then enclose an errata sheet that instructs the consumer to disregard the options. Prac-

tices such as this would be confusing to consumers.

A-95. Q: Is an increase in the premium for credit life, accident, health, or loss of income insurance an increase in an "other charge" under Section 229.6(a) where the original purchase of the insurance was voluntary and disclosed in accordance with Section 226.4(a)(5) of Regulation Z?

A: No. A premium increase for insurance of that type is not subject to the requirements of Section 229.6. Notice requirements under other laws may, however, continue to apply.

A-96. Q: Is the imposition or increase of a charge for default, delinquency or late payment on an account subject to the April 2 requirements?

A: No. Other notice requirements may, however, continue to apply.

A-97. Q: A creditor wishes to utilize one notice and mailing under Section 229.6 to announce a number of changes in terms in its credit accounts, with a single effective date more than 30 days after the notice is sent. Use of the account after that date would trigger application of the changed terms to existing balances. However, the creditor wishes to delay implementation of certain of the announced changes until more than 30 days after the notice is sent (e.g., 90 or 120 days). Is this permissible?

A: Yes. The disclosures must, however, adequately describe the specific changes that the creditor intends to make.