Office of Thrift Supervision
Department of the Treasury

Richard M. Riccobono
Deputy Director

1700 G Street, N.W., Washington, D.C. 20552 • (202) 906-6853

MEMORANDUM FOR: Chief Executive Officers

FROM: Richard M. Riccobono
Deputy Director

SUBJECT: Electronic Funds Transfers (EFT99)

The Debt Collection Improvement Act of 1996, commonly referred to as EFT99, requires that most federal payments be made by electronic funds transfer beginning January 2, 1999. The Treasury Department is proceeding with a rulemaking process to implement these payment requirements.

While estimates vary, studies show that up to 10 million current recipients of federal benefits payments are not yet eligible to participate in direct deposit programs because they do not have accounts at financial institutions. This presents a tremendous opportunity for financial institutions to design deposit products that will provide fair value to these potential new customers, and we encourage you to work creatively toward that end.

Some federally insured depository institutions have already begun to arrange methods by which they will be able to provide federal payments electronically to recipients in their markets by entering into arrangements with non-depository providers of payment services, such as check cashers or money transmitters. Such arrangements may involve giving customers access to EFT deposits in their insured accounts through an uninsured third-party provider.

The attached letter from U.S. Department of the Treasury Under Secretary for Domestic Finance Hawke raises a number of concerns related to such arrangements. If you intend to use third-party payment providers to process federal payments through EFT, the letter requests that full disclosures about fees, costs, legal implications and deposit insurance be made to the customers.

Attachment

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

UNDER SECRETARY

March 26, 1998

The Honorable Ellen Seidman
Director
Office of Thrift Supervision
1700 G Street, N.W.
Washington, D.C. 20552

Dear Ellen:

Congress has directed that after January 1, 1999, most federal payments be made by electronic funds transfer (EFT). The new law, sometimes referred to as "EFT '99," requires recipients of federal payments to designate a financial institution or other authorized agent to receive such payments. The Treasury Department has a rulemaking proceeding in progress to implement this directive.

In anticipation of the move to mandatory EFT for most federal payments, some federally insured depository institutions have entered into, or have announced plans to enter into, arrangements with non-depository providers of payment services, such as check cashers or money transmitters. Such arrangements may involve giving recipients access to EFT deposits in their insured accounts through the uninsured third-party provider. While such arrangements could provide recipients with an expanded range of alternatives for payment services, they also raise the possibility that recipients would not clearly understand the fee structures involved, the legal nature of the relationship, or the other options available under the EFT '99 regulation.

In our view, an insured depository institution should provide appropriate disclosures to customers when it participates in arrangements with third-party providers of payment services. Such disclosures should fully and fairly convey information about the fees and costs imposed by all of the parties to the arrangement, as well as the legal relationships involved, and should explain the applicability of federal deposit insurance insofar as it is relevant to the arrangement. In addition, disclosures should be framed so as not to mislead recipients as to the requirements of EFT '99.

We take these concerns seriously. In the future, we may consider rulemaking in this area. In order to let insured depository institutions know how important we think this issue is, I am asking that you forward a copy of this letter to the appropriate executives at the institutions you regulate.

Thank you for your assistance in this effort.

Sincerely,

John D. Hawke, Jr.
Under Secretary for Domestic Finance