

From: Mike Potter
Subject: Electronic Fund Transfers

Comments:

I would like to offer personal comments and reflections on the proposed rulemaking represented by this docket number.

While it has been many years since I was employed in banking, I have lived in and around that industry for almost four decades. I have worked with large and small community financial institutions, and I have seen many approaches to overdraft programs as they are in use today and in recent years.

It appears to me that the regulatory community is on the verge of vastly over engineering a solution to a problem that only exists in the minds of a tiny minority of self-appointed consumer protectors. Banks and credit unions are in the business of offering products and services, and cannot be successful if those products and services are not worthwhile in the consumers minds.

It is my experience, and that of all of the bankers with whom I have spoken in recent weeks, that a well designed, properly communicated, and fully disclosed overdraft program almost always saves an institutions customers or members more money than it generates in income for the financial institution. The vast majority of customers expect that their mistakes will be covered, and the complete absence of complaints at most community banks is a sure reflection of that fact.

The current attempt to create more layers of complexity (unworkable partial opt-outs and other issues clearly identified by the ABA) that will be completely beyond the average customer to even understand will only serve to frustrate customers rather than help them.

A few decades ago, a similar tempest in a teapot was created over ATM surcharges. At the end of the day, a customer is more than willing to pay his institution \$25 to pay their check, ACH, ATM, or debit transaction rather than pay the same \$25 to have it dishonored with all of the attendant embarrassment, cost, delay, and far more noxious results (like cancelled insurance, huge mortgage late fees, interest rates boosted).

Consumers are responsible for their finances, and financial institutions exist to provide service. In the rare cases which are much publicized that a consumer has set themselves up for a \$35 hamburger, or whatever the popular example du jour might be, every banker I know (community bankers - you know, the 95% of the banks that don't do idiotic things?) engages in a policy-driven mode of "rebate and educate", meaning refunding most or all of the fees in exchange for a discussion about how and why the event happened and what the customer can do about it in the future.

Regulatory attempts to find a bulletproof real estate closing with absolutely full disclosure over the years has created billions of additional pages of printing, but still people say they were "fooled" into taking out stupid loans. What is there about past experience that makes the regulatory community believe that turning the account opening event into a one-hour bit of torture by paper will accomplish one iota of actual benefit to anyone?

No bank or credit union can be successful by treating their customers with disdain for their business. Certainly no financial institution wants to be in the newspaper being ridiculed for egregious, or even insensitive behavior, as the reputation risk is far too great in today's hypercompetitive economy. Community financial organizations, particularly in today's disastrous cycle, are already under unprecedented pressure from over-regulation, and almost all of them will have the worst financial performance in years over the next 12-18 months. If there is any time that it would be a good idea to heap more pressure on them, it cannot possibly be now.

Regards,

M. H. Potter, Jr.