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**By Facsimile and First Class U.S. Mail**  
**202.452.3819**

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

Re: Regulation E-Docket No. R-1270

Dear Ms. Johnson:

Wells Fargo & Company ("Wells Fargo") is a diversified financial services company providing banking, insurance, investments, mortgage, and consumer finance to over 10 million households and 23,000,000 customers through 6,165 banking offices, the Internet ("wellsfargo.com"), and other distribution channels throughout North America, including all 50 states, and the international marketplace. Wells Fargo has over \$482 billion in assets and 167,000 employees, as of December 31, 2006. Wells Fargo is one of the United States' top-40 largest private employers. Wells Fargo ranked fifth in assets and fourth in market value of its stock at December 31, 2006, among its peers. Wells Fargo has the highest possible credit rating, "Aaa," from Moody's Investors Service and the highest credit rating given to a U.S. bank, "AA+," Standard and Poor's Ratings Services.

Wells Fargo is pleased to submit its comments on the following.

**I. Background.** On December 1, 2006, the Board of Governors of the Federal Reserve System (the "Board") published a notice of proposed rule making and request for comment in the Federal Register<sup>1</sup> (the "Proposal") to create an exception for certain small-dollar transactions from the requirement that terminal receipts be made available to consumers at the time of the transaction.

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<sup>1</sup> 71 Fed.Reg. 69500 (December 1, 2006).

Currently, under Regulation E,<sup>2</sup> when a consumer initiates an electronic fund transfer (“EFT”) at an electronic terminal, a receipt reflecting the transaction details must be made available to the consumer at the time of the transaction. An electronic terminal means any electronic device (other than a telephone operated by a consumer) through which a consumer may initiate an EFT.<sup>3</sup> Electronic terminals include, but are not limited to, POS terminals, automated teller machines, and cash dispensing machines. Proposed Regulation E § 205.9(a)(2) would except EFTs of \$15 or less from the requirement that financial institutions make a terminal receipt available at the time of the transaction.

**II. Wells Fargo’s Comments.** We respectfully offer the following comments relative to the Proposal.

**A. Strong support of the Proposal.** We strongly support the Proposal to amend Regulation E and the official staff commentary to that regulation to create an exception for small-dollar transactions from the terminal receipt requirement. We view the Proposal as a modest but important step in eliminating regulatory requirements restraining innovation in the payment system. The Proposal confirms the recognition by the Board of the developing preference of consumers in using credit and debit cards in lieu of other payment methods,

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<sup>2</sup> Regulation E § 205.9(a), 12 CFR part 205, provides:

(a) *Receipts at electronic terminals.* A financial institution shall make a receipt available to a consumer at the time the consumer initiates an electronic fund transfer at an electronic terminal. The receipt shall set forth the following information, as applicable:

(1) *Amount.* The amount of the transfer. A transaction fee may be included in this amount, provided the amount of the fee is disclosed on the receipt and displayed on or at the terminal.

(2) *Date.* The date the consumer initiates the transfer.

(3) *Type.* The type of transfer and the type of the consumer's account(s) to or from which funds are transferred. The type of account may be omitted if the access device used is able to access only one account at that terminal.

(4) *Identification.* A number or code that identifies the consumer's account or accounts, or the access device used to initiate the transfer. The number or code need not exceed four digits or letters to comply with the requirements of this paragraph (a)(4).

(5) *Terminal location.* The location of the terminal where the transfer is initiated, or an identification such as a code or terminal number. Except in limited circumstances where all terminals are located in the same city or state, if the location is disclosed, it shall include the city and state or foreign country and one of the following:

(i) The street address; or

(ii) A generally accepted name for the specific location; or

(iii) The name of the owner or operator of the terminal if other than the account-holding institution.

(6) *Third party transfer.* The name of any third party to or from whom funds are transferred.

<sup>3</sup> Regulation E § 205.2(h).

including cash, even for small-dollar transactions. The receipt requirement under Regulation E acts as an effective bar to the use and acceptance of debit cards to originate small-dollar payments. That same bar unfortunately also effectively bars the use of credit cards in small-dollar transactions because of the practical hurdles in treating credit card and debit card transactions differently. By advancing the Proposal, the Board has mitigated that adverse impact under the regulation and further fostered innovation in the payment system.

**B. The dollar amount threshold.** While we support the general concept of exempting small-dollar transactions from the receipt requirement under Regulation E § 205.9(a) pursuant to the Proposal, we strongly urge the Board to increase the dollar amount from \$15 or less to \$25 or less. The receipt requirement is a significant impediment to allowing consumers to use debit cards to effect payment at point-of-sale ("POS") locations due to the cost of installing, servicing, and maintaining printers at POS locations. By increasing the amount to transactions \$25 or less, the Board will engender expedited handling of such small-dollar payments. By increasing the threshold amount to \$25 or less, the increase would further facilitate electronic transactions in circumstances where the receipt requirement is unduly burdensome or impractical, such as at transit fare gates. (The time necessary to print receipts would generate unacceptable long lines, undermining the convenience of the EFT payment.) Further, modest increase in the dollar amount threshold presents no appreciable increase in the risk to the consumer.

However, if the Board is not prepared to expand the Proposal, we urge it to consider increasing the dollar amount threshold to \$25 or less as to transactions completed at a POS terminal with contactless payment capability and maintaining the amount to \$15 or less as to other EFT transactions under the Proposal. This modest proposed expansion of the exemption to this population of EFT transactions is consistent, for example, with Visa U.S.A. Inc. Operating Regulations 5.2.0.1.a, dated November 15, 2006. By having consistency between Visa's operating regulations and Regulation E, the Board will foster compliance by merchants and other payees subject to both Regulation E and Visa's operating regulations. Further, by having uniformity between Regulation E and Visa's operating regulations, the Board will foster acceptance by merchants using POS terminals with contactless payment capability, thereby expediting the processing of such transactions.

**C. Consumer protections.** The Board has specifically solicited comment on whether any additional consumer protections are necessary for consumers who would not receive receipts under the Proposal. We do not believe that any additional consumer protection is necessary, given the current generous state of protections afforded consumers under Regulation E<sup>4</sup> and the anticipated modest magnitude of the transactions. As the Board notes in the commentary to the Proposal,

“...the risks to consumers of not receiving a receipt for their transactions (and the benefit of receiving a receipt) would be minimal given the small value of the transaction.”<sup>5</sup>

Further, the consumer will receive regular periodic statements,<sup>6</sup> detailing the EFT transactions so the consumer will receive information about such transactions in due course regardless, thereby enabling the consumer to dispute unauthorized or erroneous transactions, if necessary.

**C. Amendment to Regulation E’s previously issued staff interpretation as to third parties providing receipts on behalf of financial institutions.** In a staff interpretation issued in or about 1989 by the Board under a question and answer format, the Board has issued the following elaboration as to Regulation E § 205.9(a), footnote 2:

Question: What is the purpose of the footnote in the regulation that permits financial institutions to make terminal receipts available through third parties?

Answer: It permits institutions to arrange for operators of terminals in an EFT system (merchants or other financial institutions, for example) to make the receipt available.

However the financial institution holding the consumer’s account or providing the EFT service to the consumer remains responsible for the availability of the receipt.

We strongly urge the Board to review and reconsider this staff interpretation. While we can certainly understand having financial institutions subject to the requirement to make receipts available to consumers where the financial institution owns or operates the terminal, we do not support the application of this requirement as to merchants or other financial institutions over

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<sup>4</sup> See, e.g., Regulation E §§ 205.6 dealing with unauthorized transactions and 205.11 dealing with procedures for resolving errors.

<sup>5</sup> 71 Fed. Reg. at 69501.

<sup>6</sup> Regulation E § 205.9(b).

which the financial institution has little or no control. We suggest the following amendment to this question and answer:

Question: What is the purpose of the footnote in the regulation that permits financial institutions to make terminal receipts available through third parties?

Answer: In those instances in which the institution exercises dominion or control over an operator, it permits institutions to arrange for operators of terminals in an EFT system (merchants or other financial institutions, for example) to make the receipt available. However the financial institution holding the consumer's account or providing the EFT service to the consumer remains responsible for the availability of the receipt through such operators.

By restating the question and answer in this manner, the Board will acknowledge openly what occurs in due course in the marketplace: financial institutions only make receipts available through terminal operators over which they enjoy dominion or control. Even if such operators provide receipts, that decision is at the discretion of the operators and not the financial institution.

**III. Conclusion.** Wells Fargo wishes to express its appreciation for the opportunity to offer its comments to the Interim Final Rule. If you have any questions to the foregoing, please do not hesitate to contact us.

Sincerely,



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Vice President &  
Senior Counsel

cc: James M. Koziol  
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