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October 6, 2005

Ms. Jennifer J. Johnson  
Secretary, Board of Governors of the  
Federal Reserve System  
20<sup>th</sup> Street and Constitution Ave, N.W.  
Washington, DC 20551

RE: Regulation E; Docket No.R-1234

Dear Ms. Johnson:

The Independent Community Bankers of America (ICBA)<sup>1</sup> appreciates the opportunity to comment on the Federal Reserve Board's proposed amendment to Regulation E, which implements the Electronic Funds Transfer Act, and the official staff commentary to the regulation governing signage requirements for disclosing fees at automated teller machines (ATMs).

### **ICBA's Position**

ICBA supports the Federal Reserve Board (Board) proposal to revise Section 205.16(b) of Regulation E to permit ATM signage to disclose a fee may be imposed to ATM users, if there are certain transactions for which an ATM operator does not impose a fee. This revision would provide ATM operators with additional flexibility without imposing additional burden while correctly conveying that a fee may be imposed.

### **Background**

Currently, Section 205.16 of Regulation E mandates that ATM operators who charge a fee to customers for initiating an electronic funds transfer must post

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<sup>1</sup> The Independent Community Bankers of America represents the largest constituency of community banks of all sizes and charter types in the nation, and is dedicated exclusively to promoting the interests of the community banking industry. With nearly 5,000 members, ICBA members employ more than 225,000 Americans and hold more than 778 billion in total assets. For more information, visit ICBA website at [www.icba.org](http://www.icba.org).

disclosure notices in a prominent location that a fee will be imposed and include the amount of the fee on the screen or on a paper receipt before the customer commits to the transaction.

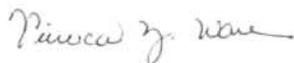
The Board has received several inquiries as to whether Section 205.16 permits ATM operators to post signage that a fee may be imposed noting that ATM operators do not charge fees in all instances. For example, an ATM operator might not charge a fee when a customer's card is issued by a foreign bank, the card issuer has entered into a contractual relationship with the ATM operator to waive certain fees, or the cardholder is a recipient of government benefits.

In response to these industry inquiries, the Board is proposing to amend Section 205.16(b) to explicitly clarify that ATM operators have the flexibility to post signage disclosing that a fee may be charged if there are certain instances, as noted above, in which a fee is not imposed. The ATM operator must continue to disclose that a fee will be imposed and the amount of the fee, either on the screen or on a paper notice before the consumer commits to completing the transaction.

### **ICBA's Position**

ICBA strongly supports the proposed amendment to afford ATM operators the flexibility to accurately post notices to customers that a fee may be imposed when there are certain circumstances for which a fee will not be incurred. This flexibility would allow ATM operators to accurately disclose fee assessment practices to consumers using their ATMs. Additionally, we support the Board making this clarification in Regulation E and the official commentary to facilitate industry understanding and compliance. Thank you for the opportunity to comment. For questions regarding our position on this issue, please contact me at (202) 659-8111 or by email at [viveca.ware@icba.org](mailto:viveca.ware@icba.org)

Sincerely,



Viveca Y. Ware  
Director, Payments Policy