



March 26, 2008

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

Re: Proposed Amendments to Regulation D (Docket No. R-1307)

Dear Ms. Johnson:

On behalf of the California and Nevada Credit Union Leagues, I appreciate the opportunity to comment on proposed amendments to Regulation D to incorporate provisions of the Financial Services Regulatory Relief Act of 2006. Specifically, we would like to comment on the amendment that would eliminate the provision in the “savings deposit” definition of Regulation D limiting certain kinds of transfers from savings deposits to not more than three per month.

By way of background, the California and Nevada Credit Union Leagues (the Leagues) are the largest state trade associations for credit unions in the United States, representing the interests of more than 400 credit unions and their 9 million members.

Background

Currently, Regulation D limits the number of “convenient” transfers and withdrawals from savings deposits (i.e., preauthorized, automatic, or telephonic transfers or withdrawals) to not more than six per month. Within this overall limit of six, not more than three transfers or withdrawals may be made by check, debit card, or similar order made by the depositor and payable to third parties. Transfers and withdrawals from savings deposits that are “less convenient”¹ are not limited in number by the “savings deposit” definition in Regulation D. For example, transfers or withdrawals made “by mail, messenger, automated teller machine, or in person or...made by telephone (via check made to the depositor)” may be made from savings deposits without numerical limit.

¹ We note that neither the statutory nor regulatory history of Section 19 of the Federal Reserve Act nor Regulation D requires classification of (or provides definitions for) transfers and withdrawals as “convenient” or “less convenient” for purposes of limiting transactions from savings deposits. These terms appear to have been coined by many in the industry—and now by the Board—in an attempt to discern a standard in what appears to be an arbitrary and/or evolving standard (i.e., account access methods and their availability or acceptance by consumers). We will further discuss these terms later in our comments.

The Board proposes to amend Regulation D to do away with the sub-limit of three that applies to checks, debit card, or similar order and simply limit all “convenient” transfers to not more than six per month. By eliminating this “six-three distinction,” the Board believes some aspects of the current limitations that are burdensome to the private sector would be reduced, and broader use and acceptance of developing electronic payments technologies would be fostered.

The Leagues’ Position

The Leagues strongly support the Board’s proposal to eliminate the six-three distinction, which has long been confusing for consumers and a regulatory burden for credit unions and other financial institutions. In addition, we appreciate the Board’s acknowledgment that the existence of this distinction may have had a limiting effect on the broader use and acceptance on electronic payments technologies. In light of this acknowledgement, we suggest that the Board take advantage of this current rulemaking opportunity to rectify similar shortcomings found in the regulation’s treatment of online banking transfer transactions.

Regulation D currently permits an unlimited number of transfers initiated by automated teller machine (ATM) from a savings deposit to an account of the depositor at the same institution. However, transfers from savings deposits made through home banking or Internet banking services are subject to the regulation’s monthly limit of six. The Leagues firmly believe that these types of transactions should also be unlimited in nature, as they are identical in nature to ATM transfers. Indeed, credit unions have long reported the confusion and frustration experienced by their members when they are told they must go to an ATM to conduct a transfer they had initially attempted to perform online, but were prohibited from completing due to reaching their monthly limit of six transfers. Technology—and consumer preference—has changed greatly since the last substantive revisions to Regulation D, and we believe that such a change is not only appropriate, but overdue.

Looking forward, we would like to suggest that the time has come for a new approach in determining whether an account is a transaction account and, therefore, subject to reserve requirements. As we have stated, the descriptors “convenient” and “less convenient” are not based in statute or regulation. Even in their current usage in the proposal, we believe these terms are somewhat arbitrary, and subject to continual redefining by changing electronic payments technologies. In addition, we feel that identifying specific types of transactions within the regulation as limited or unlimited (e.g., check, draft, ATM, messenger) is similarly ineffective.

Therefore, we respectfully propose that the Board consider permitting financial institutions an option under the regulation to establish their own transfer and withdrawal limits for savings deposits accounts, based on their own member/customer transaction preferences and patterns, as well as evolving technology. Given the risk-based approach favored in today's regulatory environment (e.g., Bank Secrecy Act), we believe that credit unions and other financial institutions have the capability to conduct account-level analyses in order to develop reasonable, customized limits for accounts that would be considered non-reservable, subject to regulator review. This approach could serve as an effective balance between the need to reserve for transaction accounts, and the need for clear, reasonable, and non-restrictive provisions for regulations—like Regulation D—which can have an affect on consumers' transaction patterns and practices. Financial institutions that prefer not to set their own limits would be subject to the six-per-month limit.

In closing, the California and Nevada Credit Union Leagues would like to thank the Board for the opportunity to comment on these proposed changes to Regulation D. We appreciate your consideration of views, and look forward to providing further input as needed on our suggested revisions.

Regards,

A handwritten signature in black ink, appearing to read 'Bill Cheney', with a long, sweeping underline that extends to the right.

Bill Cheney
President/CEO
California and Nevada Credit Union Leagues