

Commerce Bancshares, Inc.
Compliance Department, TB12-1
922 Walnut P.O. Box 13686
Kansas City, MO 64199-3686

March 27, 2009

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Delivered via email:

RE: Docket No. R-1343

Dear Ms. Johnson:

Commerce Bancshares, Inc. is a registered bank holding company with total assets of \$17.5 billion at December 31, 2008, and one bank subsidiaries. The bank is a full-service bank, with approximately 360 branch locations in Missouri, Illinois, Kansas, Oklahoma, and Colorado and card operations in Nebraska. A full line of banking services, including investment management and securities brokerage are offered. The Company also has operating subsidiaries involved in mortgage banking, credit related insurance, and private equity activities.

We appreciate the opportunity to comment on the proposal to amend Regulation E.

Overdrafts Proposal

Opt In for New Customers - This approach seems to work best for new customers and will be the least burdensome to the financial institution to implement. However, we would be required to openly communicate with the customer regarding the dollar amount of their courtesy overdraft. Today, we do not discuss the specifics because we do not want to actively encourage the customer utilization and have concerns that discussing the courtesy overdraft limit will result in greater use and encourage the irresponsible behavior that this proposal seeks to address.

Opt In for Existing Customers – There is significant concern regarding how such a choice would impact the customer. The proposal requires the financial institution to cease paying overdrafts sixty days after the customer has been notified of their right to opt in if they have not responded. This would have a significant negative customer impact. Many customers have benefited by the courtesy overdraft limit available to them and have avoided merchant assessed check fees because of it. To discontinue an activity that has become relied upon by some customers only because they have not taken the time to respond seems severe and certainly not in the best interest of the customer. A direct mail campaign is considered successful with a one percent (1%) response rate and extremely successful with a five percent (5%) response rate. Using the five percent (5%) measure, more than six hundred thousand (600,000) of our customers would no longer be covered, and their lack of response would most likely due to inertia rather than the active determination they no longer desire overdraft coverage.

Opt Out for New Customers – This alternative would be significantly difficult for the financial institution to implement because it requires the option be made available to customers at any time and through multiple sources. Additionally the bank would have to be able to accommodate this

alternative by transaction type and all of this would require a rebuilding of existing infrastructure.

Opt Out for Existing Customers – This approach is preferable for existing customers as it allows them the opportunity to retain the service level they have today and provides them with additional reminders that alternatives exist to avoid future overdraft fees.

In addition, we have concerns that limiting the opt in/opt out to ATM and Visa Check Card transactions may result in confusion for the customer. Customers may feel that opting out of courtesy overdraft protection under these circumstances also opts them out of the protection when items such as checks are presented against the account. Allowing customers to opt out by channel will make support difficult and will most likely result in an all or nothing scenario at most financial institutions so that customers would be required to decide if they want courtesy overdraft protection for the account, regardless of how transactions come in, i.e. check, wire, ACH, etc.

Debit Holds Proposal

Financial institutions have debit holds on signature based debit transactions to protect the customer from re-spending money in their account which leads to overdrafts for the customer and greater risk exposure for the bank. We instituted debit holds approximately one year ago and chose not to hold funds in situations where the authorization amount did not match the actual amount of the transaction a majority of time, such as a restaurant or fuel purchase. It is important to note that the merchant does not have any responsibility to pass on the actual transaction information within two hours. Interestingly, Visa is attempting to address this issue with Automated Fuel Dispensers (AFD). They required that banks update their systems to accept the actual transaction information by October 2008, but Merchants have been given the option whether or not to participate. To date almost no merchants have made an affirmative choice and virtually no actual transaction information is being passed within a two hour time frame. The debit holds section should also address issues seen where there is Merchant error, such as the incorrect amount for authorization is input into the system or duplicate authorized transactions caused by either Merchant or system error.

Thank you again for the opportunity to provide comment on this proposal.

Sincerely,

Katherine A. D. Foster, CRCM, J.D.
Compliance Officer