



WSECU

WASHINGTON STATE EMPLOYEES
CREDIT UNION

March 20, 2009

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

Re: Docket No. R-1343

Dear Secretary Johnson,

This comment letter is submitted in response to the notice of proposed rulemaking (“Proposed Rule”) and request for public comment by the Federal Reserve Board published in the Federal Reserve register on January 29, 2009. This proposed rule is an amendment to Regulation E, seeking to provide consumers certain protections relating to the assessment of overdraft fees. The proposed changes address a financial institution’s ability to charge overdraft fees for Automated Teller Machine (ATM) withdrawals and debit card transactions.

The Board has identified a number of issues in the Proposed Rule and, in some cases, has proposed alternative approaches to addressing them. Having an appropriate resolution of these issues is critical to financial institutions’ ability to continue to serve our members effectively.

First, the Board has proposed that members be able either to opt out of any overdraft services that assess a fee for ATM or debit transactions or that a member be required to opt in to this service. Further, the proposed opt in requirement would include notification of the requirement to existing overdraft users and the suspension of the program if they do not opt in within 60 days. It has long been our experience that many members do not read the information they receive from the financial institution and therefore may not respond within the 60 days. We will hear from them when the service they have been using for years is suspended. We believe that the opt out option will be more consistent with member expectations. It has been our experience that members do not expect to incur overdrafts and therefore are reluctant to sign up for formal overdraft programs. Yet these same members appreciate the convenience when an overdraft does occur and they have the ability to complete the transaction.

The Board has also proposed an alternative that would require financial institutions to provide members the ability to opt out of overdraft on ATM and debit card transactions while still utilizing the program for checks and reoccurring automatic debits. For a financial institution to support this proposed change would create substantial technical

difficulties and could be confusing to members as to why one transaction was paid and another was not. We believe that educating members in the use of the services and then allowing them to opt out completely would be much easier for the member to understand and the financial institution to support.

In addition, the Board further proposes alternatives to the pricing of member accounts depending on the member's choice of opt out or opt in. Overdraft fees help cover the cost of accounts and therefore should be a consideration when pricing those accounts. However, we believe the differences should be designed to reduce additional fees charged to those accounts that pay overdraft fees rather than designed to coerce members choices. In fact, allowing such differences would remove any incentive to influence such choices as financial institutions could price all products to cover their costs.

The Board has proposed two more restrictions on the charging of fees for overdraft due to debit cards transaction; when holds exceed the dollar amount of the actual purchase or debit transactions that occur during a stand-in mode. We strongly believe that a financial institution's ability to support this is very limited. First, in relation to holds that exceed the amount of the transaction, we are not aware of the actual amount of the purchase until the transaction post and therefore would have to monitor the account and reverse the fee after the fact. Finally the only method to avoid overdraft fees for debit transaction performed during stand-in mode is to deny those transactions. This would be an inconvenience to the member who has the ability to know if funds are available.

WSECU has managed an Overdraft Privilege program for six years that includes all types of transactions, an Opt Out option and a strong emphasis on member education. We believe this program offers value to members and we appreciate the opportunity to comment on proposed changes to this important program.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Lou Stewart". The signature is fluid and cursive, with the first name "D." and last name "Stewart" clearly visible.

D. Lou Stewart
Vice President, Support Services
WSECU