

# Memo



To: The Federal Reserve Bank  
From: Mike Murphy, Executive Vice President  
Date: July 8, 2004  
Re: Overdraft Protection Guidance  
Docket No. R-1197

---

The proposal referenced above is another attempt to over regulate the many to curtail the actions of a few. Customers of financial institutions have been writing checks on insufficient funds since checks were developed. The financial institutions have been deciding whether to pay or return those checks since that same time. Many of those institutions developed programs and procedures, some more formal than others, to honor those checks.

Several years ago, our bank chose to adopt a program developed by Strunk and Associates, for the discretionary payment of those overdraft items. Our disclosures clearly state the item may or not be paid, the customer may or may not be admitted to the program, and the customer may or may not be allowed to continue in the program. Our disclosure also clearly states the fees that are charged per item, regardless of the type of item. Further, we provide a notice each and every time an item creates an overdraft. That notice includes the item description, the amount of the item, the account balance, and the overdraft fees charged.

In addition, our ATM's disclose that the balance shown is the customer's balance plus the overdraft privilege<sup>sm</sup> amount available. Our tellers tell our customers their account balance, their overdraft privilege<sup>sm</sup> amount available, and the total of the two. Most of our customers like being able to access funds available as they may have a need to pay a bill or mortgage or rent to avoid late fees or possible cut off of utilities. Our customers also like the program because it often helps them avoid charges by merchants that are far more exorbitant than ours if a check is returned. Further, they incur one fee from us instead of extra fees from merchants and those from us.

From our standpoint, we feel we are providing a greater level of service to our customers. We are able to do so more efficiently and equitably than we did as we manually reviewed each item to determine if it was paid or returned. Now, if they are customer in good standing within prescribed guidelines, those items presented on insufficient funds are paid.

Our bank offers our customers the choice to participate in the program. We send a letter to them when they are eligible for the program and they have the ability to opt out at that time. As alternatives, we also offer typical Overdraft Protection, which is a loan product and the ability to sweep funds from other accounts – savings, checking or lines of credit.

In closing, I appreciate the chance to respond to the proposal. Our bank is in an extremely competitive environment. If we do not fully serve our customers needs in a fair and equitable manner, those customers have many choices for their financial business. We feel we have provided full disclosure to our customers. Mr. Sarbanes, in his response, refers to customers breaking the law in writing bad checks. That is not going to change under this proposal. However, what will change, is the efficiency in which banks can fairly treat their customers by regulating all financial institutions for the inappropriate conduct of a few.

Respectfully submitted,

A handwritten signature in cursive script that reads "Michael T. Murphy".

Executive Vice President