

**FEDERAL RESERVE BANK
OF NEW YORK**

[Circular No. **10750**]
[December 21, 1994]

ELECTRONIC FUND TRANSFERS — REGULATION E
Interim Rule Removing Certain Identifying Information on ATM Receipts
With Request for Comments by February 1, 1995

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

The following is from the text of a statement issued by the Board of Governors of the Federal Reserve System:

The Federal Reserve Board has adopted an interim rule to its Regulation E, Electronic Fund Transfers, that will give financial institutions more flexibility in identifying consumer accounts on receipts at automated teller machines (ATMs).

As amended by the interim rule, the regulation will no longer require that terminal receipts uniquely identify the consumer's account or card. This change will allow institutions to truncate the number on the receipt and help protect consumers and financial institutions against fraudulent fund withdrawals. In some fraud schemes, criminals are manufacturing counterfeit ATM cards using valid account numbers from receipts discarded by consumers at ATMs. They then withdraw funds by using the personal identification number that, without the consumer's knowledge, they have observed the consumer enter at the ATM.

Printed on the following pages is the text of the interim rule, as published in the *Federal Register*. Comments thereon should be submitted by February 1, 1995, and may be sent to the Board of Governors, as indicated in the notice, or to our Compliance Examinations Department. Questions on this matter may be addressed to our Compliance Examinations Department (Tel. No. 212-720-5914).

WILLIAM J. McDONOUGH,
President.

FEDERAL RESERVE SYSTEM**12 CFR Part 205**

[Regulation E; Docket No. R-0859]

Electronic Fund Transfers**AGENCY:** Board of Governors of the Federal Reserve System.**ACTION:** Interim rule with request for comments.

SUMMARY: The Board is publishing an interim rule amending Regulation E (Electronic Fund Transfers). The amendment eliminates the requirement that an electronic terminal receipt disclose a number or code that *uniquely* identifies the consumer, the consumer's account, or the access device. This requirement currently poses a significant security risk for consumers and financial institutions by making information accessible to criminals that they then use to withdraw funds from consumers' accounts. The Board has adopted an interim rule that deletes the requirement for a unique identification, thus enabling institutions to truncate card or account numbers. The Board seeks public comment on the interim rule, which the Board will adopt in final following the close of the comment period.

DATES: Interim rule effective December 1, 1994; comments must be received on or before February 1, 1995.

ADDRESSES: Comments should refer to Docket No. R-0859 and be sent to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. They may also be delivered to Room B-2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, N.W. (between Constitution Avenue and C Street) at any time. Comments received will be available for inspection in Room MP-500 of the Martin Building between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding availability of information.

FOR FURTHER INFORMATION CONTACT: Jane Jensen Gell or Kyung Cho-Miller, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452-2412 or (202) 452-3667. For the hearing impaired *only*, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD), at (202) 452-3544.

SUPPLEMENTARY INFORMATION:**I. Background**

The Board's Regulation E implements the Electronic Fund Transfer Act (EFTA). The EFTA provides a basic framework establishing the rights, liabilities, and responsibilities of participants in electronic fund transfer (EFT) systems. Types of transfers covered by the act and regulation include transfers initiated through an automated teller machine (ATM), point-of-sale terminal, automated clearinghouse, telephone bill-payment system, or home banking program. Regulation E establishes restrictions on the unsolicited issuance of ATM cards and other access devices; requires disclosure of terms and conditions of an EFT service; calls for documentation of EFTs through terminal receipts and periodic account statements; provides limitations on consumer liability for unauthorized transfers; and establishes procedures for error resolution.

II. Summary of Amendment*Section 205.9—Documentation of Transfers*

Paragraph (a)—Receipts at Electronic Terminals

Under the EFTA, when a consumer initiates an EFT at an electronic terminal, the financial institution must make a written receipt available to the consumer. The receipt must identify in some way the consumer's account with the financial institution from or to which funds are transferred.

Under the Board's Regulation E, institutions can comply with this identification requirement by including a number or code on the receipt that identifies the access device used to initiate the transfer, the consumer initiating the transaction, or the consumer's accounts. To ensure adequate identification, the Board's regulation specifies that the number or code should be "unique."

This identification requirement was adopted in 1979, and over the years many financial institutions have met the requirement by disclosing consumers' card or account numbers on the receipt; until recently, doing so did not appear

to represent a security risk for financial institutions. Now, a large number of institutions are reporting that the requirement for a unique identification poses a significant security risk for consumers and financial institutions. These institutions, together with trade associations, have asked that the Board revise the rule to prevent ATM fraud by persons who observe—and often videotape—a consumer entering a personal identification number (PIN) on the ATM keypad. These persons retrieve terminal receipts that have been discarded at ATM locations to obtain the consumer's account or ATM card number. They then manufacture a counterfeit ATM card and use the combination of PIN and card withdraw funds from the consumer's account. One estimate places the industry losses at an annual cost between 25 and 40 million dollars, and climbing; others believe this estimate is understated. Data verifying the extent of institutions' fraud losses due to this problem are publicly unavailable because the data are proprietary in nature. But several large financial institutions indicate they have sustained losses of as much as a million dollars in one week.

Institutions say that truncating the consumer's account or card number on the receipt would help to counter the problem. Under the current receipt provision in Regulation E, however, they cannot readily do so because of the likelihood that the identification number on the receipt no longer would be "unique" among the institution's customers. Institutions have considered other ways to reduce risk, including retrofitting terminals to uniquely identify a consumer by a means other than a card or account number. Another approach would be for the terminal to give customers the option not to receive a receipt, for customers who might otherwise tend to discard their receipts at the ATM. While these approaches could help reduce fraud, they would be extremely costly to implement. Educational efforts to encourage consumers not to discard their receipts at the ATM site generally have been unsuccessful.

The interim rule eliminates the requirement for a unique number or code, and thus allows institutions to truncate the account or card number disclosed on ATM receipts. With a truncated number, it becomes less feasible for a criminal to duplicate a card with an account number that matches the consumer's PIN. For the consumer's purposes, the printed number would continue to provide enough information for the consumer

(and the financial institution) to identify the transaction.

The Board believes that the change will not substantially diminish consumer protections. The purpose of the receipt requirement is to allow consumers to verify transactions. Under the amendment, the receipt will still provide sufficient information to allow the consumer to identify transfers: the date of the transfer; the amount of the transfer; the type of transfer and type of account; the location of the terminal; and identification of any third party to or from which funds are transferred. Using this information, a consumer could match each transaction on the periodic statement with the receipt received at the time the transaction took place. In addition, a consumer would have the necessary information to identify and resolve errors in documentation.

Ordinarily the Board publishes proposed rules for a public comment period before their adoption. In the present case, the Board believes the situation represents a serious fraud problem for consumers and financial institutions, and that it is important to act expeditiously in amending the current rule. The Board believes also that the amendment being adopted will reduce fraud without compromising consumers' ability to identify their EFT transactions at ATMs. Delay in the adoption of this amendment would cause continued losses to consumers and financial institutions, which is contrary to the public interest.

Furthermore, the amendment relieves the restriction that the account number be "unique," and does not require institutions to take any action to implement the amended regulation. Modification of the identification number on the receipt is discretionary to the institution. Thus, the Board finds that good cause exists for the adoption of an interim rule without prior comment, pursuant to the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)). Accordingly, the Board is adopting an interim rule that takes effect immediately, and publishing that interim rule for public comment for a 60-day period, after which the Board will adopt a final rule that takes into account any comment that may be received.

The amendment to Regulation E set forth below does not expressly refer to truncation of the account number. The Board notes, however, that it plans to codify the permissibility of truncation in the Official Staff Commentary to Regulation E, following the Board's final action on this interim rule. (This amendment of Regulation E supersedes

a proposed change under the regulatory review project that was published for comment earlier this year (59 FR 10684, March 7, 1994).)

III. Form of Comment Letters

Comment letters should refer to Docket No. R-0859. The Board requests that, when possible, comments be prepared using a standard "Courier" typeface with a type size of 10 or 12 characters per inch. This will enable the Board to convert the text into machine-readable form through electronic scanning, and will facilitate automated retrieval of comments for review. Comments may also be submitted on computer diskettes, using either the 3.5" or 5.25" size, in any IBM-compatible DOS-based format. Comments on computer diskettes must be accompanied by a hard copy version.

IV. Regulatory Flexibility Analysis and Paperwork Reduction Act

The amendment to Regulation E will provide more flexibility to financial institutions in complying with the EFT Act requirements for identifying a transaction on receipts provided at electronic terminals.

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 35; 5 CFR 1320.13), the revision will be reviewed by the Board under the authority delegated to the Board by the Office of Management and Budget after consideration of comment received during the public comment period. Nevertheless, given that the amendment provides for more flexibility in complying with the law, the Board believes there is a negligible impact on the paperwork burden for state member banks and institutions supervised by other agencies.

List of Subjects in 12 CFR Part 205

Consumer protection, Electronic fund transfers, Federal Reserve System, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board amends 12 CFR part 205 as set forth below:

PART 205—ELECTRONIC FUND TRANSFERS (REGULATION E)

1. The authority citation for part 205 continues to read as follows:

Authority: 12 U.S.C. 1693.

2. Section 205.9 is amended by revising paragraph (a)(4), to read as follows:

§ 205.9 Documentation of transfers.

(a) * * *

(4) A number or code that identifies the consumer initiating the transfer, the consumer's account(s), or the access device used to initiate the transfer.

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By order of the Board of Governors of the Federal Reserve System, November 28, 1994.

William W. Wiles,

Secretary of the Board.

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