

UNITED STATES OF AMERICA
BEFORE THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE
SYSTEM

Docket No. R-1210

CONVERGYS CORPORATION COMMENTS REGARDING
REGULATION E – 12 CFR § 205.10(b)
ELECTRONIC FUND TRANSFERS

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

I. Introduction

Convergys Corporation (“Convergys”) submits these comments in response to the Board of Governors of the Federal Reserve System (“Federal Reserve”) Notice of Proposed Rulemaking (NPRM), released September 13, 2004, regarding its proposed amendments to Regulation E, which implements the Electronic Funds Transfer Act, and revisions to the official staff commentary. Convergys seeks to comment on preauthorized transfers (§205.10(b)) and specifically, clarification of written authorization for preauthorized transfers and the *bona fide* error exception.

Convergys is a global leader in integrated billing, employee care, and customer care services provided through outsourcing or licensing. We serve top companies in telecommunications, Internet, cable and broadband services, technology, financial services, and other industries in nearly 60 countries. We also provide integrated, outsourced, human resource services to leading companies across a broad range of industries. We bring together world-class resources, software, and expertise to help create valuable relationships between

our clients and their customers and employees. Our software generates more than 1.5 million individual bills each day in support of more than 100 million subscribers. We also manage more than 1.7 million separate customer and employee contacts each day, both live and via electronic interaction. Convergys employs more than 63,000 people in 62 customer contact centers and is a member of the S&P 500 and a Fortune Most Admired Company. Convergys is on the Internet at www.convergys.com and has world headquarters in Cincinnati, Ohio.

II. Written Authorization for Preauthorized Transfers

Convergys is supportive of the Federal Reserve's proposal to align consumer authorization of an electronic fund transfer with the Electronic Signatures in Global and National Commerce Act ("E-Sign Act"). Convergys agrees that deleting the final sentence of staff comment 10(b)-3, dated March 2001, benefits both consumers and business. The sentence the Federal Reserve proposes removing states, "A tape recording of a telephone conversation with a consumer who agrees to preauthorized debits also does not constitute written authorization for the purpose of this provision."

According to the *2003-2004 Study of Consumer Payment Preferences*, conducted by Dove Consulting in conjunction with the American Bankers Association, "All trends indicate that debit is an increasingly popular form of payment at the point-of-sale: 80% of consumers have a debit card, and of those who have a card, 79% use it." However, the business costs associated with the current Federal Reserve staff commentary, which explicitly excludes audio recording as an acceptable form of written authorization, make it prohibitive for some companies to allow consumers to use a debit card to telephonically purchase goods and services involving a recurring payment. The direct result is that consumers who

wish to use a debit card, and for various reasons do not have or want to use a credit card as a secondary method of payment, have had to abandon their purchase(s). The limited ability to use debit cards negatively impacts consumers who are unable to purchase their good or service over the phone. It also results in a loss of revenue for the businesses unable to make the sale. The Federal Reserve's proposal to withdraw the final sentence of the March 2001 interpretation will increase the number of consumers able to take full advantage of the convenience afforded by use of debit cards for telephonic purchases involving recurring payments.

III. *Bona Fide Error Exception*

Convergys also supports the Federal Reserve's clarification of the *bona fide* error exception. The exception currently states that if the consumer indicates use of a credit card account when in fact a debit card is being used, the payee does not violate the requirement to obtain written authorization if the failure to obtain the authorization was not intentional...and the payee maintains procedures reasonably adapted to avoid such an error. The proposed revision to the commentary (comment 10(b)-7) would include additional language to stipulate that a merchant asking the consumer to specify whether the card is a debit or credit card, using those terms, is a reasonable procedure. Convergys welcomes this clarification to the staff commentary.

The additional language will ensure that companies put forth a good faith effort to determine which type of card the consumer is using. The business request for clarification of debit versus credit card, and the ensuing disclosures associated with this request, will allow businesses to more effectively meet the needs of their customers.

IV. Conclusion

Convergys is a leader in the outsourcing industry and the satisfaction of our clients and the satisfaction of their customers is our top priority. It is as a result of these key relationships that we express our support for the Federal Reserve's proposed changes to Regulation E. Clarifying the rules relative to preauthorized transfers creates an environment in which businesses are better equipped to meet consumer needs and expectations in a world increasingly dependent on the efficiency of e-commerce.

Respectfully Submitted:



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