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James S. Keller
Chief Regulatory Counsel

October 6, 2005

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
regs.comments@federalreserve.gov
Attn: Docket No. R-1234

Re: Docket No. R-1234—Proposed Regulation E

Dear Ms. Johnson:

Background

PNC Bank, National Association (“PNC Bank”), Pittsburgh, Pennsylvania, the principal bank subsidiary of The PNC Financial Services Group, Inc. (“PNC”), Pittsburgh, Pennsylvania, is grateful for the opportunity to comment on the amendments proposed by the Board of Governors of the Federal Reserve System (“Board”) to its Regulation E, Electronic Fund Transfers (12 C.F.R § 205) (70 Fed. Reg. 49891 (Aug. 25, 2005)), implementing the Electronic Funds Transfer Act (“EFTA”). The proposed amendment to Regulation E and the Official Staff Commentary to Regulation E (the “Commentary”) are intended to clarify the disclosure obligations of automated teller machine (“ATM”) operators with respect to fees imposed on a consumer for initiating an electronic fund transfer or a balance inquiry at an ATM.

PNC is one of the largest diversified financial organizations in the United States, with \$90.8 billion in total assets as of June 30, 2005. Its major businesses include community banking, corporate banking, real estate finance, asset-based lending, wealth management, and global fund processing services. PNC Bank has branches in the District of Columbia, Florida, Indiana, Kentucky, New Jersey, Maryland, Ohio, Pennsylvania and Virginia. PNC also has one other bank subsidiary: PNC Bank, Delaware, Wilmington, Delaware, which has branches in Delaware.

Discussion

PNC appreciates the opportunity to comment on the Board’s proposal to amend Regulation E and to revise the Commentary. The EFTA and Regulation E establish the rights, liabilities and responsibilities of individuals utilizing electronic fund transfer (“EFT”) systems. The EFTA and Regulation E establish each party’s obligations with respect to disclosure of terms and conditions applicable to EFT services, documentation of EFT, consumer liability and error resolution, and certain rights and obligations relating to preauthorized EFTs. The Commentary provides greater

explanation of Regulation E, as well as model forms and a safe harbor for institutions that comply with its provisions.

Section 205.16 of Regulation E requires ATM operators who choose to impose a fee on consumers for initiating EFT or balance inquiries at the operator's ATMs to post a notice at the ATM that a fee will be imposed for conducting the transaction and to provide the consumer the opportunity to cancel the transaction if the consumer is unwilling to pay the fee. The Board is now proposing to amend Regulation E and the Commentary to address those situations where fees are not imposed by an ATM operator in all instances when consumers use its ATM. The proposal would revise the requirement to permit ATM operators to provide a notice that a fee may be imposed under certain circumstances for an EFT. A fee may not be imposed, for example, where a card issuer has entered into a contractual relationship with the ATM operator pursuant to which the holders of the card issuers' cards are exempt from the surcharges imposed by the ATM operator. ATM operators that do not impose a fee for use of their ATMs are not required to post any notice to that effect.

PNC Bank, as well as other financial institutions, have previously asked whether it is permissible under 205.16 to display a notice on an ATM that a fee "may be" charged for certain EFT services as a more accurate disclosure, in recognition of the fact that some consumers who are not bank cardholders nevertheless may not be charged a fee. Under the Board's proposal, ATM operators may disclose in all cases that a fee will be imposed or, in the alternative, disclose that a fee may be imposed on consumers under certain circumstances. Prior to imposing an ATM fee, the ATM operator must provide the consumer notice either on the ATM screen or through a paper receipt that the fee will be imposed and the amount of the fee, thereby giving the consumer the opportunity to elect to continue or cancel the transaction prior to incurring the fee. The Board is also requesting comment on whether the proposed rules are clearly stated and effectively organized and how the Board might make the proposed text easier to understand.

PNC Bank supports the proposal as drafted. PNC Bank is an institution that has formal agreements with card issuers pursuant to which PNC Bank waives its customarily imposed surcharges for cardholders of the card issuers which whom it has contracted for such service. It is the opinion of PNC Bank that the proposal will provide greater clarity to the consumer, and it will avoid misleading consumers, which can occur under the current regulatory scheme and which is, of course, the antithesis of the purpose of a disclosure. This change will permit consumers to make an informed decision as to whether to continue an ATM transaction because they will no longer be under a misapprehension of incurring a surcharge if they are among the group of cardholders exempt from surcharge at a particular ATM. This regulation benefits banks because it permits them to disclose more accurately their policies and hopefully generate more transactions at their ATMs. In addition, the proposal benefits the consumer by providing more accurate information, enabling an informed decision regarding the use of an ATM based upon information applicable to the particular cardholder.

PNC Bank believes that the language of the proposal to amend Section 205.16 is sufficiently clear, and requests that, if the Board decides to amend the language, the clarity and the meaning not be compromised for the sake of simplicity. The cost of implementing the change to the ATM screens for PNC Bank is an acceptable cost of doing business. PNC Bank looks forward to the adoption of

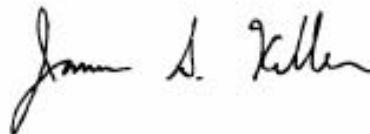
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the proposal and the ability to make more accurate disclosures to consumers seeking to use its ATMs.

Conclusion

PNC appreciates the opportunity to comment on the proposed amendments to Regulation E and the Commentary. Please feel free to contact us with any questions related to the matters discussed in this letter.

Sincerely,

A handwritten signature in black ink that reads "James S. Keller". The signature is written in a cursive style with a large initial "J" and "K".

James S. Keller

cc: Michael Carroll
Federal Reserve Bank of Cleveland

Gary TeKolste
Office of the Comptroller of the Currency

Roberta G. Torian
John J. Wixted, Jr.
The PNC Financial Services Group, Inc.