FEDERAL RESERVE

press release

For immediate release December 26, 1978

The Federal Reserve Board today requested comment by January 29, 1979 on an initial set of proposed regulations for consumer protection under the Electronic Fund Transfer Act.

The Act, which became law in November, directs the Board to issue implementing regulations and model disclosure clauses. The rules proposed by the Board would carry out sections of the Act that become effective February 8, 1979. Proposed regulations for other sections of the Act that go into effect in May 1980 will be issued later.

The Act is designed to give consumers protection in the use of electronic fund transfer services (transfer of funds by electronic means) through the use of an EFT card, rather than by check. An EFT card allows consumers to make cash withdrawals from their accounts in banks or other depositories or to authorize debiting of the consumer's account in payment for purchases of goods or services.

The rules the Board proposed today relate to sections of the Act that:

1. Limit a consumer's liability for unauthorized use of an EFT card,

2. Restrict the unsolicited issuance of EFT cards, and direct issuers to explain how such cards can be disposed of if the consumer does not want the card.

The Board proposed:

A. Since the restraints in the Act on issuance of unsolicited EFT cards go into effect in February 1979 and other provisions of the Act become effective in May 1980, the Board proposed a transition rule, setting forth the disclosures that issuers of EFT cards must make between February 1979 and May 1980 if the issuer sends out unsolicited cards. Issuers would have to revise their disclosure forms in May 1980. Meanwhile, disclosures would have to include the following:

1. The consumer's liability for unauthorized use of the consumer's EFT card;

2. The telephone number and address at which reports may be made if a card is lost or stolen;

3. The kind of electronic fund transfers the consumer may make;

4. Any charges for the transfer service;

5. The circumstances under which the financial institution issuing the EFT card will disclose information to others about the customer's account.

In addition, the Board proposed that issuers of unsolicited EFT cards make the following disclosures with respect to the terms of the contract between the consumer and the card issuer:

1. The consumer's right to stop payment of a prearranged transfer, or the lack of any such provision.

2. The consumer's right to receive a record of transactions made by use of the EFT card, or the lack of such a provision.

3. A summary of error resolution procedures, or the lack of such procedures.

4. Whatever liability the financial institution assumes for failure to make transfers.

B. Since the Truth in Lending Act prohibits the unsolicited issuance of credit cards while the EFT Act permits unsolicited issuance under certain conditions, the Board proposed to rule that:

--The EFT Act does not nullify the Truth in Lending Act's ban, and that,

--The Truth in Lending Act would govern the issuance not only of credit cards but also of combined EFT/credit cards being issued by some institutions, including the addition of credit card functions to an EFT card.

The Act provides that unsolicited EFT cards may be issued only if they are not valid for use without further processing.

C. The consumer's liability for unauthorized use of a lost or stolen EFT/credit card would be determined by what kind of transaction was made, and not by the nature of the card. That is, the consumer's liability for unauthorized credit transactions (that did not involve an overdraft on the consumer's account made with a combined EFT/credit card) would be limited to $50.

The consumer's liability for unauthorized debit transactions (transfer of funds out of the consumer's account) would be $50 if the consumer reports the loss within two business days of learning of it.

The Act provides, further, that if the consumer fails to report loss or theft of an EFT card within two business days of learning about it, and the issuer shows that losses would not have occurred but for the consumer's failure to report, the consumer's liability may be as much as $500. Also, if the customer fails to report unauthorized use of the card within 60 days after

issuance of a periodic statement showing unauthorized use of the card, the consumer's loss may be unlimited.

A copy of the Board's proposals is attached.

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FEDERAL RESERVE SYSTEM

[12 CFR Part 205]

[Reg. E; Docket No. R-0193]

ELECTRONIC FUND TRANSFERS

Scope and Purpose
Exempted Transfers
Issuance of Access Devices
Conditions of Liability of Consumer for Unauthorized Transfers
Definitions and Rules of Construction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is publishing for comment regulations to implement two sections of the Electronic Fund Transfer Act which become effective on February 8, 1979. Section 911 of the Act relates to issuance of cards or other means of access and § 909 to consumer liability for unauthorized transfers. The Board is also proposing certain model disclosure clauses and is publishing for comment two tentative outlines of the complete regulation. Finally, the Board is also publishing for comment an economic impact analysis, as required by § 904 of the Act.

DATE: Comments must be received on or before (30 days after publication in the Federal Register).

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D. C. 20551. All material submitted should refer to docket number R-0193.

FOR FURTHER INFORMATION CONTACT: Regarding the regulation: Dolores S.

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

Regarding the economic impact analysis: Cynthia A. Glassman, Economist, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D. C. 20551 (202-452-2611).

SUPPLEMENTARY INFORMATION: (1) Introduction; General Matters. The Board is publishing for comment five sections of Regulation E[1/] to implement certain provisions of the Electronic Fund Transfer Act (Title XX, Pub. L. 95-630), enacted on November 10, 1978. The Act, which requires the Board to issue implementing regulations, will provide the following rights and responsibilities, among others, to participants in electronic fund transfers: disclosure to consumers of the terms and conditions of EFT services, right to documentation of transfers and to periodic account statements, establishment of error resolution procedures, limits on consumer liability for unauthorized transfers, restrictions on unsolicited issuance of EFT cards, and the liability of financial institutions in certain instances for failure to make transfers or to stop payment of preauthorized transfers.

The effective date of most of the Act is May 10, 1980. Sections 909 and 911, however, will become effective 90 days after enactment, on February 8, 1979. These two sections establish, respectively, limits on consumer liability for unauthorized transfers which occur

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1/ Please note that the original Regulation E, Purchase of Warrants, was rescinded as of November 9, 1978 (43 FR 53708, Friday, November 17, 1978).

after loss, theft or unauthorized use of an EFT card, code or other means of access and a partial ban on the unsolicited issuance of EFT access devices.

Section 904(a)(1) of the Act requires the Board, when prescribing regulations, to consult with the other Federal agencies that have enforcement responsibilities under the Act. Members of the Board's staff have met with staff members from the enforcement agencies.

Federal savings and loan associations should note that they will be subject to the provisions of Regulation E and that there may be some inconsistency between this regulation and the Federal Home Loan Bank Board's regulation governing remote service units (12 CFR 545.4-2). The Board of Governors has been advised by the Bank Board that §§ 545.4-2 will be promptly amended to conform to the Act and Regulation E.

Section 904(a)(2) requires the Board to prepare an analysis of the economic impact of the regulation on the various participants in electronic fund transfer systems, the effects upon competition in the provision of electronic fund services among large and small financial institutions, and the availability of such services to different classes of consumers, particularly low-income consumers. Section 904(a)(3) requires the Board, to the extent practicable, to demonstrate that the consumer protections provided by the proposed regulation outweigh the compliance costs imposed upon consumers and financial institutions. The Board has prepared a preliminary statement on the foregoing issues, which is published in section (4) herein, and solicits comment on the

statement. The statement and the proposed regulation have been transmitted to Congress, as required by § 904(a)(4).

The Act (in § 904(b)) requires the Board to issue model disclosure clauses, written in readily understandable language, for optional use by financial institutions to facilitate compliance with the disclosure requirements of § 905 and to aid consumer understanding of the rights and responsibilities provided by the Act. Although § 905 does not take effect until May, 1980, § 911(b)(2) requires disclosures comparable to those required by § 905, and § 911 becomes effective in February, 1979. Thus, it is appropriate for the Board to propose model clauses for these disclosures now, along with the regulations implementing § 911. In addition, § 911(b)(3) requires that the Board provide a clear disclosure for use by issuers to inform consumers that an unsolicited access device is not validated and how the consumer may dispose of the device if it is not wanted. The Board is proposing model clauses for the disclosures that would be required by the regulation to implement § 911(b)(2) on an interim basis, and for the disclosure required by § 911(b)(3) of the Act and the corresponding provision in the regulation. The model clauses are discussed in detail in section (3) of this material.

Section 904(c) permits the Board to modify the requirements of the Act as they affect small financial institutions upon a determination that such modifications are necessary to alleviate any undue compliance burden upon such institutions. The Board solicits comment on whether any such modifications in the proposed sections are necessary.

Comments on this issue should attempt to demonstrate that compliance with the proposed regulation would impose undue cost, administrative or other burdens upon small financial institutions.

Section 904(d) requires the Board to assure that the requirements of the Act are imposed upon persons (other than financial institutions holding a consumer's account) that are offering consumers electronic fund transfer services. The Board solicits information regarding the offering of such services by non-financial institutions, a description of the services, and whether specific provision should be made in the regulation to insure that such persons are subject to the Act's requirements.

The Board also proposes to rescind five Public Information Letters issued under Regulation Z (445, 520, 528, 921 and 1082) because they conflict with the proposed regulation. The Board solicits comment on whether these letters or any other letters should be rescinded.

The Board is publishing two tentative outlines of the entire regulation that reflect somewhat different approaches to the regulation's structure. The Board solicits comment on which of the two outlines represents the more functional structure for the regulation.

(2) Regulatory Provisions.

Section 205.1 - Scope and Purpose.

This section is an introductory statement of the regulation's requirements and is intended to provide consumers, financial institutions and issuers with general information about the Act and regulation.

Section 205.2 - Exempted Transfers.

The Act does not contain a separate section devoted to exemptions. However, § 903(6), which defines "electronic fund transfer," excludes certain services from the Act's coverage. For clarity, the proposed regulation sets forth these exemptions in this separate, freestanding section.

Briefly, the transfers that would be exempted are: (a) electronic check, draft or similar paper instrument authorization services that do not directly debit or credit a consumer's account, (b) transfers for consumers by Fedwire, Bankwire or similar wire transfer services, (c) purchases or sales of securities or commodities by brokers registered with or regulated by the Securities and Exchange Commission, (d) automatic transfers of funds from savings to demand deposit accounts, as permitted by recent amendment of 12 CFR § 217.5(c)(2) and (3) (Regulation Q) and 12 CFR § 329.5(c)(2) and (3), and (e) transfers initiated by telephone that are not made pursuant to an arrangement between the consumer and the financial institution. The language in which these five types of exemptions are described is virtually identical to the corresponding language in the Act.

The Board solicits the opinions of commenters as to whether other transfers, such as those involving mutual funds or pension accounts, should also be exempted and, if so, for what reasons. Also, in connection with exemption (c) in particular, comments are invited on whether transactions within the jurisdiction of the Commodities Futures Trading

Commission should also be exempted. With reference to exemption (d), comment is solicited on whether automatic transfers among other types of accounts within one institution should also be entitled to the exemption.

Section 205.3 - Issuance of Access Devices.

Section 205.3(a) implements § 911(a) of the Act, which prohibits the unsolicited issuance of validated EFT cards. The statutory and regulatory provisions are essentially identical, except that the regulation is structured differently for clarity, the term "access device" has been substituted for "card, code, or other means of access," and the regulation provides that a request or application for an access device may be oral or written, as presently permitted by Regulation Z with respect to credit cards. The Board solicits comment on whether such latitude should be permitted.

The public is asked to address the following alternatives relating to jointly-held accounts: (1) whether the regulation should permit issuance of a separate access device to each party on the account when only one has applied for a device, or (2) whether the regulation should require that all account holders must request or apply for an access device before one can be issued. As the prohibition on unsolicited issuance of access devices is designed in part to protect against unauthorized transfers initiated without the consumer's knowledge, some restrictions on requests by an account holder without a similar request from other holders may be appropriate, and the Board solicits

comments on which of the two alternatives listed above (or other alternatives) is most beneficial to consumers and issuers.

Section 205.3(b) implements § 911(b) of the Act. It would permit the unsolicited issuance of an access device if four conditions are satisfied. First, the unsolicited device cannot be validated, that is, capable of being used by the consumer to initiate an electronic fund transfer. Second, the issuer must include a written disclosure of the consumer's rights and liabilities which will apply if the device is validated. Third, the issuer must also disclose that the device is not validated and how a consumer not wishing validation can dispose of the device. Fourth, the access device may be validated only upon request of the consumer and after verification of the consumer's identity. Section 205.3(b)(1) sets forth these four conditions and is almost identical to § 911(b), except that the regulation makes clear that validation of an unsolicited device can occur only in response to a request or application for validation, and not, for example, in response to a blanket authorization in an earlier application to open an ordinary checking account; however, the regulation specifies that the request may be oral or written.

Section 205.3(b)(2) specifies methods by which a consumer's identity must be verified before an unsolicited access device can be validated. It should be noted that such verification is required, under § 205.3(b)(1)(iv), only for devices that have been distributed on an unsolicited basis. The Act contains no provision specifying verification

methods. However, the Board believes that issuers, in order to protect themselves from liability, should exercise care in verifying a consumer's identity before validation of an access device, and the Senate committee report indicated the committee's expectation that the Board would assure that adequate verification procedures be used by issuers (S. Rep. No. 95-915, 95th Cong., 2nd Sess. 16 (1978)). Therefore, § 205.3(b)(2) would require that the consumer's identity be verified by comparison of the consumer's signature with the issuer's account records or with another signed instrument, or by photograph, fingerprint or personal visit.

The Board solicits comment on whether the proposal on verification would unduly limit the ability of card issuers to issue unsolicited access devices or the ability of consumers to have such devices validated. In particular, since new methods of identification, such as voiceprint, may become feasible, commenters should specify what additional methods should be added, or how the proposal should otherwise be changed, so as to permit continuing innovation in this area. Comment is also solicited on whether the proposed verification requirements would provide an adequate safeguard to either consumers or issuers.

Section 205.3(b)(3) is drawn from § 911(c); it would provide that an access device is to be considered validated when the issuer takes the necessary steps to permit the consumer to initiate an electronic fund transfer. The statute and the regulation differ in that the latter emphasizes that validation is tied to some affirmative action or actions by the issuer.

The Board is aware that issuers currently use different methods of validation, and is mindful that specifying only certain means of validation may unnecessarily limit development of other methods. The Board therefore solicits comment on the need for specifying means of validation and the benefits that would be gained were the regulation to do so.

To forestall confusion, § 205.3(c) explains what the Board believes was the Congressional intent regarding the relationship between the Truth in Lending Act and the Electronic Fund Transfer Act. Truth in Lending and Regulation Z prohibit the unsolicited issuance of credit cards. Section 205.3(c) provides that the EFT Act governs the issuance of access devices and the addition of an EFT feature to an accepted credit card and that Truth in Lending governs the issuance of credit cards, combined access devices/credit cards and the addition of a credit feature to an accepted access device. There is no comparable provision in the EFT Act itself.

Section 911(b)(2) of the Act requires that any distribution of unsolicited access devices be accompanied by "a complete disclosure, in accordance with section 905, of the consumer's rights and liabilities which will apply if such card, code, or other means of access is validated." Section 905 of the Act does not become effective until May, 1980, and many of the disclosures it mandates relate to substantive rights that consumers will not have until that time (e.g., right to documentation and error resolution procedures). The Board feels a significant consumer protection would be lost if some initial disclosures were

not given when unsolicited devices are distributed. For that reason, § 205.3(d) would require issuers, until May 10, 1980, to give the disclosures required by § 905 when distributing unsolicited devices. These disclosures would cover the following areas:

(a) The consumer's liability for unauthorized electronic fund transfers and the address and telephone number of the person to be notified in the event of loss or theft of the access device or possible unauthorized transfer.

(b) The type and nature of transfers which the consumer may initiate, the charges imposed for such transfers, and any limits on

the frequency or amount of the transfers that the consumer may make.

(c) The circumstances under which a financial institution, if one is involved, will disclose account information to third parties.

Model clauses for these disclosures are also proposed.

In addition, the regulation would require that the issuer disclose whether or not the following rights and procedures are available to the consumer:

(a) The consumer's right to stop payment of pre-authorized transfers and how to do so.

(b) The consumer's right to receive documentation of transfers.

(c) A summary of the issuer's or institution's error resolution procedures.

(d) The issuer's or institution's liability to the consumer for failure to make transfers.

It should be emphasized that issuers and institutions need not comply with the rights and procedures disclosed under § 205.3(d)(6) through (9) as they are set forth in the Act until May 10, 1980. If they do provide them, they may be structured in any manner.

Model clauses are not proposed for the last four disclosures in § 205.3(d) because there are no uniform requirements that would make such clauses feasible.

Section 205.4 - Liability for Unauthorized Transfers.

This section would implement § 909 of the Act, which determines a consumer's liability for unauthorized transfers. A consumer cannot be held liable for any unauthorized electronic transfer unless the access device used for such transfer was an accepted device (as defined by § 205.12(a)) and the account issuer has provided a means of identifying the authorized user.

The Act specifies the conditions for a consumer's liability for "an unauthorized electronic fund transfer" (emphasis added). The Board believes that the intent of Congress with respect to such liability was identical to that contained in the unauthorized use provision in the Truth in Lending Act (§ 133(a)), that is, the consumer's liability is determined by reference to "unauthorized use" of the credit card, whether or not multiple transactions have occurred. To implement the statutory language without change would result in at least $50 liability being imposed on a consumer for each unauthorized transfer from a single loss or theft. Therefore, the proposed regulation (§ 205.4(a)) states

that a consumer's liability would be determined by reference to any single unauthorized transfer or series of transfers that occur following loss, theft or other unauthorized use. For example, a consumer whose access device was stolen and whose account was accessed six times by the thief (and who notified the financial institution within 2 business days after learning of the theft) would be liable for $50, rather than $300. The Board solicits comment on this construction of the statute.

A consumer's liability for unauthorized transfers would be determined in the following ways under § 205.4(b):

(a) If notification occurs within 2 business days after the consumer learns of the loss, theft or possible unauthorized use, the consumer's liability would be limited to the lesser of $50 or the amount of the unauthorized transfers occurring prior to notice.

(b) If notification does not occur within 2 business days after the consumer learns of the loss, theft or possible unauthorized transfer, and the institution establishes that losses which occurred after the close of the 2 business days could have been prevented had the consumer notified it, the consumer's liability would be limited to the sum of (i) the amount of actual losses that occurred before the close of the 2 business days (subject to a limit of $50), and (ii) the amount of actual losses that occurred after the 2 business-day period and before notice. However, overall liability would be subject to a $500 limit. If the institution could not establish that subsequent losses could have been prevented by notice, liability would be determined in accordance with (a) above.

(c) If notification does not occur within 60 days of transmittal of a periodic statement that reflects an unauthorized transfer, the consumer's liability may be unlimited as to any unauthorized transfers that the institution can establish could have been prevented by notice.

The regulation would provide, as does the Act, that these time periods shall be extended in the presence of extenuating circumstances, such as hospitalization or extended travel.

Section 205.4(c) implements a portion of § 909(a)(2) of the Act and provides that notice to the financial institution of loss, theft or possible unauthorized transfer may be given by the consumer by any means that are reasonably necessary to provide the institution with the pertinent information, whether or not any particular employee or agent of the institution receives the information. The Board proposes to modify the statutory provision by stating that notice may be oral or in writing.

The Board invites comment on whether an institution can require that a consumer notify a particular person or office in order to give adequate notice of loss, theft or possible unauthorized transfer or whether any reasonable, necessary steps taken by the consumer to notify the institution constitute adequate notice.

Section 205.4(d) would implement §§ 909(c) and (d) of the Act. Section 909(c) provides that the consumer's liability for unauthorized transfers is to be determined solely in accordance with the EFT Act (rather than the Truth in Lending Act) when an electronic fund transfer also involves an extension of credit under an overdraft agreement between a consumer and a financial institution. This provision would be implemented in § 205.4(d)(1)(ii). It would provide that an agreement to extend credit if the consumer's account would

otherwise fall below a specified minimum balance would be treated in the same way as an overdraft agreement; that is, an electronic fund transfer also involving an extension of credit under either type of agreement would be covered by the EFT Act. Section 205.4(d)(1)(i) would clarify that liability for an unauthorized electronic fund transfer initiated by means of an access device that is also a credit card, without any accompanying extension of credit (for example, a debit of a checking account), would be determined by the EFT Act.

Section 909(d) permits a consumer and a financial institution to agree to lesser liability for unauthorized transfers than that provided by the Act. This section is implemented by § 205.4(d)(3) of the proposed regulation.

The EFT Act does not specify which law applies (EFT or Truth in Lending) with respect to liability in the case where credit is extended, but no electronic fund transfer occurs, by means of a card or other device that has both EFT and credit card features. For purposes of this proposal, the Board takes the position, in § 205.4(d)(2), that liability in such a case would be determined under Truth in Lending and Regulation Z. The Board solicits comment on the feasibility and desirability of alternatives. For example, if the EFT Act could be said to apply in these circumstances, then uniform liability limits would operate in virtually all transactions on accounts with both EFT and credit features. Less confusing disclosures would be possible, benefiting consumers, creditors and financial institutions;

on the other hand, potential consumer liability would be greater in some transactions.

Section 205.12 - Definitions and Rules of Construction.

The Board proposes to implement, with some modifications, all but three of the statutory definitions contained in the Act. The definition of "preauthorized electronic fund transfer" (§ 903(9) of the Act) will be implemented later. The definitions of "Board" (§ 903(3)) and "State" (§ 903(10)) do not, in the Board's opinion, need to be implemented in the regulation. If commenters believe additional definitions should be provided or proposed definitions changed, they should explain the reasons for such beliefs, and, where appropriate, suggest regulatory language.

(a) "Access device" and "accepted access device." The definition of the first term does not appear in the Act. The words "card" and "code" are not used as defined terms because EFT systems do not necessarily employ them and use of those terms in the regulation might impede technological innovation. The definition has been developed to permit convenient reference in the regulation to any of a number of different possible means of access to accounts for EFT purposes. The terms used are found elsewhere in the Act. The Board solicits comment on whether other means of electronic access to accounts should be specified in the definition.

The related definition is virtually identical to the corresponding definition in the Act. Minor changes would be made to comport

with other definitions. The word "person" in the Act would be changed to "consumer" in the regulation.

(b) "Account." This definition is unchanged from that in the Act, except for deletion of a reference to the Truth in Lending Act made unnecessary by addition of the definition of "open end credit plan." The Board is aware that certain asset accounts, such as mutual funds and profit-sharing and pension accounts, can be accessed by consumers through electronic means, and believes that the definition encompasses such accounts. The Board solicits comment on whether such accounts should be exempted, and, if commenters so believe, is interested in specific reasons why such exemptions should be granted. The definition excludes occasional or incidental credit balances in an open end credit plan; comment is invited on whether all such occasional or incidental balances, whether or not in an open end credit plan, should be excluded.

(c) "Act." This definition does not appear in the Act. It is added to the regulation for purposes of convenient reference.

(d) "Business day." This definition is proposed in virtually the same form as in the Act. However, since the definition relates to both issuers and financial institutions, a day on which the offices of an issuer are open, as well as a day on which the offices of an institution are open, would be a business day. The Board is particularly interested in receiving comment on whether the regulation should provide more detail regarding what constitutes being open to the public for carrying on substantially all of a financial institution's or issuer's

business functions. Comment should also address whether the regulation should establish a uniform rule as to what constitutes a business day, analogous to the rule set forth in § 226.9 of Regulation Z for rescission purposes (Monday through Saturday, exclusive of Federal holidays).

(e) "Consumer." This is the same definition as in the Act.

(g) "Electronic fund transfer" and (h) "Electronic terminal." These definitions are proposed as they appear in the Act, except that the exceptions contained in the Act's definition of "electronic fund transfer" are not set forth in the regulation as part of the definition, but instead accorded separate treatment in § 205.2.

The Board is aware of EFT systems that are to some extent paper-based, i.e., transfers are initiated by a debit card, which imprints a paper instrument. That paper instrument (which may later be truncated) is the means by which payment is effected. The Board solicits comment on whether transfers under such systems are included in the definition of "electronic fund transfer."

(j) "Financial institution." The definition is unchanged from the Act, except that it also includes agents of the institutions described. The Board solicits comment on whether other persons that are subject to the definition of "financial institution" should be specified in the definition.

(k) "Issuer." This definition is not found in the Act. It is added in order to refer to all those that issue access devices and

their agents and are subject to the provisions regarding issuance of such devices. Note that § 911 of the Act refers to persons that issue cards rather than financial institutions.

(m) "Unauthorized electronic fund transfer." This definition is virtually unchanged from the Act.

A number of definitions that are similar to definitions in the Truth in Lending Act and Regulation Z would be added to the regulation to facilitate reference to these terms. They are the following: (f) "Credit card," (i) "Extension of credit," and (l) "Open end credit plan." The term "extension of credit" is drawn from the definitions of "credit" and "creditor" in Regulation Z.

(3) Model Clauses.

The Board is required by § 904(b) of the Act to issue model clauses for the disclosures required by § 905. While § 905 does not take effect until May, 1980, the § 905 disclosures are required by § 911(b)(2), which becomes effective on February 8, 1979. In addition, § 911(b)(3), which also becomes effective in February, requires the Board to provide by regulation for another disclosure. Section 911(b)(2) is implemented by § 205.3(b)(1)(ii) and, for the interim period between February, 1979, and May, 1980, by § 205.3(d) of the proposed regulation. Section 911(b)(3) is implemented by § 205.3(b)(1)(iii) of the proposed regulation.

The proposed model clauses for optional use in complying with

the disclosure requirements are contained in Appendix A. Use of the clauses that appropriately reflect the issuer's EFT program, in conjunction with other requirements of the regulation, will protect the issuer from civil and criminal liability under §§ 915 and 916 of the Act. The Board emphasizes, however, that use of these model clauses is optional; issuers are free to design their own disclosures as long as they comply with the requirements of §§ 205.3(b)(1)(iii) and (d).

Issuers may choose appropriate clauses from the alternatives available, may make changes such as deleting inapplicable words, phrases and clauses, and inserting trade names. They may also change the order in which the model clauses appear, and may use some of the model clauses, while drafting others themselves.

Section A(1) sets forth proposed model clauses for use in fulfilling the requirements of § 911(b)(3) of the Act and § 205.3(b)(1)(iii) of the proposed regulation. It provides alternative clauses. Which one an issuer uses would depend on whether the account in question is to be accessed by a card or by a code alone.

Sections A(2) through A(6) contain the proposed clauses that would comply with § 911(b)(2) of the Act and § 205.3(d) of the proposed regulation. Again, in general, alternative clauses are provided. An exception is section A(2), which contains the model disclosure of the consumer's liability for unauthorized transfers. If an issuer chooses to use this model disclosure, it must use it in its entirety and without changes in sequence or wording, except that choices or deletions may be

made where brackets so indicate.

The Board solicits comment on whether these clauses are readily understandable to consumers and whether other clauses are needed.

(4) Economic Impact Analysis of §§ 909 and 911.

Section 904(a)(2) of the Act requires the Board to prepare an analysis of economic impact of the regulation. The analysis must consider the costs and benefits of the regulation to suppliers and users of EFT, the effects upon competition in the provision of electronic banking services among large and small financial institutions, and the availability of such services to different classes of consumers, particularly low-income consumers. The Board is publishing for comment an economic analysis to accompany regulations implementing §§ 911 and 909 of the Act, which become effective on February 8, 1979.

Section 205.3 -- Issuance of Access Devices.

(a) Impact of the regulation on costs and benefits to institutions, consumers and other users.

The purpose of prohibiting unsolicited distribution of validated EFT cards[1/] is to protect consumers from unauthorized use of cards intecepte without the consumer's knowledge. The potential risk to the consumer of such a loss varies depending upon whether the consumer had an existing account with the card issuer. If the issuer sent a card to to a consumer without an existing account, perhaps as a marketing device to gain new customers, an interception of the card could not result in any potential loss to the consumer since the consumer had not placed funds in the associated account. Thus, an important benefit, particularly

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1/ The term "card' in this economic impact analysis refers to any access device as defined in § 205.12(a) of the regulation.

to customers of existing accounts, of requiring validation separate from distribution is that it reduces losses which could result from theft of valid cards before they reach the designated customer. Such losses have been experienced both with EFT cards and credit cards. Results of a 1976 survey of 292 institutions issuing EFT cards showed that 40 institutions reported losses related to mail-intercept since first offering EFT services.[1/] For these 40 institutions, there were 170 instances of loss, with average dollar loss of $291.00 per instance.[2/] However, the dollar loss per outstanding card was low since the total number of card-holding customers for the institutions in the survey was several million. For credit cards issued prior to the 1970 prohibition on unsolicited cards, 300,000 per year were estimated to be stolen out of an estimated 200 million credit cards outstanding in the late 1960's; this figure includes mail-intercept as well as other card theft.[3/]

The regulation does permit the distribution of unsolicited, but unvalidated cards (§ 205.3(b)). The most general effect of this provision will be seen in the number of accepted cards. Although the impact on the number of accepted cards cannot be quantified, experience of the credit card industry, in the years prior to the prohibition of unsolicited cards

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1/ Linda Fenner Zimmer, "Cash Dispensers and Automated Tellers: Statistical Data and Analysis with Selected Case Histories." Fourth Status Report (Park Ridge, N.J.: August 1977), p. 222.

2/ Ibid. p. 224.

3/ Sylvia Porter as quoted from The Washington Star in U.S. Congress. "Unsolicited Credit Cards," Hearings before the Subcommittee on Financial Institutions of the Committee on Banking and Currency, Senate, 91st Congress, 1st Session, 1969, p. 243.

under Regulation Z, can give an indication of the bounds of acceptance rates relative to either a more or less restrictive regulation. Unsolicited credit card distribution resulted in a much higher acceptance and usage rate than distribution based on solicitation of consumer requests for cards. The Marine Midland experience in 1966 points out these differences; 33,357 promotional mailings resulted in only 221 applications for credit cards (less than one per cent) while 731 direct mailings of cards resulted in 19 per cent usage in a short period and 99 per cent retention. Based on this experience, it is expected that allowing distribution of unsolicited, but unvalidated, EFT cards will result in a larger card base and more chance of acceptance by proprietors than would the complete prohibition of distribution of unsolicited cards. On the other hand, the card base and acceptance level is expected to be lower than would obtain if there were no prohibition on sending unsolicited, validated cards.

The regulation requires a two-step procedure for distributing and validating cards. This requirement will increase administrative costs to issuers through additional postage and handling.

An additional potential cost to the issuers would result from the paperwork and legal fees connected with the disclosure requirement (§ 205.3(b)(1)(ii)).[2/] However, since the Board is providing model clauses,

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1/ Board of Governors of the Federal Reserve System, Bank Credit-Card and Check-Credit Plans, July 1968, p. 27.

2/ The regulation results in two sets of disclosure requirements, one during the transition period under § 205.3(d) of the regulation and the second when § 905 of the Act goes into effect in May 1980. This may add to issuers' costs.

any additional costs can be minimized.

Another potential cost of the regulation is related to the verification procedures (§ 205.3(b)(2)). By limiting identity verification methods to signature or other signed instruments, photograph, fingerprint, or personal visit, the regulation may reduce incentives for innovation in developing or applying new technology in verification techniques. The Board solicits comment on whether there are presently available or being developed identity verification procedures which are not encompassed by § 205.3(b)(2) and whether the regulation would discourage innovation along these lines.

(b) Effects of the regulation upon competition in the provision of electronic transfer services among large and small financial institutions.

A critical factor influencing merchant acceptance of EFT cards is the size of the outstanding card base. Thus, card issuers attempt to use marketing strategies that will achieve a high acceptance ratio for the lowest cost. The credit card experience in the late 1960's showed that the institutions' most successful strategy in achieving a large card base was large mailings of unsolicited cards. By allowing the distribution of unsolicited (although unvalidated) cards, the regulation does not restrict entry potential for new firms as severely as was the case in the credit card industry when distribution of unsolicited cards was prohibited. As a result of this prohibition, companies that had not already entered the industry on a large scale were at a major disadvantage compared to the large-scale participants. Entry into the industry was difficult and competition was restrained.

Thus, § 205.3 is expected to have the effect of maintaining the present level of competition because it does not put small institutions at a competitive disadvantage. In addition, competition could increase since the regulation does not contain restrictions on sending cards to consumers other than present customers.

(c) Effects of the regulation on availability of electronic transfer services to different classes of consumers, especially low-income.

To the extent that cards are sent only to institutions' present holders of consumer deposit accounts, the effect of § 205.3 on low-income consumers will be that the distribution of the available EFT services will be approximately the same as the distribution of account holders. Table I presents data on financial assets by income class. It can be seen that usage of depository services rises with income. However, lower usage of depository services by lower-income consumers may be for a variety of reasons, one of which may be lack of availability. The Board solicits comment on whether a potential customer of a financial institution must be employed and/or have a minimum income to qualify for any of the following types of accounts: (i) demand deposit, (ii) savings deposit, (iii) time deposit, (iv) ATS (Automatic Transfer Service) account, and (v) EFT (Electronic Fund Transfer) account.

Financial institutions might not send unsolicited cards to all present account holders. To the extent that such cards represent a costly non-price means of attracting or maintaining deposits, insti-

tutions may send cards only to high-volume customers, i.e., to reduce the cost per dollar of account balance. In such an event, the distribution of EFT services would evolve away from low-income to higher-income customers. The Board solicits comment on whether institutions plan to limit unsolicited mailings of EFT cards to a subset of their present deposit customers.

Section 205.4 -- Conditions of liability of consumer for unauthorized transfers.

It is important to realize that the liability provisions of § 205.4 will have no impact on either consumers or institutions if the provisions are not a constraint on financial institutions. That is, if the financial institutions would normally assume more liability than is required by the regulation, then the regulation will not affect costs, benefits, competition, or availability and will not inhibit the market mechanism. The following analysis of the regulation is relevant only if the liability provisions are more restrictive than those institutions would otherwise assume.

(a) Impact of the regulation on costs and benefits to institutions, consumers and other users.

The total net cost or benefit to society of the regulation is related to the expected dollar loss resulting from fraud or unauthorized use of debit cards. The impact of § 205.4 on the aggregate loss may be felt in three ways, two of which are benefits and the third a cost. First, by building in incentives for consumers to report quickly loss or theft of a card or discovery of unauthorized use, the regulation loss or theft of a card or discovery of unauthorized use, the regulation should reduce the number of unauthorized transactions. Second, the relatively long period which consumers have in which to report unauthorized

use before they assume full liability for loss will increase issuers' incentives for tight security systems. Third, however, is the possibility of increased unauthorized use because the regulation does not hold the consumer specifically liable for negligence. For example, a customer's liability for unauthorized use of a card does not increase if the customer leaves the identification number on the card.

Limited data on actual loss experience for unauthorized use of EFT and credit cards indicate that, while not insignificant, these losses have not been inordinately high. For example, an Interbank ATM (Automated Teller Machine) loss survey of 125 banks showed that on transactions volume of 10,486,000 and dollar volume of $41.0 million, the total annual fraud loss was $290,000, less than one per cent of dollar volume and represented less than $.03 per transaction.[1/] A Payment Systems, Inc. survey of officials at 45 financial institutions offering card-activated EFT services estimated that annual average fraud loss per active card was about $.10 compared to an average of about $.03 per card for the total card base. Nilson Reports estimates that total credit card fraud loss for 1978 will be $62.8 million on total transactions volume of $44 billion, which is less than two-tenths of a per cent of dollar volume. Additional data would be useful. The Board solicits comment on what per cent, number and dollar volume of EFT type accounts have

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1/ John A. Colin, What's New in Money-Matics? Remarks made at the Bank Administration Institute Eighth National Security Conference (Atlanta, Ga.: n.p.; 1977) quoted in Veronica M. Bennett, "Card Fraud and Security in EFT Systems," (Atlanta: Payment Systems, Inc., White Paper, September 7, 1978), p. 13.
2/ Bennett, p. 17.

3/ Spencer Nilson, editor of Nilson Reports, during a telephone interview, November 1978.

experienced unauthorized use. How many of these result from loss of card or theft of card? How many result from computer fraud? What has been the average loss, in dollars, per account? Maximum loss? Similarly, what has been the experience for credit cards? What has been the experience for unauthorized use of checks?

In addition to having an effect on the total cost to society of EFT loss, the regulation affects the distribution of the burden of costs between institutions and their customers. This distribution depends on the timing of reporting; the longer the time the consumer takes to report the loss, the more liability the consumer assumes. In order to assess the impact of the regulation on the distribution of loss, reporting-time experience of loss for EFT and credit cards is necessary. The Board solicits comment on what has been the range of and average time span between customers' learning of theft or loss of EFT cards or unauthorized use of their EFT accounts and their reporting it to the card issuer. Similarly, what has been the range of and average reporting time for credit card and check theft, loss or unauthorized use?

The assessment of the social equity of the distribution of costs and benefits of the regulation between institutions and their customers depends on how the ability to assume the loss is weighted. For example, by virtue of its size, income and tax position, a large bank is probably better able to assume a given loss than a low-income consumer. However, such an assessment is highly subjective. It should be noted that the regulation does not fix the distribution of the costs but rather sets the limits to which the institution can shift the burden to consumers. Relatively high potential liability for consumers

may discourage usage which could result in a cost to consumers if EFT is cheaper than alternatives. However, competition could encourage institutions to bear more of the liability than required. (This is discussed further in the next section.)

(b) Effects of the regulation upon competition in the provision of electronic transfer services among large and small financial institutions.

The conditions of liability imposed by § 205.4 set a minimum liability standard that must be assumed by all financial institutions offering EFT services. This means that all institutions are treated equally in terms of a floor on requirements. However, competition may lead banks to assume more liability than the regulation requires and thus reduce costs to the consumer and increase consumer acceptance. Results of a 1978 ATM Security Survey by the American Bankers Association indicate that at present banks do not have standard liability provisions.[1/] The respondents to the survey (approximately 135 banks, half of which had deposits greater than $1.0 billion and only six per cent of which had deposits less than $100 million) established liability as follows: (i) case-by-case basis - 55.8 per cent, (ii) bank absorbs all losses - 24.3 per cent, (iii) set dollar limit - 9.9 per cent, (iv) customer responsible for all losses until loss reported - 8.1 per cent.

Additional information on the ability of small and large financial institutions to assume liability and their experience to date on liability provisions would be useful. The Board solicits comment on the impact of unauthorized use of EFT systems on profitability of the system

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1/ American Bankers Association, Payments System Planning Division, "Results of an ATM Security Survey," n.p., June 1978.

for small and large financial institutions. In addition, the Board solicits comment on the extent to which small and large institutions' present liability requirements are more or less restrictive than the regulation.

A major difficulty in analyzing the impact of the regulation on competition between small and large financial institutions is that the impact depends very much on the nature of the EFT systems involved. Thus, the effects of the regulation depend on such considerations as whether widely-accepted franchise systems develop, whether systems are national or regional, or whether they are on or off-line. For example, systems that are widespread or off-line have a greater chance for unauthorized use. The regulation could have a significant impact on the structure of the industry if small proprietary systems cannot afford the regulation's liability requirements.

Even without making predictions about the manner in which EFT systems will evolve, some general observations on the impact of the regulation can be made. (1) First, the regulation will have the least impact on those institutions and franchise systems that are best able to assume the liability and incur per unit costs related to determining liability according to the regulation. To the extent that large systems and institutions benefit from scale and scope economies, they would be less affected than small institutions. (2) In addition, larger institutions may enjoy economies of scale in purchasing security systems, thereby having a lower loss rate and more consumer confidence in their system than small institutions. (3) On the other hand, to the extent that the regulation shifts the burden to the institutions,

small institutions may avoid some of the costs since they are more likely to have a close relationship with customers and may therefore be better able to prescreen and educate them. (4) Finally, small institutions are less likely to be in large metropolitan areas. Therefore, they would tend to be in areas in which there is less crime and in which there is a greater likelihood that proprietors would recognize customers. The Board solicits comment on these four issues. In addition, the Board solicits comment on what will be the costs related to establishing that the consumer has notified the issuer of loss "2 business days after learning of the loss or theft of the access device or possible unauthorized transfer" (§ 205.4(b)(1)).

(c) Effects of the regulation on availability of electronic transfer services to different classes of consumers, especially low-income.

In order to evaluate the effects of § 205.4 on availability of EFT services to different classes of consumers, it is useful to look at present usage rates of available EFT systems by income class. Data from the Air Force showing use of automatic payroll deposit by income level of active duty personnel can be seen in Table II. Similar data for employees of the Board of Governors of the Federal Reserve System can be seen in Table III. The data indicate that usage of available systems increases with income level. A 1976 consumer panel survey in South Carolina shows reasons that households have chosen not to use ATMs, by income (see Table IV).[1/] The two major reasons for not using ATMs were that the service was

not needed or was not available; there is no apparent relationship between either the need for or availability of ATMs and income level. Thus, the two sets of data suggest that even when EFT services are available to all income classes, usage rate varies by income.

The regulation may affect both usage and availability of EFT services to classes of consumers, especially low-income consumers. In this respect, the impact of the regulation will probably be related to the amount of potential liability and the complexity of the liability provisions. The amount of potential liablity as a per cent of consumer assets is significantly higher for low-income consumers than for higher-income consumers.[2/] However, if a customer has no overdraft privilege, liability is generally no greater than the amount of funds in the customer's account. As can be seen in Table V, only a small proportion of lower-income families have more than $500 in a checking or savings account. Thus, the dollar value of potential loss through unauthorized use for low-income consumers is relatively low.

A final consideration is that clear understanding of EFT, the liability involved, and the information in the periodic statement involves some degree of familiarity with financial data. To the extent that low-income consumers are not financially sophisticated, they would be less likely to understand their liability and their periodic statements, and to discover loss or theft within a given time period and would be more likely to put their identification number on the card than

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1/ The panel surveyed includes urban households with annual income greater than $6000.

2/ In contrast, at present, consumers bear no liability for check forgery or fraud and a maximum of $50 for unauthorized use of a

high-income consumers. Therefore, they would have a higher probability of a loss, as a percentage of their assets, and possibly in absolute terms, than higher-income consumers. As a result, low-income consumers may be discouraged from using EFT because of relatively complicated liability requirements. However, since relatively high liability is borne by the consumer, financial institutions may be more willing to offer EFT services to low-income consumers because the institutions are protected to some extent from ignorance on the part of consumers, i.e., the consumer bears total liability if the unauthorized use is not reported within 60 days of transmittal of the periodic statement showing the loss and the issuer can prove that the loss would not have occurred if reporting had been within the 60 days.

TABLE I

Families without savings, or checking accounts or liquid assets by family income, 1977*
(percentage distribution)

Family Income ($)	No Savings Accounts	No Checking Accounts	No Liquid Assets
Less than 3000	57.2	44.7	30.2
3,000 - 4,999	52.7	49.7	33.5
5,000 - 7,499	38.3	33.8	15.7
7,500 - 9,999	33.3	23.8	9.9
10,000 - 14,999	21.4	15.2	5.6
15,000 - 19,999	11.7	11.3	3.4
20,000 - 24,999	10.4	4.4	b/
25,000 and more	5.9	2.0	.6

* Source: Thomas A. Durkin and Gregory E. Elliehausen, "1977 Consumer Credit Survey," (Washington, D.C.: Board of Governors of the Federal Reserve System, 1977): tables 21-7, 21-8, and 21-9.

a/ Liquid assets include savings accounts, certificates of deposit, checking accounts, and U.S. Government Bonds.

b/ Less than one half of one percent.

TABLE II

Air Force Active Duty Personnel
Usage of Automatic Payroll
Deposit by Income*
1978

Annual Income ($) a/	Number of Employees	Employees Using Automatic Payroll Deposit	
		Number	Percent
Less than 7,500	0		
7,500 - 9,999	168,611	77,297	45.8
10,000 - 11,999	142,981	97,400	68.1
12,000 - 14,999	96,107	72,931	75.9
15,000 - 19,999	78,858	64,203	81.4
20,000 - 24,999	41,106	36,717	89.3
25,000 and over	41,876	37,876	90.5

* Source: Accounting and Finance Center, Department of the Air Force.

a/ Dollar income equals regular military compensation rates plus a factor to account for bonuses, special pay, and special allowances.

TABLE III

Employees of the Board of Governors
of the Federal Reserve System
Usage of Automatic Payroll*
1978

Annual Income ($) a/	Number of Employees	Employees Using Automatic Payroll Deposit	
		Number	Percent
Less than 7,500	21	1	4.8
7,500 - 9,999	59	5	8.5
10,000 - 11,999	133	29	21.8
12,000 - 14,999	262	109	41.6
15,000 - 19,999	312	179	57.4
20,000 - 24,999	163	103	63.2
25,000 and over	530	433	81.7

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

a/ This includes some part-time employees.

TABLE IV

Selected Reasons Why Households
Have Not Used Automated
Teller Machines by Income* (Per Cent)

Income of Total Household	Unsafe, Poor Lighting & Local	Not Needed; Other Facilities Available	Not Available	Suspicious of System	Encourages Overspending	Never Heard of Them	Misc.
Under $7,000	0	43.8	33.3	8.3	0	10.4	4.2
$ 7,000-10,999	1.3	32.9	44.7	14.5	0	2.6	3.9
$11,000-15,999	0.6	37.3	39.9	15.8	0	3.8	2.5
$16,000-20,000	0.9	47.9	38.5	8.5	2.6	1.7	0
Over $20,000	0.5	47.3	37.4	12.6	0.5	1.4	0.5

* Source: Olin S. Pugh and Franklin J. Ingram, "EFT and the Public," The Bankers Magazine 161 (March-April 1978): p. 45, table 4.

TABLE V

Percentage Distribution of
Checking & Savings Accounts
1977*

	Amount of checking accounts (dollars)								
	None	1-99	100-499	500-999	1,000-1,999	2,000-4,999	5,000-9,999	10,000 and more	Total
Family income (dollars)									
Less than 3,000	44.7	15.3	22.7	6.0	6.0	4.0	.7	.7	100
3,000 - 4,999	49.7	14.5	26.8	3.4	2.8	2.8	a/	a/	100
5,000 - 7,499	33.8	16.9	29.0	10.6	5.8	2.4	1.0	.5	100
7,500 - 9,999	23.8	21.0	31.4	12.4	5.7	3.3	1.9	.5	100
10,000 - 14,999	15.2	19.3	38.3	13.1	6.9	4.8	1.4	.9	100
15,000 - 19,999	11.3	16.6	36.9	12.5	12.8	6.3	2.8	.9	100
20,000 - 24,999	4.4	10.3	42.9	16.3	14.7	7.5	2.4	1.6	100
25,000 and more	2.0	7.4	19.2	20.9	23.2	18.3	4.0	4.9	100

	Amount of savings accounts (dollars)										
	None	1-199	200-499	500-999	1,000-1,999	2,000-4,999	5,000-9,999	10,000-14,999	15,000-24,999	25,000 or more	Total
Family income (dollars)											
Less than 3,000	57.2	10.5	8.6	2.0	5.9	5.3	3.9	1.3	3.9	1.3	100
3,000 - 4,999	52.7	9.6	9.6	5.4	5.4	6.6	5.4	1.8	1.2	2.4	100
5,000 - 7,499	38.3	10.7	13.8	7.1	7.1	13.3	3.6	1.5	2.0	2.6	100
7,500 - 9,999	33.3	12.6	15.0	7.7	6.3	13.0	2.4	3.4	1.0	5.3	100
10,000 - 14,999	21.4	11.6	15.3	8.9	10.3	11.6	6.9	4.7	4.2	5.2	100
15,000 - 19,999	11.7	12.0	14.0	11.7	10.4	17.9	8.8	5.8	3.2	4.5	100
20,000 - 24,999	10.4	4.1	10.8	9.1	14.9	21.2	17.0	4.1	5.4	2.9	100
25,000 and more	5.9	2.1	4.7	4.7	7.0	18.2	14.1	15.8	13.8	13.8	100

* Source: Thomas A. Durkin and Gregory E. Elliehausen, "1977 Consumer Credit Survey," (Washington, D.C.: Board of Governors of the Federal Reserve System, 1977): tables 21-8 and 21-9.

a/ Less than .5 percent

(5) Pursuant to the authority granted in Pub. L. 95-630, Title XX, § 904 (November 10, 1978), the Board proposes to adopt Regulation E, 12 CFR Part 205, as follows:

Outline A

REGULATION E

(12 CFR 205)

ELECTRONIC FUND TRANSFERS

SECTION 205.1 -- SCOPE AND PURPOSE

(a) Electronic deposit of funds to an account
(b) Transferring and withdrawing funds from an account
(c) Protections under the regulation

SECTION 205.2 -- EXEMPTED TRANSFERS

(a) Check guarantee or authorization services
(b) Wire transfers
(c) Certain securities or commodities transfers
(d) Automatic transfers from savings to demand deposit accounts
(e) Certain telephone-initiated transfers

SECTION 205.3 -- ISSUANCE OF ACCESS DEVICES

(a) General rule
(b) Exception
(c) Relation to Truth in Lending
(d) Transition provision

SECTION 205.4 -- CONDITIONS OF LIABILITY OF CONSUMER FOR UNAUTHORIZED TRANSFERS

(a) General rule
(b) Amount of consumer's liability
(c) Notice to financial institution
(d) Determination of liability in certain transfers

SECTION 205.5 -- INITIAL DISCLOSURES

(a) General rule (§ 905(a))
(b) Specific disclosure requirements (§§ 905(a)(1)-(9), 906(b),910)
(c) Preexisting accounts (§ 905(c))

SECTION 205.6 -- SUBSEQUENT DISCLOSURES

(a) Change in terms (§ 905(b))
(b) Annual error resolution notice (§ 905(a)(7))

SECTION 205.7 -- DOCUMENTATION OF TRANSFERS

(a) Terminal transfers by consumers (§ 906(a))
(b) Preauthorized transfers (§ 906(b))
(c) Periodic statements (§ 906(c))

SECTION 205.8 -- PREAUTHORIZED TRANSFERS (§ 907)

(a) Specific requirements

SECTION 205.9 -- ERROR RESOLUTION (§ 908)

(a) Notification of errors
(b) Correction of errors
(c) Recrediting of accounts

SECTION 205.10 -- RELATION TO STATE LAW

(a) Inconsistent State laws (§ 919)
(b) Preempted State law provisions (§ 920)
(c) Exemption for State regulated transfers; procedures and criteria (§ 920)

SECTION 205.11 -- ADMINISTRATIVE ENFORCEMENT

(a) Administrative enforcement (§ 917)
(b) Issuance of interpretations (§ 915(d))
(c) Issuance of model clauses (§ 904(b))
(d) Preservation and inspection of evidence of compliance

SECTION 205.12 -- DEFINITIONS AND RULES OF CONSTRUCTION (§ 903)*

(a) Access device and accepted access device
(b) Account
(c) Act
(d) Business day
(e) Consumer
(f) Credit card
(g) Electronic fund transfer
(h) Electronic terminal
(i) Extension of credit
(j) Financial institution
(k) Issuer
(l) Open end credit plan
(m) Unauthorized electronic fund transfer
(n) Captions and catchlines

Appendix A -- Model Disclosure Clauses

*Other definitions to be added.

REGULATION E

(12 CFR 205)

ELECTRONIC FUND TRANSFERS

GENERAL PROVISIONS

SECTION 205.1 -- SCOPE AND PURPOSE

(a) Electronic deposit of funds to an acocunt
(b) Transferring and withdrawing funds from an account
(c) Protections under the regulation

OPENING AN ACCOUNT FOR EFT SERVICES

SECTION 205.2 -- DISCLOSURE REQUIREMENTS

(a) Initial disclosures
(b) Preexisting accounts
(c) Subsequent disclosures

SECTION 205.3 -- ISSUANCE OF ACCESS DEVICES

(a) General rule
(b) Exception
(c) Relation to Truth in Lending
(d) Transition provision

CONTINUING REQUIREMENTS

SECTION 205.4 -- PERIODIC STATEMENTS AND ERROR RESOLUTION

(a) Periodic statements
(b) Identification of transfers
(c) Error resolution

SECTION 205.5 -- CONDITIONS OF LIABILITY OF CONSUMER FOR UNAUTHORIZED TRANSFERS

(a) General rule
(b) Amount of consumer's liability
(c) Notice to financial institution
(d) Determination of liability in certain transfers

DEPOSITS TO AND PAYMENTS FROM ACCOUNTS

SECTION 205.6 -- DOCUMENTATION OF DEPOSITS

(a) Preauthorized deposits (§ 906(b))
(b) Other deposits (§ 906(a))

SECTION 205.7 -- DOCUMENTATION OF PAYMENTS

(a) Preauthorized payments (§ 907)
(b) Electronic terminal payments (§ 906(a))
(c) Other payments

ADMINISTRATIVE PROVISIONS

SECTION 205.8 -- ADMINISTRATIVE ENFORCEMENT

(a) Administrative enforcement (§ 917)
(b) Issuance of interpretations (§ 915(d))
(c) Issuance of model clauses (§ 904(b))
(d) Preservation and inspection of evidence of compliance

SECTION 205.9 -- RELATION TO STATE LAW

(a) Inconsistent State laws (§ 919)
(b) Preempted State law provisions (§ 920)
(c) Exemption for State regulatd transfers; procedures and criteria (§ 920)

EXEMPTIONS AND DEFINITIONS

SECTION 205.10 -- EXEMPTED TRANSFERS

(a) Check guarantee or authorization services
(b) Wire transfers
(c) Certain securities or commodities transfers
(d) Automatic transfers from savings to demand deposit accounts
(e) Certain telephone-initiated transfers

SECTION 205.11 -- DEFINITIONS AND RULES OF CONSTRUCTION (§ 903)*

(a) Access device and accepted access device
(b) Account
(c) Act
(d) Business day
(e) Consumer
(f) Credit card
(g) Electronic fund transfer
(h) Electronic terminal
(i) Extension of credit
(j) Financial institution
(k) Issuer
(l) Open end credit plan
(m) Unauthorized electronic fund transfer
(n) Captions and catchlines

Appendix A -- Model Disclosure Clauses

* Other definitions to be added.

REGULATION E

(12 CFR 205)

ELECTRONIC FUND TRANSFERS

SECTION 205.1 -- SCOPE AND PURPOSE

In November, 1978, Congress enacted the Electronic Fund Transfer Act which establishes the basic rights, liabilities and responsibilities of consumers who use electronic money transfer services and of depository and other financial institutions that offer such services. As directed by Congress, this regulation is intended to carry out the purposes of the Act, including primarily the protection of individual consumers engaging in electronic transfers to or from their accounts at financial institutions.

Electronic transfers may be used by consumers for the same purposes as paper checks. The principal difference is that, whether for deposit or payment, checks are physically transported. In electronic fund transfer systems, the payment instructions are transmitted by electronic means and standardized computer techniques common to bank deposit accounting.

Electronic systems may be used by consumers to transfer funds to and from their accounts in the following ways:

(a) Electronic deposit of funds to an account. Consumers may instruct employers and others making regular payments to them to have funds deposited directly into their accounts. This service may be used for depositing wages, social security benefits, dividends,

and other types of income payments. In a direct deposit arrangement, the originator of the payment (employer, Social Security Administration, etc.) directs its financial institution to transfer funds electronically to the consumer's financial institution for deposit in the consumer's account. Direct deposit services are begun when a consumer signs an agreement authorizing the originator to send funds directly to the consumer's account in a bank or other financial institution that offers direct deposit services.

Automated teller machines are also used for depositing funds. Consumers may deposit cash or checks in these machines which generally are available for use 24 hours a day. Today most of them are located at financial institutions, supermarkets and airports. To use these machines, a customer is usually issued a card and a special code, called a "personal identification number," by the financial institution.

(b) Transferring and withdrawing funds from an account. Electronic facilities provide consumers with alternative ways to withdraw cash, to pay bills and to make purchases from merchants.

(1) Cash withdrawals. Consumers may withdraw funds from their accounts and obtain cash by using automated teller machines. Also, consumers may ordinarily obtain cash in addition to goods and services when using the point-of-sale systems described below.

(2) Bill payment. Two types of electronic fund transfer services may be used by a consumer to pay bills. First, the

consumer may preauthorize merchants and creditors to draw funds from the consumer's account, or secondly, the consumer may direct the financial institution or a third party to pay bills.

Under a preauthorized system, a consumer directs a merchant in writing to debit or draw funds from his or her account on a given date in an amount sufficient to pay a bill. Preauthorized debits usually are used to pay recurring bills of a fixed amount, such as insurance premiums, mortgage payments or rent. A consumer may also authorize payment in this manner for variable amount bills, such as credit card and utility bills. Where variable amount bills are paid by preauthorized debits, consumers usually receive notice from merchants as to the amount of the bill and ordinarily a period of time elapses between the date the bill is sent to the consumer and the date the account is charged.

When the financial institution provides a bill-payment service, it usually furnishes the consumer with a personal identification code. This code is used when requesting the financial institution to charge the consumer's account and pay a bill. Instructions to pay the bill may be given in writing, verbally by the consumer, or by some other means, such as through a touch-tone telephone using a prearranged coding scheme.

(3) Paying for purchases. Consumers may pay for goods and services at the point of purchase by using electronic fund transfer rather than with a check, cash or credit card. This is usually done

through use of a card similar in appearance to a credit card. The card identifies the consumer's financial institution and account number in machine-readable form. At the time of purchase, as the card and the proper dollar amount are entered into a machine, the consumer's account is debited electronically and the merchant's account credited. This is done by an electronic transmission of messages between the consumer's and the merchant's banks. Systems which provide these capabilities are known as "point-of-sale" systems.

(c) Protections under the regulation. The Electronic Fund Transfer Act becomes effective in two parts. The first part, which will become effective on February 8, 1979, limits the liability of a consumer for electronic fund transfers that were not authorized by the consumer. It also places limitations on the distribution of debit cards and other means of access. Certain disclosures must be made if the card or other means of access was not requested by the consumer. On May 10, 1980, the remaining provisions of the law will become effective.

Of particular significance among the provisions becoming effective in 1980 are those having to do with (1) the disclosure of terms and conditions upon which a financial institution offers electronic transfer services, and (2) the content of the periodic statement which sets forth the transactions (deposits to and withdrawals from the account). Taken together these disclosures require financial

institutions to provide details of electronic service offerings and transfers that are not presently required for check transfers. Various provisions of the regulation set forth the terms and conditions for opening an account for electronic fund transfers. The regulation also will provide requirements concerning deposits to or payments from an account. These requirements are outlined as follows:

(1) Opening an account

- Disclosures concerning account terms (including fees and privacy rights) are required to be made to consumers.

(2) Continuing requirements

- A periodic account statement must be issued that contains information describing the transactions and identifying the parties to whom and from whom funds are paid.

- The consumer's liability for unauthorized transfers is limited, in general, based on the time notice of loss, theft or unauthorized transfer is given to the financial institution.

- Error resolution procedures must be provided by financial institutions.

(3) Deposits to accounts (credits)

- For deposits that are made directly to an account by a third party, notice of receipt or non-receipt of the deposit must be provided to the consumer.

- Receipts must be made available for all deposits made by consumers at electronic terminals.

(4) Payments from accounts (debits)

- Preauthorized payments must be authorized by the consumer in writing. For some preauthorized

payments that vary in amount, the financial institution must provide advance notice to the consumer. Also, stop payment rights apply to preauthorized payments.

- Receipts must be made available for all payments, including cash withdrawals, initiated by consumers at electronic terminals.

SECTION 205.2 — EXEMPTED TRANSFERS

This regulation does not apply to the following:

(a) Check guarantee or authorization services. Any service which guarantees payment or authorizes acceptance of a check, draft or similar paper instrument and which does not directly result in a debit or credit to a consumer's account.

(b) Wire transfers. Any wire transfer of funds for a consumer through the Federal Reserve Communications System, Bankwire network or similar network that is used predominantly for bank-to-bank or business-to-business transfers.

(c) Certain securities or commodities transfers. Any transaction the primary purpose of which is the purchase or sale of securities or commodities through a broker-dealer registered with or regulated by the Securities and Exchange Commission.

(d) Automatic transfers from savings to demand deposit accounts. Any automatic transfer from a savings account to a demand deposit (checking) account pursuant to an agreement between a consumer and a financial institution for the purpose of covering an overdraft or maintaining an agreed-upon minimum balance in the consumer's checking account as permitted by 12 CFR Part 217 (Regulation Q) and 12 CFR Part 329.

(e) Certain telephone-initiated transfers. Any transfer of funds which (1) is initiated by a telephone conversation between a consumer and an officer or employee of a financial institution and (2) is not

pursuant to a prearranged plan under which periodic or recurring transfers are contemplated.

SECTION 205.3 -- ISSUANCE OF ACCESS DEVICES

(a) General rule. An issuer may issue an access device to a consumer only:

(1) in response to an oral or written request or application therefor;

(2) as a renewal of an accepted access device; or

(3) in substitution for an accepted access device, whether issued by the initial issuer or a successor.

(b) Exception. (1) Notwithstanding the provisions of § 205.3(a), an issuer may distribute an access device to a consumer on an unsolicited basis if:

(i) the access device is not validated;

(ii) the distribution is accompanied by a complete disclosure, in accordance with § 205.5, of the consumer's rights and liabilities which will apply if the access device is validated;

(iii) the distribution is accompanied by a clear explanation that the access device is not validated and how the consumer may dispose of the access device, if validation is not desired; and

(iv) the access device is validated only in response to the consumer's oral or written request or application for validation and after verification of the consumer's identity.

(2) A consumer's identity shall be verified by comparison of the consumer's signature with the issuer's account records or another signed instrument, or by photograph, fingerprint or personal visit.

(3) An access device shall be considered validated when the issuer has performed any procedure necessary to permit the access device to be used by the consumer to initiate an electronic fund transfer.

(c) Relation to Truth in Lending. The Act and this regulation govern the issuance of access devices and the addition to an accepted credit card of the capability to initiate electronic fund transfers. The issuance of credit cards, the addition of a credit feature to an accepted access device and the issuance of credit cards which are also access devices are governed by the Truth in Lending Act and 12 CFR Part 226 (Regulation Z), which prohibit their unsolicited issuance.

(d) Transition provision. Until May 10, 1980, an issuer may satisfy the disclosure requirements of § 205.3(b)(1)(ii) by disclosing the following terms in writing in readily understandable language:

(1) The consumer's liability under § 205.4 for unauthorized electronic fund transfers and, at the issuer's option, notice of the advisability of prompt reporting of any loss, theft or unauthorized transfer.

(2) The telephone number and address of the person or office to be notified in the event the consumer believes that an unauthorized electronic fund transfer has been or may be effected.

(3) The type and nature of electronic fund transfers which the consumer may initiate, including any limitations on the frequency or dollar amount of such transfers, except that the details of such limitations need not be disclosed if their confidentiality is necessary

to maintain the security of the electronic fund transfer system.

(4) Any charges for electronic fund transfers or for the right to make such transfers.

(5) The circumstances under which the financial institution, if one is involved, will in the ordinary course of business disclose information concerning the consumer's account to third parties.

(6) Whether or not the consumer has the right to stop payment of a preauthorized electronic fund transfer and, if so, the procedure to initiate such a stop payment order.

(7) Whether or not the consumer has the right to receive documentation of electronic fund transfers.

(8) Whether or not the financial institution or issuer has error resolution procedures and, if so, a summary of those procedures and the consumer's rights under them.

(9) Whether or not the financial institution or issuer will be liable to the consumer for its failure to make transfers.

The procedures and rights which the financial institution or issuer is required to disclose under § 205.3(d)(6) through (9) need not comply with the requirements of the Act until May 10, 1980.

SECTION 205.4 — CONDITIONS OF LIABILITY OF CONSUMER FOR UNAUTHORIZED TRANSFERS

(a) General rule. A consumer shall not be liable for any unauthorized electronic fund transfers involving the consumer's account unless the access device utilized for such transfers was an accepted access device and the issuer has provided a means whereby the user can be identified as the person authorized to use it, such as by signature, photograph or fingerprint or by electronic or mechanical confirmation.

(b) Amount of consumer's liability. The amount of a consumer's liability for an unauthorized electronic fund transfer or a series of transfers shall be determined as follows:

(1) If the consumer notifies the financial institution within 2 business days after learning of the loss or theft of the access device or possible unauthorized transfer,[1/] the consumer's liability shall not exceed the lesser of $50 or the amount of money or value of property or services obtained in unauthorized electronic fund transfers prior to notice to the financial institution under § 205.4(c).

(2) (i) If the consumer fails to notify the financial institution within 2 business days after learning of the loss or theft of the access device or possible unauthorized transfer, and the institution establishes that the transfers would not have occurred but for the failure of the consumer to notify the institution within that time, the consumer's liability shall be

(A) the lesser of $50 or the amount of money or value of

1/ Note that the consumer may learn of possible unauthorized electronic fund transfers from examination of a periodic statement.

property or services obtained in unauthorized electronic fund transfers prior to the close of the 2 business days, and

(B) the amount of money or value of property or services obtained in unauthorized electronic fund transfers which occur following the close of 2 business days after the consumer learns of the loss or theft of the access device or possible unauthorized transfer and prior to notice to the financial institution under § 205.4(c).

The consumer's liability under § 205.4(b)(2)(i) shall not exceed $500.

(ii) If the institution fails to establish that the unauthorized transfers would not have occurred but for the failure of the consumer to notify the institution, the consumer's liability shall be determined in accordance with § 205.4(b)(1).

(3) If the consumer fails to report within 60 days of transmittal of the periodic statement any unauthorized electronic fund transfer which appears on the statement, the consumer may be liable for the amount of any unauthorized transfer which the financial institution establishes would not have occurred but for the failure of the consumer to notify the financial institution.

If the delay in notifying the financial institution was due to extenuating circumstances, such as extended travel or hospitalization, the time periods specified above shall be extended to a reasonable time.

(c) Notice to financial institution. For purposes of § 205.4, a consumer notifies a financial institution by taking such steps as

may be reasonably necessary to provide the financial institution with the pertinent information, orally or in writing, whether or not any particular officer, employee or agent of the financial institution does in fact receive the information. Notice shall also be considered given when the financial institution becomes aware of circumstances which lead to the reasonable belief that an unauthorized electronic fund transfer involving the consumer's account has been or may be effected.

(d) Determination of liability in certain transfers. (1) A consumer's liability for an unauthorized electronic fund transfer shall be determined solely in accordance with § 205.4 if

(i) the transfer was initiated by use of an access device which is also a credit card, or

(ii) the transfer also involves an extension of credit pursuant to an agreement between the consumer and the financial institution to extend such credit to the consumer when the consumer's account is overdrawn or to maintain an agreed-upon minimum balance in the consumer's account.

(2) A consumer's liability for unauthorized use of a credit card that does not involve an electronic fund transfer shall be determined solely in accordance with the Truth in Lending Act and 12 CFR Part 226 (Regulation Z).

(3) A financial institution and a consumer may agree that the consumer's liability for unauthorized electronic fund transfers will be less than would be determined by § 205.4 of the regulation.

SECTION 205.12 -- DEFINITIONS AND RULES OF CONSTRUCTION

For the purposes of this regulation, the following definitions and rules of construction apply, unless the context indicates otherwise:

(a) "Access device" means a card, code or other means of access to a consumer's account, or any combination thereof, for the purpose of initiating electronic fund transfers.

An "accepted access device" means an access device which the consumer to whom such access device was issued (1) has requested and received or (2) has signed or (3) has used or (4) has authorized another to use, for the purpose of transferring money between accounts or of obtaining money, property, labor or services.

(b) "Account" means a demand deposit, savings deposit or other consumer asset account (other than an occasional or incidental credit balance in an open end credit plan) held either directly or indirectly by a financial institution and established primarily for personal, family or household purposes. The term does not include an account held by a financial institution pursuant to a bona fide trust agreement.

(c) "Act" means the Electronic Fund Transfer Act (Title IX of the Consumer Credit Protection Act).

(d) "Business day" means any day on which the offices of the financial institution or the issuer are open to the public for carrying on substantially all business functions.

(e) "Consumer" means a natural person.

(f) "Credit card" means any card, plate, coupon book or other single credit device existing for the purpose of being used from time to time upon presentation to obtain money, property, labor or services on credit.

(g) "Electronic fund transfer" means any transfer of funds, other than a transaction originated by check, draft or similar paper instrument, which is initiated through an electronic terminal, telephone or computer or magnetic tape and which orders, instructs or authorizes a financial institution to debit or credit an account. The term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, direct deposits or withdrawals of funds, and transfers initiated by telephone.

(h) "Electronic terminal" means an electronic device, other than a telephone operated by a consumer, through which a consumer may initiate an electronic fund transfer. The term includes, but is not limited to, point-of-sale terminals, automated teller machines and cash dispensing machines.

(i) "Extension of credit" means the right granted by a creditor to a consumer to defer payment of debt, incur debt and defer its payment, or purchase property or services and defer payment therefor, in which the debt is payable by agreement in more than four instalments, or does or may require payment of a finance charge, whether in connection with loans, sales of property or services or otherwise.

(j) "Financial institution" means a State or National bank, a

State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person who, directly or indirectly, holds an account belonging to a consumer. The term also includes the agent of such an institution.

(k) "Issuer" means any person who issues an access device, or the agent of such person with respect to such access device.

(l) "Open end credit plan" means an extension of credit on an account pursuant to a plan under which (1) the creditor may permit the consumer to make purchases or obtain loans from time to time, directly from the creditor or indirectly by use of a credit card, check or other device, as the plan may provide; (2) the consumer has the privilege of paying the balance in full or in instalments; and (3) a finance charge may be computed by the creditor from time to time on an outstanding unpaid balance.

(m) "Unauthorized electronic fund transfer" means an electronic fund transfer from a consumer's account initiated by a person other than the consumer without actual authority to initiate the transfer and from which the consumer receives no benefit. The term does not include any electronic fund transfer (1) initiated by a person other than the consumer who was furnished with the access device to the consumer's account by the consumer, unless the consumer has notified the financial institution involved that transfers by that person are no longer authorized, (2) initiated with fraudulent intent by the consumer or any other person acting in concert with the consumer, or (3) which constitutes an error committed by the financial institution.

(n) Captions and catchlines used in this regulation are intended solely as aids to convenient reference, and no inference as to the intent of any provision of this regulation may be drawn from them.

APPENDIX A -- MODEL DISCLOSURE CLAUSES

This appendix contains model disclosure clauses for optional use by financial institutions and issuers to facilitate compliance with the disclosure requirements of §§ 205.4(b) and (d) and § 205.5 of the regulation. Section 915(d)(2) of the Act provides that use of these clauses in conjunction with other requirements of the regulation protects financial institutions and issuers from liability under §§ 915 and 916 of the Act to the extent that they accurately reflect their electronic fund transfer services.

Financial institutions and issuers need not use all the provided clauses, but may use clauses of their design in conjunction with the model clauses. Words and phrases in parantheses are alternative in nature and the inapplicable portions of those words or phrases should be deleted. Financial institutions and issuers may make alterations or substitutions of a technical nature (e.g., substitution of a trade name for the word "card," deletion of inapplicable services) in the clauses in order to reflect the services offered.

SECTION A(1) -- DISCLOSURE THAT ACCESS DEVICE IS NOT VALIDATED AND HOW TO DISPOSE OF DEVICE IF VALIDATION IS NOT DESIRED (§ 205.3(b)(1)(iii))

(a) Accounts accessed by cards. YOU CANNOT USE THE ENCLOSED CARD UNTIL WE HAVE VALIDATED IT. IF YOU DO NOT WANT THE CARD, destroy it at once.

[Issuer may insert validation instructions here.]

(b) Accounts accessed by codes. YOU CANNOT USE THE ENCLOSED CODE UNTIL WE HAVE VALIDATED IT. IF YOU DO NOT WANT THE CODE, destroy this notice at once.

[Issuer may insert validation instructions here.]

SECTION A(2) -- DISCLOSURE OF CONSUMER'S LIABILITY FOR UNAUTHORIZED TRANSFERS AND OPTIONAL DISCLOSURE OF ADVISABILITY OF PROMPT REPORTING (§ 205.3(d)(1))

(a) Liability disclosure. (Contact us AT ONCE if you believe your (card)(code) has been lost or stolen or money is missing from your account. If you contact us within 2 business days, you can lose no more than $50 if someone used your (card)(code) without your permission.) (If you believe your (card)(code) has been lost or stolen or if you think money is missing from your account, and you contact us within 2 business days after learning of the loss, you can lose no more than $50 if someone used your (card)(code) without your permission.)

If someone used your (card)(code) without your permission, you could lose as much as $500 if you do NOT contact us within 2 business days after learning of the loss and we can prove that we could have prevented the losses if you had contacted us.

Also, if your monthly statement shows transfers that you did not make, and you do not contact us within 60 days after the statement was mailed to you, you may not get back any money lost after that time if we can prove that your contacting us would have prevented those losses.

If something prevents your contacting us (such as travel or hospitalization), the time periods may be extended.

SECTION A(3) -- DISCLOSURE OF TELEPHONE NUMBER AND ADDRESS TO BE NOTIFIED IN EVENT OF UNAUTHORIZED TRANSFER (§ 205.4(d)(2))

(a) Address and telephone number. If you believe your (card) (code) has been lost or stolen or that an unauthorized transfer from your account has occurred or may occur, call or write:

[Name of financial institution, issuer or agent]
[Address]
[Telephone number]

SECTION A(4) -- DISCLOSURE OF TYPES OF AVAILABLE TRANSFERS AND LIMITS ON TRANSFERS (§ 205.3(d)(3))

(a) Account access. You may use your (card)(code) to:

(1) Withdraw cash from your (checking)(or)(savings) account.

(2) Deposit money in your (checking)(or)(savings) account.

(3) Make payments from your (checking)(or)(savings) account in the amounts and on the days you request.

(4) Make periodic payments from your (checking)(or) (savings) account, such as your mortgage payment.

(5) Transfer funds between your checking and savings accounts in the amounts you request.

(6) Learn the balance(s) in your (checking)(or) (savings) accounts.

(7) Pay for purchases at merchants that have agreed to accept the (card)(code).

(b) Limitations on frequency of transfers.

(1) Automated teller machines. Cash withdrawals from our automated teller machines are limited to [insert number, e.g., 3] each [insert time period, e.g., week].

(2) Telephone bill-payment services. Your telephone bill-payment service can be used to authorize payment for [insert number] bills each ([insert time period])(telephone call).

(c) Limitations on dollar amounts of transfers.

(1) Automated teller machines. You may withdraw up to [insert dollar amount] from our automated teller machines each ([insert time period])(time you use the (card)(code)).

SECTION A(5) -- DISCLOSURE OF CHARGES FOR TRANSFERS OR RIGHT TO MAKE TRANSFERS (§ 205.3(d)(4))

(a) Per transfer charge. There will be a charge of [insert dollar amount] for each transfer you make using our (automated teller machines)(telephone bill-payment service)(point-of-sale transfer service).

(b) Fixed charge. There will be a charge of [insert dollar amount] each [insert time period] for our (automated teller machine service)(telephone bill-payment service)(point-of-sale transfer service).

(c) Minimum balance charge. There will be no charge for use of our (automated teller machines)(telephone bill-payment service)(point-of-sale transfer service), unless the average monthly balance in your (checking account)(savings account)(accounts) falls below [insert dollar amount]. If it does, the charge will be [insert dollar amount] each (transfer)([insert time period]).

SECTION A(6) -- DISCLOSURE OF ACCOUNT INFORMATION TO THIRD PARTIES (§ 205.3(d)(5))

(a) Account information disclosure. We will not disclose information about your account or the transfers you make to third parties, except:

(1) as necessary to complete transfers.

(2) to verify the existence and standing of your account with us upon the request of a third party, such as a credit bureau.

(3) to comply with government agency or court orders.

(4) [insert notice required by the Right to Financial Privacy Act of 1978.]

(5) in accordance with your written permission.

By order of the Board of Governors, December 22 , 1978.

(signed) Theodore E. Allison

Theodore E. Allison
Secretary of the Board

[SEAL]

END