

A-9 Model Consent Form for Overdraft Services (§ 205.17)

What You Need to Know about Overdrafts and Overdraft Fees

An overdraft occurs when you do not have enough money in your account to cover a transaction, but we pay it anyway. We can cover your overdrafts in two different ways:

- 1. We have standard overdraft practices that come with your account.
2. We also offer overdraft protection plans, such as a link to a savings account, which may be less expensive than our standard overdraft practices. To learn more, ask us about these plans.

This notice explains our standard overdraft practices.

What are the standard overdraft practices that come with my account?

We do authorize and pay overdrafts for the following types of transactions:

- Checks and other transactions made using your checking account number
• Automatic bill payments

We do not authorize and pay overdrafts for the following types of transactions unless you ask us to (see below):

- ATM transactions
• Everyday debit card transactions

We pay overdrafts at our discretion, which means we do not guarantee that we will always authorize and pay any type of transaction.

If we do not authorize and pay an overdraft, your transaction will be declined.

What fees will I be charged if [Institution Name] pays my overdraft?

Under our standard overdraft practices:

- We will charge you a fee of up to \$30 each time we pay an overdraft.
• Also, if your account is overdrawn for 5 or more consecutive business days, we will charge an additional \$5 per day.
• There is no limit on the total fees we can charge you for overdrawing your account.

What if I want [Institution Name] to authorize and pay overdrafts on my ATM and everyday debit card transactions?

If you also want us to authorize and pay overdrafts on ATM and everyday debit card transactions, call [telephone number], visit [Web site], or complete the form below and [present it at a branch][mail it to:

I do not want [Institution Name] to authorize and pay overdrafts on my ATM and everyday debit card transactions.

I want [Institution Name] to authorize and pay overdrafts on my ATM and everyday debit card transactions.

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

[Account Number]: \_\_\_\_\_ ]

APPENDIX B TO PART 205—FEDERAL ENFORCEMENT AGENCIES

The following list indicates which Federal agency enforces Regulation E (12 CFR part 205) for particular classes of institutions. Any questions concerning compliance by a particular institution should be directed to the appropriate enforcing agency. Terms that are not defined in the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have

the meaning given to them in the International Banking Act of 1978 (12 U.S.C. 3101).

National banks, and Federal branches and Federal agencies of foreign banks

District office of the Office of the Comptroller of the Currency where the institution is located.

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*State member banks, branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act*

Federal Reserve Bank serving the District in which the institution is located.

*Nonmember insured banks and insured state branches of foreign banks*

Federal Deposit Insurance Corporation regional director for the region in which the institution is located.

*Savings institutions insured under the Savings Association Insurance Fund of the FDIC and federally-chartered savings banks insured under the Bank Insurance Fund of the FDIC (but not including state-chartered savings banks insured under the Bank Insurance Fund)*

Office of Thrift Supervision Regional Director for the region in which the institution is located.

*Federal Credit Unions*

Division of Consumer Affairs, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428

*Air Carriers*

Assistant General Counsel for Aviation Enforcement and Proceedings, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

*Brokers and Dealers*

Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549.

*Retailers, Consumer Finance Companies, Certain Other Financial Institutions, and all others not covered above*

Federal Trade Commission, Electronic Fund Transfers, Washington, D.C. 20580.

**APPENDIX C TO PART 205—ISSUANCE OF STAFF INTERPRETATIONS**

**OFFICIAL STAFF INTERPRETATIONS**

Pursuant to section 915(d) of the act, the Board has designated the director and other officials of the Division of Consumer and Community Affairs as officials “duly authorized” to issue, at their discretion, official staff interpretations of this part. Except in unusual circumstances, such interpretations will not be issued separately but will be incorporated in an official commentary to this part, which will be amended periodically.

**12 CFR Ch. II (1–1–10 Edition)**

**REQUESTS FOR ISSUANCE OF OFFICIAL STAFF INTERPRETATIONS**

A request for an official staff interpretation shall be in writing and addressed to the Director, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The request shall contain a complete statement of all relevant facts concerning the issue, including copies of all pertinent documents.

**SCOPE OF INTERPRETATIONS**

No staff interpretations will be issued approving financial institutions’ forms or statements. This restriction does not apply to forms or statements whose use is required or sanctioned by a government agency.

**SUPPLEMENT I TO PART 205—OFFICIAL STAFF INTERPRETATIONS**

**SECTION 205.2—DEFINITIONS**

*2(a) Access Device*

1. *Examples.* The term access device includes debit cards, personal identification numbers (PINs), telephone transfer and telephone bill payment codes, and other means that may be used by a consumer to initiate an electronic fund transfer (EFT) to or from a consumer account. The term does not include magnetic tape or other devices used internally by a financial institution to initiate electronic transfers.

2. *Checks used to capture information.* The term “access device” does not include a check or draft used to capture the MICR (Magnetic Ink Character Recognition) encoding to initiate a one-time ACH debit. For example, if a consumer authorizes a one-time ACH debit from the consumer’s account using a blank, partially completed, or fully completed and signed check for the merchant to capture the routing, account, and serial numbers to initiate the debit, the check is not an access device. (Although the check is not an access device under Regulation E, the transaction is nonetheless covered by the regulation. See comment 3(b)(1)–1.v.)

*2(b) Account*

1. *Consumer asset account.* The term consumer asset account includes:

i. Club accounts, such as vacation clubs. In many cases, however, these accounts are exempt from the regulation under §205.3(c)(5) because all electronic transfers to or from the account have been preauthorized by the consumer and involve another account of the consumer at the same institution.

ii. A retail repurchase agreement (repo), which is a loan made to a financial institution by a consumer that is collateralized by