EXECUTIVE SUMMARY

This ACH Operations Bulletin provides guidance to ACH Network participants, particularly Receiving Depository Financial Institutions, on the application of the Federal Reserve Board’s recent amendments to Regulation E on overdrafts to a specific class of ACH transactions.1

REGULATION E AMENDMENTS ON OVERDRAFTS AND OPT-IN

On November 12, 2009 the Federal Reserve Board amended Regulation E regarding financial institutions’ overdraft services (“Overdraft Opt-In”). The amendments limit “the ability of a financial institution to assess an overdraft fee for paying automated teller machine (ATM) and one-time debit card transactions that overdraw a consumer’s account, unless the consumer affirmatively consents, or opts in, to the institution’s payment of overdrafts for these transactions.”2

In its ruling, the FRB writes that the Overdraft Opt-In rule applies only to “ATM and one-time debit card transactions made with a debit card issued by or on behalf of the account-holding institution.”3 The FRB also clarifies that the Overdraft Opt-In rule generally does not apply to recurring debits and to ACH transactions.4 There is a class of ACH transactions, however, that may fall within both categories. These transactions are generally initiated by consumers with a payment card, but are processed to consumers’ accounts using the ACH Network.

MTE, POS, AND SHR ENTRIES

Most debit card transactions are settled through the debit systems in which those cards participate (e.g., MasterCard, Visa, STAR, NYCE, Pulse), and are not used to create ACH transactions. Debit cards are used to create ACH transactions only when specifically designed for that purpose. These transactions are generally identified in the ACH Network by the three-letter Standard Entry Class Codes “MTE” (for Machine Transfer Entry), “POS” (for Point-of-Sale Entry), and “SHR” (for Shared Network Entry). MTE transactions are generally initiated with a card at an ATM, and POS and SHR transactions are generally initiated with a card at the

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1 This ACH Operations Bulletin is for information purposes only and is not intended to provide legal advice. Readers should seek advice from legal advisors with regard to their obligations under Regulation E, or can contact the Federal Reserve. The complete text of Regulation E can be found at 12 C.F.R. Part 205.
2 74 Federal Register 59033 (November 17, 2009).
3 See 12 C.F.R. Section 205.17(b)(1), Comment 17(b)(1)(i).
4 74 Federal Register 59040 (November 17, 2009).
point-of-sale. In 2009, these transaction types accounted for a total volume of approximately 52 million, or about 0.4 percent of total commercial ACH Network volume.

Despite their relatively low transaction volumes, RDFIs that receive these types of transactions to their customers’ accounts, or that issue the cards used to initiate these types of transactions, should understand how the Overdraft Opt-In rule applies.

**APPLICATION OF THE OVERDRAFT OPT-IN RULE**

RDFIs that receive MTE, SHR and POS transactions should not need to treat these transactions as subject to the Overdraft Opt-In rule, except as noted below, because the transactions should not have been initiated with cards issued by them or on their behalf.

For the small number of financial institutions that issue cards that are specifically designed to be used to initiate ACH transactions at the point of sale or at an ATM, the Overdraft Opt-In rule should apply to the MTE, SHR or POS transactions that these institutions receive as a result of the use of their own cards.

**EXAMPLES**

**Example 1 – Retailer-issued debit card**

A consumer obtains a payment card issued by a grocery chain (or the chain’s agent). The consumer provides banking information to enable the card to be linked to his checking account at an RDFI. When the consumer uses the card, the grocery chain originates an ACH POS transaction to debit the consumer’s checking account. Because the RDFI did not issue the payment card, the Overdraft Opt-in rule should not apply to this transaction.

**Example 2 – Bank-issued “de-coupled” debit card**

A consumer obtains a payment card issued by a bank that is not the bank where the consumer has a checking account (i.e., the card is “de-coupled” from the checking account). The consumer provides banking information to enable the card to be linked to the consumer’s checking account at another bank - the RDFI. When the consumer uses the card at the point-of-sale, the transaction is routed to the card-issuing bank via a card or EFT network; the card-issuing bank then originates an ACH POS transaction to debit the consumer’s checking account at the RDFI. Because the RDFI did not issue the payment card, the Overdraft Opt-In rule should not apply to this transaction. In a variation of this scenario, the consumer uses the de-coupled debit card at an ATM, which results in the card-issuing bank originating an ACH MTE transaction to debit the consumer’s checking account. The Overdraft Opt-In rule also should not apply in this case.

**Example 3 – Credit union-issued “co-op” ATM card**

A credit union issues an ATM card to a consumer member. The consumer can use the card at any ATM owned by any other credit union within a co-operative network or system that settles through the creation of individual ACH entries for each transaction. The credit union (or its agent or correspondent financial institution) that owns the ATM where the card is used originates an ACH MTE transaction to debit the consumer’s account at the credit union that issued the card.

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5 74 Federal Register 59040 (November 17, 2009).
– the RDFI. Because the RDFI issued the card that is used to initiate the MTE transaction, the Overdraft Opt-In rule should apply.

**ADDITIONAL INFORMATION**
Federal Reserve notices about the Overdraft Opt-In rule can be accessed at:

- [Federal Register notice: Regulation E final rule (322 KB PDF)](#)
- [Regulation E Highlights document (17 KB PDF)](#)

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