

August 16, 1999

To: Board of Governors
From: Winthrop Hambley *WH*
Re: Electronic Delivery of Disclosures

The Board will be considering a proposal to allow electronic delivery of certain consumer disclosures on Wednesday. The Board should be aware of two related matters in addition to the information it has already received.

First, seven House Members, Reps. John LaFalce, Bruce Vento, Gary Ackerman, Luis Gutierrez, Barbara Lee, Ken Bentsen, and Dennis Moore, have sent the Board a letter, dated August 6, 1999, expressing concerns about electronic delivery of consumer disclosures.

Second, Reps. Marge Roukema and Rep. Rick Lazio, along with Rep. Jay Inslee, have introduced legislation, "the Electronic Disclosures Delivery Act of 1999," to permit electronic delivery of consumer disclosures.

The letter and statements by Roukema and Lazio introducing their legislation are attached.

Attachments

Congress of the United States
House of Representatives
Washington, DC 20515

August 6, 1999

Mr. William Wiles
Secretary
Board Of Governors
Of the Federal Reserve Board
20th Street and Constitution Ave.
Washington, D.C. 20551

BOARD OF GOVERNORS
FEDERAL RESERVE SYSTEM
99 AUG 10 PM 2:34
CLO: # 193
CCS: 99-2674/76-80/2683
RECVD: 8/12/99
G+CA

Re: Electronic Fund Transfers - Regulation E; Docket No. R-1002
Truth in Savings - Regulation M; Docket No. R-1003
Consumer Leasing - Regulation M; Docket No. R-1004
Truth in Lending - Regulation Z; Docket No. R-1005
Equal Credit Opportunity - Regulation B; Docket No. R-1006

Dear Secretary Wiles:

Last year, the Board issued proposed regulations which would allow disclosures under these five federal consumer protection statutes to be made electronically. The proposed regulations, which would have allowed electronic disclosures once the parties agreed, would be tantamount to repeal of the disclosure requirements of these laws. We are concerned that the proposal may go far beyond the Federal Reserve Board's capacity to implement regulations under these federal consumer protection laws. In their current form, these proposed rules could undermine and change the requirements of these statutes and as such, we strongly encourage you to proceed with extreme caution, listening carefully to concerns from all sides and absolutely maintaining consumer safeguards and all legal remedies currently available.

Recently, the FRB staff has been circulating papers which indicate a few more specific requirements may be added. However, the new requirements appear to be negligible and still indicate less fidelity to the overriding importance of ensuring that consumers actually receive their federally mandated disclosures, especially with regard to loans secured by a home and other property.


While we can understand the need to allow electronic disclosure when the consumer initiates the relationship with the financial institution or creditor electronically from their own home, this does not necessarily justify the elimination of paper disclosures which should be required in most cases.

Any regulations should not undercut the intent of the laws we passed to protect consumers in any way. Convenience of application and service should not be at the cost of consumer disclosure,

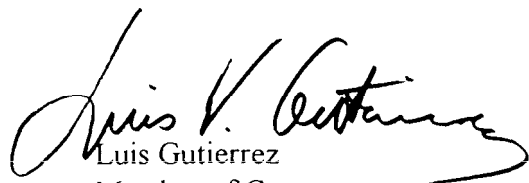
safeguards, and rights. Further regulations should deal with a number of significant consumer protection concerns, including ensuring 1) the consumer actually has the capacity to receive (download and print) the disclosures electronically, 2) that the disclosures are only provided via a technology that assures their integrity from tampering, 3) that the consumer is always able to receive paper copies, and 4) periodic inclusion of printed disclosure safeguards and rights in billing statements and consumer communications.


Every precaution should be taken to ensure that the disclosures required under these laws are provided and received by all consumers. Certainly the Board should move very cautiously and carefully on these matters.

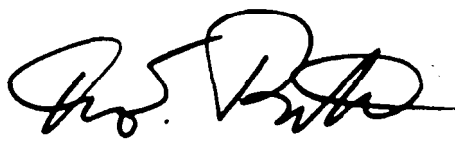
Sincerely,

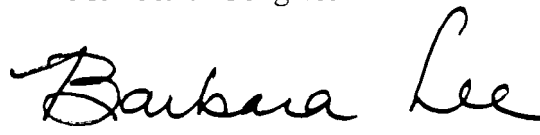

Bruce F. Vento
Member of Congress

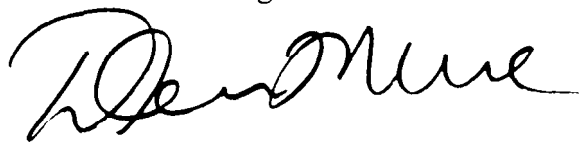

John J. LaFalce
Member of Congress


Luis Gutierrez
Member of Congress


Gary Ackerman
Member of Congress


Ken Bentsen
Member of Congress


Barbara Lee
Member of Congress


Dennis Moore
Member of Congress

Prevention, Bureau of HIV/AIDS Care and Prevention Services, in recognition of his dedication and service to the State of Missouri in advocating for people living with HIV/AIDS and the prevention of the spread of HIV. Mr. Gooden was also honored by Kansas City Mayor Emanuel Cleaver and the City Council with a resolution and proclamation recognizing his election as Chairman of the Board of NAPWA and for his dedicated service and efforts in the fight against AIDS.

NAPWA is an active and effective organization, providing many services to legislators and people with AIDS/HIV. For instance, NAPWA provides Community Education, Technical Assistance, and Regional Training Workshops around the country for people with HIV, to give them the skills they need to participate in HIV prevention community planning with Ryan White CARE Act Planning Bodies. NAPWA also coordinates a diverse national network of committed public speakers through the Leadership Development Initiative. This initiative, coupled with the Youth Initiative involves outreach services where peers talk to peers about AIDS and HIV, encouraging each other to modify risk behaviors and change attitudes toward people with AIDS/HIV.

NAPWA also participates in a wide array of prevention, health promotion, and educational efforts for those infected with and at risk for HIV. NAPWA publishes several fact sheets, alerts, and reports, as well as supporting an Information and Referral Service, to provide the nation with up-to-date and accurate information about the AIDS pandemic. NAPWA also sponsors National HIV Testing Day in June of each year, to encourage early and frequent testing for HIV/AIDS, especially for those who are at higher risk.

Mr. Speaker, NAPWA's highest priority is the development of effective new treatments and a cure for HIV disease. Please join me in commending NAPWA for its tireless efforts on behalf of people with AIDS.

ELECTRONIC DISCLOSURES DELIVERY ACT OF 1999

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1999

Mrs. ROUKEMA. Mr. Speaker, millions of consumers today routinely conduct business over the Internet, buying and selling a myriad of products and services from companies large and small, near and far. Many of these consumers already conduct much of their banking business over the web, checking balances, transferring funds and paying bills without leaving their homes. This explosion of on-line banking offers great benefits on both sides of the transactions: even the tiniest small-town bank can have access to a national marketplace, while consumers can comparison shop for the best interest rates or services. Nonetheless, the delivery of many financial services over the Internet, such as loans and mortgages, are limited by antiquated laws requiring paper documents or face-to-face transactions.

That is why I am joining today with Congressmen RICK LAZIO and JAY INSLEE to introduce the Electronic Disclosures Delivery Act of 1999. This legislation is necessary if we are to

take full advantage of the current technology—and if we are to keep technology from leaping far ahead of the ability of our nation's laws to regulate it.

The Electronic Disclosures Delivery Act addresses the electronic delivery of disclosures, notices and other information over the Internet. It allows these actions to be provided electronically, but does not lessen the rights or responsibilities of any party or affect the content of any disclosure, including both the timing, format and information to be provided.

This legislation is a first step toward making on-line financial transactions practical. It would put Congress on record as committed to playing a leadership role in promoting electronic commerce while preserving and, indeed, enhancing consumer protections. Mr. LAZIO and I plan to hold hearings in our respective subcommittees to ensure that all interested parties' views are heard.

On-line disclosures will provide consumers with a number of benefits:

Convenience and time-saving—Consumers can conduct transactions virtually anywhere and at any time, 7-days-a-week, 24-hours-a-day.

User friendly information—Legalistic jargon in on-line disclosure forms can be linked to plain-English definitions, making them much more readable and understandable. Consumers can electronically search documents rather than reading through reams of paper.

Enhanced services for under-served communities—Rural and urban communities will have enhanced access to financial services, even where brick and mortar branches are not available. In areas where residents cannot afford computers, libraries and schools provide on-line access.

Reduced cost—Electronic delivery of disclosures will cost less than providing the same information on paper or paying employees to handle face-to-face disclosures. Competition should encourage business to pass on those savings to consumers.

Congressional guidance on electronic disclosures is needed immediately, given that most of the consumer protection laws now on the books were enacted before the Internet became popular. Congress should provide uniform standards so that disclosures will be delivered to consumers under the same set of rules by all financial service providers.

Some regulators, notably the Federal Reserve, have begun to address these issues. But others have not, as in the case of the Department of Housing and Urban Development with respect to the Real Estate Settlement Procedures Act. Congressional action would provide uniformity and clarity among the agencies and provide guidance from the only body with the authority to amend the laws in question.

In sponsoring this legislation, we want to make clear that we do not intend to discourage the Federal Reserve from moving ahead. Instead, we want to encourage other agencies to follow the Fed's example. If anything, we hope the pace of regulatory activity in this area will be stimulated by congressional interest and action.

Congress and the regulators must play a leadership role in updating many of the consumer protection laws to reflect new technologies and establish a coherent legislative framework for the delivery of financial services through electronic commerce. With the intro-

duction of this legislation, we can begin the debate that set us on the path to enacting responsible legislation that will enhance consumer access to financial services while maintaining appropriate consumer protections.

SUMMARY OF THE ELECTRONIC DISCLOSURES DELIVERY ACT OF 1999

The "Electronic Disclosures Delivery Act of 1999" (the Act) amends the Truth in Lending Act, the Equal Credit Opportunity Act, the Fair Credit Reporting Act, the Real Estate Settlement Procedures Act, the Truth in Savings Act and the Consumer Leasing Act to provide for the electronic delivery of disclosures, notices, and any other information that is required to be given to consumers under these acts. The legislation provides that acknowledgments given in connection with disclosures or notices may also be provided electronically.

Creditors may rely upon the use of electronic communications or acknowledgments to satisfy requirements for delivery of disclosures, notices and other information through electronic communications provided that the consumer:

Expressly consents to online disclosures and/or acknowledgments and does so electronically; receives a description of the type of information to be provided electronically; receives an explanation of how to access and retain the online disclosures, including consideration of the consumer's ability to print or download such disclosures; and receives a notice of the period of time that the information will be available to the consumer in electronic form.

The legislation provides the appropriate regulator with the authority to prescribe regulations from time to time to clarify the procedures applicable to the delivery of electronic communications. The legislation further provides the appropriate regulator with the authority to prescribe, without affecting or impairing the legal effectiveness of the delivery of any electronic communication provided for in the Act, procedures which provide consumers with the option to request paper copies of any such communications if it finds that such procedures are necessary and appropriate to supplement electronic communications. The legislation would be effective upon date of enactment.

The legislation addresses only electronic delivery of information to consumers. It does not affect the substantive rights and responsibilities of any party or the content of any disclosure, including both the timing and format of disclosures and the information to be provided.

RECOGNIZING THE PLIGHT OF HOME HEALTH CARE AGENCIES

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1999

Mr. WATTS of Oklahoma. Mr. Speaker, there is a growing concern over the devastating situation that is plaguing Home Health Care Agencies in this country.

Today I am introducing the Medicare Home Health Services Equity Act of 1999 to provide greater equity to Medicare-certified home health agencies, and to ensure access to Medicare beneficiaries to medically necessary home health services furnished in an efficient manner under the Medicare Program.

Quality, efficient home health care agencies are suffering under the punitive Interim Payment System and are going out of business.

EXTENSIONS OF REMARKS

THE INTRODUCTION OF THE MEDICARE GLAUCOMA DETECTION ACT OF 1999

HON. MARK FOLEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1999

Mr. FOLEY. Mr. Speaker, I am pleased to introduce the Medicare Glaucoma Detection Act of 1999 today. Although it is not a disease that is always at the forefront of our attention, glaucoma is a significant cause of legal blindness in this country. An estimated 80,000 Americans are blind because of this disease. Alarming, at least two million individuals have glaucoma and estimates show that at least half of them are not aware of it.

Medical science has shown that glaucoma can be prevented or delayed through early diagnosis and treatment. Preliminary data indicates that early detection in many cases can lead to treatment through pharmaceutical intervention rather than through surgery. I see no reason that America's seniors should risk losing their sight, and consequently their independence, from glaucoma if we can effectively identify and treat this disease early. Unfortunately, current Medicare coverage of glaucoma testing is inadequate. Current coverage is only available for those who show clearly identifiable symptoms of the disease. However, for many people, this could be too late.

The Medicare Glaucoma Detection Act will expand coverage of glaucoma testing to include all Medicare patients 65 and older, Medicare-eligible individuals aged 60 to 64 who have a family history of glaucoma and other high risk populations identified by the Secretary of Health and Human Services. Covered services will include a series of tests which must be performed in combination by an ophthalmologist in order to successfully detect the disease.

Preventive care, like early disease testing, has proven to be highly effective in reducing the seriousness of many diseases and in improving the recovery time and quality of life for those who suffer from them. It only makes sense that coverage of glaucoma testing should be expanded in light of the known value of preventive care. Therefore, I would encourage my colleagues to join me in supporting this bill.

RECOGNITION OF S. 76, THE TRAFFIC ENFORCEMENT STATISTICS BILL AS INTRODUCED BY STATE SENATOR FRANK W. BALANCE, JR., RALEIGH, NORTH CAROLINA

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1999

Mr. ETHERIDGE. Mr. Speaker, as a strong proponent of equal enforcement and protec-

tions under the law, I rise today to call the attention of the Congress to North Carolina Senate Bill (SB) 76, "Traffic Enforcement Statistics" legislation introduced by North Carolina State Senator and Deputy President Pro Tempore Frank W. Balance, Jr. Governor James B. Hunt of North Carolina signed SB 76 into law on April 22, 1999.

SB 76 will greatly assist in determining whether minorities are treated fairly by highway patrols along North Carolina roads and highways by requiring troopers to record the race, age and sex of every driver stopped as well as to cite the reason for particular stops. The collected data will be presented by the Attorney General's Office in a biennial report to the General Assembly. As the chief sponsor of the bill, Senator Balance argued that "there should not be a crime called 'driving while black.'"

Mr. Speaker, SB 76 can serve as a viable model for other states experiencing similar concerns about equal enforcement of traffic laws as well as for our nation. To provide you with more detailed information regarding this important legislation, I am submitting the text of SB 76 along with an article from the Raleigh News & Observer. I encourage my colleagues to read this article and consider SB 76's applicability for your states and on the federal level.

ELECTRONIC DISCLOSURES DELIVERY ACT OF 1999

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1999

Mr. LAZIO. Mr. Speaker, Today, I join Congresswoman ROUKEMA and Congressman INSLEE in introducing, The Electronic Disclosures Delivery Act of 1999. The legislation addresses the rapidly increasing role of computers and telecommunications technology in the delivery of financial products and services of all kinds. Providing financial services such as mortgages, insurance and securities over the Internet is redefining the banking and investment industries and promises to be an area of explosive growth over the next five years.

The legislation only addresses electronic delivery of information to and from consumers and financial services providers. It does not affect the rights and responsibilities of any party or the content of any disclosure, including both the timing and format of disclosures and the information to be provided. The bill makes it possible for these disclosures to be given to the consumer efficiently and in a more user friendly format than is currently the practice. Over the Internet, consumers will be able to conduct transactions virtually anywhere and at any time, 7-days-a-week, 24-hours-a-day. Internet commerce will increase consumer convenience, through reduced costs and more "one-stop shopping."

Many of the federal laws that regulate mortgage transactions, including the Real Estate

Settlement Procedures Act (RESPA), mandate the delivery of disclosures to consumers. However, in most cases, these laws were adopted to apply to face-to-face or paper transactions, and do not easily accommodate on-line transactions. RESPA is a statute that has not been free from controversy—many would argue that substantive provisions of that law are in need of clarification. However, the legislation that we are introducing today focuses only on the electronic delivery of disclosures. I believe that the on-line delivery of disclosures deserves review apart from the overall RESPA reform.

Let me give you a sense of the impact of the Internet on the financial services industry:

International Data Corporation forecasts that total worldwide commerce on the Internet will grow from an estimated \$32.4 billion in 1997 to an estimated \$425.7 billion in 2002.

According to Jupiter Communications, the number of on-line banking households in the United States is projected to grow from an estimated 4.5 million in 1997 to an estimated 17.1 million in 2002. Jupiter Communications further indicates that the percentage of these on-line banking households utilizing Internet banking is projected to rise from an estimated 8 percent in 1996 to an estimated 80 percent in 2000.

A recent Forrester Research, Inc. report indicates that by the year 2003, nearly \$100 billion or 10 percent of the mortgage market will be generated online, while other reports project the market share for Internet originations to be as high as 30 percent by the year 2005.

The Forrester study also indicated that in the view of the financial services industry one of the principal impediments to progress in the offering of mortgages over the Internet is outdated laws and regulations.

The Congress and the regulators must play a leadership role in updating many of the consumer protection laws to reflect new technologies and establish a coherent legislative framework to deliver financial services and products through electronic commerce. As chairman of the Housing Subcommittee I look forward to working with Congresswoman ROUKEMA and Congressman INSLEE to promote these legislative changes that will enhance consumer access to financial products while maintaining appropriate consumer protections.

THE NAVY AND VIEQUES

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1999

Mr. HALL of Ohio. Mr. Speaker, in April, U.S. F-18 fighter jets accidentally dropped two 500-pound bombs on an observation post nearly a mile from their target on the Puerto Rican island of Vieques, killing a civilian and wounding four others. Although Vieques has housed a naval live-fire training facility for over 50 years, there are 9,300 civilians who live on the island.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.