

AMENDMENT TO THE RULES COMMITTEE PRINT

119-33

OFFERED BY MS. WATERS OF CALIFORNIA

In subtitle B of title XVII, add at the end the following:

1 **SEC. 17___.** **TREATMENT OF FRAUDULENTLY INDUCED**
2 **ELECTRONIC FUND TRANSFERS WITH RE-**
3 **SPECT TO SERVICEMEMBERS.**

4 (a) **RULE OF APPLICATION.**—This section and the
5 amendments made by this section shall only apply to a
6 member of the uniformed services, as that term is defined
7 in section 101(a)(5) of title 10, United States Code.

8 (b) **DEFINITIONS.**—Section 903 of the Electronic
9 Fund Transfer Act (15 U.S.C. 1693a) is amended—

10 (1) in paragraph (7)—

11 (A) by striking subparagraphs (B) and
12 (E);

13 (B) by redesignating subparagraphs (C)
14 and (D) as subparagraphs (B) and (C), respec-
15 tively;

16 (C) in subparagraph (B), as so redesign-
17 ated, by adding “or” at the end; and

1 (D) in subparagraph (C), as so redesign-
2 nated, by striking “or” at the end;

3 (2) by striking paragraph (9) and inserting the
4 following:

5 “(9) the term ‘financial institution’ means—

6 “(A) a State or National bank, a State or
7 Federal savings and loan association, a mutual
8 savings bank, a State or Federal credit union,
9 or any other person who, directly or indirectly,
10 holds an account belonging to a consumer; or

11 “(B) any person that—

12 “(i) issues an accepted card or other
13 means of access or provides other means to
14 facilitate an electronic fund transfer; and

15 “(ii) agrees, directly or indirectly,
16 with a consumer to provide electronic fund
17 transfer services;” and

18 (3) by striking paragraph (12) and inserting
19 the following:

20 “(12) the term ‘unauthorized or fraudulently
21 induced electronic fund transfer’—

22 “(A) means an electronic fund transfer
23 from a consumer’s account initiated by—

1 “(i) a person other than the consumer
2 without actual authority to initiate such
3 transfer; or

4 “(ii) the consumer, if the consumer’s
5 authorization or initiation of the electronic
6 fund transfer was fraudulently induced;
7 and

8 “(B) does not include any electronic fund
9 transfer—

10 “(i) initiated by a natural person
11 other than the consumer who was fur-
12 nished with the card, code, or other means
13 of access to such consumer’s account by
14 such consumer, unless—

15 “(I) the consumer has notified
16 the financial institution involved that
17 transfers by such other person are no
18 longer authorized; or

19 “(II) the consumer was fraudu-
20 lently or coercively induced to furnish
21 the card, code, or other means of ac-
22 cess;

23 “(ii) initiated by a consumer who has
24 fraudulent intent, or anyone acting in con-
25 cert with such a consumer; or

1 “(iii) which constitutes an error com-
2 mitted by a financial institution.”.

3 (c) DEFINITION OF ERROR.—Section 908(f) of the
4 Electronic Fund Transfer Act (15 U.S.C. 1693f(f)) is
5 amended—

6 (1) in paragraph (2), by inserting “, including
7 a mistake or other error made by a consumer” be-
8 fore the semicolon;

9 (2) by redesignating paragraphs (6) and (7) as
10 paragraphs (8) and (9), respectively; and

11 (3) by inserting after paragraph (5) the fol-
12 lowing:

13 “(6) the consumer’s inability to access funds in
14 a frozen, closed, or otherwise inaccessible account,
15 except as required by a court order or law enforce-
16 ment or unless the financial institution determines
17 that the consumer obtained the funds through un-
18 lawful or fraudulent means;

19 “(7) a reflection on a periodic statement of
20 goods or services not accepted by the consumer or
21 the designee of the consumer or not delivered to the
22 consumer or the designee of the consumer;”.

23 (d) CONSUMER LIABILITY FOR UNAUTHORIZED OR
24 FRAUDULENTLY INDUCED TRANSFERS.—Section 909 of

1 the Electronic Fund Transfer Act (15 U.S.C. 1693g) is
2 amended—

3 (1) in the heading, by striking “**unauthor-**
4 **ized transfers**” and inserting “**unauthorized**
5 **or fraudulently induced electronic fund**
6 **transfers**”;

7 (2) by striking “unauthorized electronic fund
8 transfer” each place such term appears and insert-
9 ing “unauthorized or fraudulently induced electronic
10 fund transfer”;

11 (3) by striking “unauthorized electronic fund
12 transfers” each place such term appears and insert-
13 ing “unauthorized or fraudulently induced electronic
14 fund transfers”; and

15 (4) in subsection (a)—

16 (A) by striking “unauthorized transfer”
17 and inserting “unauthorized or fraudulently in-
18 duced electronic fund transfer”; and

19 (B) by inserting “fraudulently induced
20 transfer or” before “loss or theft” each place
21 such term appears;

22 (5) in subsection (b)—

23 (A) by striking “financial institution to
24 show that” and inserting “financial institu-
25 tion—

1 “(1) to show that”;

2 (B) by striking “was authorized or, if the
3 electronic fund transfer was unauthorized, then
4 the burden of proof is upon the financial insti-
5 tution” and inserting “was authorized or was
6 not fraudulently induced, as applicable; or

7 “(2) if the showing under paragraph (1) is not
8 made,”; and

9 (C) by striking “, if the transfer was initi-
10 ated after the effective date of section 905,”;

11 (6) by adding at the end the following:

12 “(f) SHARED LIABILITY OF INSTITUTIONS INVOLVED
13 IN AN UNAUTHORIZED OR FRAUDULENTLY INDUCED
14 ELECTRONIC FUND TRANSFER.—

15 “(1) CREDITING OF CONSUMER ACCOUNT.—A
16 financial institution shall reimburse a consumer for
17 the amount of an electronic fund transfer that was
18 unauthorized or fraudulently induced, subject to any
19 liability of the consumer described under subsection
20 (a).

21 “(2) LIABILITY SHARING.—Subject to para-
22 graph (3) and with respect to a loss suffered by a
23 financial institution in connection with crediting a
24 consumer’s account for an electronic fund transfer
25 that was unauthorized or fraudulently induced, the

1 liability for such loss shall be evenly shared between
2 the financial institution holding the consumer's ac-
3 count and the financial institution that received the
4 transfer.

5 “(3) LIABILITY OF CERTAIN INSTITUTIONS
6 THAT MATERIALLY SUPPORT OTHER FINANCIAL IN-
7 STITUTIONS.—

8 “(A) RULEMAKING.—The Bureau may
9 issue—

10 “(i) a rule to identify certain financial
11 institutions or classes of financial institu-
12 tions described under section 903(9)(B)
13 that materially support other financial in-
14 stitutions in carrying out electronic fund
15 transfers; and

16 “(ii) such other rules as the Bureau
17 determines are necessary or appropriate to
18 implement the shared liability provisions
19 under this subsection.

20 “(B) LIABILITY.—With respect to a loss
21 described under paragraph (2) in connection
22 with an electronic fund transfer, if any financial
23 institution identified under subparagraph (A) is
24 described under section 903(9)(B) with respect
25 to such transfer, each financial institution and

1 the two financial institutions described under
2 paragraph (2) shall evenly share the liability for
3 such loss.”.

4 (e) **RULE OF CONSTRUCTION.**—Nothing in this sec-
5 tion or the amendments made by this section may be con-
6 strued to limit the authority of the Bureau of Consumer
7 Financial Protection or the applicability of relevant con-
8 sumer financial protection laws that may otherwise impose
9 requirements that are being amended by this section.

