

July 21, 2004

Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue NW  
Washington, D C 20551



Re: Regulation DD Comment; Docket No. R-1197

Dear Ms. Johnson,

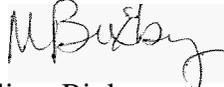
We appreciate the opportunity to provide comment on the proposed amendments to Regulation DD issued by the Board of Governors of the Federal Reserve System. Our comments on the Proposal are outlined below.

- I. The proposal states that “bounced check protection is an automated service that is sometimes provided to deposit account holders as an alternative to a traditional line of credit”. We would disagree as almost every financial institution in the country offers, and always has offered, a discretionary overdraft service. As a community bank, we have always provided for overdrafts based on knowledge of our customers and have established an internal set of standards designed to facilitate the payment of overdrafts. It is our opinion that discretionary overdraft programs have no connection to a line of credit nor do they provide an alternative.
- II. Even if a financial institution has the ability to “automate” this service, it is still discretionary and all financial institutions will be affected by regulatory changes. Therefore, the agencies are cautioned to make changes that can be managed by the smallest financial institutions as well as the largest.
- III. We do not believe that a discretionary overdraft program, whether in-house or based on a vendor program, encourages irresponsible behavior on the part of the consumer. The American consumer has written checks in excess of their account balance for as long as banks have been in business. A discretionary program, rewards customers for their banking relationship and sound financial practices as the overdrafts are paid based a set of circumstances unique to the customer. A well-managed program will take into account a consumer’s financial problems and will avoid most customers from becoming overdrawn beyond their ability to repay.
- IV. We believe that consumers are given ample disclosure to fully understand the cost of writing insufficient checks. As required under various banking regulations, consumers are notified of fees when an account is opened, in account brochures, on periodic statements and in per-occurrence notices. To require financial institutions to alter their periodic statements to provide additional information would be burdensome, especially to community banks that have outsourced data processing.
- V. We agree that under TISA financial institutions should define which items overdraft fees may be imposed on. We further agree that discretionary programs should never be referred to as a “line of credit”. Further consumers should always be given information that clearly describes the services as solely discretionary.

VI. We do not agree that financial institutions should have to notify the consumer of all “circumstances under which the institution would not pay an overdraft.” To do so would be contrary to the term “discretionary” and would imply an “agreement” to which overdrafts “would” be paid, creating an entirely different overdraft management process than is currently in place in most community banks. We agree that a general description is acceptable.

As a community bank, we appreciate the opportunity to provide comments on this very important topic.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Bixby", is written over a light gray rectangular background.

Melissa Bixby  
Business Banking Officer  
First Bank Kansas