

September 21, 2005

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

Re: Docket No. R-1234; Regulation E ATM
Disclosures

Dear Ms. Johnson:

Navy Federal Credit Union provides the following comments in response to the Federal Reserve Board's (Board) proposed changes to the ATM disclosure requirements in Regulation E. Navy Federal is the nation's largest natural person credit union with over \$25 billion in assets and 2.6 million members.

Navy Federal supports the Board's proposed changes to Regulation E. Allowing ATM operators the option of disclosing that a fee *may* be imposed will help them more accurately disclose their surcharge practices and will be less confusing to consumers. We also agree with the Board that allowing ATM operators to disclose that a fee *may* be imposed is a reasonable interpretation of the statutory disclosure requirements in section 904(d)(3) of the Electronic Fund Transfers Act.

We also support the Board's decision to amend both the regulation and the official staff commentary. Since the regulation clearly states that ATM operators must disclose that a fee *will* be imposed, simply amending the commentary would not be sufficient to allow ATM operators to disclose that a fee *may* be imposed. Further, we agree that it is appropriate to also amend the commentary to clarify that ATM operators' notices must continue to state that fees *will* be imposed, if fees apply in all cases.

The Board also requests comments on the circumstances in which ATM operators do not impose surcharges. Navy Federal has many situations that do not trigger surcharges. For example, we do not impose surcharges for balance inquiries, transfers, rejected transactions, or on consumers using cards issued by foreign financial institutions. As a member of the Co-op Network, we also do not charge fees to consumers with Co-op Network cards. In addition, we have entered into mutual agreements with a small number of credit unions to provide surcharge-free ATMs to their members. We also do not impose surcharges on consumers using FEMA-issued cards, Red Cross-issued cards, and ATMs in the areas hardest hit by Hurricane Katrina.

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Based on a literal interpretation of the regulation, our ATM disclosure states that a fee *will* be charged for cash withdrawals made with a non-Navy Federal card. We believe this is confusing for consumers, given the fact that there are many situations in which we would not impose surcharges. We do not believe that disclosing that a fee *may* be imposed will have an adverse impact on consumers. On the contrary, we believe that such a disclosure would be more accurate and less confusing.

The Board also requests comments on how ATM operators disclosed their surcharge practices prior to 1999, when the Gramm-Leach-Bliley Act made such disclosures mandatory. Navy Federal did not begin imposing surcharges until 2003. Prior to 2003, we disclosed on our ATMs that we did not impose surcharges.

Navy Federal appreciates the opportunity to provide comments to the Board on the proposed changes to the ATM disclosure requirements in Regulation E.

Sincerely,



Cutler Dawson
President/CEO

CD/sb