



July 18, 2008

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

Re: Docket No. R-1315

Dear Ms. Johnson:

The Conference of State Bank Supervisors (CSBS) appreciates the opportunity to submit a comment in response to proposed revisions to Regulation DD, which implements the Truth in Savings Act. The proposed amendments would set forth content and timing requirements for a notice to consumers about the right to opt out of an institution's overdraft service.

Overdraft services have provided a method for institutions to provide consumers access to funding to address cash flow needs. To date, regulators have largely allowed the market to develop with limited intervention.¹ Unfortunately, the practices of a few have made specific regulation necessary. CSBS believes it is possible to provide reasonable protection for consumers while retaining the viability of the products. Banks must have the freedom and flexibility to manage their risks while meeting the legitimate needs of their consumers.

While CSBS is overwhelmingly supportive of the Federal Reserve Board's proposal to require institutions to inform a consumer of the right to opt out of the institution's payment of overdrafts, we do have specific comments on several of the Board's proposed amendments to Regulation DD.

The proposed Sample Form B-10, which will facilitate compliance by providing institutions a model form to satisfy the disclosure obligations under the proposal, appears to be very useful for consumers. The form provides specific information regarding fees associated with the overdraft program that will be beneficial for consumers. However, the notice of the consumer's right to opt-out of the overdraft service should be made more prominent, perhaps by utilizing bold font. CSBS supports the Board's decision to conduct consumer testing of the proposed disclosure and proposed sample forms. While consumer

¹ See Interagency Guidance on Overdraft Protection Programs (Feb. 24, 2005), OTS Guidance on Overdraft Protection Programs (Feb. 18, 2005), and final revisions to Regulation DD made on May 24, 2005 (70 FR 29582).

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testing may slow implementation of the amendments of Regulation DD when finalized, we believe it is worth any possible delay to ensure the disclosures and forms are comprehensible and useful to consumers.

CSBS is also supportive of the Board's proposal to require an institution to state whether it offers any alternatives for the payment of overdrafts. Since an alternative to the overdraft service may be less costly than the overdraft service, this requirement will be very beneficial to consumers.

We concur with the Board's proposal requiring institutions to disclose any limits on the amount of overdraft fees or charges which may be assessed. If there is no specific limit established by the institution, this fact must be disclosed as well. We believe full disclosure and transparency improves consumer protection, enhances consumer choice, and helps to mitigate the legal and reputational risk of the institution.

Finally, CSBS supports the proposed requirement that the opt-out notice must initially be provided before the overdraft service is provided and overdraft fees are imposed on the consumer's account. Under the proposal, institutions are also required to provide consumers notice of the right to opt out on each periodic statement reflecting the assessment of any overdraft fee or charge. We believe this subsequent opt-out notice occurs at a critical time when the consumer is faced with the actual cost of these services, empowering them to make the choice best suited for their situation and needs. We believe financial institutions should consider the best practice of promptly notifying consumers of overdraft protection program usage each time the service is used, as referenced in the interagency guidance.

Thank you for the opportunity to comment.

Best regards,

A handwritten signature in black ink, appearing to read "Neil Milner". The signature is written in a cursive, flowing style.

Neil Milner
President & CEO