



Robert Lawler
<rplawler7@yahoo.com>

06/12/2008 11:51 AM

To regs.comments@frb.gov

cc

bcc

Subject Form letters – Reg. AA

- Stop credit card companies from hiking interest rates on existing balances .
- Stop credit card companies from applying monthly payments to low-interest debt first.
- Give sufficient time between the bill and the due date so you can always pay on time.
- Stop interest charges on debts paid off the previous month.

R. P. Lawler

Docket No. R-1314

To the Board of Governors of the Federal Reserve System:

Please ADOPT your proposed rule reforming credit card lending:

- *Giving at least 21 days to pay before a payment can be considered late;
- *Ending accounting tricks that increase our finance charges;
- *Prohibiting rate increases on existing balances;
- *Eliminating hidden interest charges.

Here is my story about excessive interest and fees by credit card companies:

Sincerely,

Mahida Oliveira

(Name)

42 Jenkins Street

(Address)

New Bedford, MA

(City/State/ZIP)

01740



veganchik@hotmail.com

06/27/2008 09:18 AM

To regs.comments@frb.gov

cc

bcc

Subject Form letters -- Reg. AA

Comments Federal Reserve Board

Dear Comments Federal Reserve Board,

The new proposed credit card rules curb some abusive lending practices that drive consumers deeper in debt. I urge you to implement these rules to provide relief to people like me who just want a fair deal from credit card companies.

Sincerely,
Ann Leitgeb
asheville 28806



"Edward D. Lewis"
<elewis.2@sbcglobal.net>

06/13/2008 01:30 PM

To "Federal Reserve Board" <regs.comments@frb.gov>
cc
bcc
Subject Form letters – Reg. AA

Edward D. Lewis
10004 Walnut Drive #101
Kansas City, MO 64114-4423

June 13, 2008

Federal Reserve Board

Dear Federal Reserve Board:

I would rather have my debit purchase denied than pay a \$30 fee for overdraft protection.

I would rather have my debit purchase denied than pay a \$30 fee for overdraft protection.

Banks should be prohibited from advertising or promoting unsafe banking practices.

I would like to have the choice up front to enroll in an overdraft loan program. Please require the banks to give me that choice before charging me a fee.

Close the loophole that lets banks make cash advances to consumers without providing truth-in-lending protections and cost disclosures.

Require that overdraft loan costs be disclosed under open-end credit rules.

Require banks to get consumers' affirmative consent before extending overdraft loans.

I support your plan to ban overdraft fees on debit holds. Please go one step further and ban overdraft fees when the funds are in my account but haven't cleared yet.

Please ban the practice banks and credit unions have of withdrawing my largest checks first. It is unfair to manipulate the order in which debits are processed to maximize fee revenue while routinely covering overdrafts and charging big fees when they do.

It is deceptive for banks to claim that automatic "bounce protection" is discretionary while also representing that consumers can expect the bank to cover overdrafts or while permitting consumers to overdraw at the ATM, POS or through preauthorized debits.

Most of the people who get hit with repeated overdraft fees can least

afford it. We have enough unbanked people in this country as it is.

Require financial institutions to separately report checking account fee revenue for insufficient funds and for overdrafts. That way we will know how much money they make off this unfair and deceptive practice.

Sincerely,

Edward D. Lewis



Mary Ann Lawler
<maryannlawler@yahoo.com>

06/12/2008 12:26 PM

Please respond to
Mary Ann Lawler
<maryannlawler@yahoo.com>

To regs.comments@frb.gov
cc
bcc
Subject Form letters -- Reg. AA

Jun 12, 2008

Federal Reserve Board Email comments

Dear Email comments,

Dear Madam or Sir:

Please help to enact the legislation to:

Stop companies from hiking interest rates on existing balances (unless you pay 30 days late).

Stop them from applying your monthly payment to low-interest debt first.

Give you time between the bill and the due date so you can always pay on time.

Stop interest charges on debts paid off the previous month.

.

Sincerely,

Ms. Mary Ann Lawler
23438 Fordson Dr
Dearborn, MI 48124-1401



flight_238@yahoo.com
06/13/2008 02:07 AM

To regs.comments@frb.gov
cc
bcc
Subject Form letters -- Reg. AA

Federal Reserve Ben Bernanke
20th Street and Constitution Avenue NW,
Washington, DC 20551

Dear Sir or Madam:

I'm writing to support the Federal Reserve Board's proposed rules on unfair and deceptive credit card practices.

Thank you for taking this important first step to regulate some of the egregious practices of credit card companies. My generation, America's youngest workers, carries more debt at this point in our lives than any generation to come before us. We know how important these reforms are.

We believe that you should make the proposed rules even stronger. Stop credit card companies from raising our interest rates "any time, for any reason," because of "market forces," or because we are late paying an unrelated bill. Ending the retroactive application of rate increases will make these practices less harsh, but they will remain unfair. If I play by the rules of my contract, it should not change.

The American Banking Association has made it clear that they oppose the new rules and plan to fight them. They claim that these rules will hurt consumers by limiting access to credit. We have had more access to unregulated credit than any generation before us. Without regulations, the credit card solicitations we have received every day since turning 18 hurt us. Just look at the numbers: between 1992 and 2001 average credit card debt for young adults went up 55 percent.

The ABA may have more money than we do, but we our making our voices heard. We are standing together through Qvisory, a new organization that represents us, America's young workers. The ABA is wrong. The proposed rules are good for consumers, especially young workers. Strengthen them and enact them quickly.

Thank you.

Please act now! This impacts our future as well as the future of our children to come!

Sincerely,
Ashley Smith
2059 hwy 7N
Camden, AR 71701

Thursday, June 26, 2008

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

MARY BARAO
1217 HILLTOP DR.
RUSSELLVILLE, AR. 72802

Regarding: Docket No. R-1314

Dear Federal Reserve:

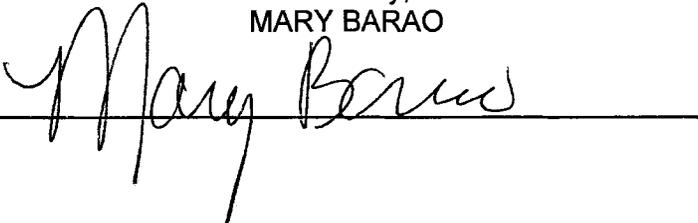
I am a consumer who needs short term loans and the ability to access credit is invaluable to me. I believe the federal government should promote public policy that supports access to credit products and financial services that meet the needs of individuals at the lower range of the credit score spectrum. The federal government should not promote provisions that will take away credit products and services without coming up with alternatives.

I am opposed to the proposed rule that would place limits on credit card fees in connection with sub-prime credit card lending (73 Fed. Reg. 28,904, 28,923-25; May 19, 2008). The proposed rule's arbitrary fee limits would severely reduce the availability of credit for the 80 million Americans whose credit ratings are below prime. If adopted, this rule also would have a disproportionate and adverse impact on minority consumers, who historically have had difficulty obtaining access to credit.

Without the opportunity to obtain and manage credit through responsible use of a credit card, millions of Americans will be unable to positively impact their credit scores, and will remain outside of our nation's financial mainstream.

Again, I urge the Federal Reserve to withdraw the proposed fee limits because they will result in reduced access to credit for a significant number of Americans. Thank you.

Sincerely,
MARY BARAO

A handwritten signature in cursive script, reading "Mary Barao", is written over a solid horizontal line. The signature is positioned below the typed name "MARY BARAO".

July 2, 2008

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

Re: Regulation AA - Unfair or Deceptive Acts or Practices [R-1314]

Dear Ms. Johnson:

Thank you for this opportunity to file comments in support of "Regulation AA - Unfair or Deceptive Acts or Practices [R-1314]," the recent proposal to address unfair and deceptive credit-card practices.

Sadly, my experiences are not unique. According to a nationwide survey of small and mid-sized business owners, recently commissioned by the National Small Business Association, credit cards are a primary source of financing for America's small businesses. In fact, 44 percent of small-business owners identified credit cards as a source of financing that their company had used in the previous 12 months—more than any other source of financing, including business earnings.

In 1993, only 16 percent of small businesses owners identified credit cards as a source of financing they had used in the preceding 12 months. Of the small-business owners who use credit cards as a source of financing, 71 percent report carrying a balance month-to-month. This is up from 64 percent in 2000. Twelve percent of small-business owners are carrying a balance of more than \$25,000, and 33 percent are carrying a balance of more than \$10,000.

It is important to note that small-business owners like me are not turning to credit cards to finance our businesses because we think we are getting a good deal. In fact, among those using credit cards, 57 percent think that the terms of their cards have worsened over the last five years. This perception only appears to be growing. Two-thirds of the respondents to a recent NSBA quick poll reported noticing an increase in the fees associated with their credit cards in the last three months. The same quick poll revealed that 56 percent of respondents had experienced an increase in their credit-card interest rates in the last three months or had received notice that their issuer planned to increase them in the near future.

Why should the small-business community's increased reliance on credit cards and worsening credit-card terms be of interest to federal regulators? Put simply, small businesses are the engine of the U.S. economy. We comprise 99.7 percent of all U.S. employer firms and more than half of all private-sector employees. Since 1989, small business has created 93.5 percent of net new jobs—that's 4,000 net new jobs every day. We are responsible for more than 50 percent of non-farm private gross domestic product. In short, what harms America's small businesses harms America's economy.

The billions of dollars generated from outlandish retroactive interest rates hikes, the escalating imposition of undisclosed fees, and unilateral and unforeseen interest-rate increases is money diverted from economic development. For small-business owners, such as myself, it means less money to advertise or invest in new equipment or hire new employees. A third of small- and mid-sized businesses say that they would hire additional employees if more capital were available to them.

Accordingly, I support the following provisions from the proposed rule:

- Ensuring a Reasonable Time to Make Payment

Credit-card companies should be prohibited from treating payments as late unless consumers have been provided a reasonable amount of time to make their payments. To be sure, the 21 day time period in the proposal is an improvement, but a longer period (perhaps 30 days) would be an even larger improvement.

The vagaries of the U.S. Postal System and the inconsistent mailing cycles and changing due dates of the credit-card companies create havoc for the small businesses in America that rely on credit cards to finance their operations. This inconsistency makes running a business more challenging and perilous. I also support prohibiting credit-card companies from treating payments as late if the issuer's action caused a delay in crediting a payment.

- Ensuring Fair Application of Payments

I support requiring card issuers to apply customers' payments to the card balance with the highest interest rate first. I also support the proposal prohibiting credit-card companies from denying consumers a grace period on purchases solely because they have not paid off a balance at a promotional rate.

- Restricting increases in APR

I support restricting credit-card companies from increasing the interest rate on outstanding balances unless consumers are more than 30 days late with their payment. Ideally, I would like to see ALL retroactive interest rate hikes prohibited.

Having my interest rates hiked up for products and services for which I already am committed undermines my business plans and makes running my business much more difficult.

To this end, I support the proposed requirement that when a credit-card company raises the rate for a category of new charges, consumers who carry a balance at the old interest rate would now be protected from a fee for carrying a balance and would be given five years to pay off the balance at the old interest rate.

I also support the restriction that when a low promotional interest rate, such as a balance transfer rate, is lost, then the new rate would be only the regular interest rate instead of a much higher penalty interest rate.

- Restraining unfair over-limit fees

I support prohibiting credit-card company from assessing fees if consumers exceed their credit limits solely due to holds placed on the available credit by the card issuers. Card holders should not be liable for over-limit fees due to the manipulatable processing methods of their credit-card companies.

- Eliminating double-cycle billing

I support the proposed provision that would prohibit a credit-card company from reaching back to an earlier billing cycle when calculating the amount of interest charged in the current cycle.

- Improving firm offers of credit

I support requiring credit-card companies to describe only those interest rates and credit limits that the consumers are likely to receive and not merely the whole spectrum of only-theoretically-possible offers. If credit-card companies can use our credit scores and record to screen us as potential consumers, then it can use them to give us a realistic sense of what interest rates we might be eligible for.

As a small-business owner dependent on credit-card use, it is harmful for me to apply for a card and later learn that I will not receive the interest rate I was seemingly promised, as it affects my credit rating and impedes my ability to qualify for other cards.

Additional Reforms Needed

In addition to the aforementioned provisions, I think the following credit-card reforms should be included in the proposed rule:

- Prohibiting the practice of universal default

While many card issuers voluntarily have suspended this practice, a voluntary suspension is an insufficient response to this grossly unfair practice and its prohibition needs to be codified.

- Limiting the interest rate percentages increases that card issuers can impose on holders

It is unacceptable and grossly unfair for small-business owners to have their interest rates jump to the average default rate of 27.3 percent because of one late payment or because they slightly exceeded their credit limit; small firms reliant on credit cards already pay more than twice the interest rate that large firms pay when borrowing at the prime rate.

- Prohibiting the ability of card issuers to unilaterally alter the terms of consumers' credit-card contracts at "any time for any reason

One of the basic tenets of free-market capitalism is the sanctity and insolubility of contracts, but somehow the credit-card industry has managed to insulate itself from adherence to this principle; this must change.

- Prohibiting interest charges on transaction fees

Credit-card transaction fees do not represent a line of credit. They are surcharges incurred for utilizing particular products and services offered by the credit-card companies. Why are consumers charged interest on a fee they are paying to use a service?

- Prohibiting extra interest charges on card debt that the cardholder already paid in full

I appreciate the opportunity to weigh-in on this much-needed reform proposal and urge the Federal Reserve Board and its partner agencies to refrain from weakening the proposed rule.

Sincerely,

frboard-web-site@federalreserve.gov To regs.comments@frb.gov
v cc
07/03/2008 03:34 AM Subject Comments on Regulation AA - Unfair or Deceptive Acts or Practices [R-1314]

Date: Jul 03, 2008

Proposal: Regulation AA - Unfair or Deceptive Acts or Practices

Document ID: R-1314

Document Version: 1

Release Date: 05/02/2008

Name: Cindy L Teale

Affiliation:

Category of Affiliation:

Address: 1704 Pinecrest Avenue

City: Holmen

State: WI

Country: UNITED STATES

Zip: 54636

PostalCode:

Comments:

I support Regulation AA.

"David Jernigan"
<David.Jernigan@simmonsfirst.com>
07/28/2008 11:32 AM

To <regs.comments@frb.gov>
cc
Subject: By ELECTRONIC DELIVERY (2)
ct

By ELECTRONIC DELIVERY

July 25, 2008
Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20 and C Streets NW
Washington D.C. 20051

RE: Docket Number R-1314
Proposed Rules to Overdraft Practices

Thank you for this opportunity to comment on the above referenced proposal for changes to Overdraft Practices.

We have complied with the 2005 Interagency Guidance on Overdraft Programs and are dismayed to now read the referenced proposal and see the best practices outlined in the Guidance referred to as unfair and deceptive. We strongly object to the implication the existing best practices are either unfair or deceptive.

Our customers receive accurate and adequate disclosures explaining how the overdraft program works and the costs associated with any overdrafts. We also communicate with our customers to explain alternative means of managing overdrafts, such as linking to another account or line of credit. Of course, the customer currently has the option of opting out of the overdraft program.

It has been our experience that customers who use the overdraft program recognize the value associated with the program and express appreciation that the program is available. These customers understand, and accept, the costs associated with an overdraft. These customers also are well aware of the costs associated with NSF checks being returned to the merchant – including the real possibility of being subjected to civil/criminal prosecution for violating hot check laws. In reality, there are some customers who demonstrate an inability to manage a checking account - with or without overdraft protection. In such instances, additional regulatory requirements in the guise of consumer protection will not benefit the consumer or the banking industry.

The proposed rules include a “partial opt-out” requirement for point of sale and ATM transactions. Our data processing system does not presently support the proposed rule. Imposing this requirement will result in costly technology upgrades as well as add complexity for the consumers’ understanding of overdraft programs. Imposing such a rule will have the effect of generating additional paper item overdrafts for customers who are intent on abusing overdraft programs and result in removing “overdraft embarrassment protection” for consumers who infrequently overdraw their account.

The proposed rules regarding order of transaction clearing and the specific proposals for debit holds are alarming. There are valid business justifications for selection of the order of clearing items presented through payment channels. There are different risks associated with the respective payment channels and selection of the clearing order should remain at the discretion of the customer’s bank. In the final analysis, a customer has to accept responsibility for balancing their account and not relying upon check float to avoid overdrafts. It is not realistic to expect banks to offer customers “multiple choice” clearing alternatives.

The issue of debit holds is a complex and complicated process. Granted, a customer may be confused concerning how a debit hold can result in an overdraft situation. However, the bank should not be placed in the position of accepting the risk for the debit hold amount without having the opportunity to manage and price this risk.

Thank you for this opportunity to comment on this important issue.

Sincerely,

David Jernigan
Vice President / Manager - Construction Lending
14220 Cantrell Road Little Rock, AR. 72223

July 31, 2008

Jennifer J. Johnson
Secretary
Board of Governors of the
Federal Reserve System
20th St. and Constitution Avenue, NW.
Washington, DC 20551
regs.comments@federalreserve.gov

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW.
Washington, DC 20552
ATTN: OTS-2008-0004

Re: FRB Docket No. R-1314; OTS Docket No. OTS-2008-0004;
Unfair or Deceptive Acts or Practices; 73 *Federal Register* 28904;
May 19, 2008

Dear Ms. Johnson and Mr. Bowman:

Thank you for the opportunity to comment on the Proposed Rule to Reform Credit Card and Overdraft Practices under Regulation AA – Unfair or Deceptive Acts or Practices. I am the Vice President/Auditor of White Rock Bank located in Cannon Falls, MN.

It is my opinion that the proposed rule changes are not the most effective way to properly address concerns over the ability of consumers to understand the terms of their overdraft protection programs. Instead, this proposal could lead to serious unintended adverse consequences for industry operations, customer service value, and market innovation.

Overdraft programs are a product that benefit both banks and their customers, and therefore are a product in high demand. Through the development of a safe and sound overdraft program, we have been able to accommodate the needs of our customers. As with many products, overdraft protection is not without a fee. However, our customers recognize that this product provides a value, and the fee is the known price to pay for the protection.

Overdraft fees are easily avoidable and are not unfair when assessed without a formal advance opt-out notice. These fees are part of our account agreements and new customers are made aware of these fees as well as any maintenance and NSF fees when opening their accounts. They have advance knowledge of the fees and costs of accessing overdraft protection on their accounts without an additional advance opt-out notice.

Our customers understand that it is their responsibility to balance their accounts, and most regularly manage their accounts to avoid overdrafts. When they choose to utilize the overdraft protection, a fee is incurred. These fees are not “injurious” as alleged in the proposal, but instead are the price paid for a valuable bank service. Furthermore, overdraft services provide many benefits to our customers that outweigh the cost of the fees. In many instances, our customers are saved from paying merchant fees for refused items. Our customers are also able to save face

with merchants, avoiding the embarrassment and the possibility of criminal charges since intentionally writing bad checks in Minnesota is a crime.

The addition of a formal one-size-fits-all opt-out requirement is unnecessary, serving only as an additional compliance burden for the bank. It prohibits us from adapting our overdraft program to meet the needs of our individual customers. In addition, the opt-out carries with it the potential to create confusion for our customers. The existence of an opt-out notice suggests an entitlement to our customers that does not exist because the payment of overdrafts is always discretionary.

For the same reason, a partial opt-out notice for ATMs and debit cards is unnecessary. Again, it implies an entitlement to have check and ACH overdrafts paid even though our account agreements make it clear that paying an overdraft is always at the bank's discretion. A partial opt-out would effectively allow a customer to direct the bank to pay any checks drawn on the account but not any point-of-sale debit card transactions that overdraw the account.

As with a full opt-out, a partial opt-out is unnecessary as our customers are provided with this information as part of the account agreement. Overdraft services for ATM and debit card transactions are also viewed as a valued service by our customers. Many of our customers use debit cards as their primary payment method. In addition, they schedule recurring payments with their debit cards for personal expenses such as cell phone, electricity, and insurance payments. Again, our customers understand that by utilizing overdraft services, they will incur a fee.

Not only is partial opt-out unnecessary, but it is not feasible. Our technology will not allow us to differentiate between debit card transactions from ACH and checks at the customer account level. In addition, we cannot differentiate debit card point-of-sale transactions from debit card recurring payment transactions. For this reason, a partial opt-out would be too broad for many of our customers. If a customer exercises his right to a partial opt-out, an overdraft caused by a recurring debit card payment would not be paid due to our technology limitations. To update our technology to comply would not only require the cooperation of systems providers, but would come at a great financial cost to the bank. Even if this were possible, many exceptions would be necessary due to the complexity of the processing system.

I also disagree with the proposed restrictions on debit holds. Payment clearance practices, including debit holds, are complex and vary widely across the industry. For that reason, processing order varies across the industry to take advantage of system efficiencies. These systems, and the clearance order they generate, change as technological advances occur, as the payment channel mix alters to capture customer usage trends and as legal liabilities evolve. A regulation dictating the processing order would be a micro-managing disaster. Different types of items are presented for processing at different times and not always in real time, making any single rule impractical. In addition, letting the customer choose an alternative payment processing order would be absolutely impossible to manage.

Another challenge in attempting to regulate debit holds is that banks are not the only industry involved in these transactions. Merchants play a significant role in these transactions. Coordination is necessary, but introducing regulations that are only applicable to one party in the

transaction is not the most effective way to achieve change. VISA and Mastercard are reviewing these issues.

The bottom line is that banks are a business. We provide services for a fee. As with any business, our goal is to provide a quality product to meet the ever-changing needs of our customers. This proposal binds our hands, preventing us from offering in-demand products without the high cost of regulatory burden. These restrictions also stifle industry innovation and creativity. If our practices were in any manner unfair or deceptive, our customers would let us know by taking their business elsewhere. This proposal is unnecessary and only serves as a setback to the industry and our customers.

Thank you for considering my input on this important proposal. If you have any questions concerning this comment letter, do not hesitate to call me at 651.258.4430.

Sincerely,

Pauline A. Nerison
Vice President/Auditor

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

Docket No. R-1314

Dear Federal Reserve:

On June 19, 2008, I attended a "Community Focus on Credit" session in Atlanta, Georgia, co-sponsored by the Southern Christian Leadership Conference (SCLC) and the Rainbow PUSH Coalition. Our meeting was held to discuss issues related to credit, credit scoring and the proper role of government in ensuring that consumers have the ability both to access credit and improve their credit scores.

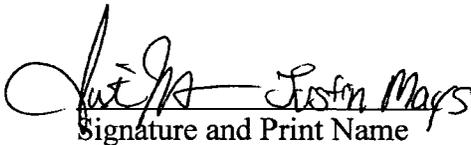
I believe that the federal government should promote public policy that supports access to credit products and financial services that meet the needs of individuals at the lower range of the credit score spectrum. The federal government should not promote provisions that will take away credit products and services without coming up with alternatives.

I am opposed to the proposed rule that that would place limits on credit card fees in connection with sub-prime credit card lending (73 Fed. Reg. 28,904, 28,923-25; May 19, 2008). The proposed rule's arbitrary fee limits would severely reduce the availability of credit for the 80 million Americans whose credit ratings are below prime. If adopted, this rule also would have a disproportionate and adverse impact on minority consumers, who historically have had difficulty obtaining access to credit.

Without the opportunity to obtain and manage credit through responsible use of a credit card, millions of Americans will be unable to positively impact their credit scores, and will remain outside of our nation's financial mainstream.

Again, I urge the Federal Reserve to withdraw the proposed fee limits because they will result in reduced access to credit for a significant number of Americans. Thank you.

Sincerely,


Signature and Print Name

8444 Cedar Creek Ridge
Street Address

Riverdale GA 30274
City/State/Zip

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
2008 JUL -1 P 4: 03
RECEIVED
OFFICE OF THE SECRETARY



First State Community Bank

201 E. Columbia • Farmington, Missouri 63640-3187

July 22, 2008

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

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
ATTN: OTS—2008—0004

To Whom It May Concern:

This comment letter is voice our opposition to the agency proposed rule on overdraft fees.

It is clear that this proposal has potentially serious adverse consequences for our bank earnings and for customer service. First State Community Bank does not promote overdraft protection, but does have several options available to requesting customers. Customers can certainly avoid overdraft fees without requiring banks to provide a specific advance notice and opt-out followed by repeated periodic opt-out reminders. Our bank currently offers overdraft options today without the burdensome compliance exercise of a formal one-size-fits-all opt-out requirement.

In addition, the proposal for a partial opt-out of ATM and debit card transactions, while retaining coverage for checks and ACH, is not technically feasible under our processing system and could not be implemented without numerous exceptions due to processing system complexity. It would adversely affect customers who use debit cards for recurring payments.

We further object to any regulatory requirements on processing order. Different types of items are presented for processing at different times, so no single rule such as low to high would be practical. Allowing individual customers the option to choose an alternative payment processing order would be absolutely impossible to manage.

Thank you for taking the time to consider our opinion.

Sincerely,

Dan Combs, Vice-President
First State Community Bank

CC: FDIC-Kansas City *Your hometown financial center.*

Member FDIC

Telephone: (573) 756-4547 • Fax: (573) 756-8311

fscb.com

220 MAIN AVENUE NORTH • P.O. BOX 516 • MAGEE, MISSISSIPPI 39111-0516
PHONE (601) 849-3311 • FAX (601) 849-6439 • www.priorityonebank.com



Our One Priority Is You.™

July 24, 2008

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

Re: FRB Docket No. R-1314; OTS Docket No. OTS-2008-0004; Unfair or Deceptive
Acts or Practices; 73 *Federal Register* 28904; May 19, 2008

Dear Ms Johnson:

I appreciate the opportunity to provide comments regarding the UDAP Proposal on
Overdraft Accommodation. We have provided this well received and popular program
for our customers for almost eight years now. There are a number of points in the
proposal that are of great concern to me and also will in many ways lower the
accommodation of service to our customers.

**Overdraft accommodation is a customer friendly practice for banks to offer that is
financially sound.**

Banks have always exercised discretion to cover overdrafts for good customers. Today
we have developed safe and sound programs that extend that accommodation to virtually
all our customers. Neither customers nor regulators should lose sight of the fact that our
program is an accommodation based on the bank's exercise of risk-based discretion.
There is no contract to pay overdrafts.

Our bank makes money on this program not because our customers go away unhappy but
because our customers see real value when the bank stands behind their payment
decision. They understand the fee is the known price to pay for that accommodation.

**Overdraft fees can be reasonably avoided and are not unfair when assessed without
a formal advance notice opt-out.**

Overdraft fees are disclosed in the account agreement and new customers are made aware
of these fees as well as any maintenance fees and NSF fees at the time the account opens.

Our customers know in advance through proper and appropriate disclosures what the rules and costs are for overdrawing an account, all without a formal opt-out notice.

Customers understand that it is their responsibility to appropriately manage and balance their account and fees provide both an incentive and a user charge when they intentionally or inadvertently fail to do so. Overdraft fees are not injurious – they are the price for bank accommodation in fulfilling a payment choice, rather than denying a transaction.

In many cases our customers avoid paying a merchant fee for refused items and avoid the embarrassment by being identified as unreliable payors by community merchants. Many of these merchants post bad checks on the wall right beside the cash register for all their customers to see just who is writing bad checks. Writing bad checks is still a crime in our state.

Customers know that by good account management, overdrafts and NSF's are avoidable – and they continue to demonstrate this. By far, the vast majority of our customers make it through the month - and do so year after year without a single overdraft. This is true for check writers as well as debit card users.

Customers who overdraw periodically are aware of the consequences of their conduct and are acting in accordance with their preferences given that awareness. They do not need repeated notice that they can opt-out of the convenience they are choosing to accept. They currently have the option to opt-out of our existing automated program if they wish to do so by simply notifying us. The assessment of the fee is what gets their attention. We are always available, we provide one on one account counseling, we provide written notices and information on how they can avoid overdrafts and what other alternatives are available to help them manage their accounts and transaction activity.

A “partial opt-out” covering ATMs and debit cards is neither necessary, nor feasible.

Many of our customers use debit cards as their primary payment method. Many times they do not even have any paper checks tied to their account. They also schedule recurring payments with their debit cards. Our customers appreciate that we accommodate overdrafts on debit card transactions just as we do on paper checks and they understand that if they overdraw their account fees will apply regardless of how they do so.

At this time it is unknown if our technology will or even can make the distinction between debit card transactions, ACH or check transactions. In any event, it will be expensive and very time consuming to determine whether this is even an option and to put it into place. Along the same lines, our technology would certainly be unable to determine a Point of Sale debit card transaction from a recurring payment transaction. A partial opt-out for debit cards will be too broad for many customers because an

inadvertent overdraft caused by a recurring debit card payment may not be paid for someone who exercised a “partial opt-out”.

Offering a “partial opt-out” for debit cards will confuse customers that somehow they will be entitled to have a check and ACH overdrafts paid even though our account agreements make it clear that paying any overdrafts is always at the discretion of the bank and there is no contractual obligation to do so.

In any notice required under Regulation DD the language used must not confuse the customers into thinking that overdraft accommodation is a contractual obligation of the bank to provide, rather than being the exercise of bank discretion.

Payment clearance practices, whether for debit holds or payment items generally, are complex and vary widely across the industry. They are driven by system efficiency and sound risk management and do not constitute unfairness to customers.

Merchant and bank practices on debit holds are uncertain at best. Many merchants in the hospitality industry alert customers that holds may be put on accounts if they use a debit card at check in. Likewise gasoline purchases at the pump generally place higher holds on the card for a period of time rather than the actual purchase. There is virtually no way for the bank to know what the actual purchase is vs. the hold placed on the account by the merchant.

Restricting when banks can charge fees for overdrafts caused by debit card authorizations changes the nature of the risk management decision for banks because it impacts whether the banks will be properly compensated for intermediate transactions that settle “out of funds” while the authorized transaction is in transit. This is a significant countervailing safety and soundness benefit to the assertion that overdrafts caused by holds are unfair.

Overdraft fees are calculated based upon a clearly disclosed payment order - at the time the account is opened as well as at other times when our fee schedule is updated. It is not feasible for customers to vary the clearance process and determine the order transactions are paid in which they choose different methods. This would lead to confusion on the customer’s part as well as the bank’s effort to provide consistent, quality service. Many of these clearance processes are too complex to explain in understandable terms in any customer disclosure.

It is concerning that we have followed regulatory guidance on overdraft programs and have never been criticized by an examiner on how we operate our program. How can this now become an unfair and/or deceptive practice? In the litigious society we live in it is unreasonable to say we participated in an unfair and/or deceptive practice when we followed all the rules set forth. We are concerned that we can be sued for unfair practices when we, in fact, have followed prevailing industry practice.

In summary, providing overdraft accommodation is not an injury but a benefit and is reasonably avoidable by customers exercising normal care. Our accommodation programs are successful because the benefits outweigh the disadvantages and they are sustainable because people want the bank to recognize that when they inadvertently overdraw their account they can be trusted to make it right. Enacting this regulation is and will have a negative impact on the customer base that can least afford to lose the opportunity to have help when most needed.

I trust that this regulation will not be enacted and you can look at it from a more balanced and measured perspective.

Sincerely,

A handwritten signature in black ink, appearing to be 'R. Barnes', with a long, sweeping horizontal line extending to the right across the signature.

Robert J. Barnes
Division President
& Chief Lending Officer

I am opposed to the proposed rules in Docket No. R-1314, specifically, Section 227.27.

In these challenging economic times, we need to increase access to credit for credit-challenged consumers, not make getting credit more difficult.

I encourage you to reconsider the language in Section 227.27 of the proposed rule and urge you to seek additional recommendations for protecting credit-challenged consumers, rather than denying them access to credit.

Respectfully yours,

Layton D. Johnson, Jr.

Print Name

18151 E. Valley Blvd. Spc. 61

Address

La Puente, CA 91744

City, State, Zip



HIGH POINT BANK

July 28, 2008

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

Regulation Comments, Chief Counsel's Office
Office of Thrift Supervision
Attn: OTS-2008-2004
1700 G Street, NW
Washington, DC 2055

Robert E. Feldman, Executive Secretary
Attn: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429

Re: Federal Reserve Docket No. R-1314; OTS Docket ID. OTS-2008-2004; Unfair or Deceptive Acts or Practices; May 19, 2008 Proposed Rules by the Federal Reserve System and OTS

Dear Sir or Madam:

The Board of Governors of the Federal Reserve System (Board), Office of Thrift Supervision (OTS) and National Credit Union Administration (NCUA) have proposed several amendments to Regulation AA, *Unfair or Deceptive Acts or Practices* and Regulation DD, *Truth In Savings*. The proposals include 1) imposing an advance opt out requirement and periodic opt out reminders 2) allowing a partial opt out of ATM and debit card transactions and 3) prohibiting overdraft fees on accounts involving debit holds.

High Point Bank & Trust Company, founded in 1905, is located in High Point, North Carolina. It is a state chartered non-member bank, with assets of approximately \$790 million. High Point Bank & Trust Company serves the cities of High Point, Jamestown, Archdale, Greensboro and Kernersville, North Carolina and the surrounding counties of Guilford, Davidson, Forsyth and Randolph. High Point Bank appreciates the opportunity to provide comments on the proposed revisions and we hope that our comments will be considered and will be helpful in composing the final rule.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
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High Point Bank & Trust Company (the Bank) does support imposing an advance opt out notice to consumers; however, the Bank does **not** support the proposed periodic opt out notices nor the additional proposed revisions listed above. These revisions will have negative impacts on our customers. The proposed revisions to allow partial opt outs and to restrict charges when a debit hold creates the overdraft are not technically feasible automated processes under our current processing system. High Point Bank takes a very conservative approach to overdraft protection services. The Bank observed the 2005 Interagency Guidance and best practices and therefore does not see how our program can now be rendered unfair and deceptive.

Imposing an Advance Opt Out Requirement and Periodic Reminders

High Point Bank & Trust Company supports the proposal to provide consumers with an advance notice and right to opt out of the Bank's overdraft protection service. High Point Bank currently provides customers with the option to opt out of our automated overdraft protection services. Providing an initial option to opt out is not too much of a burden on the Bank; however, requiring periodic reminders of a customer's right to opt out does place a burden on the Bank and creates confusion to the consumer. The proposal states that the periodic notice is to be provided "at least once during or for each periodic statement cycle in which any overdraft fee or charge is assessed to the consumer's account." Providing an opt out notice to a consumer along with the notice that they have overdraft fees on their account will create the need for educating consumers that, while they have the option to opt out going forward, the current fees charged must still be paid by the consumer. This proposal also allows the opt out at a time when the consumer may opt out simply because they are upset about their current charges; however, they are not thinking about the long term effects of their decision. The next time they overdraw their account and we return the item, are they going to be upset and embarrassed? Probably so. Are they going to pay a fee to for the returned item? Yes.

Most consumers regularly manage their accounts and avoid overdrawing them. These consumers appreciate the service on the rare occasion that they forget to write down a debit and overdraw their account. The overdraft protection service protects consumers from the embarrassment of having items returned unpaid as well as the possibility of being reported to a consumer reporting agency and consumers are grateful for that.

Allowing a Partial Opt Out of ATM and Point-of-Sale Debit Card Transactions

The proposal for a partial opt out that would allow consumers to opt out of overdraft protection services on ATM and debit-card transactions will have a negative impact on banks and consumers. This proposal creates additional customer confusion and the need for customer education as well as front-line employee education. For High Point Bank as well as many other banks, allowing a partial opt out is not technically feasible with our current operating systems. This proposal also creates an additional burden on the Bank to implement an effective opt out system that will differentiate between a partial opt out and a full opt out.

In today's environment, payment systems are complex. A consumer may write a check; however, the transaction could be processed as an ACH entry. Therefore, consumers do not always know how their transaction will be ultimately paid. There are times when the Bank cannot avoid paying an ATM or point-of-sale debit card transaction that overdraws a consumer's

account regardless of the consumer's option to opt out of overdraft protection services. In these situations, the customer is in the best position to determine their account status and whether or not the transaction would overdraw their account. If they make the decision to proceed with the transaction and the bank has no opportunity to prevent or return the transaction, then the bank should be allowed to charge a fee.

Debit Holds

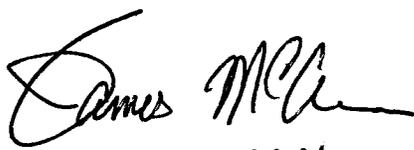
The proposal states that a Bank cannot assess a fee or charge on a consumer's account in connection with an overdraft service if an overdraft would not have occurred had there not been a hold placed on funds in the consumer's account that exceeds the actual purchase or transaction amount. This problem is beyond the control of the bank and I see no logical explanation for this being an unfair and deceptive act on the bank's behalf. The bank can only rely on the information it is furnished from the merchant and is only acting in a safe and sound manner to mitigate risk and ensure that when the transaction is processed, the funds will be available to pay the transaction. The bank has no idea the dollar amount of the actual transaction until it is processed. At that time, the hold will be released and any additional funds that were being held will be available to the consumer.

The process of tracking overdrafts to determine if they were caused by a debit hold in excess of the transaction amount would be a very burdensome and manual task or would require a complex system that we do not currently have in place. The bank would have to adjust accounts and reimburse charges after the transaction posts to the account. This manual process will more than likely be cost prohibitive. This requirement will cause banks to question placing holds, which I then believe creates risk and safety and soundness concerns for banks.

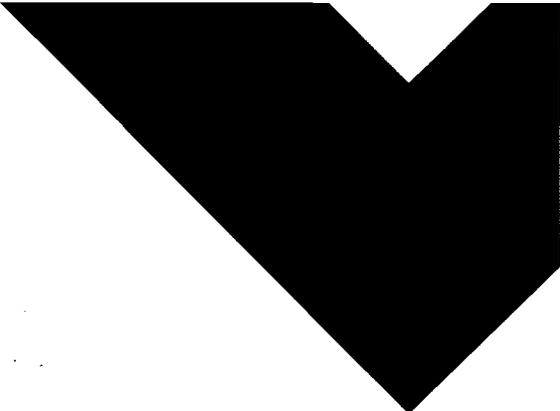
Conclusion

The proposals for changes to Regulation AA and Regulation DD discussed above will have a large impact on the banking industry. These proposals may benefit a very small group of consumers who consistently overdraw their accounts and do not manage their accounts properly. However, the proposals will have negative impacts on the large majority of consumers that rely on overdraft protection in the very rare instances that they overdraw their accounts. This service offers these customers the comfort of knowing that they will not be embarrassed by returned items. High Point Bank appreciates the opportunity to comment on the proposals. We hope that the Agencies will consider our comments and, for those banks that are observing the 2005 Interagency Guidance, no changes in policy or procedure will be necessary.

Sincerely,


JAMES MCABEE

High Point Bank & Trust Company



July 28, 2008

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

Re: FRB Docket No. R-1314; OTS Docket No. OTS-2008-0004; Unfair or Deceptive Acts or Practices; *Federal Register* 28904; May 19, 2008

To the Board of Governors:

This response to your request for comment on proposed regulations on overdraft protection programs is based upon Fidelity Bank's experience as a \$400 million mutual bank in central Massachusetts. As recently as eight years ago the Bank enforced a strict non-payment overdraft policy, and on a weekly basis we would receive criticism from customers for not allowing overdrawn balances on credit-worthy accounts. We began relaxing that policy on an account-by account basis, but that process remained arbitrary and resulted in customer dissatisfaction. Over three years ago we instituted a formal overdraft protection program based upon Strunk & Associates recommendations. Since its inception, our customers' enthusiastic acceptance of this program has demonstrated that they see true value in this service. Our Bank has a very low opt-out rate, and we receive letters of gratitude from customers for saving them the embarrassment of non-payment of transactions as well as preventing them from incurring returned check fees.

The value to the Bank of this program is in providing a clear, non-arbitrary policy and procedure for addressing an on-going need for our customers. With so many ways to access their funds, whether by check or ACH or debit card or internet payment, our customers tell us that their lifestyles makes it difficult for them to keep a daily tally of their account balances. They rely on the overdraft protection program to keep them out of trouble, and they are willing to pay the \$25 service fee for that value.

Our Bank is pro-active in ensuring that this program remains a benefit to our customers. We have adopted the 2005 interagency guidance for overdraft protection programs. If we observe that a customer is misusing the program, we counsel them on how to responsibly manage a checking account, and will terminate their participation in the program if the misuse continues. Customer service employees are given liberal authority to rebate overdraft fees when they believe a customer has misunderstood the program. This self-regulation has worked and we continue to receive strong support from our customers for this service. Our customers who do not see value in that service can easily opt-out, and have done so without any loss of the other values offered by our checking accounts. We strongly disagree with any characterization of overdraft protection plans as unfair or deceptive business practices, and do not see the need for further consumer regulation of this product. Thank you for your consideration of our comments.

Sincerely,

Michael D. Hewitt
Executive Vice President & COO

FITCHBURG GARDNER LEOMINSTER MILLBURY SHIRLEY WORCESTER

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July 31, 2008

Jennifer J. Johnson
Secretary
Board of Governors of the Federal
Reserve System
20th St. and Constitution Avenue, NW.
Washington, DC 20551
regs.comments@federalreserve.gov

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
ATTN: OTS-2008-0004

Re: BOARD Docket No. R-1314; OTS Docket No. OTS-2008-0004;
Unfair or Deceptive Acts or Practices; 73 *Federal Register* 28904;
May 19, 2008 (UDAP Proposal)

Ladies and Gentlemen:

I am writing on behalf of EvergreenBank to share our views regarding issues in the Proposal.

To begin, I find it most troubling that the analytical underpinnings of the proposal's assertion is that customers cannot be expected to know with perfect certainty their precise account balance at all times and consequently should be absolved from responsibility for managing their accounts or conducting their transactions. This premise is anathema to the fundamental assignment of responsibilities that have been established by federal and state payments law.

The banking industry has always exercised discretion to cover overdrafts for good customers. Today, banks have developed safe and sound programs that extend this discretionary accommodation to the vast majority of our customers. Bank overdraft accommodation practices are successful because they provide desirable back-up for customer payment decisions, and they are sustainable because people want the bank to recognize that when they inadvertently overdraw their account they can be trusted to make it right and are prepared to pay for the bank's accommodation.

Right to opt out of overdraft services/other concerns

- The Proposal asserts that "*overdraft services are unfair if consumers do not have a reasonable opportunity to "opt out"*". Also under the Proposal the government would have the authority to "*prohibit banks from charging fees unless the consumer has an*

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(206) 749-7300 or (800) 331-7922
www.EvergreenBank.com

Green means better.

opportunity to opt out". Under Regulation DD financial institutions are required to provide account disclosures to every consumer. These disclosures state the bank's right to pay or not pay an item drawn on insufficient funds and the associated fees. In addition, (our) overdraft protection program disclosures that are also given to the consumer at the time of account opening include an "opt out" provision from the OD program. We believe that since the consumer is informed at the time of account opening what the bank's policy and fees are related to overdrawing an account that the consumer has been given a reasonable opportunity to opt out. The consumer has a choice whether or not to open an account and whether or not to overdraw their account. If the consumer, after being given this reasonable opportunity to opt out, chooses to overdraw their account then they should be held responsible for that decision.

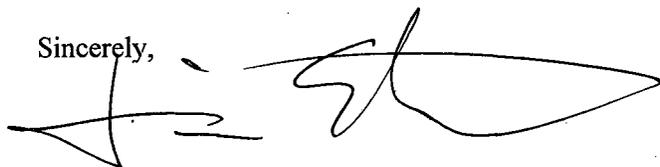
- The Proposal asserts that "*consumers suffer monetary harm by paying a fee for a service that, without an opt-out, they cannot reasonably avoid and that is not outweighed by countervailing benefits to consumers*" is grossly inaccurate. Consumers are notified (see bullet point above) in advance that debits may/may not be paid and a fee assessed; therefore taking the risk of being charged if they overdraw their account. Again, a choice made by the informed consumer. Secondly, it is more costly to the consumer to have their (payment) returned to the merchant as they will also incur a return item fee from the merchant and possible collection fees as many merchants now have returned payments sent directly to 3rd party collectors.
- The agencies are asking whether they should consider requiring banks to pay small dollar items before large dollar items allowing consumers to "opt in" to an alternative clearing process by the bank. The proposal also requires banks to provide a "partial opt out" to consumers where they are allowed to choose to have certain transactions paid and certain others declined. Absolutely NOT on both issues! Most bank systems are set up at the global level – not at the individual consumer account level. If consumers were allowed to pick and choose how and when they wanted their debits paid it would deteriorate the integrity of the banking system, not to mention creating a huge administrative nightmare and cost for banks.

Balance inquiries

- Our bank is already following the Proposal's requirements as we feel this is the right thing to do.

The majority of requirements in the Proposal would place undue burden on and significant cost to financial institutions. Don't make it onerous to the banks by removing the discretionary accommodations as it would be much easier for financial institutions to simply return any and all insufficient funds items on consumers' accounts. We don't believe this is in the best interest of the consumer or the banking industry.

Sincerely,



Jim Storvick
Senior Vice President, Relationship Manager Team Leader
EvergreenBank