AUTHENTICATED
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Paragraph 17(c)(2)

1. *Identifying account involved.* A financial institution may identify a specific account in a variety of ways and is not required to identify an account by reference to the account number. For example, where the consumer has only one checking account, and no confusion would result, the institution may refer to ''your checking account.'' If the consumer has two checking accounts, the institution may, for example, differentiate accounts based on names for different checking account programs or by using a truncated account number.

2. *90-day rule.* The actual disclosures provided to the consumer must be available for at least 90 days, but the financial institution has discretion to determine whether they should be available at the same location for the entire period.

17(d) Redelivery

1. *E-mail returned as undeliverable.* If an e-mail to the consumer (containing an alert notice or other disclosure) is returned as undeliverable, the redelivery requirement is satisfied if, for example, the institution sends the disclosure to a different e-mail address or postal address that the institution has on file for the consumer. Sending the disclosure a second time to the same electronic address is not sufficient if the institution has a different address for the consumer on file.

17(e) Persons Other Than Financial Institutions

1. *Electronic disclosures.* Entities other than financial institutions, such as merchants, are subject to certain provisions of Regulation E, including §§ 205.10(b) and (d). These entities too may use electronic communication to provide disclosures required to be in writing.

APPENDIX A—MODEL DISCLOSURE CLAUSES AND FORMS

1. *Review of forms.* The Board will not review or approve disclosure forms or statements for financial institutions. However, the Board has issued model clauses for institutions to use in designing their disclosures. If an institution uses these clauses accurately to reflect its service, the institution is protected from liability for failure to make disclosures in proper form.

2. *Use of the forms.* The appendix contains model disclosure clauses for optional use by financial institutions to facilitate compliance with the disclosure requirements of §§ 205.5(b)(2) and (b)(3), 205.6(a), 205.7, 205.8(b), 205.14(b)(1)(ii) and 205.15(d)(7) and (d)(2). The use of appropriate clauses in making disclosures will protect a financial institution from liability under sections 915 and 916 of the act provided the clauses accurately reflect the institution's EFT services.

3. *Altering the clauses.* Financial institutions may use clauses of their own design in conjunction with the Board's model clauses. The inapplicable words or portions of phrases in parentheses should be deleted. The catchlines are not part of the clauses and need not be used. Financial institutions may make alterations, substitutions, or additions in the clauses to reflect the services offered, such as technical changes (including the substitution of a trade name for the word ''card,'' deletion of inapplicable services, or substitution of lesser liability limits). Several of the model clauses include references to a telephone number and address. Where two or more of these clauses are used in a disclosure, the telephone number and address may be referenced and need not be repeated.

[Reg. E, 61 FR 19686, May 2, 1996, as amended at 66 FR 13412, Mar. 6, 2001; 66 FR 15192, Mar. 16, 2001; 66 FR 17794, Apr. 4, 2001]

PART 206—LIMITATIONS ON INTERBANK LIABILITIES (REGULATION F)

Sec.
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AUTHORITY: 12 U.S.C. 371b–2

SOURCE: Reg. F, 57 FR 60106, Dec. 18, 1992, unless otherwise noted.

§ 206.1 Authority, purpose, and scope.

(a) *Authority and purpose.* This part (Regulation F, 12 CFR part 206) is issued by the Board of Governors of the Federal Reserve System (Board) under authority of section 23 of the Federal Reserve Act (12 U.S.C. 371b–2). The purpose of this part is to limit the risks that the failure of a depository institution would pose to insured depository institutions.

(b) *Scope.* This part applies to all depository institutions insured by the Federal Deposit Insurance Corporation.

[Reg. F, 57 FR 60106, Dec. 18, 1992, as amended by Reg. F, 68 FR 53283, Sept. 10, 2003]

§ 206.2 Definitions.

As used in this part, unless the context requires otherwise:

(a) *Bank* means an insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), and includes an insured

national bank, state bank, District bank, or savings association, and an insured branch of a foreign bank.

(b) *Commonly-controlled correspondent* means a correspondent that is commonly controlled with the bank and for which the bank is subject to liability under section 5(e) of the Federal Deposit Insurance Act. A correspondent is considered to be commonly controlled with the bank if:

(1) 25 percent or more of any class of voting securities of the bank and the correspondent are owned, directly or indirectly, by the same depository institution or company; or

(2) Either the bank or the correspondent owns 25 percent or more of any class of voting securities of the other.

(c) C*orrespondent* means a U.S. depository institution or a foreign bank, as defined in this part, to which a bank has exposure, but does not include a commonly controlled correspondent.

(d) *Exposure* means the potential that an obligation will not be paid in a timely manner or in full. ''Exposure'' includes credit and liquidity risks, including operational risks, related to intraday and interday transactions.

(e) *Foreign bank* means an institution that: (1) Is organized under the laws of a country other than the United States;

(2) Engages in the business of banking;

(3) Is recognized as a bank by the bank supervisory or monetary authorities of the country of the bank's organization;

(4) Receives deposits to a substantial extent in the regular course of business; and

(5) Has the power to accept demand deposits.

(f) *Primary federal supervisor* has the same meaning as the term ''appropriate Federal banking agency'' in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(g) *Total capital* means the total of a bank's Tier 1 and Tier 2 capital under the risk-based capital guidelines provided by the bank's primary federal supervisor. For an insured branch of a foreign bank organized under the laws of a country that subscribes to the principles of the Basel Capital Accord, ''total capital'' means total Tier 1 and Tier 2 capital as calculated under the standards of that country. For an insured branch of a foreign bank organized under the laws of a country that does not subscribe to the principles of the Basel Capital Accord, ''total capital'' means total Tier 1 and Tier 2 capital as calculated under the provisions of the Accord.

(h) *U.S. depository institution* means a bank, as defined in §206.2(a) of this part, other than an insured branch of a foreign bank.

[Reg. F, 57 FR 60106, Dec. 18, 1992, as amended by Reg. F, 68 FR 53283, Sept. 10, 2003]

§206.3 Prudential standards.

(a) *General.* A bank shall establish and maintain written policies and procedures to prevent excessive exposure to any individual correspondent in relation to the condition of the correspondent.

(b) *Standards for selecting correspondents.* (1) A bank shall establish policies and procedures that take into account credit and liquidity risks, including operational risks, in selecting correspondents and terminating those relationships.

(2) Where exposure to a correspondent is significant, the policies and procedures shall require periodic reviews of the financial condition of the correspondent and shall take into account any deterioration in the correspondent's financial condition. Factors bearing on the financial condition of the correspondent include the capital level of the correspondent, level of nonaccrual and past due loans and leases, level of earnings, and other factors affecting the financial condition of the correspondent. Where public information on the financial condition of the correspondent is available, a bank may base its review of the financial condition of a correspondent on such information, and is not required to obtain non-public information for its review. However, for those foreign banks for which there is no public source of financial information, a bank will be required to obtain information for its review.

(3) A bank may rely on another party, such as a bank rating agency or the bank's holding company, to assess