Bank of America Corporation
Legal Department
NC1-002-29-01
101 South Tryon Street
Charlotte, NC 28255

January 29, 2007 BY ELECTRONIC MAIL

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

Regs.comments@federalreserve.gov

Re: Proposed Rule regarding Regulation E – Exception for Small-Dollar Transactions
Docket No. R-1270

Dear Sir or Madam:

Bank of America Corporation ("Bank of America") appreciates the opportunity to comment on the proposed rule issued by the Board of Governors of the Federal Reserve System ("FRB") relating to whether an exception should be created for certain small-dollar transactions from the requirement that terminal receipts be made available to consumers at the time of the transaction. Bank of America, with almost $1.5 trillion in total assets, is one of the world's largest financial institutions, serving individual consumers, small businesses and large corporations with a full range of banking, investing, asset management and other financial and risk-management products and services. The company provides unmatched convenience in the United States, serving more than 55 million consumer and small business relationships with more than 5,700 retail banking offices, nearly 17,000 ATMs and award-winning online banking with more than 20 million active users.

We Support Proposed Amendments

We strongly support the FRB's proposed rule to amend Regulation E and the official staff commentary to the regulation to create an exception for small-dollar transactions from the terminal receipt requirements. The proposed rule is an important step in eliminating regulatory requirements that stifle payment card innovation and service to consumers.

Our customers are increasingly using debit cards instead of other payment methods, such as cash, to make small-dollar point of sale transactions. Currently, however, the existing Regulation E terminal receipt requirements serve as an effective bar to the usage and acceptance

of debit cards to initiate small-dollar transactions in certain situations. For example, as a practical matter, it is not feasible to print receipts for debit card transactions made directly at transit fare gates because the time it takes to print receipts would lead to unacceptable long lines. At vending machines, low per-machine revenues and the high cost of installing receipt capabilities make receipt printing impractical.

The proposed amendments would also help stimulate innovation by expanding the ability to use RFID and other contactless technology in situations that demand quick and efficient processing of debit card transactions. By eliminating the receipt requirement for small-dollar point of sale transactions, consumers will have greater convenience and merchants will enjoy quicker transaction times.

Dollar Amount Should Be At Least $25

The FRB specifically requested comment on the $15 threshold set forth in the proposed rule. While we believe that the $15 threshold will be helpful in addressing the impediments imposed by Regulation E on small-dollar transactions, we believe that a $25, or higher, threshold is more appropriate and would accommodate price increases that may occur over time. Furthermore, a $25 threshold would provide greater flexibility to accommodate consumer preferences for electronic forms of payment.

In addition, a $25 threshold would be consistent with the standards established by the card association rules that waive the signature and personal identification requirements for purchases under $25 in small-ticket merchant segments. Historically, fraud has been low in these small-ticket merchant segments.

Exemption Should Apply to Attended and Non-Attended Transactions

We agree that the proposed rule should apply the exemption of the Regulation E receipt requirements to all transactions, including transactions that are attended and non-attended. There are three general categories of small-dollar transactions: (1) online, such as downloading music videos and ringtones; (2) physical attended (face-to-face), such as fast food restaurants, movie theaters and newsstands; and (3) physical non-attended, such as vending, transit and parking machines. We believe that applying the exemption only to non-attended transactions, such as vending transactions, would defeat the overall purpose of the proposed rule, which is "to facilitate the ability of consumers to use electronic payment methods in circumstances where providing receipts may not be practical or cost-effective." Our experience is consistent with the FRB's view that in several retail environments, "the additional time required to provide a receipt to each consumer using a debit card…would add delays that would make it operationally unfeasible to allow consumers to use debit cards for such transactions." High volume merchants have told us that quick transaction times are crucial to their profitability and that elimination of the receipt requirement will decrease transaction times. The existing receipt requirements serve as a significant deterrent to the expansion of card acceptance for all small-dollar transactions including face-to-face transactions.

Additional Consumer Protections Are Not Needed for Small-Dollar Transactions

The FRB also has requested comment on whether any additional consumer protections are necessary for consumers who would not receive receipts under the proposed rule. We do not believe that additional consumer protections are needed. A consumer will continue to receive a record of each transaction (including small-dollar transactions) on each monthly periodic statement and, therefore, a consumer's right to dispute a transaction under the error resolution provisions contained in Regulation E is still preserved. Our experience shows that the vast majority of consumer disputes are based on information provided in the periodic statement and that consumers rarely retain their terminal receipts for more than a few days, if at all. Thus, a consumer will continue to have the ability to resolve errors on their periodic statements and the proposed changes will have no impact on the exercise of such rights or the further protections provided by the zero liability policy that has been adopted by most major financial institutions for fraudulent or unauthorized transactions.

Bank of America appreciates the opportunity to comment on the proposed rule and we thank you for your consideration of our comments. If you have any questions concerning our comments, please do not hesitate to call me at the number indicated below.

Sincerely,

Brian E. Frumkin
Associate General Counsel
Bank of America Corporation
704.386.5858