NCBANKERS
1897 NORTH CAROLINA BANKERS ASSOCIATION

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July 30, 2008 DELIVERED VIA E-MAIL

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

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street NW
Washington, DC 20552

Re: Proposed Rules on Overdraft Protection Practices
Docket No. R-1314; OTS-2008-0004

Ladies and Gentlemen:

Thank you for this opportunity to comment on the proposed regulations relating to overdraft protection programs. The North Carolina Bankers Association (NCBA) is a trade association representing all 145 banks and savings institutions headquartered or with branches in North Carolina. The membership also includes a number of trust companies. While we are mindful of the significant work the agencies have put into the proposed regulations, we believe that the proposals currently under consideration need to be reconsidered or withdrawn. The 2005 *Joint Guidance on Overdraft Protection Programs* already provides an analysis of overdraft-related issues and a set of best practices. Adding additional rules is both unnecessary and will have an adverse impact on customers.

Overdraft protection is an accommodation that banks make available to their customers, and one which customers find helpful. If a customer writes a check to make a purchase and inadvertently overdraws his or her account, and that overdraft is paid by the customer's bank, the customer is able to avoid the costs associated with an NSF check being returned to the merchant, the civil and criminal penalties for writing a bad check, and the personal embarrassment. A fee may be charged for the service, but consumers who regularly manage their accounts and do not overdraw their accounts can avoid overdraft fees entirely.

The proposed rules start with the premise that overdraft services should be carefully disclosed to customers, which the banking industry supports. However, the proposed rules then go on to significantly alter the set of best practices that were identified in the 2005 Joint Guidance. One issue is that the proposal includes a partial opt-out requirement which would allow customers to retain overdraft coverage for checks and ACH transactions, while opting out of coverage for certain ATM and debit card transactions. Existing data processing systems do not support this framework, and there needs to be a careful analysis on the part of regulators of the costs associated with this plan.

Similar problems exist with respect to the plan to alter how debit holds are handled. At minimum, there should be some examination of the role of merchants and whether disclosures by merchants at the point of sale would be a better solution to the issues with debit holds.

We are also extremely troubled by the agencies' proposals to change the order in which transactions are processed. Billions of transactions are processed in this country, and the system has worked well. As a practical matter, it could make the process several orders of magnitude more complex to allow individual consumers to choose between various transaction clearing possibilities.

The NCBA asks that the agencies withdraw the proposed rules with respect to overdraft protection practices until such time as the agencies have had an opportunity to more closely examine these issues.

Thank you for your consideration of these comments.

Sincerely,

Thad Woodard
President & CEO