



By electronic delivery

July 28, 2008

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

Re: FRB Docket No. R-1314; OTS Docket No. OTS-2008-0004;
Unfair or Deceptive Acts or Practices; 73 *Federal Register* 28904;
May 19, 2008

Thank you for considering my comments on the proposed rules on overdrafts. Security National Bank of Omaha is a \$550 million community bank.

I. Overdraft Accommodation is a Customer Friendly Practice

Paying overdrafts is a customer friendly, financially sound, practice in our bank. We exercise discretion in covering overdrafts for accounts that are generally handled in a satisfactory manner by the customer. We do not have a signed contract with customers to pay overdrafts.

Customers recognize there is value when the bank pays an overdraft. Customers do not want to pay a fee to the bank for a check rejected for payment as well as a charge from the merchant for the returned check. Our customers are saved from being identified as unreliable payors by local merchants when the bank decides to pay overdrafts. Writing bad checks is still a crime in our state.

Fees for covering overdrafts are in the account agreement and new customers are made aware of these fees as well as any maintenance fees and NSF fees at account opening. In other words, they know in advance what the rules and the costs are for overdrawing an account—all without a formal opt-out notice.

Customers understand that it is their responsibility to balance their accounts—and the fees provide both an incentive to do so and a user charge when they inadvertently fail to do so. Overdraft fees are not injurious—they are the price for bank accommodation in fulfilling a payment choice, rather than denying a transaction.

Customers are aware that overdraft charges can be avoided by good account management on their part. Many of our customers are adept at managing their bank accounts and have never had to pay an overdraft charge.

Customers who overdraw periodically are aware of the associated fee and do not need repeated notice that they can opt-out of the convenience they are choosing to accept—assessment of the fee is what gets their attention.

II. A “partial opt-out” covering ATMs and debit cards is neither necessary, nor feasible.

Many of our customers use debit cards as their primary payment method, often carrying no other payment means. In addition they schedule recurring payments with their debit card. These customers appreciate that we accommodate overdrafts on debit card transactions and understand that fees will apply.

Our present software will not allow us to differentiate debit card transactions from ACH or check at the customer account level—meaning that all we can really offer a customer is an all or nothing choice.

Our technology will not allow us to differentiate debit card Point-of-Sale transactions from debit card recurring payment (or card-not-present) transactions covering items such as cell phone bills, other utility obligations, insurance premium payments, etc. We can block transactions by merchant code, but then the customer wouldn't be able to use their debit card at that merchant at all.

Affording a “partial opt-out” for debit cards may confuse customers that somehow they will be entitled to have check and ACH overdrafts paid even though our account agreements make it clear that paying any overdrafts is always up to the discretion of the bank—and there is no contractual obligation to do so.

Our bank does not offer customers the option of opting out of an ATM transaction if it would cause the account to go into insufficient funds status. This practice does not appear to be an issue with our customers.

III. Payment Clearance Practices

Whether for debit holds or the payment order of items, this issue is complex and varies widely across the industry. Bank practices but are driven by system efficiency and sound risk management and do not constitute unfairness to customers.

Debit holds placed by merchants do not cause our bank to charge overdraft fees to customers because the holds are a memo post item. The only negative effect it has on the customer is it reduces the available funds in their account. When the debit actually posts to the account and if it overdrafts the customer we would have to pay the item because we can't return ATM or POS transactions for NSF.

Overdraft fees are calculated based on clearing systems designed to provide payment processing efficiencies that reflect technical capabilities and the varied risks banks face

for handling different payment channels. These systems, and the clearance order they generate, change as technological advances occur, as payment channel mix alters to capture customer usage trends and as legal liabilities evolve. They are not manipulated to generate overdraft fees. It would be impossible to give individual customers the right to alter the bank's clearance process.

Our software allows the following payment order options: high to low amount, low to high amount, and check number order. Fees are based on the payment order chosen, but one method can not be used to determine items to pay, while using a different method to assess overdraft fees.

Conclusion

Providing overdraft accommodation is not an injury but a benefit and is reasonably avoidable by customers exercising normal care. A partial opt-out regarding payment of overdrafts is not feasible due to software restrictions and due to the complexity in disclosures that would be required.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Landen', with a long horizontal flourish extending to the right.

James E. Landen
President