

CEO 356 rescinded 12/14/2010 with the issuance of RB 37-57.
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#356



Office of Thrift Supervision

Department of the Treasury

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RESCINDED

June 22, 2010

MEMORANDUM FOR: CHIEF EXECUTIVE OFFICERS

FROM:

Thomas A. Barnes, Deputy Director
Examinations, Supervision, and Consumer Protection

A handwritten signature in black ink that reads "Thomas A. Barnes".

SUBJECT:

Electronic Fund Transfer Act/Regulation E
Examination Procedures: Gift Cards and Overdraft Protection

The Electronic Fund Transfer Act (EFTA) protects consumers who make electronic fund transfers through automated teller machines (ATMs), point-of-sale terminals, preauthorized transfers, and remote banking programs. Regulation E implements the EFTA by requiring disclosures for consumers, limiting consumer liability, and providing for error resolution processes.

Recent amendments to Regulation E place restrictions on gift cards and require that consumers affirmatively consent before institutions may charge overdraft fees for ATM and one-time debit transactions. OTS has revised Examination Handbook Section 1330, Electronic Fund Transfer Act, to address these amendments. The new procedures are consistent with those being implemented by the other federal regulatory agencies.

With respect to overdraft fees for ATM or one time debit transactions, the new rules require institutions to give consumers a notice describing the overdraft service, and a reasonable opportunity for the consumer to choose to opt in to the service. If the consumer does opt in, the institution must provide confirmation to the consumer, and only then may the institution charge fees for overdrafts caused by covered electronic transactions.

The handbook section also covers new disclosures and limitations on gift cards. Among these provisions is a prohibition against dormancy, inactivity, or service fees unless an issuer puts fee disclosures on the card itself and there has been no activity for a year. If fees are charged, new rules limit fees to no more than one per month. In addition, gift cards must generally not expire for five years from the time funds are last loaded.

For additional information, please contact Suzanne McQueen, Compliance Program Analyst, at (202) 906-6459.

Link: [Examination Handbook 1330](#)