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April 15, 2010

The Honorable Christopher J. Dodd
Chairman
The Honorable Richard C. Shelby
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Barney Frank
Chairman
The Honorable Spencer Bachus
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Federal Reserve System: Electronic Fund Transfers*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Board of Governors of the Federal Reserve System (Board), entitled “Electronic Fund Transfers” (Docket No. R-1377). We received the rule on March 31, 2010. It was published in the *Federal Register* as a final rule on April 1, 2010. 75 Fed. Reg. 16,580. The rule is effective August 22, 2010.

The final rule amends Regulation E, which implements the Electronic Fund Transfer Act, and the official staff commentary to the regulation, which interprets the requirements of Regulation E. The final rule restricts a person’s ability to impose dormancy, inactivity, or service fees for certain prepaid products, primarily gift cards. Among other things, the final rule also generally prohibits the sale or issuance of such products if they have an expiration date of less than 5 years.

Enclosed is our assessment of the Board’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that the Board complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Linda Robertson
Assistant to the Board of Governors
of the Federal Reserve System

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
FEDERAL RESERVE SYSTEM
ENTITLED
"ELECTRONIC FUND TRANSFERS"
(DOCKET NO. R-1377)

(i) Cost-benefit analysis

The Board did not perform a cost-benefit analysis in conjunction with the final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Board believes that this final rule is not likely to have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The Unfunded Mandates Reform Act does not apply to independent regulatory agencies, such as the Federal Reserve.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On November 20, 2009, the Board published a proposed rule in the Federal Register to amend Regulation E and the official staff commentary to implement the gift card provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009. 74 Fed. Reg. 60,986. The Board received over 230 comments in response to the proposed rule, including comments from industry commenters, such as card issuers, card networks, industry trade associations, retailers, and prepaid card program managers and distributors, as well as individual consumers, consumer groups, a city government entity, and one state attorney general. The Board considered comments received in response to the proposed rule in adopting the final rule. 75 Fed. Reg. 16,580.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains information collection requirements under the Paperwork Reduction Act, which are approved under OMB control number 7100-0200. The final rule requires for-profit financial institutions, including small businesses, to retain

records for 24 months, but the final rule does not specify types of records that must be retained. Any entities involved in the issuance, distribution, or sale of gift certificates, store gift cards, or general-use prepaid cards (or the issuance or distribution of loyalty, award, or promotional gift cards) potentially are affected by this collection of information because these entities will be required to provide disclosures regarding the fees imposed in connection with these certificates or cards and when the funds underlying a certificate or card expire. Under the final rule, gift certificates, store gift cards, and general-use prepaid cards must state certain disclosures about dormancy, inactivity, or service fees, expiration dates, and a telephone number and Web site, if one is maintained, for additional information. Disclosures about other fees must be provided on or with the certificate or card. In addition, disclosures about fees and expiration dates must be provided to the consumer prior to purchase. Consumers receiving loyalty, award, and promotional gift cards also must be given disclosures regarding applicable fees and expiration dates. Entities subject to the final rule will have to review and revise disclosures that are currently provided on or with a certificate or card to ensure that they accurately state any fees and expiration dates that may apply.

The final rule will impose a one-time increase in the total annual burden under Regulation E for all respondents regulated by the Federal Reserve by 192,800 hours, from 526,520 to 719,320 hours, and the Board expects that the amount of time required to implement each of the proposed changes for a given institution may vary based on size and complexity of the respondent. Also, the Board estimates that the final rule will increase the total annual burden on a continuing basis by 19,280 hours. The total annual burden will increase by 212,080 hours from 526,520 to 738,600 hours.

Statutory authorization for the rule

The final rule is authorized by sections 904(a) and 915 of the Electronic Fund Transfer Act (EFTA). 15 U.S.C. 1693 *et seq.* Section 915 of the EFTA was added by section 401 of the Credit Card Accountability Responsibility and Disclosure Act of 2009. Pub. L. 111-24, 123 Stat. 1734 (2009).

Executive Order No. 12,866 (Regulatory Planning and Review)

The Executive Order does not apply to independent regulatory agencies, such as the Federal Reserve.

Executive Order No. 13132 (Federalism)

The Executive Order does not apply to independent regulatory agencies, such as the Federal Reserve.