

**The Huntington National Bank**

Legal Department  
Huntington Center  
41 South High Street  
Columbus, Ohio 43287



June 29, 2007

Jennifer J. Johnson  
Secretary, Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, D.C. 20551  
E-mail: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)  
Attention: Federal Reserve Docket Nos. R-1281, R-1282, R-1283, R-1284, R-1285

Re: Proposed Rules Regarding Electronic Disclosures  
72 *Fed. Reg.* 21125 (April 30, 2007)—Regulation B  
72 *Fed. Reg.* 21131 (April 30, 2007)—Regulation E  
72 *Fed. Reg.* 21135 (April 30, 2007)—Regulation M  
72 *Fed. Reg.* 21141 (April 30, 2007)—Regulation Z  
72 *Fed. Reg.* 21155 (April 30, 2007)—Regulation DD

Dear Ms. Johnson:

This letter is submitted on behalf of The Huntington National Bank (“Huntington”)<sup>1</sup> and its affiliates in response to rules proposed by the Federal Reserve Board (the “Board”) regarding electronic delivery of disclosures under Regulations B, E, M, Z and DD. We appreciate this opportunity to comment on the proposed rules.

These proposed rules primarily operate to withdraw the interim final rules under each of Regulations B, E, M, Z and DD for the electronic delivery of disclosures that were issued on

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<sup>1</sup> Huntington is a subsidiary of Huntington Bancshares Incorporated, which is a \$35 billion regional financial holding company headquartered in Columbus, Ohio. Along with its affiliated companies, Huntington has more than 141 years of serving the financial needs of its customers, and provides innovative retail and commercial financial products and services through over 380 regional banking offices in Indiana, Kentucky, Michigan, Ohio and West Virginia. Huntington, along with its affiliated companies, also offers retail and commercial financial services online at [huntington.com](http://huntington.com); through its technologically advanced, 24-hour telephone bank; and through its network of nearly 1,000 ATMs. Selected financial service activities are also conducted in other states including: Dealer Sales offices in Arizona, Florida, Georgia, North Carolina, New Jersey, Pennsylvania, South Carolina, and Tennessee; Private Financial and Capital Markets Group offices in Florida; and Mortgage Banking offices in Maryland and New Jersey. International banking services are made available through the headquarters office in Columbus and a limited purpose office located in the Cayman Islands and another located in Hong Kong.

March 31, 2001. We generally support the approach proposed by the Board for the reasons given by the Board, namely, that (i) since compliance with the 2001 interim rules is not mandatory, removing them would reduce confusion about the status of these rules and (ii) that several provisions of the 2001 interim rules impose undue burden on electronic banking and commerce and are not required for consumer protection. We also generally support the Board's approach with respect to clarifying that certain solicitation, advertising and application disclosures should not be subject to the consumer consent or other provisions of the Electronic Signatures in Global and National Commerce Act (the "E-Sign Act").

Our more specific comments are as follows:

1. *Form of Providing Home Equity Application Disclosures Electronically.* We appreciate the flexibility provided in comment 5b(a)(1)-5 with respect to the method of providing electronic disclosures on or with electronic applications for home equity credit lines. This Commentary provision gives three examples: (i) having the disclosures automatically appear on the screen when the application appears; (ii) locating the disclosures on the same web "page" as the application without appearing on the initial screen if the application contains a reference to the disclosures; or (iii) providing a link to the disclosures as long as the consumer cannot bypass the disclosures before submitting the application.<sup>2</sup> However, we are aware of a fourth method whereby the application and disclosures are all provided on a series of web "pages" (multiple "pages" for the application and multiple "pages" for the disclosures) with the disclosure "pages" coming after the application "pages", but the disclosure "pages" cannot be bypassed before the application is submitted. This is not quite any of the three examples listed, but appears to be consistent with the examples that are listed. We recommend that the Board add this example, as we believe it may be a common method used to provide application disclosures electronically. Additionally, it is not clear to us what the Board means in the third example above by the consumer not being able to bypass the disclosures in connection with a link. We believe that should mean that the consumer must be presented with the option to click on the link or be taken automatically to where the disclosure starts, but it should not mean that the consumer must actually click on the link before being able to submit the application. Links can be more like a table of contents to a particular electronic document that allow the user to leap ahead in the document to the place linked, or a link could be to a separate web "page" at the same website, or a link could be to an entirely separate website address. Requiring all links to be "clicked" is burdensome to consumers and an awkward way to present information electronically.

2. *Regulation DD Account Opening Disclosures.* In the proposed revision to §230.4(a)(2)(i) of Regulation DD, the Board provides that the requirement to give account opening disclosures upon request when the consumer is not present at the institution may be satisfied electronically if the consumer "agrees". The same "agrees" language is contained in the revision to the Board's Official Staff Commentary under Regulation DD in comment 230.4(a)(2)(i)-4. Use of the word "agrees" suggests that there needs to be an agreement of some

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<sup>2</sup> We note that the Board has provided similar examples for credit card solicitation and application disclosures in comment 5a(a)(2)-8.

kind between the bank and the consumer about providing “on request” disclosures electronically, which then raises the question as to what form that “agreement” can be in—oral, paper or electronic? The Commentary provision indicates that providing the “on request” disclosures electronically if the consumer “agrees” does not need to comply with the consumer consent or other provisions of the E-Sign Act, but that does not appear to be indicating that the “agreement” to provide the “on request” disclosures electronically can itself be exempt from the consumer consent and other provisions of the E-Sign Act. We believe that the Board needs to avoid “agrees” or “agreement” language, and instead word this provision in terms of whether the consumer will accept the disclosures electronically. Additionally, in the Commentary provision, the last sentence in that provision about the regulation not requiring an institution to provide, nor a consumer to agree to receive, disclosures in electronic form is unnecessary, and if quoted out of the very particular context of the “on request” disclosures would be inconsistent with other provisions of the regulation that do require disclosures to be provided electronically or that do not give the consumer the right to refuse electronic disclosures, and thus we recommend that this sentence be deleted. The following suggested revisions to the regulatory and Commentary provisions address these matters:

In §230.4(a)(2)(i): “. . . or electronically if the ~~consumer agrees~~ institution determines that the consumer will accept the disclosures electronically.”

In comment 230.4(a)(2)(i)-4 (the following assumes the last sentence is not deleted, but the better approach is to delete the last sentence entirely, and thus that sentence is shown in brackets): “. . . the institution may send the disclosures in paper form or, if the ~~consumer agrees~~ institution determines that the consumer will accept the disclosures electronically, may provide the disclosures electronically, such as to an e-mail address that the consumer provides for that purpose, or on the institution’s Web site, without regard to the consumer consent or other provisions of the E-Sign Act. [The regulation does not require an institution to provide, nor a consumer to ~~agree to receive~~ accept, disclosures in electronic form.]

3. *Requirement Not to Mix Paper and Electronic Delivery.* The Board has generally taken an approach throughout these regulations that there can be no “no-mix-and-match” between paper and electronic delivery: materials provided to consumers in paper form must provide related disclosures in paper form and materials provided to consumers in electronic form must provide related disclosures in electronic form. While there are circumstances under which such a rule seems appropriate, there are also other circumstances under which it is problematic. For example, if the consumer is applying in-person with the help of an employee of the financial institution assisting the consumer by accessing an online application, it may not be feasible for any accompanying disclosures to be provided electronically, and providing paper disclosure may be a better option in that situation. Similarly, if a consumer is accessing a service at an automated teller machine or by use of a mobile communication device (cell phone or similar device) to complete an abbreviated application, the automated teller machine or mobile communication device may have limited display, storage or printing capacity which would make

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it infeasible to provide disclosures electronically, and the financial institution would need the option, for example, to mail related disclosures to the consumer as is typically the case with applications taken orally over the telephone. Moreover, there may be other circumstances where a basic or short form disclosure is provided in paper form along with the paper materials and reference is made to the institution's website where a more complete disclosure can be obtained electronically. Thus, we recommend that the Board consider providing more "mix-and-match" flexibility under circumstances where technological constraints or other appropriate circumstances call for treatment different than the one-size-fits-all approach the Board has taken to this issue.

Thank you for consideration of these comments. If you have any questions concerning our comments, or if we may otherwise be of assistance in connection with this matter, please do not hesitate to contact me at 614-480-5760.

Sincerely,

A handwritten signature in black ink that reads "Daniel W. Morton". The signature is written in a cursive, slightly slanted style.

Daniel W. Morton  
Senior Vice President & Senior Counsel