FULTON FINANCIAL
CORPORATION

PO BOX 4887 • LANCASTER, PENNSYLVANIA 17604

August 4, 2008

Via: E-Mail (regs.comments@federalreserve.gov)
and Fax (202-452-3819)

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

RE: Regulation AA; Docket No. R-1314
Unfair or Deceptive Trade Practices
Overdraft Services Subpart

Dear Ms. Johnson:

I am Senior Executive Vice President of Fulton Financial Corporation ("Fulton"), a financial holding company headquartered in Lancaster, Pennsylvania (NASDAQ: FULT). Fulton has ten depository institution subsidiaries, operating approximately 265 branch offices in Delaware, Maryland, New Jersey, Pennsylvania and Virginia through the following affiliates: Fulton Bank, Lancaster, PA; Swineford National Bank, Middleburg, PA; Lafayette Ambassador Bank, Easton, PA; FNB Bank, N.A., Danville, PA; Hagerstown Trust Company, Hagerstown, MD; Delaware National Bank, Georgetown, DE; The Bank, Woodbury, NJ; The Peoples Bank of Elkton, Elkton, MD; Skylands Community Bank, Hackettstown, NJ and The Columbia Bank, Columbia, MD (collectively, the "Banks"). Fulton appreciates this opportunity to submit its comments to the Board of Governors of the Federal Reserve System (the "Board") regarding the proposed amendments to Regulation AA published in the Federal Register on May 19, 2008 (the "Proposal").

While Fulton and its Banks have identified potential areas of concern regarding other aspects of the Proposal, this letter focuses specifically on a bank's duty to provide customers with the right to selectively opt-out of overdraft payments solely arising from automated teller machine ("ATM") and point-of-sale ("POS") transactions initiated by a debit card (the "Partial Opt-Out Option"). The Partial Opt-Out Option creates a significant potential for confusion and misunderstanding by our customers. It also presents Fulton and its Banks with substantial implementation hurdles from a systems and transaction processing perspective. Other financial institutions likely will have similar implementation and system issues.

For these reasons, we strongly encourage the Board to reconsider requiring banks to offer consumers the Partial Opt-Out Option and either remove or amend the Partial Opt-Out Option in the Proposal.

Fulton's Overdraft Services.

The determination of whether to pay overdrafts is at the Banks' discretion, unless consumers have requested, and in some cases qualified for, an overdraft protection service. However, in the first instance, the Banks encourage customers to avoid overdraft activity. The agreement governing the Banks' consumer deposit accounts advises consumers to avoid overdrafts because they are costly to the consumer and may result in account closure. The agreement also suggests that consumers consider applying for an overdraft protection service, by which Banks pay overdraft items with funds transferred from another account of the customer, for a nominal fee.

In addition to discouraging overdraft activity, the Bank provides consumers with a fee schedule that includes fees charged to consumers for paid items that create an overdraft, as well as for items returned unpaid. Accordingly, the customer is informed in advance that he or she will incur a daily overdraft fee when the consumer's account remains overdrawn for more than three consecutive business days. Moreover, promptly following an overdraft event, the Banks send a written notice advising the consumer: (i) of the overdraft condition of the account; (ii) of the amount of fees that were assessed; (iii) that the consumer may be subject to the daily overdraft fee if the overdraft is not promptly remedied; (iv) that presenting items against non-sufficient funds is costly; and (v) that Fulton offers less costly alternatives. Consumers also are given the option to instruct us not pay items presented against non-sufficient funds. In Fulton's experience, less than one percent (<1%) of consumers have exercised that option, demonstrating, we believe, that our customers overwhelmingly prefer that we pay overdrafts rather than return items, even when a fee is assessed for doing so.

Thus, the Banks make a concerted effort to assist consumers in eliminating overdraft activity and in minimizing associated bank fees. Ultimately, of course, the consumer has the responsibility to manage his or her accounts in a manner that avoids overdraft activity. In the past, consumers have had to rely on periodic written statements in order to manage their accounts. But now they no longer need to rely on or wait for their monthly statements or even visit a branch office. Rather, the Banks provide an array of readily accessible tools to help consumers manage their deposit accounts. These tools include access to account balance information and the ability to transfer funds among accounts through our network of more than 200 ATMs, toll-free telephone banking services and online banking services. Each of these tools is available 24 hours a day, seven days a week, and all are made available without charge to the consumer.

The Banks also offer a number of overdraft protection programs, including authorization of automatic transfers of funds from another deposit account, and, for qualified consumers, automatic advances on an open-end extension of credit. In Fulton's experience, a substantial majority of the Banks' consumer customers, through the exercise of prudent account management, utilize their deposit accounts in a way that avoids incurring overdrafts or causing items to be presented against non-sufficient funds.

Partial Opt-Out Option Systems and Transaction Processing Hurdles.

Like many financial institutions, Fulton utilizes a largely automated process for most consumer accounts to determine whether to honor items presented against non-sufficient funds and creating an overdraft, or to return items unpaid. This process is used in tandem with the Banks' complex deposit account processing system, which interfaces with numerous third-party systems for operational support and function. As currently configured, the deposit account processing system, with some exceptions, can accommodate a consumer's election to opt out of the payment of all types of items that would create an overdraft. Thus, the Bank currently gives the consumer the ability to completely opt-out of overdraft payments. As noted by the Board in the Proposal, even with a complete opt-out election, situations can arise where an item cannot be returned unpaid and an overdraft would be created. This might occur where a customer initiates a debit card POS transaction, for which authorization is obtained, and during the period between when the authorization is obtained and the POS transaction is presented for payment, either other items are presented for payment, or items deposited to the account prior to the date the authorization is obtained are returned unpaid. In these circumstances the bank is contractually obligated to pay the POS item, creating an overdraft for which the customer's opt-out election has no application.

Fulton's deposit account processing system cannot currently support the Partial Opt-Out Option at the individual account level. Since Fulton and many other banks rely on third parties to provide certain deposit account processing services, implementing the changes necessary to accommodate the Partial Opt-Out Option are not entirely within each Bank's direct control. Because the changes would need to be implemented across multiple channels, multiple systems would likely require reprogramming, and interfaces between these systems may require alteration. Changes in processing systems and interfaces between systems tend to be both costly and time consuming. Depending on the form of final rulemaking based on the Proposal, creating system functionality that can differentiate from among various types of debit card-initiated transactions could be particularly challenging. While Fulton does not have definitive estimates of the costs it would likely incur, it questions the basis for the Board's conclusion that benefits to the consumer, which are not quantified in the Proposal, outweigh the costs of systems' changes necessary to accommodate the Partial Opt-Out Option, especially since Fulton and other financial institutions offer more tools, products and services for real-time consumer account management than have been available at any other time in history.

Potential for Consumer Confusion and Misunderstanding.

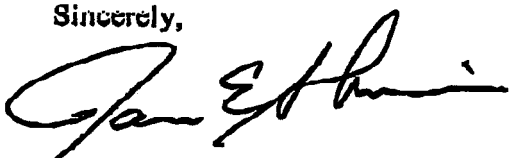
The Partial Opt-Out Option also creates potential for consumer confusion and misunderstanding. By way of example, customers of Fulton's banking subsidiaries continue to expand their use of debit cards, which also typically serve as their access card for ATM transactions. Debit cards are used for POS transactions where a personal identification number ("PIN") is required, where a signature is required, and where neither a signature or PIN is required, such as when the debit card is used for an online or telephone transaction. Many customers use their debit cards to establish recurring payments for important obligations such as insurance, telephone, utility and

other payments that they would prefer to be paid and not returned. If such consumers were to opt-out under the Partial Opt-Out Option and later have insufficient funds to cover these obligations, they would be subject to cancellation of coverage, disruption in service, third-party fees and other problems, including a heightened risk of derogatory entries on their credit reports. These are severe and unintended consequences that a customer, who establishes recurring payments long after receiving the Partial Opt-Out Option notice, may not appreciate. A consumer contemplating the Partial Opt-Out Option simply may not fully comprehend the future scope and consequences of the Partial Opt-Out Option, without a very detailed, and perhaps less understandable, notice. Further, as the Board recognized in the Proposal, in some cases the payment of an item creating an overdraft cannot be avoided. Unless the notice also includes information describing circumstances where the bank would pay items creating an overdraft notwithstanding the customer's Partial Opt-Out Option election (which would likely result in an even less understandable notice), customer dissatisfaction is the likely result.

For the reasons outlined in this letter, Fulton and its banking subsidiaries strongly encourage the Board to reconsider requiring banks to offer consumers the Partial Opt-Out Option as described in the Proposal.

We extend our thanks the Board for its consideration of these comments.

Sincerely,



James E. Shreiner
Senior Executive Vice President
Fulton Financial Corporation