

From: Georgia Credit Union League, Richard Ellis  
Subject: Electronic Fund Transfers

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Comments:

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March 30, 2009 Ms. Jennifer J. Johnson, Secretary Board of Governors of the Federal Reserve System 20th Street and Constitution Avenue, NW Washington, DC 20551 RE: Docket No. R-1343 - Proposed Rule to Amend Regulation E for Overdraft Protection Plans Dear Ms. Johnson, The Georgia Credit Union League (GCUL) appreciates the opportunity to comment on the proposed rule to amend Regulation E, the Electronic Fund Transfer (EFT) Act, that will provide consumers with certain protections relating to the assessment of overdraft fees. These will apply to automated teller machine (ATM) transactions and one-time debit card overdrafts. As a matter of background, GCUL is the state trade association and one member of the network of state leagues that make up the Credit Union National Association (CUNA). GCUL serves approximately 173 credit unions that have over 1.75 million members. This letter reflects the views of our Regulatory Response Committee, which has been appointed by the GCUL Board to provide input into proposed regulations such as this. Summary of GCUL's Position: We appreciate the Board's efforts to create enhanced disclosure and consumer awareness of overdraft protection plans (ODP). While we support the Board's intent to ensure consumer awareness and understanding of ODP, we believe the changes, as proposed, will only lead to potential confusion of consumers. Many of the issues contained in the proposal would require significant changes to core data processing systems. Those changes would require significant lead time for implementation and would also be very costly to credit unions. Allowing consumers to 'opt-out' of overdraft programs for ATM withdrawals and one-time debit card transactions goes against industry best-practice. We believe an 'all or nothing' approach to the participation in ODP programs would be a better approach for consumers and credit unions. We believe the current practice of ODP disclosure of terms and conditions (including 'opt-out' notification) provided at account opening, and annually thereafter, is sufficient. We would encourage to Board to allow financial institutions to determine which approach, 'opt-in' or 'opt-out', is sufficient for that institution. Holds placed on debit card transactions are originated by the merchant or vendor processing the transaction, not the financial

institution. Detailed Responses: ODP have the ability to save members from potentially embarrassing situations while at the same time minimizing the fees associated with the transaction. In addition to ODP, credit unions also offer services that are designed to help in the prevention of overdrafts. Those services include automatic transfers between deposit accounts, lines of credit, home banking and telephonic transfers and consumer education offerings. That said, those credit unions offering ODP have realized that the overwhelming majority of members who qualify and use the ODP service appreciate and like the service. Many of the proposed changes cannot be accomplished with current data processing systems. To implement the proposed changes would require the core data processing systems undergo significant reprogramming efforts. Expenses related to those efforts would be passed on to credit unions, and ultimately to the members through higher fees and lower dividends. As one can see, this would affect not only those who use the ODP service, but also those who do not. However, should the proposal be adopted as presented, we would encourage the Board to allow eighteen months lead time before implementing an effective date. The proposal suggests that consumers be allowed to 'opt-out' of ODP for ATM withdrawals and one-time debit transactions. As noted above, this goes against industry best practice and would likely lead to consumer confusion due to a lack of understanding which transactions are subject to the ODP. It is our opinion that a "partial" 'opt-out' would require extensive consumer education to address which transactions are covered, and which are not. We believe an 'all or nothing' approach would be much better suited for this circumstance for both the consumer and credit union. The proposal asks for feedback regarding the method of disclosure and 'opt-out' notification. We believe that the current practice of providing clear disclosure at the time of account opening, and annually thereafter, is sufficient and is in no need of change. We would also encourage the Board to allow both consumers and financial institutions to have as much flexibility as possible when it comes to the process for requesting an 'opt-out' of an ODP. We do not believe that a formal letter is necessary. We would encourage the Board to permit notification in a number of ways: verbal, written, in-person, by phone, etc. The Board has asked for feedback regarding the 'opt-in' versus 'opt-out' approach to participation in an ODP. Currently, opt regulations that include opportunities for consumers to decide on participation do so by way of an 'opt-out'. An example of this would be the 'opt-out' provisions included with Privacy regulations. Under Part 716 of NCUA Rules and Regulations, if a member wishes to be excluded from certain information sharing practices, he/she must request to 'opt-out' of those programs. In regard to ODPs, while current practice is to allow consumers to 'opt-out' of participation, we would support allowing each financial institution to determine which approach is best-suited for their institution. However, as stated earlier, we believe it should be an 'all or nothing' approach. That would allow for each institution to determine how to inform and educate their membership of the process. The proposed rule will also prohibit financial institutions from imposing an overdraft fee when the account is overdrawn because of a hold placed on funds in the consumer's account that exceeds the actual transaction amount. This prohibition will be limited to debit card transactions in which the actual transaction amount can be determined within a short period of time after the transaction is authorized. As noted above, holds placed on debit card transactions are originated by the merchant or vendor processing the transaction, not the financial institution. Anything that can be done to speed up the settlement time would be a benefit all parties. Thank you for the opportunity to comment on the proposed revisions to Regulation E. If you have questions about our comments, please contact Cynthia Connelly or me at (770) 476-9625. Respectfully submitted, Richard Ellis Vice President/Credit Union

Development Georgia Credit Union League