

Commerce Bancshares, Inc.
Compliance Department, TB12-1
922 Walnut; P.O. Box 13686
Kansas City, MO 64199-3686

August 5, 2004

Docket Number: R-1197

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

via e-mail to:
regs.comments@federalreserve.gov

Dear Madam:

Commerce Bancshares, Inc. is a registered bank holding company with total assets of \$14.4 billion at June 30, 2004, and four bank subsidiaries. Three of these banks are full-service banks, with approximately 200 branch locations in Missouri, Illinois, and Kansas. The other bank is a limited-purpose bank, with one office in Omaha, Nebraska. All of the banks are national banks.

The Federal Reserve has asked for comments regarding the proposed amendments to Regulation DD and the regulation's official staff commentary. We would respectfully ask that the Board define an "overdraft protection program", which is a product and "automated overdraft protection", which is an automated version of a service that has historically been offered by financial institutions.

For many years, Commerce bank handled the review of overdrafts as a manual process. Staff members were required to review each overdrawn account and decide whether or not the item(s) that precipitated the overdraft should be paid or returned. In order to best utilize staff resources, lower costs and provide a more objective review of items, this procedure was automated. Our research shows that the automated system pays only five percent more items than were paid when the accounts were reviewed manually. This small percentage indicates that we have been successful in making the process more efficient for the institution.

As a part of the automation process, each account is evaluated and assigned a "courtesy overdraft amount". We do not include the amount in the customer's available balance, the "courtesy overdraft" is in no way advertised, staff members are trained not to discuss it, and it is doubtful that any customer knows what the set amount is for their account. The sole purpose of the courtesy amount is to aid in the automation process. The bank has no interest in promoting irresponsible behavior.

The distinction between a product and a service that has been automated is very important, because the proposal appears to indicate that both overdraft products and services would be subject to the new amendments. To place the proposed burdens on institutions that have chosen to automate their overdraft service is surely not the intent of the Board.

We are also concerned about the proposal to require institutions to show overdraft and returned item fees on an aggregate basis for the statement period as well as on a year-to-date basis. When an overdraft occurs, we send the customer, via first class mail, a notice that includes the following information:

- Number of items that were paid or returned
- Total dollar amount paid or returned
- Total amount of fees charged to the account
- Account balance at the time the item was presented
- Check number of any item returned or paid
- Dollar amount of each item
- Statement of whether the item was paid or returned

The notice is most usually mailed the day an item has been presented for payment. Commerce Bank has done this for many years out of courtesy to our customers. In addition, overdraft and returned item fees are disclosed as separate items on the statement. We feel this provides sufficient notice to the customer when the institution is providing an overdraft protection “service” and not an overdraft protection “product”.

If the statement changes are mandated by regulation, the financial institution could incur significant costs for systems programming and testing. This directive would also come at a time when many financial institutions, including Commerce Bank, are working to automate our customer identification procedures. Because of increased pressure from Federal regulators to ensure 100% compliance, this project has top priority and IT resources would not be available to complete the proposed task for some time. The proposal is especially burdensome when one considers that the aggregate amount charged during the statement period as well as year-to-date totals could be easily ascertained by the disclosures currently given. Overall, this is a large burden for any institution to bear, and we would respectfully request this part of the proposal be withdrawn. In the alternative, should the Board wish to emphasize the cost of utilizing an overdraft protection “product”, and not an overdraft protection “service”, it may be advantageous to require institutions promoting a “product” disclose the cost of usage.

Thank you for providing the opportunity to comment.

Sincerely,

Charles Kim
Executive Vice President