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WACHOVIA

March 13, 2006

VIA ELECTRONIC MAIL

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

Electronic Address: reg.comments@federalreserve.gov

RE: Docket No. R-1247; Regulation E Interim Final Rule

Dear Ms. Johnson:

This letter is submitted on behalf of Wachovia Corporation and its subsidiaries, including Wachovia Bank, National Association, and Wachovia Bank of Delaware, National Association (collectively, "Wachovia"). Wachovia appreciates the efforts of the Board of Governors of the Federal Reserve System ("Board") in allowing additional comment on the Interim Final Rule amending Regulation E to cover payroll card accounts. Wachovia supports the overall approach the Board has taken but we believe that further clarification is needed.

Definition of "Account"

The Rule includes in the definition of "account," payroll card accounts that are

directly or indirectly established by an employer on behalf of a consumer to which electronic fund transfers of the consumer's wages, salary, or other employee compensation are made on a recurring basis, whether the account is operated or managed by the employer, a third-party payroll processor, a depository institution or any other person.

Wachovia believes this definition should be broadened to include payroll card accounts that are requested directly by the employee. Although payroll cards are typically marketed to employers as part of a menu of financial services that financial institutions offer to their commercial customers, the employee without the assistance of the employer can also request payroll card accounts. Financial institutions offer this

product as a means to serve consumers who do not qualify for or want to manage a traditional deposit account and to non-customers to avoid paying check-cashing fees when they wish to cash payroll checks drawn on a commercial customer's account. Payroll card accounts offered directly to the consumer-employee can reach individuals whose employer does not offer a payroll card option.

The definition excludes employee-requested payroll card accounts, and Wachovia believes that expanding the definition to include employee-initiated requests will ensure that these consumers are treated no differently than if the payroll card account were established through the employer. Both the target audience and the functionality of the account are the same (only electronic deposits of salary and wages are permitted, and account access is only obtained via a debit card). These accounts should receive the same treatment and protections under Regulation E as those payroll card accounts that are established by the employer. Wachovia, therefore, urges the Board to broaden the definition of payroll card account to include accounts that are established by an employer or directly by an employee.

Alternative to Periodic Statement

Wachovia appreciates the flexibility permitted in the Interim Final Rule for providing periodic statement information. As an alternative to providing monthly periodic statements, a financial institution has the option to:

1. Provide account balance information via telephone;
2. Provide an electronic history, such as through an Internet web site, of account transactions covering at least the preceding 60 days; and
3. Provide a written history of account transactions covering at least the preceding 60 days upon customer request.

Payroll cards are specifically designed as an alternative electronic method of delivering paychecks to the "unbanked," and these consumers tend to prefer instant balance information, which they can receive via ATMs, phone or online at public access terminals. These approaches are appropriate because they allow the individual card user real-time access to their card account information. Additionally, Wachovia's experience has been that this target market has very little use for a statement that is delivered on a monthly basis because most, if not all, of the funds are removed on payday. In addition, this group is highly mobile and a large percentage of mailed periodic statements are returned because the addressee has moved.

Wachovia respectfully requests that the Board provide additional clarification with respect to the alternative option by:

- Clarifying that providing account transaction activity via the ATM is also an acceptable method of providing an electronic history. The Interim Final Rule reads “the institution makes available to the consumer...an electronic history, *such as through an Internet web site....*” (emphasis added). It implies that online account information access is only one *example* of how account information can be provided electronically and that the Board anticipated that other methods exist and could be used. It would be helpful to the industry to provide this clarification that online access is not the exclusive electronic method.
- Clarifying that the alternative option is only required if paper or *electronic* periodic statements are not provided. The Interim Final Rule appears to speak of the alternative option as an alternative to providing *paper* statements; however, there are financial institutions today that provide payroll card account statements electronically (either online or via the ATM), and it would be helpful if that were made clearer in the Interim Final Rule.

The Interim Final Rule requires that both written and electronic histories of account information include information that is required on periodic statements, including terminal location, address and telephone number for inquiries, and telephone number for preauthorized transfers. The Board has solicited comment on whether certain information should be excluded from the 60-day history. Wachovia’s Online Banking service, where a customer can view account history for the previous 90 days, does not contain these additional pieces of information. Requiring that the 60-day history include information that would appear on a periodic statement may force institutions not to choose the alternative option, since it would require significant, and thus costly, changes to online banking platforms.

Annual Error Resolution Notice

The Interim Final Rule requires that the financial institution provide an annual error resolution notice if the institution elects to use the alternative option to providing a periodic statement. As stated previously, payroll cardholders are very mobile and Wachovia fears that a large majority of mailed notices will be returned undelivered. Therefore, Wachovia requests that the Board clarify that error resolution notices may be delivered electronically via the Internet or ATM, in addition to mailing, and further clarify that the use of an abbreviated notice is acceptable when provided electronically. Requiring the mailing of the notice on an annual basis does not fit the needs of the payroll card customer, is likely to be returned undelivered, and is likely to increase the costs of offering the product.

Limitations on Customer Liability and Error Resolution

The Interim Final Rule sets forth how to calculate the running of the 60-day period for limiting the consumer's liability for unauthorized EFTs and for reporting errors when the financial institution elects to use the alternative option. The rule provides that the 60-day period begins the earlier of -

- The date the customer accesses the account electronically (provided the information about the transaction in question is available) or
- The date the institution sends, at the customer's request, a written statement of account transactions on which the unauthorized transaction is first reflected.

To comply with these requirements, the financial institution will need to identify when the customer last accessed his or her account electronically and compare that to if/when a written account history was mailed. Depending on the information that is readily available to the financial institution, making these date comparisons could be very time consuming and costly. In order to know that a written account history was mailed, a notation on the customer's account record will need to be made on the bank's systems, which would require costly system changes. Knowing when a customer has logged into the bank's website is possible but not something that is readily available to the institution. Additionally, records evidencing the individual accounts that were electronically accessed by the customer are only retained for a short period of time, if at all.

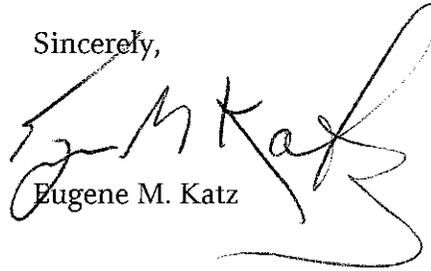
Regarding determining when the customer has electronically accessed his account, Wachovia believes that accessing the account should not be a consideration, since financial institutions are not required today to know that a customer has actually opened a mailed periodic statement. Wachovia believes that payroll card accounts should not be held to a stricter standard by requiring that the institution determine when the customer accessed his account electronically. Rather, it should be dependent on when the institution makes the information available to the customer. Not requiring a specified time period in which the customer must report errors after the information is made available places no obligation on the customer to monitor his or her account activity and subjects the financial institution to greater risk and potential liability.

Additionally, it is not uncommon for online account history to be available for extended periods of time. For example, at Wachovia, online account history is available for 90 days. Under the Interim Final Rule, the customer could dispute a transaction that occurred five months prior or longer, depending on the amount of history that is available. It is very difficult to investigate unauthorized transactions

that are beyond 60 days, since documentation, such as receipts, may no longer be available. Wachovia urges the Board to reconsider and base the 60-day period on when the information is made available by the financial institution. Otherwise, it may force institutions to limit online account history to 60 days.

Wachovia appreciates the opportunity to provide additional comments on the application of Regulation E to payroll card accounts.

Sincerely,

A handwritten signature in black ink, appearing to read "Eugene M. Katz". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Eugene M. Katz