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J. V. Martin
President – CEO &
Chairman of the Board

July 17, 2008

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

RE: Proposed Rules for Unfair or Deceptive Acts or Practices

Dear Ms. Johnson,

This is to express our concern that the proposed rules on unfair or deceptive acts or practices with respect to deposit account overdrafts and the proposed regulations under the Truth in Saving Act on deposit account overdrafts that were issued on May 19, 2008. The proposed rules will have a significant adverse effect on our institution and will not provide additional benefits to our customers. In the past, federal agency guidance and regulatory changes have helped to improve our overdraft service as an important service to our account holders. In light of the positive impact of these prior regulatory changes, and our concern about the current proposals, we appreciate this opportunity to provide comment on these proposals.

Proposed Changes to Reg AA Subpart D – Overdraft Service Practices (or Proposed Changes to 12 CFR Part 535 Subpart D – Overdraft Services)

§ 535.32 Unfair overdraft service practices. (or § 706.32 Unfair practices involving overdraft services.)

(a) Opt-out requirement. (1) General rule.

We already offer alternative overdraft protection plans as well as an opt out for consumer accounts. Activation of our service includes an announcement mailing and periodic reminder mailings. Each of these communications includes opt out language. Consumers are regularly educated about the resources available to them, including alternate sources of overdraft protection and the operational elements of our overdraft service. In the event that they do not elect to opt out before fees are assessed, we are responsive when they choose to opt out of future overdraft service usage. This process is fair to the consumer and should be expressly permitted by any final rules.

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(2) Opt out for electronic channels.
While we offer consumers the ability to opt out of the payment of overdraft fees for all types of payments as a matter of consumer choice, and we disclose this option to
consumers, we charge for returning the transaction would be equal to or higher than the charge for paying the overdraft is in any way unfair or deceptive. The consumer is simply not harmed by the payment of the overdraft. Indeed failure to pay the overdraft would ordinarily result in greater costs to the consumer.

We find consumers have been demonstrably satisfied with the access to electronic channels (ATM and debit cards) as part of the overdraft service. Analysis of our volumes indicates that the percentage of electronic items increases annually while paper debits are declining in our institution. After the issuance of the Final Guidance, we installed the ATM do not see why the offering or the failure to offer an opt out for the payment of overdrafts due to checks or ACH transactions where th "alert" functionality on our proprietary devices as it became available. As of today, electronic channel opt out is not yet possible through our technology resources.

(b) Debit holds.
Activation of overdraft service on debit holds would result in significant manual handling of all overdrafts. We believe that the operational impact of this proposed change would create excessive costs, undue staff burden and increase the possibility of bank error.

Proposed Changes to Reg DD, 12 CFR Part 230 – TRUTH IN SAVINGS
§ 230.10 Opt-out disclosure requirements for overdraft services.
(a) General Rule. (4) Limits on fees charged.
By listing the maximum amount of fees charged per day, consumers will be tempted to 'game the system' and try to time transactions debits to minimize fees. Once the daily maximum fee is incurred there may be no deterrent to incurring additional overdrafts on that day. We agree that there should be a maximum amount of fees charged per day, as recommended in the existing agency guidance. We believe that the regulators should require an internal policy at each financial institution to require that a maximum must exist for fees per day, but not disclose that maximum amount to the consumer.

(b) Notice Format and content.
Our financial institution regularly make overdraft protection services available to all new accounts and regularly promotes these services to account holders as part of our bank marketing and web media campaigns. This product line includes transfers from other accounts and lines of credit. Most of our account holders do not take advantage of these alternate sources for overdraft handling although they are attractive and less costly than our overdraft service. When asked, most account holders report that that don't intend to have overdrafts or if they have overdrawn their account, that they don't intend to do it again. It is our role as a financial institution to assist and educate our consumer account holders, but not to demand their use of these forms of overdraft protection.

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To incorporate the language "We also offer less costly overdraft payment services that you may qualify for, including a line of credit." and to follow that with the redundant comment "To opt out of our overdraft service" on the periodic statement appears to recommend that the consumer activate one of these alternate services. We believe that subjective factors, including the sense of discipline that comes from not having an overdraft line of credit are important to consumers and that we should not substitute our judgments, or the regulators judgments for the consumers own judgment when they have been offered alternatives.

We recommend that the Board remove the first sentence of the final paragraph of Sample B-10.

Thank you for the opportunity to express our comments during this period.

Sincerely,

J.V. Martin
President & CEO

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