

Friday, July 06, 2007

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Regulation E; Docket No. R-1270]

Electronic Fund Transfers

RE: Summary of comments

Background and Overview of Comments Received

Under the EFTA and Regulation E, financial institutions must make a receipt available at the time a consumer initiates an electronic fund transfer at an electronic terminal.¹ For this purpose, electronic terminals include ATMs and POS terminals. The receipt requirement applies whenever an EFT is made at an electronic terminal, regardless of the transaction amount, but does not apply to Internet transactions.

According to industry representatives, the receipt requirement has been an obstacle to their ability to respond to recent shifts in consumer payment preferences from cash to debit cards, particularly in environments that exclusively handle small-dollar transactions. For vending machines, for example, the costs associated with installing and servicing additional printing equipment capable of providing terminal receipts have been an impediment to offering cashless payment options. For public mass-transit systems, the time required to provide each consumer with a receipt for debit card transactions at the gate or on a vehicle would cause delays that render the use of debit cards impractical in such circumstances.

On December 1, 2006, the Board published a notice of proposed rulemaking to eliminate the requirement to provide a receipt to consumers at POS and other electronic terminals for transactions of \$15 or less. 71 FR 69,500. In support of the proposal, the Board cited the implementation costs and the growing consumer preference for using debit cards in all types of transactions, regardless of the dollar amount of the transaction.²

¹ See Section 906 of the EFTA (15 U.S.C. 1693d) and 12 CFR § 205.9.

² See Elizabeth Olson, *Who Needs Pocket Change When You've Got Plastic?*, N.Y. Times, Jun. 17, 2007, at BU5. See also Geoffrey Gerdes and Jack Walton II, "Trends in the Use of Payment Instruments in the United States," *Federal Reserve Bulletin* 180, 181 (Spring 2005), and Ron Borzekowski, Elizabeth Kiser,

In addition, the Board noted that while receipts may be important to consumers for moderate- to high-value transactions, receipts may be less significant for small-dollar transactions because consumers are less likely to retain them for proof of payment or for account management purposes given the limited risk of loss to the consumer. Moreover, consumers would continue to receive a record of each transaction on their periodic statements, and retain the right to assert an error arising from that transaction with their account-holding financial institution, provided notice was given within the required time frames.³

The Board received 56 comment letters in response to the proposal. Commenters included banks, credit unions, card associations, financial and other industry trade associations, consumer groups, and individual consumers. A majority of the comment letters were submitted by industry while nearly 20 letters were submitted by individual consumers or consumer groups. In general, financial institutions and other industry commenters supported the Board's proposal to eliminate the receipt requirement for small-dollar transactions although many of these commenters urged the Board to increase the dollar threshold for the exception. Specifically, these commenters advocated an increase in the dollar threshold from \$15 to \$25, stating that a higher threshold would provide greater flexibility in the future to accommodate consumer preferences for electronic forms of payment in more market segments in the future. Industry commenters also favored a \$25 threshold for consistency with current card payment association rules that waive the personal identification number (PIN) and signature authorization requirements for certain merchants for transactions under \$25.

Consumer group commenters believed that the \$15 threshold was too high and stated that a \$5 threshold would be sufficient to accommodate the retail environments that currently do not accept debit cards. Consumer groups also suggested some additional consumer protections be implemented along with the exception, including limiting the exception only to retail environments that do not conduct any transactions over the dollar threshold.

and Shaista Ahmed, *Consumers' Use of Debit Cards: Patterns, Preferences, and Price Response* (Board of Governors of the Federal Reserve System, Financial and Economic Discussion Series 2006-16, April 2006).

³ See 12 CFR §§ 205.9(b) and 205.11.

The Board received comments from 18 individual consumers. While six individual consumers supported the Board’s proposal, the rest of the comments from individual consumers received by the Board opposed the proposal, citing a need for receipts for various reasons, including account management, fraud detection, and reimbursement and income tax substantiation purposes.

Summary of the Final Rule

The Board is amending Regulation E to eliminate the requirement for providing terminal receipts for EFTs of \$15 or less. Pursuant to its authority under Section 904(c) of the EFTA, the Board is adopting this limited exception to effectuate the purpose of the Act and facilitate the use of debit cards in transactions where that option does not currently exist due to the compliance burdens associated with the receipt requirement.⁴ In addition, a revision to the commentary would clarify that the fact that a financial institution does not make a terminal receipt available for an EFT of \$15 or less is not an error for purposes of the error resolution provisions in § 205.11.

⁴ Section 904(c) of the EFTA (15 U.S.C. 1693b(c)) provides that the rules issued by the Board “may contain such classifications, differentiations, or other provisions, and may provide for any adjustments and exceptions for any class of electronic fund transfers” that in the judgment of the Board are “necessary or proper to effectuate the purposes of [the Act], to prevent circumvention or evasion thereof, or to facilitate compliance therewith.”