FEDERAL RESERVE BANK OF CHICAGO
230 SOUTH LA SALLE STREET
CHICAGO, ILLINOIS 60690
(312) 322-5322

Circular No. 2969
December 11, 1981

To All Depository Institutions in the
Seventh Federal Reserve District:

REVISION AND TECHNICAL AMENDMENT TO REGULATION Z COMMENTARY

The Board of Governors of the Federal Reserve System has issued a revision to its Regulation Z ("Truth in Lending") staff commentary, effective December 4, 1981. The revision states that the origination fee on student loans made before August 1, 1982 need not be taken into account in making any Truth in Lending disclosures. In addition, the Board is making technical amendments to this commentary.

The Board's press release, text of the revision, and text of the technical amendments to the Regulation Z staff commentary are enclosed. For further information, please contact John L. Bergstrom, Assistant Vice President, at (312) 322-5910; or Ronald K. Gareiss, Senior Regulation Examiner, at (312) 322-5911, Consumer Affairs Division.

Harris C. Buell, Jr.
Vice President
Consumer Affairs Division

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FEDERAL RESERVE press release

For immediate release November 27, 1981

The staff of the Federal Reserve Board today issued a revision of its commentary on Regulation Z (Truth in Lending) stating that the origination fee on student loans made before August 1, 1982 need not be taken into account in making any Truth in Lending disclosures.

The staff previously stated, in its commentary on Regulation Z published in October, that the origination fee need not be taken into account in calculating or disclosing the annual percentage rate on student loans, but the commentary did not extend the exception to other Truth in Lending disclosures.

The text of the staff's revision of its commentary is attached.

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Attachment

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12 CFR Part 226

[Reg. Z; TIL-1]

TRUTH IN LENDING

Official Staff Commentary: Revision

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Revision to official staff commentary to Regulation Z.

SUMMARY: On October 9, 1981 (46 FR 50288), the Board's staff published a final official staff commentary to Regulation Z, as revised effective April 1, 1981. One paragraph of the commentary discussed the treatment of origination fees in certain student loans and provided an exception to the annual percentage rate disclosure for such fees. The staff is now revising that position to state that until August 1, 1982, the origination fee in such student loans need not be reflected in any of the Truth in Lending disclosures. Because of the need for prompt action, the revision is being adopted in final form immediately.

EFFECTIVE DATE: December 4, 1981.

FOR FURTHER INFORMATION CONTACT: Claudia J. Yarus or Rugenia Silver, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3667).

SUPPLEMENTARY INFORMATION: (1) An August 13, 1981 amendment to the Higher Education Act of 1965 (Pub. L. 97-35, § 536(a)(4)) permits lenders to charge an origination fee of up to 5% on certain guaranteed student loans. The amendment provides that for loans made before August 1, 1982, the disclosure of origination fees "need not meet the requirements of Truth in Lending" and "shall not be taken into account in calculating and disclosing the annual percentage rate."

After reviewing the legislative history, the staff included an interpretation of the amendment in the official staff commentary to Regulation Z (TIL-1). Comment 17(i)-4 provided that these origination fees should be excluded from the annual percentage rate, but required that all other Truth in Lending disclosures must account for the fees. Examples of such other disclosures include the prepaid finance charge and the amount financed.

After publication of the commentary, the Chairmen and Ranking Minority Members of the Subcommittee on Education, Arts and Humanities of the Senate Committee on Labor and Human Relations and the Subcommittee on Postsecondary Education of the House Committee on Education and Labor wrote to the Board regarding this matter. They stated that the congressional intent was to exclude the origination fee from Truth in Lending for all purposes and urged that the commentary be revised to reflect that intent, particularly to avoid any disruption to the student loan program.

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The staff is now revising Comment 17(i)-4 to state that for loans made before August 1, 1982, the origination fee shall not be considered in calculating and disclosing the annual percentage rate and need not be taken into account for purposes of any other Truth in Lending calculations and disclosures. While this revision does not alter the commentary's previous treatment of the annual percentage rate, it now permits the creditor either to reflect the origination fee in the other disclosures or to disregard the fees altogether for purposes of Truth in Lending.

The revised position applies to student loans made under both previous Regulation Z and revised Regulation Z.

The Truth in Lending effects of revised Comment 17(i)-4 are set forth below. These examples contrast the disclosures as they may be made for an interim student loan pursuant to the amendment to the Higher Education Act until August 1, 1982, with the way the disclosures would be made without that amendment. An interim student loan as defined in the commentary is an extension of credit for educational purposes where the repayment amount and schedule are not known at the time the credit is advanced. Both examples are based on a typical student loan of this type involving a single advance of $2,000 for 18 months, with a 5% origination fee and a 1% guarantee insurance fee. These examples assume that the only finance charge for the repayment period is 9% simple interest.

- Before August 1, 1982, the Truth in Lending disclosures may reflect an amount financed of $1,980, a prepaid finance charge of $20 (attributable only to the guarantee fee), an annual percentage rate of .67% for the interim period, and an annual percentage rate of 9% for the repayment period.

- Beginning on August 1, 1982, the Truth in Lending disclosures will reflect an amount financed of $1,880, a prepaid finance charge of $120 ($100 attributable to the origination fee and $20 attributable to the guarantee fee), an annual percentage rate of 4.20% for the interim period, and an annual percentage rate of 9% for the repayment period.

The staff is adopting this revision in final form rather than inviting public comment on it. Immediate resolution of this issue is essential to avoid disruption to guaranteed student loan programs, and the delay required for a comment period would be contrary to the public interest.

(2) Pursuant to 15 U.S.C. 1640(f), the staff is amending TIL-1 by revising Comment 17(i)-4 to read as follows:

Section 226.17 -- General Disclosure Requirements * * *

17(i) Interim student credit extensions. * * *

4. Origination fee disclosure. Public Law 97-35 (August 13, 1981) amended the Higher Education Act of 1965 to permit lenders to charge up to a 5% origination fee on certain student credit extensions, such as federally-insured student loans. On such credit extended

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before August 1, 1982, creditors are not to take those fees into account in calculating and disclosing the annual percentage rate. Moreover, the origination fee need not be taken into account for purposes of any other Truth in Lending calculations and disclosures (for example, amount financed, prepaid finance charge, and prepayment disclosures) on such credit extended before August 1, 1982.

* * * * *

Board of Governors of the Federal Reserve System, November 27, 1981.

(signed) William W. Wiles
William W. Wiles
Secretary of the Board

[SEAL]

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FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; TIL-1]

TRUTH IN LENDING

Official Staff Commentary; Technical Amendments.

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official staff interpretation; technical amendments.

SUMMARY: The staff is making technical amendments to its official staff commentary to Regulation Z (Truth in Lending) published at 46 FR 50288, October 9, 1981.

FOR FURTHER INFORMATION CONTACT: Ann Marie Bray, Staff Assistant, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452-2412.

SUPPLEMENTARY INFORMATION: The final official staff interpretation contained in FR Doc. 81-29734 is amended as follows:

1. On page 50296, column 2, the fourth sentence of the second paragraph of 1981 changes is amended to read as follows:

"Other terms previously defined, such as 'customer' and 'organization,' are merged into new definitions."

2. On page 50299, column 1, the fourth sentence of the third bulleted paragraph in Comment 4(a)-4 is amended to read as follows:

"In addition, the agreement states that the creditor will pay 0% interest on the amount of the time deposit that corresponds to the amount of the credit extension(s)."

3. On page 50307, column 2, the following heading for and the first sentence of Comment 7(g)2 is added immediately after "1. Rate same as corresponding annual percentage rate. See Comment7(d)-5":

"2. Multifeatured plans. In a multifeatured plan, the actual annual percentage rate that reflects the finance charge imposed during the cycle may be separately stated for each feature."

4. On page 50307, column 3, the last sentence of Comment 7(k)-2 is amended by adding "the" after "Both of the billing rights statements in Appendix G contain such a precautionary instruction, so that a creditor could, by including either of these statements with each periodic statement, ensure that" and before "required address is provided in a clear and conspicuous manner."

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5. On page 50309, column 3, the punctuation of the first sentence of Comment 9(c)-1 is amended as follows:

> "No notice of a change in terms need be given if the specific change is set forth initially, such as: rate increases under a properly disclosed variable rate plan, a rate increase that occurs when an employee has been under a preferential rate agreement and terminates employment, or an increase that occurs when the consumer has been under an agreement to maintain a certain balance in a savings account in order to keep a particular rate and the account balance falls below the specified minimum."

6. On page 50310, column 1, the last sentence of Comment 9(c)(1)-3 is amended as follows:

> "But the consumer's general acceptance of the creditor's contract reservation of the right to change terms, or the consumer's use of the account (which might imply acceptance of its terms under state law), is not 'an agreement' between the consumer and the creditor for purposes of § 226.9(c)(1)."

7. On page 50311, column 3, the reference to § 226.10 appearing in the 1981 changes paragraph is amended to read "§ 226.11."

8. On page 50316, column 3, the reference in Comment 13(f)-2 is amended by changing "(See Comment 13(e)-1)" to "(See Commentary to §226.13(e).)"

9. On page 50317, column 3, the first sentence of Comment 14(a)-3 is amended by inserting "by" after "permitted" and before "§ 226.14(a)."

10. On page 50318, column 2, the title of Comment 14(d)-1 is amended by changing "Quotient Methods." to "Quotient Method."

11. On page 50336, column 3, Comment 23(a)-4 is amended by changing "creditor" to "consumer."

Board of Governors of the Federal Reserve System, December 3, 1981.

(signed) William W. Wiles
William W. Wiles
Secretary of the Board

[SEAL]

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