



July 21, 2008

# NORTH SHORE BANK

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Jennifer J. Johnson  
Secretary

Corporate Offices: 15700 Bluemound Road ■ Brookfield, Wisconsin 53005  
262-785-1600 ■ [www.northshorebank.com](http://www.northshorebank.com)

Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street 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

Dear Ms. Johnson:

As you are aware, The Federal Reserve, Office of Thrift Supervision and the National Credit Union Administration have proposed several regulatory changes relating to how a bank provides overdraft services to customers. We have carefully studied what is being proposed and want to provide our comments and concerns.

North Shore Bank customers perform over 1.2 million debited transactions a month through varying channels (i.e. in clearing checks, POS, ATM, ACH, on-line banking, bill pay, etc). We believe that customers do understand that it is their responsibility to balance their accounts and that through good account management that overdrafts are avoidable. With that said, there are times when errors happen and as a courtesy to our customers, we may pay their item(s) as an additional level of service we want to provide to them. Regulators should not lose sight of the fact that we offer this level of service, based on our risk-base discretion and we do not sell it as a contract to pay overdrafts. We have been providing this service for years to our customers and we often times will have customers thank us for paying items versus returning items. It saves them from an embarrassing phone call or letter plus it also saves them from expensive merchant returned check fees.

The proposal contains a “partial opt-out” which pertains to ATM and debit card transactions. If this gets enacted, this will result in a significant expense to North Shore Bank and to our customers as there will be multiple programming changes needed to support such a rule. Many of our customers use their debit card as their primary payment method, often carrying no other payment means. In addition, they schedule recurring payments with their debit cards. Our customers have often told us that they appreciate it when we accommodate overdrafts on their debit card transactions and understand why the overdraft fee is applied. We view this partial opt-out for debit cards to be too broad based and confusing for customers because an inadvertent overdraft caused by a recurring debit card payment would NOT be paid for someone who exercised a “partial opt-out.” Allowing a partial opt-out, based on the channel the customer chooses, will result in significant costs and will be very confusing for our customers.

Debit card holds and when those transactions settle are often times complex and North Shore Bank has gone out of its way to make it a very easy and understandable process for our customers. In order to keep it simple for our consumers, North Shore Bank has taken ownership of much of the risk that accompanies this payment channel and the settlement process. Restricting our ability to charge a fee if, a debit card transaction is authorized based on a positive balance but subsequently overdraws the account when posted, changes the nature of the risk management decisions for North Shore Bank. Such a rule would require that we extend holds on many more debit transactions, negatively affecting many customers. The time span between transaction and transaction posting is largely outside our control. We strongly believe that restricting our ability to charge for an overdraft based on when a debit card transaction settles for a customer who has opted out, will force us to take away a “value” that our customers currently see as a benefit.

One of the proposed rules would regulate the order of paying items presented for payment. While some of the methods in use by banks would allow us to realize much higher fee income, we apply a practice that, we think, is the only one that is informed by our customers, the order in which they have actually written their checks. We strongly believe that this is the most logical and fair way to handle this process for our customers. We clearly disclose this process and our customers can easily understand it. Forcing us to make a change to a practice we have had in place for many years and one that is easily understood by our customers would add another financial burden to the Bank. It could also trigger many servicing calls from our customers who could also be negatively affected. For instance, if a customer writes a check to make their monthly mortgage payment first but it ended up being returned because an arbitrary rule requires that all smaller checks be processed first (contrary to the order seemingly prescribed by the customer), it could result in significant late payment fees.

North Shore Bank truly values the relationship we have with each of our customers. We experience higher costs that are related to educating our customers whether it is on basic checking accounts, establishing and maintaining good credit, ways to protect your identity, etc. We are proud of this level of service we provide and allowing our customers to overdraw their account, based on our own risk-based decisioning model, is an extension of the service we want to provide. We do not have a formal “bounce” program but have always maintained best practices for all of our processes we have created to provide an exceptional level of service and value to our customers. Our best practices are not manipulative or created to generate overdraft fees. In fact, many of our best practices are also found in OTS Guidance of Overdraft Protection Programs, February 18, 2005.

Based on the comments we have provided above, it is our hope that additional investigation will be done before any of these proposed rules become enacted. Providing overdraft accommodations is not an injury but a benefit and is reasonably avoidable by customers exercising normal care. We provide all the tools our customers need to

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manage their account effectively and provide best practices that represent our desire to operate and service our customers in the most logical and fair way.

We appreciate the opportunity to comment on what is being proposed. Please feel free to contact me if you have any questions. I can be reached at 262-797-3383.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Steiner". The signature is fluid and cursive, with a large initial "S" and a long horizontal stroke at the end.

Steve Steiner  
Senior Vice President North Shore Bank