



August 6, 2004

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street & Constitution Avenue, N.W.
Washington, D.C. 20551
[Regulation DD; Docket No.R-1197]

Re: Truth in Savings Proposed Rule
69 FR 31760 (June 7, 2004)

Dear Ms. Johnson:

Commercial Federal Bank (CFB) welcomes the opportunity to comment on the proposed rule by the Board of Governors of the Federal Reserve System (the "Board"), which would amend the Truth in Savings Act ("TISA") implementing regulations ("Regulation DD") to address concerns regarding the uniformity and adequacy of information provided to consumers when they overdraw their accounts.

CFB, headquartered in Omaha, Nebraska is a federally chartered thrift with approximately \$12 billion in assets with 193 locations in Nebraska, Iowa, Colorado, Missouri, Kansas, Oklahoma and Arizona.

CFB's Position

As an initial matter, CFB would like to affirm the Board's view that, except for specifically designated credit products, overdraft protection services should continue to fall outside the scope of coverage of the Truth in Lending Act and Regulation Z. We believe that, with some modification, the Board's proposed amendments to Regulation DD, together with some aspects of the proposed Interagency guidance on overdraft protection, adequately speak to the concerns raised.

CFB seeks to reduce regulatory burdens whenever possible. At the same time, we support efforts to inform and educate consumers, helping them improve their financial literacy. While we are concerned that the Board is seeking to add new regulatory requirements, even as it seeks opportunities to reduce regulatory burdens elsewhere, we believe the proposed amendments to Regulation DD, with some modification, can help existing clients and consumers better understand overdraft protection and its costs. This better enables consumers to use such services responsibly.

CFB supports the view that informed customers make better financial decisions and manage their finances more effectively. Accordingly, we support the proposed revision of the defined term, "advertisement" to include communications with existing customers for some purposes, including fees associated with overdraft protection services or features.

Although CFB is generally supportive of the proposed rule, CFB urges the Board to consider some specific revisions in order to avoid unnecessary client confusion and additional costs for financial institutions without any likely corresponding benefit for consumers.

First, while CFB supports the view that financial institutions should clearly disclose the full extent of fees associated with overdraft protection and returned items, we do not believe the proposed amendments to

section 230.6 (Periodic Statement Disclosures) should mandate disclosing such fees on an aggregate basis for the statement period and calendar year. Section 230.6 already requires that periodic statements include required fee disclosures, itemized by type and dollar amount. In adding a specific aggregation requirement, customers will not gain any significant improvement in useful information. Currently clients can review periodic statements to confirm the total amount of fees associated with overdraft protection for the statement period or the year. At the same time, the proposed requirement will cause financial institutions to incur additional operational, programming and other costs associated with implementing such a change. We encourage the Board to eliminate this specific proposed requirement from any final rule.

Second, the Board's proposal would revise official staff comment 8(f)-2 regarding section 230.8 (Advertising) to require that disclosures include a description of the circumstances under which the institution would not pay an overdraft. Although CFB understands the intent underlying this proposed change, we believe adding this required disclosure could give rise to an unreasonable expectation that a "safe harbor" for overdraft protection exists when, in fact, none does. Unless specifically agreed to, the decision to honor an overdraft remains discretionary and will depend upon a variety of circumstances, including some outside the control of the financial institution, such as instances when deposit items have been returned. We encourage the Board to modify this aspect of the proposed rule to simply require that advertising should include a clear and accurate disclosure of the discretionary nature of the overdraft protection service.

Finally, CFB requests that the Board provide for a reasonable compliance date for any final revisions to Regulation DD that may be issued. This will provide financial institutions a sufficient time period within which to implement any final changes.

Conclusion

CFB appreciates the opportunity to comment on this important matter. Please contact me at 402-554-9296 or via e-mail at GaryFillman@CommercialFed.com if you have any questions.

Sincerely,

Gary R Fillman
Compliance Manager
Commercial Federal Bank