



September 28, 2009

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

Re: Electronic Fund Transfer Act & Regulation E

Dear Ms. Johnson:

Farmers & Merchants Bank (“the Bank” or “F&M Bank”) appreciates this opportunity to comment on the impact of the Electronic Fund Transfer Act (EFTA) (15 USC 1693 et seq.) of 1978 and its implementing regulation, Regulation E, on the operations of the Bank.

F&M Bank is a \$4.0 billion commercial bank headquartered in Long Beach, California. The Bank’s strategic focus is collateral-based commercial lending that meets the needs of small- and medium-sized businesses. The Bank’s 22 full service branch offices also offer a range of loan and deposit products to consumers, including debit and automatic teller machine (ATM) cards.

Recently, Bank customers and non-customers received text and e-mail messages from unknown parties that falsely used the Bank in an attempt to gain personal financial information (such as a Personal Identification Number (PIN), credit card number, online banking user ID/password) for illegal use and financial gain. These messages were part of a so-called “phishing” scam that unfortunately has become a more frequent occurrence in the financial industry.

We are fully aware that any liability incurred by our customers for any unauthorized electronic fund transfers is governed the EFTA and Regulation E, and the extent of any liability is determined solely by the customer’s promptness in notifying the Bank about the unauthorized access. We are also aware that other factors may not be used as a basis to hold consumers liable for unauthorized access. For example, Regulation E expressly prohibits the use of negligence as a factor for imposing greater liability than is permissible under Regulation E.

We also understand that a consumer who is robbed or induced by fraud to furnish another person with an access device and the person who obtained the access device initiates transfers, the transfers are unauthorized for purposes of Regulation E.

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However, when the EFTA and Regulation E were promulgated, mechanisms for unauthorized fund transfer were not as prevalent as they are today. With the advent of, among other things, the Internet, mobile banking devices, and point of sale purchase transactions, today's consumers must be more vigilant than ever about providing anyone access to their personal and/or financial information.

In this regard, we respectfully submit that the EFTA and Regulation E be amended to increase, if not shift, consumer liability for unauthorized transfers if the consumer did not exercise a standard of due care or diligence with their personal and/or financial information. Or, at a minimum, we propose increasing the limits on the liability of consumers for unauthorized fund transfer since the current limits were established in 1978.

Farmers & Merchants Bank appreciates this opportunity to submit comments, and welcomes any opportunity to provide further comments or input.

Sincerely,

A handwritten signature in black ink that reads "Daniel K. Walker". The signature is written in a cursive style with a large, sweeping initial "D".

Daniel K. Walker
Chairman of the Board
Farmers & Merchants Bank of Long Beach