OSLSA
Ohio State Legal Services Association

555 Buttles Avenue
Columbus, OH 43215-1137
614.221.7201, ext. 124
800.589.5888
614.221.7625, Fax

lcook@oslsa.org
http://www.ohiolegalservices.org

July 18, 2008

Board of Governors of the Federal Reserve System
20th Street and Constitution Ave, NW
Washington, DC 20551

RE: Docket No. R-1315, Proposed Rule to Amend Regulation DD and Docket No. R-1314, Proposed Rule to Amend Regulation AA

To the Board of Governors of the Federal Reserve System,

Ohio State Legal Services Association (OSLSA) hereby submits the following comments in response to the request by the Board of Governors of the Federal Reserve System for public comment on proposed amendments to Regulations AA and DD, which regulate unfair or deceptive acts and establish the Truth in Savings Act, as published in the Federal Register (May 19, 2008 at Vol. 73, No. 97, pages 28739 – 28751, 28904-28964).

We support the proposed regulations. Consumers deserve the ability to know in advance what overdraft fees may be assessed to their account and to have a reasonable opportunity to opt out of overdraft service before such a fee is assessed. Consumers further deserve to have an accurate report of their accounts upon request. Giving consumers a projected balance after the inclusion of overdraft protection is insufficient to enable consumers to make informed decisions. Lastly, consumers should not be subjected to overdraft fees due to debit card holds in excess of the actual purchase amount. The convenience for merchants and banking institutions does not exceed the monetary burden placed upon vulnerable consumers.

OSLSA provides support to legal services offices throughout Ohio. We serve many low-income clients who are struggling to stay above water. Our clients need full disclosure of overdraft fees and accurate calculating and reporting of balance information in order to make responsible and informed decisions about their financial situation. In reality, overdraft services operate as deceptive, high-interest loans that are especially burdensome to vulnerable, low-income Americans.

The proposed amendments address some of the issues involved with overdraft services and debit card holds. However, additional regulations could enable consumers to more aptly deal with these situations.

Executive Director
Thomas W. Weeks

Managing Attorney
Eugene R. King

LSC
Ohio Legal Assistance Foundation

Statewide Attorneys
Michael R. Smalz
Linda Cook
Joseph Maskovyak
Equal Justice Works Fellow
Melissa Will

1. Because banks automatically apply overdraft services, the Federal Reserve Board should ensure that the procedure to opt out of overdraft services is not too onerous to the consumer. The consumer should simply be allowed to call and decline service.

2. Banking institutions should be required to list alternative services to their overdraft service. If the goal is to give consumers the keys to informed decisions, when other options are available, simply informing of the choice between accepting overdraft services and declining them would be insufficient.

3. All notices of overdraft costs and opt out provisions should include the same information. This would not be a burdensome requirement, as exemplified by the Federal Reserve Board's sample notice form. Further, the Federal Reserve Board acknowledges that a consumer is more likely to process information following an overdraft; therefore, simply providing the necessary information at the time the account is opened with less instructive reminders at more crucial times would be insufficient to inform the consumer. The information needs to be fully provided again at the moment in which the consumer must make the opt-out decision.

4. Debit card holds are an unnecessary business tactic and should not be permitted. Businesses do not require the same from consumers paying with cash or check (even when the service is provided before the full fee is known), and the practice constitutes a hardship, especially on low-income consumers. If the Federal Reserve Board does not wish to end this practice, then it will move in the right direction by disallowing the assessment of overdraft fees on negative balances created by these holds. If overdraft fees were allowed in these instances, banking institutions would be allowed a windfall, benefiting by not reconciling hold amounts and actual purchase amounts in a timely fashion. Further, because the average consumer would not expect such a hold, to assess fees for a fictitious overdrafts would be unfair and deceptive.

In closing, OSLSA supports the proposed rules regulating overdraft services and debit card holds. Consumers are currently vulnerable due to a lack of information and underhanded practices. If the Federal Reserve Board were to ensure full disclosure and accurate account information at a time when consumers most needed it, the result would greatly benefit those struggling to make responsible financial choices.

Thank you for the opportunity to comment on the proposed rules. If you have questions, or would like additional information, please contact me.

Sincerely,

Linda Cook /MW

Linda Cook
Senior Statewide Attorney