

Harris Trust and  
Savings Bank

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**Paul V. Reagan**  
Executive Vice President  
& General Counsel

November 19, 2004

**BEST IMAGE AVAILABLE**

Jennifer J. Johnson, Secretary  
Board of Governors of the  
Federal Reserve System  
20<sup>th</sup> and Constitution Avenue, NW  
Washington, D.C. 20551

Dear Ms. Johnson:

On behalf of the Bank of Montreal's U.S. banking subsidiaries, the Harris Banks, we are pleased to respond to the Board's request for comment regarding the notice of proposed rulemaking to amend Regulation E and the Official Staff Commentary. We agree with the clarifications provided under the proposal and are in support of the comments and recommendations submitted by the American Bankers Association. We are taking this opportunity to provide you with a few additional comments regarding the impact of the proposed rules and commentary revisions on our organization.

**Payroll Cards**

Our primary concerns relate to the proposed revisions regarding payroll cards. We offer this product on a very limited basis. Development of the product took into consideration the rules associated with the Electronic Benefits Transaction (EBT) rules established under Regulation E, 12 CFR 205.15. The flexibility to offer account information in an alternative manner than a periodic statement format, such as a toll-free number, Internet access or by request, is preferable. This has worked quite well for the product we offer.

The implementation impact on our organization in relation to applying the various requirements of Regulation E on payroll cards includes the following.

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- It would appear that to satisfy the error resolution notice requirement we would be using an annual notice to cardholders instead of the short-form notice on periodic statements because we would be providing customer information in an alternative manner, as discussed above. If possible, consideration should be given to how a short-form notice could alternatively be provided, such as the ability to provide it with a pay stub associated with the card, if any.
- We have discussed the implementation impact of the error resolution rules on provisional credit requirements in relation to the payroll card product we offer. While most errors are resolved within a 10-day timeframe, we have been reviewing how the application of the provisional credit rules would work operationally. Since the payroll amounts are initiated by the employer, additional evaluation is necessary to determine how to give provisional credit back to the cardholder from a pooled fund which typically does not contain extra funds that could be used for giving provisional credit if the need should arise. We are questioning whether the credit should come from the employer or the bank and at the same time raising concerns about the contractual obligation for liability on losses associated with the application of the requirements of 12 CFR 205.6. We will continue to evaluate the impact of the implementation of these requirements.
- We agree with the ABA's comment that the reasons for defining "account" for Regulation E purposes and FDIC insurance purposes are unrelated. We are in support that these funds should be insured and recommend that the FDIC take into consideration applying pass-through insurance type coverage to payroll cards, similar to employee benefits.
- We continue to have concerns about the ability to operationally comply with the stop payment rules for recurring payments and blocking in relation to payroll cards. Even with the proposed revision providing for the use of a third-party we are still concerned. We realize this is an important consumer protection requirement but it is difficult to comply with and we do not know of an alternative protection.

### **Electronic Check Conversion (ECK)**

Again, we support the comments made by the ABA with regards to the proposed changes related to ECK. We agree with the Board's expansion of Regulation E to persons other than financial institutions who engage in electronic check conversion. We are interested in finding out how the enforcement of the requirements on those persons will be conducted and would ask that the

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preamble provide such clarification. We ask this question primarily in relation to how this might impact our business customers.

If you should wish to discuss any of these comments further please don't hesitate to contact me at (312) 461-3167.

Sincerely



Paul V. Reagan  
Executive Vice President  
US General Counsel