(d) The term "bank services" is defined in section 1(b) of the Act to mean "services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed for a bank."

(e) Bearing importantly upon the meaning of "bank services" is the following quotation from the Report of the Senate Committee on Banking and Currency: "The authority to examine and supervise banks is broad and must be vigorously exercised. At the same time sound discretion must be used. Banks have always employed others to do many things for them, and they will have to continue to do so, and the bill is not intended to prevent this or to make it more difficult. For example, banks have employed lawyers to prepare trust and estate accounts and to prosecute judicial proceedings for the settlement of such accounts. Banks have employed accountants to prepare earnings statements and balance sheets. Banks have employed public relations and advertising firms. And banks have employed individuals or firms to perform all kinds of administrative activities, including armored car and other transportation services, guard services and, in many cases, other mechanical services needed to run the bank's buildings. It is not expected that the bank supervisory agencies would find it necessary to examine or regulate any of these agents or representatives of a bank, except under the most unusual circumstances. The authority is intended to be limited to banking functions as such." (S. Rep. No. 2105, 87th Cong. 3 (1962)).

(f) On the basis of the Act's definition of "bank services", the limitation contained in section 4 of the Act, and the preceding quotation from the Act's legislative history, it is apparent that the term "bank services" is essentially limited to clerical and similar services. For example, the term would not usually be regarded as including legal, advisory, and administrative services, such as transportation or guard services.

(g) Thus, State member banks generally may rely on the Act to justify investment only in a corporation that is engaged solely in performing one or more of the services contained in the definition of "bank services" in section 1(b), or a service similar to one of those services, and only if those services are provided solely to banks. Investment in a corporation providing any other services, such as the type of services described in the above quotation from the Act's legislative history, generally is not permitted on the basis of this Act, unless such services are legitimately incidental to the provision of "bank services" by that corporation.

(h) Since the notification required by section 5 of the Act, as amended, also is based on the provision of "bank services," such notification need only be provided with regard to the provision of one or more of the services enumerated in section 1(b) of the Act or a service similar to one of those services.

§ 250.302 Applicability of Bank Service Corporation Act to bank credit card service organization.

Summary. Although a non-profit, no-stock service organization in which no bank has made an investment is not a "bank service corporation" as defined in the Bank Service Corporation Act, that organization's credit card servicing activities are "bank services" as defined in the Act and thus subject to the notification requirement of section 5 of the Act.

Text. (a) The Board of Governors has considered whether the Bank Service Corporation Act (12 U.S.C. 1861-65), is applicable where a bank credit card plan of a State member bank and other banks used the facilities of a non-profit, no-stock service organization.

(b) The functions of the service organization include the following: (1) Performing cardholder accounting for participating banks; (2) developing information concerning each credit card and holder, including such holder's current balance owing to the card issuing bank and the amount of such balance that is delinquent; (3) assisting in procedures relating to the presentation and settlement of drafts and credit memoranda; (4) developing procedures relating to credit card security control; (5) upon telephonic request, advising merchants and participating banks respecting credit authorizations above certain specified limits; and (6) compiling lists of participating merchants.

(c) The Board expressed the view that because the service organization has no stock and the State member bank does not otherwise "invest" therein by "the making of a loan, or otherwise, except a payment for rent earned, goods sold and delivered, or services rendered prior to the making of such payment" (section 1(d) of the Act), the service organization is not a "bank service corporation" within the meaning of section 1(c) of the Act.

(d) However, the Board concluded that the functions described above do constitute "bank services" as defined in section 1(b) of the Act. Accordingly, the State member bank is required to notify the Board (through the appropriate Federal Reserve Bank) of the performance of the services for the bank in accordance with section 5 of the Act.

Effective date: March 10, 1979.

Board of Governors of the Federal Reserve System, March 5, 1979.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 79-7307 Filed 3-8-79; 8:45 am]

[6210-01-M]

[Reg. Z; Docket No. R-0208]

PART 226—TRUTH IN LENDING

Amendment to Regulation Z to Conform to Statutory Change Prohibition Against Surcharges; Extension

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: Section 226.4(i)(4) of Regulation Z, which implements section 167(a) of the Truth in Lending Act (15 U.S.C. 1604), makes it illegal for a creditor to impose a surcharge because payment for goods or services is made by credit card. This prohibition was due to expire on February 27, 1979.

On November 10, 1978, the Financial Institutions Regulatory and Interest Rate Control Act (Pub. L. 95-630) was enacted. Section 1501 of that law (92 Stat. 3713) extended the prohibition against surcharges to February 27, 1981. Section 226.4(i)(4) of Regulation Z is being amended to conform to that statutory extension.

In accordance with § 262.2(e) of its regulations (12 CFR 262.2(e)), the Board deems it unnecessary to publish this regulatory amendment for comment prior to final adoption.

EFFECTIVE DATE: March 5, 1979.

FOR FURTHER INFORMATION CONTACT:

Dolores S. Smith, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2412.

TEXT OF AMENDMENT

Pursuant to the authority granted under section 105 of the Truth in Lending Act (15 U.S.C. 1604), the Board amends Regulation Z, 12 CFR 226.4(i)(4), to read as follows:

§ 226.4 Determination of finance charge.

* * * * * *

(i) *** **

(4) No creditor in any sales transaction may impose a surcharge. This

paragraph shall cease to be effective on February 27, 1981.

* * * * *

By order of the Board of Governors, March 5, 1979.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 79-7154 Filed 3-8-79; 8:45 am]

[6320-01-M]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER D—SPECIAL REGULATION

[Regulation SPR-156; Amdt. No. 2; Docket 29165]

PART 380—PUBLIC CHARTERS

Consumer Protections For Charter Participants; Simplified Prospectus Filing Procedures

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. March 2, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: The CAB is requiring that charter participants be given refunds when there are major changes in the charter packages they have purchased. In addition, there are new disclosure requirements for charter advertising and specific requirements for the contracts between charter operators and participants. The CAB is also simplifying the procedures under which operators must file prospectuses before marketing charters. This rule is designed to help to insure the participants fair treatment by the operators or, if necessary, from a court.

DATES: Adopted: March 2, 1979. Effective: the amendment of § 380.20 and the revocation of § 380.43 are effective March 2, 1979. Sections 380.31 and 380.32 (operator-participant contract requirements), § 380.33 (major changes), § 380.33a (operator's option plan), and § 380.12 (notifications) apply to operator-participant contracts entered into on or after May 1, 1979, but only with respect to charters that are scheduled to depart on or after July 1, 1979. Section 380.30 applies to solicitation materials distributed or broadcast on or after May 1, 1979, but only for charters that are scheduled to depart on or after July 1, 1979. The amendments of §§ 380.2, 380.18, 380.23, 380.25, 380.28, 380.34, and 380.40 are effective May 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428, (202) 673-5442.

SUPPLEMENTARY INFORMATION:

By a notice of proposed rulemaking, SPDR-50B, 43 FR 39807, September 7, 1978, the Board proposed consumer protection amendments to its Public Charter rule, 14 CFR Part 380. The proposal was based on an April 1976 petition by the Board's former Office of the Consumer Advocate (since merged into the Bureau of Consumer Protection) and on the comments on SPDR-50, 41 FR 45024, October 14, 1976, an advance notice of proposed rulemaking.

The proposed amendments would entitle participants to refunds when there are major changes in their charter packages. This would be done by both requiring operator-participant contracts to contain certain terms and making the refunds a direct regulatory obligation. SPDR-50B also proposed to improve participants' awareness of what they will and will not get, and what risks may be involved, when they purchase charter trips. This would be done by (1) requiring charter advertising to include certain information, (2) requiring charter operators to obtain signed contracts from prospective participants before collecting any money from them, (3) establishing print size requirements for the contracts, and (4) requiring a space on the contract form for participants to request details of optional insurance. Simplified procedures for filing Public Charter prospectuses were also proposed. Finally, SPDR-50B invited comments on the possibility of requiring operators to obtain permits before marketing charters.

Thirty-three comments and reply comments were filed by consumer protection agencies and organizations, air carriers and air carrier associations, charter operators and operator associations, a travel agents' association, and others. For the reasons discussed below, we have decided against a permit or licensing requirement and generally in favor of the rest of the proposal, with some changes in detail.

PRELIMINARY MATTERS

Section 401(n)(2) of the Federal Aviation Act of 1958, as amended by the Airline Deregulation Act of 1978, Pub. L. 95-504, states that "no rule, regulation, or order of the Board shall restrict the marketability, flexibility, accessibility, or variety of charter trips * * *." Some commenters have cited this language to argue that the Board should not be issuing this rule. This, however, ignores key legislative history. Congress specifically contemplated the adoption of consumer protection rules like these. SPDR-50B was outstanding when the Deregulation Act was passed, and the Conference Report stated that:

> The limitations on the Board's power to restrict the flexibility of charters are not intended to limit the Board's authority to adopt regulations for the protection of consumers. (H. Rept. No. 95-1779, October 12, 1978, p. 68)

Therefore, there is no statutory bar to adoption of this rule.

Nevertheless, some commenters would have us terminate this rulemaking and leave the matter of charter consumer protection to the Federal Trade Commission (FTC), suggesting that that agency is a more appropriate one to adopt this sort of rule. The FTC itself, however, does not agree, and advocates the adoption of our proposal. It feels that we have made a reasonable allocation between operators and participants of the burden of uncertainty that is inherent in charter transportation. The FTC stated that the rule could go a long way toward protecting consumers from major problems that they may experience on charter tours without harming the charter industry. Both the Board and the FTC have examined the travel industry, and each has found that substantial problems exist between consumers and charter tour operators. These problems have existed for a long time, and for us now to pass them on to another agency would serve only to further delay their solution.

Some commenters argued for a postponement or transfer of this rulemaking on the ground that it should include non-charter tours within its coverage. Even if it is advisable to have consumer protection rules for tours operated on scheduled air transportation, we could not do so now. Such action is beyond the scope of this rulemaking. The different legal relationships between passengers and scheduled tour operators would necessitate entirely different remedies. Moreover, to wait for another proposal to be developed and published and for comments to be submitted and analyzed would mean only further delay. The Board's staff will continue to monitor consumer abuses by scheduled tour operators. It cannot seriously be contended, however, that the continued viability of the charter mode depends on operators' ability to engage in the kinds of unfair practices that we are prohibiting here.

The National Air Carrier Association (NACA) asserted that we should hold an evidentiary hearing to determine whether the rule should be expanded to include tour operators using scheduled service. This proceeding is clearly rulemaking as defined in the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* (APA) and the procedures fol-