



Ms. Jennifer C. Johnson, Secretary
Board of Governors of the Federal Reserve System
20 & C streets, NW
Washington, D.C. 20051

Re: Docket # R-1315
Proposed changes to Regulation DD; Truth in Savings Act
73 Federal Register 28739, 19 May 2008

First United Bank & Trust is pleased to submit its comments to the Federal Reserve Board's proposed amendment to Regulation DD, which implements the Truth in Savings Act.

Our comments to the Regulation DD proposal focus on the content of the opt-out notice and the importance of providing complete information. Customers need to understand the types of transactions that may cause an overdraft and which transaction will not be paid if they opt out. Customers should be aware of potential charges when items are returned unpaid, including fees imposed by the merchant. While customers need to be aware of alternatives to avoid overdraft fees, the regulatory notice assumes certain alternatives are enhanced or less expensive.

The effect of the proposal would be regulation for a traditional bank practice familiar to customers that has simply evolved with checking accounts. Banks originally paid only check overdrafts when those were the only means of payment. As other channels evolved, such as the automated clearinghouse ("ACH"), customers quickly learned that transactions made through those new channels may be paid when there are insufficient funds as part of that traditional practice. The term "overdraft services" suggests that the product is separate from this traditional practice.

Banks should be able to inform their customers completely and accurately of the consequences of opting out, so as not to cause misunderstanding and confusion. Most customers are glad their payments are covered. The proposed model language and proposed regulation's limits are deficient and unfair.

It is important that customers understand that not only will they incur a fee from the bank, but they are likely to incur a fee or other charges from the person they are paying. The model language does not make this fact clear.

In certain circumstances, customers may incur a bank fee from a debit card transaction that is returned. There are occasions when a debit card transaction will be presented without prior approval; some merchants do not request authorization for certain transactions. The bank typically has the option to return such transactions if there are insufficient funds in the account, though it may have to pay a network fee to do so. The bank may choose to pass that fee on to the customer.

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First United appreciates the chance to comment on this important matter. It is extremely important to ensure that customers understand the types of transactions that may cause an overdraft and which transactions will not be paid if they opt out. In addition, customers should be aware of the consequences of having payments returned or rejected, including the imposition of fees by the merchant. Finally, the opt-out notice should not presume that certain alternatives to avoid overdraft fees are superior or less costly.

Sincerely,

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