# FEDERAL RESERVE BANK
# OF NEW YORK

[ Circular No. **9385**
October 20, 1982 ]

## ELECTRONIC FUND TRANSFERS

### Amendments to Regulation E

*To All Depository Institutions in the Second
Federal Reserve District, and Others Concerned:*

Following is the text of a statement issued by the Board of Governors of the Federal Reserve System:

The Federal Reserve Board has announced adoption of amendments to Regulation E, Electronic Fund Transfers. These amendments are effective October 12, 1982. The Board acted after consideration of comment received on proposals published in March.

The amendments call for:

1. An exemption from the regulation, for financial institutions whose assets do not exceed $25 million, for preauthorized transfers by government agencies and private corporations.
2. An exemption from the need to disclose, on terminal receipts, the type of account involved in an automated teller machine transaction, where only a single account can be accessed.
3. An exemption from the requirement to provide a periodic statement for each account when a transfer is made between accounts of the same consumer in the same institution.
4. Modifications to the requirements for documentation and error resolution procedures for transfers initiated outside the United States.

The rules are intended to reduce regulatory burdens without giving up significant consumer protection.

Separately, the Board decided to take no action on its proposals of July and August 1982 to amend Regulation Z (Truth in Lending) with respect to disclosures in connection with seller's points.

Enclosed is the text of the amendments, which has been reprinted from the *Federal Register*. Questions thereon may be directed to our Consumer Affairs and Bank Regulations Department (Tel. No. 212-791-5914).

ANTHONY M. SOLOMON,
*President.*

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

# ELECTRONIC FUND TRANSFERS

## AMENDMENTS TO REGULATION E

*(effective October 12, 1982)*

**12 CFR Part 205**

**[Reg. E; Docket No. R-0388]**

**Electronic Fund Transfers; Exemptions Documentation of Transfers Procedures for Resolving Errors**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board is adopting four amendments to Regulation E, Electronic Fund Transfers. The amendments will (1) exempt from the regulation preauthorized electronic fund transfers to or from accounts of financial institutions with assets of $25 million or less; (2) provide that the terminal receipt need not disclose the type of account involved, in an automated teller machine transaction where only one particular account can be accessed by the consumer; (3) exempt from duplicative periodic statement requirements certain transfers between a consumer's accounts held at the same institution; and (4) modify documentation and error resolution requirements for the transfers initiated outside the United States. These amendments are in response to requests from financial institutions, and are designed to reduce regulatory burdens without giving up significant consumer protection.

**EFFECTIVE DATE:** October 12, 1982.

**FOR FURTHER INFORMATION CONTACT:** Regarding the regulation, contact: Jesse B. Filkins or John C. Wood, Senior Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3867). Regarding the economic impact analysis, contact: Frederick J. Schroeder, Economist, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–2584).

**SUPPLEMENTARY INFORMATION:** (1) *General.* The Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq.*) governs any transfer of funds that is electronically initiated and that debits or credits a consumer's account. This statute is implemented by the Board's Regulation E. In March 1982 (47 FR 12997), the Board proposed four amendments to the regulation that would reduce finanical institutions' compliance costs and allow for the continued development of electronic fund transfer (EFT) services. The Board has now adopted the amendments.

Section 904(a)(2) of the EFT Act requires the Board to prepare an analysis of the economic impact of the regulation that considers, among other things, the impact of the regulation on the various participants in the electronic fund transfer system, the effect upon competition in the provision of electronic fund transfer services among large and small financial institutions, and availability of such services to different classes of consumers, particularly low-income consumers. In addition, section 604 of the Regulatory Flexibility Act (5 U.S.C. 604) requires that final regulations be accompanied by a regulatory flexibility analysis. The statement appearing in section (3) below satisfies both of these requirements. Two tables of data used in the analysis are not being published, but may be obtained by writing to Frederick J. Schroeder at the address indicated above under ("For Further Information").

To the extent that these amendments modify positions stated in the Official Staff Commentary to Regulation E, the commentary is superseded. Changes reflecting the amendments will be incorporated when the commentary is updated.

(2) *Regulatory provisions. Section 205.3(g)—Preauthorized transfers to and from accounts at small financial institutions.*

The EFT Act and Regulation E cover all fund transfers that are electronically initiated and that access accounts established primarily for personal, family, or household purposes. This includes preauthorized electronic fund transfers (such as Social Security payments, payroll deposits, and insurance payments) which originate with an authorization by the consumer whose account is affected. Applicable requirements of Regulation E include disclosure of certain account terms, periodic statements of activity in the account, and prescribed error resolution procedures, among others.

In March 1982, the Board proposed to exempt from the requirements of the regulation transfers under the federal recurring payments program for all financial institutions with assets of $15 million or less. Small financial institutions often receive preauthorized electronic fund transfers through a correspondent institution, a service bureau, or an automated clearinghouse (ACH), sometimes in the form of paper printouts. Many of these institutions receive no electronic fund transfers other than federal recurring payments and, therefore, are required to comply with the regulation simply because they participate in the government's program.

The exemption was proposed under the Board's statutory authority to exempt small financial institutions from undue burdens of complying with the regulation. An asset-size cutoff was proposed because of the simplicity of implementation and the certainty with which financial institutions can determine whether or not they qualify for the exemption.

*Asset size.* The great majority of commenters requested that the asset-size limitation either be increased or removed totally. They believed that large institutions would benefit from the exemption as much as small institutions, that there was no loss of consumer protection, and that the same benefit should extend to all institutions.

There is no established definition of a small financial institution. The $15 million cutoff contained in the March proposal was selected in part because it corresponded to the asset level cutoff used in Regulation D, which also differentiates among institutions on the basis of asset size. The data available regarding participation of banks in electronic transfer services supports the premise that institutions under $50

For this Regulation to be complete retain:

1) Printed Regulation pamphlet dated May 10, 1980.
2) Slip sheets dated May 1980 and January 1981.
3) This slip sheet.

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million in asset size play a more limited role in providing electronic fund transfer services to consumers. For example, a 1981 survey conducted by the American Bankers Association showed that of 191 bank respondents under $50 million, only 6.3 percent offered automated pay-by-phone, 8.4 percent had automated teller machines, and .5 percent had cash dispensing machines. (There is no available breakdown below $50 million.)

The Board has chosen to retain an asset limitation, but has increased the asset ceiling to $25 million. The Board believes an asset-size cutoff of $25 million strikes a balance in maximizing the number of institutions exempted and minimizing the number of consumers affected. Such an increase more effectively implements the Board's statutory mandate to provide regulatory relief from compliance burdens for small institutions.

*Private sector preauthorized transfers.* Some commenters expressed concern that the narrow exemption proposed would inhibit financial institutions from expanding their EFT involvement. If only government payments were exempted, financial institutions might be discouraged from expanding their programs to include private sector preauthorized transfers because of the additional compliance costs that would be incurred. Such action, they believed, would be contrary to the Board's mandate to provide a regulatory scheme that will encourage the development of EFT services.

The Board has determined that exemption for only federal recurring payments would provide minimal benefits for small financial institutions that receive both private and public preauthorized transfers, but provide no other EFT services. The institution receiving private sector transfers would still incur the costs and burdens of compliance even though the private sector transfers are accomplished in the same manner as the government-initiated transfers. Both types of transfers are made through ACH systems using the same equipment and procedures, and may arrive at the receiving financial institution interspersed on the same tape. It would be difficult and costly for a financial institution to separate these transactions in order to take advantage of an exemption for government transfers.

The Board is exempting these preauthorized transfers from all requirements of the regulation rather than retaining some provisions, such as error resolution procedures. Retention of some of the provisions would not provide the desired relief for small financial institutions because, in that event, they still would incur the costs of determining what is required by those provisions and establishing procedures to assure compliance. The Board believes that little consumer protection is lost because private sector agreements, such as the National Automated Clearing House Association rules, and Treasury regulations provide protections similar to Regulation E.

Section 205.3(g)(1), as adopted, exempts preauthorized transfers as a class, not the financial institutions themselves. Therefore, a small financial institution that provides EFT services other than preauthorized transfers must comply with the regulation for those *other* services. For example, a small financial institution that offers its customers ATM services must comply with Regulation E concerning the issuance of debit cards, terminal receipts, periodic statements, and other requirements.

In addition, provisions of the act that apply to the financial institution's conduct rather than the exempted transfers, such as the prohibition against compulsory use of electronic fund transfers in section 913, will continue to apply. This prohibition is retained by applying existing footnote 1a to the exemption being adopted.

The determination as to whether a financial institution meets the asset-size test is to be made on December 31. Financial institutions should use total assets on December 31, 1981, to determine coverage on the effective date of this amendment. An institution whoses assets exceed $25 million at the end of a subsequent calendar year will have a one-year grace period for complying with the regulation. For example, if an institution is exempt on December 31, 1982, but exceeds the $25 million cutoff on December 31, 1983, it need not comply with the regulation until January 1, 1985.

*Section 205.9(a)(3)—Disclosure of Type of Account on Terminal Receipt*

For transfers initiated at an electronic terminal, Regulation E requires that the terminal receipt indicate the "type of account" accessed. The Board proposed an exemption from this requirement for transfers taking place at remote terminals in an interchange or shared ATM system, if only one of the consumer's accounts may be accessed in such transfers.

Most of the commenters supported the basic thrust of the proposal; however, many suggested an expansion of the scope of the exemption. They believed that relief from the requirement to indicate the type of account is appropriate, and needed, in circumstances beyond those covered in the proposal. They said that in some interchange systems it may be just as difficult to provide information on the type of account at the account-holding institution's own terminals as it is at terminals of other institutions in the system. They indicated that some proprietary ATM systems face the same sort of difficulty.

The EFT Act requires that a financial institution provide "the identity of the consumer's account * * * from which or to which funds are transferred." The regulation implements this requirement by providing that the terminal receipt identify the "type of account" accessed. The Board believes that in circumstances where the consumer may, in fact, access only one account, this identification requirement is satisfied by the disclosure of the card number or the account number on the terminal receipt, which consumers already receive under current requirements of Regulation E.

Accordingly, the Board is expanding the exemption, making it applicable to any transfer initiated at an electronic terminal where the consumer can access only one account at that terminal and hence knows which account is involved. The exemption applies in any ATM system—shared, interchange, or proprietary—in which the consumer's access device can only access a particular account. Ownership of the terminal is not a factor as to whether the exemption applies.

The existing exemption from "type of account" disclosure for point-of-sale transfers where only one account may be accessed is subsumed into the new amendment, which has been implemented by revising the final sentence in footnote 3 to § 205.9(a)(3).

One commenter pointed out that in some ATM interchange systems consumers can access multiple accounts of a particular type at terminals operated by the account-holding institution, but can access only one account of each type (for example, one checking and one savings account) at terminals operated by institutions other than the one holding the account. The commenter requested the same sort of exemption for this system as was proposed for other interchange systems, i.e., that the terminal receipt need not uniquely identify the account accessed although it would identify the type of account. The Board believes that the existing language of the regulation permits such a procedure, and the staff will revise the Regulation E commentary to reflect this interpretation.

The Board's action reverses question 9–9 of the commentary to Regulation E, which currently specifies that the type of account accessed must be identified on an ATM receipt even though only one account may be accessed at that terminal. Question 9–9 of the commentary will be revised to reflect the amendment.

*Section 205.9 (c), (d), and (h)—Nonautomatic Transfers Between Consumer Accounts*

Currently, Regulation E requires that a financial institution must provide a periodic statement, usually monthly, for each account that may be accessed by electronic fund transfers. Therefore, for telephone transfers of funds between a consumer's accounts (for example, a savings account and a checking account), a statement must be provided for each account.

The March 1982 proposal would have relieved financial institutions of the need to provide a statement for each account where such telephone transfers take place within the same institution, so long as one of the accounts received a complying statement. Consumer protection would be maintained because that statement would properly identify each electronic fund transfer that occurred between the two accounts. If, at a later date, the consumer received information that an error was reflected in the account for which the periodic statement had not been provided (for example, on the customary statement or passbook update provided for the account), the error resolution procedure would still be available to the consumer

Under the March proposal, the exemption from the periodic statement requirement would have been unavailable for accounts accessible by EFTs other than telephone transfers. Commenters indicated that in order to accomplish the objective of eliminating duplicative statements, the exception should be expanded to include intra-institutional transfers initiated by the consumer at an ATM. Otherwise, they said, statements would have to be provided for both accounts when these ATM transfers occurred even though they are functionally the same as those initiated through a telephone. Accordingly, the amendment adopted by the Board expands the exemption to apply to electronic transfers between a consumer's accounts at the same financial institution, regardless of the manner in which the transfer is effected.

Commenters also requested that the restriction against access by electronic fund transfers other than telephone transfers be eliminated. Removing the restriction would make the exemption available (in months when the account is *accessed* only by intra-institutional transfers) to an account that is *accessible by* other EFTs—for example, cash withdrawals from an ATM.

In response to this suggestion, the Board has deleted the requirement that the exemption apply to accounts that are accessible electronically only by such intra-institutional transfers.

While the amendment relieves financial institutions of the need to provide a periodic statement that complies with Regulation E requirements as to frequency and content, all other provisions of the regulation continue to apply to these intra-institutional transfers. In particular, it should be noted that error resolution rights are applicable and that the time limits will run from the consumer's receipt of the customary form of documentation provided by the financial institution—passbook updates or quarterly periodic statements, for example.

As indicated in footnote 9a, the exemption does not modify the special periodic statement requirements for accounts that are accessible by preauthorized transfers to the account as set forth in § 205.9 (c) and (d). That is, accounts receiving preauthorized transfers may continue to be documented in accordance with the provisions of § 205.9 (c) and (d) despite the fact that the account is accessed by transfers to or from another account of the consumer at the same financial institution.

*Sections 205.9(i) and 205.11(c)(4)—Foreign-Initiated Transfers*

The EFT Act applies to financial institutions holding consumer accounts within the United States and its territories. Therefore, electronic fund transfers to or from these accounts that are initiated outside of the U.S. and its territories are subject to the provisions of the act and the regulation.

In March, in response to requests from bank card organizations that were developing international EFT transfer systems, the Board proposed to exempt foreign-initiated transfers from the receipt and periodic statement requirements of the regulation, and to modify the error resolution procedure for such transfers by extending the period in which institutions could respond to allegations of error from 45 calendar days to 90 calendar days. These U.S. based organizations state that they do not have the bargaining power to negotiate the content or language of terminal receipt disclosures, and that foreign terminal operators may not provide the U.S. based institution with the necessary information to comply with the periodic statement informational requirements. Additionally, language differences and geographical (mailing) distances make error resolution with the 45 days prescribed by the regulation virtually impossible.

Commenters overwhelmingly supported the proposal. However, many of them suggested that the Board also expand the time in which institutions could resolve error allegations without provisionally recrediting an account, from 10 business days to 20 business days. They say that most error claims in domestic transfers are resolved within 10 business days, but in light of the language and distance problems associated with foreign-initiated transfers, retention of the 10-business-day rule regarding provisional recrediting presents a problem and could expose U.S. institutions to possible fraud.

The Board is now adopting the amendment proposed in March regarding the receipt and periodic statement requirements and the extension of the time period in which errors must be resolved by financial institutions. The amendment also extends the time period that a financial institution has for resolving an error before it is necessary to provisionally recredit the account—from 10 business days to 20 business days.

The Board expects that financial institutions taking advantage of the relaxation of documentation requirements will make a good faith attempt to obtain, and provide the consumer with, the information required by the regulation. At a minimum, the financial institution should be able to provide the consumer with enough information so that the consumer may ascertain that the transaction is valid. For example, even though the financial institution may not be able to provide the location of the specific terminal, it should, if possible, identify the country and the city in which the transfer was initiated.

Section 205.11(b)(1)(i) of the regulation provides that a notice of error from a consumer must be received by the financial institution no later than 60 days after the occurrence of certain events described in that section. As adopted, the amendment does not provide the consumer with additional time beyond the 60 days prescribed in § 205.11(b)(1)(i).

(3) *Economic impact analysis. Section 205.3(g).*

The Board exempts from Regulation E all preauthorized electronic transfers to or from consumer accounts at financial institutions that have total assets of $25 million or less. The exemption is based on the finding that small institutions bear an undue compliance burden with respect to preauthorized transfers.

Many small institutions appear to be subject to Regulation E solely because they receive preauthorized credits and debits that were electronically initiated. Most of these transfers are federal recurring payments, primarily Social Security benefits that are credited monthly to consumer accounts.

Substantial compliance costs can be incurred by financial institutions receiving preauthorized transfers. For institutions that receive no other types of electronic transfers, the receipt of preauthorized transfers requires full compliance with many of the most costly provisions of Regulation E, some of which entail relatively large set-up expenses regardless of the number of consumer accounts or transfers involved. Among the most costly compliance activities required for institutions receiving preauthorized electronic transfers are the establishment of error resolution procedures, design of disclosure documents, training of personnel, and changes in statement content, format, and frequency. Moreover, many small institutions may receive such transfers in paper form from correspondent banks, service bureaus, or other intermediaries, in which case the small institutions do not engage directly in electronic processing and do not perceive such paper-based transfers as electronic items requiring compliance with Regulation E.

Available evidence indicates that relatively few small institutions offer EFT services other than preauthorized transfers. (Tables of data used in preparing this analysis are available on request from the Board. See the "For Further Information" section above.) Moreover, the number of small institutions offering preauthorized electronic transfers is likely to grow rapidly. In May 1982 there were 10,709 banks and 3,304 thrift institutions participating in automated clearing houses and therefore likely to be handling preauthorized transfers.[1] Because almost all large banks and thrifts currently participate in automated clearing houses, further growth in the number of participants will come primarily from small institutions.

The cost advantages of preauthorized electronic transfers over paper checks are evident from a recent study of the U.S. Treasury's Direct Deposit Program.[2] The study revealed that the average cost incurred by an institution in processing a Social Security payment was $0.59 for a check received in the mail, $0.24 for a check received over the counter, and $0.07 for an electronic direct deposit. The cost advantage, coupled with promotional efforts by the Federal Reserve System, Treasury, and private firms to encourage use of the automated clearing house network, ensures increasing participation by small institutions in preauthorized payment programs.

Consumer demand for preauthorized transfers is substantial and growing rapidly. For example, by the end of 1980, 10.3 million, or 31 percent, of all Social Security payments were made electronically through the Direct Deposit Program. The U.S. Treasury has targeted participation to increase to 55 percent by 1985 and 80 percent by 1990.[3] Other types of federal recurring payments have also been the subjects of successful promotional efforts to encourage consumer use of preauthorized electronic transfers. For example, over 82 percent of all Air Force active duty personnel receive their pay electronically, and all the armed forces and federal agencies are promoting the use of direct deposit.[4]

As more individuals demand electronic transfers, more financial institutions will offer them. Without the exemption, Regulation E compliance responsibilities might deter many small institutions from offering preauthorized transfers. The exemption is expected to provide relief for the many small institutions, including a large number of credit unions, that now offer preauthorized transfers. It will also benefit the many small institutions expected to begin offering preauthorized transfers in the future. Compliance cost savings will arise from a reduction in current compliance expenses and from the limitation of small institutions' exposure to civil and criminal liability for noncompliance.

The potential aggregate compliance cost savings is large because of the large number of financial institutions eligible for relief under the exemption. The extent of the cost savings depends on the definition of a small institution. In arriving at the $25 million asset level definition for the purposes of this exemption, the Board considered the distribution of depository institutions by asset size. Data on the number of institutions and the amount of transaction deposits for selected asset size groupings were considered. By defining small institutions as those having total assets of $25 million or less,

[1] *NACHA SurePay Update* (Washington, D.C.: National Automated Clearing House Association, June 1982).

[2] *Costs and Benefits of Participation in the Treasury Direct Deposit Program* (Park Ridge, Illinois: The Bank Administration Institute, 1981).

[3] *Ibid.*

[4] *Direct Deposit Volume Report* (Washington, D.C.: U.S. Department of the Treasury, June 1982).

the exemption could potentially benefit 7,422 (or 50.3 percent of all) commercial banks, 1,022 (or 25.7 percent of all) savings and loan associations, 101 (or 13.8 percent of all) mutual savings banks, and 17,572 (or 97.4 percent of all) credit unions. In the aggregate, 26,117 (or 69.6 percent of all) depository institutions would potentially benefit from the exemption.

The $25 million asset level definition provides relief to a relatively large proportion of institutions while at the same time affecting a relatively small proportion of consumer transaction deposits. Only 9.3 percent of aggregate transaction deposits would be potentially affected.[5] Moreover, only 9.1 percent of bank transaction accounts with balances of $100,000 or less would be potentially affected.[6]

The exemption would be likely to provide less benefit to institutions larger than approximately $50 million in total assets. Those institutions are likely to be significantly more automated than smaller institutions and to provide other EFT services requiring compliance programs and expenditures. (Survey evidence on the extent of commercial bank automation in selected activities by bank size is available upon request, as noted above.)

Not all small institutions would actually benefit from the exemption. The amount of relief would be limited in that (1) not all small institutions receive the exempted transfers and (2) those small institutions that have already invested in compliance programs may find it disadvantageous to drop their programs, particularly when other EFT services are offered or planned.

Consumer benefits are not likely to be diminished significantly by the exemption. Many of the consumer protections provided by Regulation E for preauthorized transfers are likely to be provided by U.S. treasury rules, existing institutional practices, National Automated Clearing House Association rules, and state laws. Furthermore, the likelihood of errors in preauthorized electronic transfers is very small.

Consumers will benefit from increased availability of automatic preauthorized transfers. To the extent that the exemption promotes the use of such transfers, the exemption will lead to a number of consumer benefits, including (1) increased safety in transactions, (2) increased certainty as to when transfers will be made, and (3) earlier availability of funds to consumers.

*Section 205.9(a)(3).* The regulation is amended to exempt financial institutions from the requirement that terminal transaction receipts show the type of account accessed. In order for the exemption to apply, the consumer must be able to access only one account at the terminal at the time the transaction occurs. The amendment primarily benefits institutions and consumers involved in electronic fund transfer interchange networks, where disclosure of the type of account accessed would present enormous operational difficulties. A consumer using terminals in an interchange network would know the type of account being accessed. No loss of information would occur for the consumer.

By removing a requirement that would be prohibitively costly for interchange networks to implement, the exemption removes a barrier to network membership growth and to the availability of national interchange services for consumers. The amendment could have a significant positive effect on the ability of some institutions, particularly small institutions, to use network participation as a means to compete in the rapidly evolving marketplace for consumer transaction services. One study has identified 130 shared automated teller machine (ATM) networks in existence as of June 1, 1982.[7] With an estimated 26,800 ATMs in operation at the end of 1981, and with an average of 66,000 transactions per ATM, excluding balance inquiries,[8] there are sufficient terminals and consumer acceptance to support substantial growth in electronic interchange.

*Section 205.9(c), (d), and (h).* Many financial institutions permit telephone-initiated or ATM-initiated transfers of funds between a consumer's accounts at the same institution. Regulation E is amended to relieve institutions of the need to provide a monthly periodic statement for each of the two accounts involved in such intra-institutional transfers, regardless of how the transfers are initiated. The amendment does not change the requirement that the consumer be furnished with a periodic statement for one account according to the existing provisions of § 205.9; it does provide that the consumer need not be furnished duplicative documentation of the same transfer for the other account involved. This amendment is expected to reduce compliance costs significantly for many institutions and eliminate duplicative paperwork. Consumers would continue to receive timely documentation of all electronic transfers, and there would be no loss of error resolution protections.

*Sections 205.9(i) and 205.11(c)(4).* All electronic fund transfers initiated abroad are exempted from the regulation's terminal receipt and periodic statement documentation requirements. U.S. financial institutions may be unable to control the capture of fund transfer information or the issuance of receipts at terminals located in foreign nations. The exemption eliminates potential liability for noncompliance with the regulation's documentation requirements with respect to foreign-initiated transfers. Time limits for error resolution and the provisional recrediting of funds are also relaxed by this amendment, thereby allowing institutions more flexibility to investigate and resolve alleged errors involving transfers initiated abroad.

The amendment is expected to make EFT services more accessible to U.S. consumers traveling abroad. Consumer protections are not likely to be reduced significantly by the longer time periods allowed for resolving errors and provisionally recrediting funds.

**List of Subjects in 12 CFR Part 205**

Banks, banking; Consumer protection; Electronic fund transfers; Federal Reserve System; Penalties.

[5] If small institutions were defined as those having total assets of $50 million or less, the exemption would encompass 82.2 percent of all depository institutions and 18.5 percent of aggregate transaction deposits.

[6] Based on June 30, 1981, data for commercial banks and mutual savings banks, banks with assets of $25 million or less held 9.1 percent of all bank demand and savings accounts that had account balances of $100,000 or less. Banks with assets of $50 million or less held 20.9 percent of all such accounts. These figures are for accounts owned by individuals, partnerships, and corporations.

[7] *National Directory and Research Report of Shared ATM Networks* (Cambridge, Maryland: Trans Data Corporation, June 1982).

[8] Linda Fenner Zimmer, "ATMs: Time to Fine-Tune and to Plan," *Magazine of Bank Administration*, vol. 58 (May 1982), pp. 20–30.

## PART 205 [AMENDED]

(4) Pursuant to the authority granted in 15 U.S.C. 1693b, the Board amends Regulation E, 12 CFR Part 205, by adding a new paragraph (g) to § 205.3, revising the last sentence of footnote 3 to § 205.9(a)(3),adding a new footnote 9a to § 205.9(c) and (d), adding new paragraphs (h) and (i) to § 205.9, and adding a new paragraph (4) to § 205.11(c), as follows:

**§ 205.3 Exemptions.**

* * * * *

(g) *Preauthorized transfers to small financial institutions.* (1) Any preauthorized transfer to or from an account if the assets of the account-holding financial institution are $25 million or less on December 31.[1a]

(2) If the account-holding financial institution's assets subsequently exceed $25 million, the institution's exemption for this class of transfers shall terminate one year from the end of the calendar year in which the assets exceed $25 million.

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**§ 205.9 Documentation of transfers.**

(a) *Receipts at electronic terminals.* * * *

(3) The type of transfer and the type of the consumer's account(s) [3] * * *

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(c) *Documentation for certain passbook accounts.* In the case of a consumer's passbook account which may not be accessed by any electronic fund transfers other than preauthorized transfers to the account,[9a] * * *

(d) *Periodic statements for certain non-passbook accounts.* If a consumer's account other than a passbook account may not be accessed by any electronic fund transfers other than preauthorized transfers to the account,[9a] * * *

* * * * *

(h) *Periodic statements for certain intra-institutional transfers.* A financial institution need not provide the periodic statement required by paragraph (b) of this section for an account accessed only by electronic fund transfers initiated by the consumer to or from another account of the consumer for which the financial institution documents transfers in compliance with paragraph (b) of this section.

(i) *Documentation for foreign-initiated transfers.* Failure to provide the terminal receipt and periodic statement required by paragraphs (a) and (b) of this section for a particular electronic fund transfer shall not be deemed a failure to comply with this regulation, if:

(1) the transfer is not initiated in a state as defined in § 205.2(k); and

(2) in accordance with § 205.11, the financial institution treats an inquiry for clarification or documentation as a notice of error and corrects the error.

* * * * *

**§ 205.11 Procedures for resolving errors.**

* * * * *

(c) *Investigation of errors.* * * *

(4) If a notice of an error involves an electronic fund transfer that was not initiated in a state as defined in § 205.2(k), the applicable time periods for action in subsections (c), (e), and (f) shall be 20 business days in place of 10 business days, and 90 calendar days in place of 45 calendar days.

* * * * *

By order of the Board of Governors of the Federal Reserve System, October 5, 1982.

**William W. Wiles,**

*Secretary to the Board.*

[FR Doc. 82–27833 Filed 10–8–82; 8:45 am]

**BILLING CODE 6210–01–M**

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[1a] * * *

[3] * * * The type of account need not be identified if the access device may access only one account at that terminal.

[9a] Accounts that also are accessible by the intra-institutional transfers described in paragraph (h) of this section may continue to be documented in accordance with paragraph (c) or (d) of this section.