pretation of Regulation Z. You inquire as to the impact of Regulation Z on certain charges imposed and balances maintained in connection with checking accounts which are required to be established by customers as a condition of an extension of either open end credit or credit other than open end.

You first ask whether the checking account service charges should be included in the finance charge disclosure with regard to an extension of credit. In the case of open end credit, you also ask whether (assuming they are not to be included in the finance charge) the service charges should be identified as an "other charge" in accordance with § 226.-7(a)(6). Third, you ask whether any minimum checking account balance required to be maintained in order to avoid the imposition of the checking account service charges is a required deposit balance as defined in § 226.8(e)(2) if the customer is required to establish a checking account as a condition of an extension of credit other than open end.

Section 226.4(a)(2) of Regulation Z requires that service, transaction, activity or carrying charges that are imposed by a creditor as a condition of an extension of credit must be included in the amount of the finance charge. As you indicate, however, footnote 2 to § 226.4(a)(2) provides that these charges include any such charges imposed in connection with a checking account but only "to the extent that such charges exceed any charges the customer is required to pay in connection with such an account when it is not being used to extend credit." Assuming, therefore, that the service charges assessed on a checking account established for the purpose of obtaining an extension of credit are not in excess of the charges normally assessed on a checking account which is not established for that purpose, staff is in agreement with your position that the service charges imposed on such a mandatory checking account need not be included in the amount of the finance charge for the related credit transaction.

Furthermore, in staff's view, the service charges do not come within the definition of an "other charge" to be disclosed in accordance with § 226.7(a)(6). In Public Information Letter 948 (a copy of which is enclosed for your convenient reference), staff concluded that: Where the overdraft is not treated as part of the credit plan and the fee assessed for honoring it is identical to the fee charged on an overdraft of a checking account without a credit feature, the fee would not seem to be an element of the credit plan, but rather would seem to be related to the basic checking account agreement.

Similarly, the service charges imposed on the checking account described herein appear to be assessed regardless of whether credit is extended.

Moreover, in those situations where a checking account must be opened as a condition of an extension of credit other than open end, staff does not consider a minimum checking account balance which is maintained in order to avoid the imposition of the service charges as constituting a required balance. Section 226.8(e)(2) defines a required deposit balance as including "(a)ny deposit balance. Section 226.8(e)(2) defines a required deposit balance as including "(a)ny deposit balance or investment which the creditor requires the customer to make, of credit * * *." Your client does not appear to require the customer to make, maintain, or increase a minimum balance in the checking account established in order to obtain an extension of credit. Rather, the customer is merely being given the option of maintaining a balance sufficient to avoid the imposition of the service charges. Since staff regards the maintenance of such a minimum checking account balance as a condition for obtaining a benefit of the checking account plan, rather than as "a condition to the extension of credit," staff does not consider such a minimum checking account balance to be a required deposit balance as defined by § 226.8(e)(2).

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation. It is limited solely to the facts and issues presented herein. I trust that it is responsive to your inquiry.

Sincerely,

JANET HART,
Director.

[FC-0104]

§ 226.808 Disclosure method set out in § 226.808 may be used where mortgage insurance premiums vary each year and are collected from customer annually rather than monthly.

AUGUST 25, 1977.

This is in reply to your letter of * * *, in which you request an official staff interpretation concerning the proper disclosure of the schedule of payments in a mortgage loan involving mortgage insurance. You inquire about a situation in which the lender pays the mortgage insurance premiums annually. The premiums decrease each year because they are computed on the basis of the unpaid principal balance of the loan. Consequently, the program is similar to the programs discussed in Official Staff Interpretations FC-0003, FC-0025, and FC-0030, except that the mortgage insurance premium is collected from the borrower annually, rather than monthly. All payments are for an equal amount of principal and interest, but the twelfth payment each year is larger than the other eleven by the amount of the annual mortgage insurance premium.

You wish to know whether Board Interpretation § 226.808, which provides a method of disclosing the schedule of payments when the payment amounts vary over the term of a credit transaction, is applicable in this situation. You believe that the disclosure method set out in § 226.808 and explained in the above-cited official staff interpretations is equally as understandable and informative in your program, in which the premiums decline in annual steps and are paid annually, as it is in those programs in which the premiums decline in annual steps but are paid monthly. You propose to disclose the payment schedule by indicating the constant amount of principal and interest which will be due monthly throughout the life of the loan and, further, by explaining that on a certain date of each year an additional amount is to be paid for the mortgage insurance premiums. In addition, you propose to disclose the amounts of the mortgage insurance premiums that would be included in the first and in the last of these varying payments, as well as disclosing the total amount (reflecting principal, interest, and mortgage insurance premiums) of the first and the last of such varying payments.

It is staff's opinion that the principles underlying Board Interpretation § 226.808 are applicable to the program you have described. Staff believes that the above-described method of disclosure sufficiently complies with the regulation, assuming, of course, that the total finance charge and the total of payments are also disclosed as called for in § 226.808. You may be interested to know, however, that the staff is currently considering recommending to the Board a revision of § 226.808 concerning the method of disclosing the payment schedule when the payment amounts vary. If the interpretation should be revised, you will need to reassess your method of disclosure in light of the changes at that time.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation, and it is limited to the facts as set out herein. I trust that it proves helpful to you.

Sincerely,

JANET HART,
Director.

[FC-0105]

§ 226.4(1), § 167 of Act, § 171 of Act—Discounts limited to only cash-paying customers may qualify for the special treatment afforded by §§ 167 and 171(c) of the Truth in Lending Act and § 226.4(1) of Regulation Z.

AUGUST 26, 1977.

This is in response to your letter of * * *, inquiring about the requirements of § 167 of the Truth in Lending Act. You ask whether a merchant wishing to offer a discount in accordance with that section may restrict the availability of the discount to those customers paying with cash only (i.e., the discount would not be available to customers tendering checks, nor to credit card purchasers). Section 167 is implemented by § 226.4(1) of Regulation Z, which has been recently amended. Enclosed you will find a copy of the amendments.

Staff believes that it is permissible for a merchant to offer discounts to only those customers paying for goods or services by cash, and that such a discount would qualify for the special treatment afforded by §§ 167 and 171(c) of the Act and § 226.4(1) of the regulation. Of course the amount of the discount, and manner in which the discount is offered, must comply with the provisions of § 226.4(1) in order for the discount to be exempted from treatment as a finance charge.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation, and limited in its application to the facts and issues discussed above. I trust it is responsive to your inquiry.

Sincerely,

JANET HART,
Director.

Board of Governors of the Federal Reserve System, September 7, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-26532 Filed 9-12-77;8:45 am]

[Reg. Z; Docket Nos. R-0093 and R-0087]

PART 226—TRUTH IN LENDING

Descriptions of Transactions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This rule postpones the date for full implementation of the regulation regarding descriptive billing of nonsale credit transactions, such as cash advance checks, on open end credit accounts (Reg. Z, § 226.7(k)(3)(ii)) until March 28, 1978. The action is taken in order to permit the full consideration of proposals to amend this section of the regulation, which are designed to facilitate compliance with the regulation by creditors and, at the same time, to retain the essential description requirements of the present regulation for the benefit of consumers.

EFFECTIVE DATE: August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Attorney, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–2412).

SUPPLEMENTARY INFORMATION: By this document the Board of Governors of the Federal Reserve System ("Board" herein) postpones the date for full implementation of § 226.7(k) (3) (ii) of Regulation Z, which prescribes rules regarding descriptive billing of nonsale credit transactions reflected on open end credit periodic statements. That section of the regulation was scheduled to become fully effective on October 28, 1977. However, because of the pendency of Board consideration of proposals to amend the section, it is necessary to postpone the date until March 28, 1978, in order to have sufficient time to complete the consideration of the proposals and any rulemaking proceedings that become necessary. This postponement is also necessary in order to avoid the commitment of resources by creditors to comply with the requirements of the section as it is currently written until the Board has determined whether or not it should be changed, and to give creditors sufficient time to adjust their systems to comply with the requirements ultimately adopted.

It should be made clear that this suspension relates only to the requirements of § 226.7(k) (3) (ii) of Regulation Z regarding identifications of nonsale credit transactions, such as cash advance checks. The requirements of § 226.7(k) relating to other types of credit transactions are not affected hereby.

Pursuant to 5 U.S.C. 553 (1970) the Board finds that notice and public participation in this rulemaking are impractical and unnecessary since (1) time is of the essence in postponing the date for full implementation of the section, (2) the effective date is merely temporarily postponed, and (3) opportunity will be afforded for public comment on any changes in the substance of the subject regulation proposed by the Board.

In consideration of the foregoing and pursuant to the authority granted in 15 U.S.C. 1604 (1970) the Board hereby postpones the October 28, 1977, date for full implementation of § 226.7(k) (3) (ii) of Regulation Z, as affected in § 226.7(k) (7) (i), until March 28, 1978. During the period of the postponement a creditor may comply with the requirements for identifying nonsale credit transactions on or with open end credit periodic statements either by use of the methods prescribed in § 226.7(k) (3), by use of the alternatives prescribed in § 226.7(k) (4) or § 226.7(k) (7) (i), or by use of a combination of those methods.

By order of the Board of Governors of the Federal Reserve System, August 31, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77–26533 Filed 9–12–77;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regulations No. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Recovery of Excess Cost Resulting From Use of Accelerated Depreciation When Termination of Provider Agreement Results From Transaction Between Related Organizations

AGENCY: Health Care Financing Administration.

ACTION: Final rule.

SUMMARY: Current regulations require that when a provider who has used accelerated depreciation terminates participation in the health insurance program, depreciation claimed by the provider in excess of straight-line depreciation is to be recovered by the health insurance program. This regulation establishes new policy by providing that when the termination of the provider agreement is due to a change in provider ownership resulting from a transaction between related organizations, and certain other conditions are met, this recovery provision will not be applied.

EFFECTIVE DATE: This amendment shall be effective September 13, 1977, and may be applied to all cost reports subject to reopening.

FOR FURTHER INFORMATION CONTACT:

Virginia Gray, Division of Provider Reimbursement and Accounting Policy, Bureau of Health Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301–594–9690.

SUPPLEMENTARY INFORMATION: On October 20, 1976, this regulation was published in the FEDERAL REGISTER (41 FR 46321) with a Notice of Proposed Rulemaking as a proposed amendment to Subpart D of Regulations No. 5 (20 CFR Part 405) regarding recovery of excess cost resulting from the use of accelerated depreciation when termination of the provider results from a transaction between related organizations.

Current regulations require that when a provider who has used accelerated depreciation terminates participation in the health insurance program, depreciation claimed by the provider in excess of straight-line depreciation is to be recovered by the health insurance program. The intention of the current regulation is to insure that the health insurance program pay providers only the reasonable cost of services furnished to Medicare beneficiaries. Without the provision for the recovery of excess depreciation, a provider who had been allowed depreciation at an accelerated rate, and thus received disproportionately high depreciation payments from the health insurance program in its initial years of participation, would avoid rendering services at compensatingly low depreciation allowances in later years, if it terminated participation in the health insurance program.

However, when termination of the provider agreement results from a transaction between related organizations, and the successor provider remains in the health insurance program and its asset bases are the same as those of the terminated providers, health insurance program reimbursement is equitable to all parties. An amendment to the regulations is necessary, therefore, to provide that when termination of the provider agreement results from a transaction between related organizations, and certain other conditions are met, the recovery of accelerated depreciation will not be applied.

Section 5 U.S.C. 553(d) permits an immediate effective date when good cause exists. Because this amendment establishes new policy, which is a liberalization of an existing policy, and may be applicable to cost reports subject to reopening, good cause exists for not having a delayed effective date. Therefore, this amendment shall be effective upon publication in the FEDERAL REGISTER.

Interested parties were given 45 days from the date of publication of the Notice of Proposed Rulemaking in which to submit data, views, or arguments thereon. Only a few comments were received as a result of the Notice of Proposed Rulemaking. These comments essentially agreed with the purpose of the proposed regulation. The proposed amendment has been prepared for final publication with only clarifying editorial changes.

Accordingly, the amendments are adopted as revised and are set forth below.

Part 405 of Chapter III of Title 20 of the Code of Federal Regulations, is amended as follows:

In § 405.415, paragraph (d) is amended by adding headings for paragraphs (d) (1), (d) (2), and (d) (3), redesignating the material in the present paragraph (d) (3) as paragraph (d) (3) (i), adding a heading for such redesignated paragraph, and adding paragraph (d) (3) (ii). The added headings and paragraph (d) (3) (ii) read as follows:

§ 405.415 Depreciation: Allowance for depreciation based on asset costs.

* * * * *

(d) *Depreciation methods.* (1) *General.* * * *

(2) *Change in method.* * * *

(3) *Recovery of accelerated depreciation.* (i) *General.* * * *

(ii) *Transaction between related organizations.* (a) *General.* When the termination of the provider agreement is due to a change in provider ownership, as defined in §§ 405.625 and 405.626, resulting from a transaction between related organizations, as defined in § 405.427, and the criteria in paragraph (b) of this section are met, the excess of reimbursable cost, as determined in paragraph (d) (3) (i) of this section shall not be recovered if there is a continuation of participation by the facility in the health insurance program.