July 31, 2008

Board of Governors of
the Federal Reserve System
Office of Thrift Supervision
National Credit Union Administration
Washington, DC

VIA E-MAIL ONLY

Re: Unfair or Deceptive Acts or Practices
FRB Docket No. R-1314
OTS-2008-0004
RIN3133 – AD47

Dear Sirs and Mesdames:

On behalf of the National Bank of Blacksburg ("National Bank"), I would like to offer a comment on the proposed Overdraft Services Rule. National Bank is a 117 year-old community bank of nearly $891 million in assets with 26 branches located in Southwest Virginia. We are headquartered in Blacksburg, Virginia, the home of Virginia Tech. The bank serves customers from a broad spectrum of socio-economic backgrounds, including Ph.D's, small business people, farmers, factory workers and coal miners. Throughout our history, our bankers always exercised their discretion to cover overdrafts for good customers. As we grew, we found that it was more and more difficult to know all of our customers well enough to use this informal system in a manner that was fair to everyone, so in August 2003 we implemented a formal overdraft protection plan (ODP). From 2005 on, we have followed the Interagency guidance on overdraft programs, and we have never been criticized by our regulator, the Office of the Comptroller of the Currency, for any aspect of our operation of the ODP. After nearly five years of operation without criticism, we find it very disconcerting to now be told that we may be engaging in an "unfair and deceptive practice".

Many of our customers have expressed gratitude for the National Bank's overdraft protection plan. They tell me that they are glad to have the ODP as a safety net in case of an inadvertent overdraft. They understand that the bank will charge a fee when they overdraw their account because this is an accommodation for them. But they greatly prefer to pay us the fee and avoid the embarrassment (and often higher fees) that result

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when the bank returns their overdrawn checks to businesses in the community. In fact, one of our local grocery stores posts in a prominent place in the check-out line the names of customers who have paid for groceries with checks that are returned for non-sufficient funds. We take steps to insure that our customers understand that the ODP is a safety net, not something to be relied upon in managing their accounts. We limit the amount of overdraft protection; work with customers to educate them on how to balance their accounts; and we close the accounts of customers who cannot handle an account without repeated overdrafts.

We do not understand, nor do we agree with, the proposed rule's requirement for advance opt-out notices for fees for covering overdrafts, as well as ongoing opt-out notices when the ODP is used. Overdraft fees are not inherently different from other fees associated with bank accounts. All of these fees are clearly disclosed at the time the account is opened. At that time, a customer makes many account choices. They select the style and cost of their checks. They choose whether or not to have a debit card or an ATM card. And they may decide if they would like to participate in the ODP or use another method of overdraft protection, such as an automatic transfer from savings or a cash advance on a credit card. Once the account relationship is established, if a customer does not want to participate in the ODP, it is very simple for a customer to "opt out" of the plan if they find they do not want it. All it takes is one phone call of inquiry or complaint to the bank. However, most of our customers just choose to monitor their account balances more closely so they will not overdraw their account in the future. Frankly, ANOTHER required notice is most likely to be added to the stack of paper that most consumers simply ignore. Another required notice also adds to our overhead, which makes it more likely that consumers will end up paying more for their banking services. The cost / benefit ratio is not one that makes sense.

If initial and ongoing opt-out notices are not useful, the concept of "partial opt-out" for ATM's and debit cards adds significant unneeded complexity and expense. It would be confusing for customers, perhaps leading them to think that the bank is required to pay their check and ACH overdrafts, even though it is clear in our account agreement that the payment of any overdraft is always at the bank's discretion. At this point, we are not certain if our technology will permit us to differentiate debit card and ATM payments from check and ACH payments. If this differentiation is not possible, we would be compelled to offer customers an "all or nothing" choice with regard to ODP.

There is a need for consumer education regarding bank accounts. It makes much more sense to attack any perceived consumer problems with ODP's through education, and to focus our collective time and resources in that area. Our bankers volunteer in area schools to teach students the basics. In fact, we utilize many of the consumer education materials that are offered through the Federal Reserve. Present and future customers should learn how to responsibly manage their finances. They should know to balance and monitor their bank accounts so that they do not overdraw them. Educated consumers understand that overdraft accommodation is neither a right nor an injury, but rather a service and benefit that is offered to them for a fee. The overwhelming majority of our customers never overdraw their accounts. They never take advantage of the overdraft

protection offered by our bank. Some occasionally overdraw, and they are grateful for a plan that saves them from embarrassment and even the potential of criminal prosecution. A few are habitually overdrawn, and we work with them to remedy the situation.

We feel strongly that the proposed rules will add significant cost to our business without a corresponding benefit for our customers. Thank you for your consideration.

Sincerely,

James G. Rakes
Chairman
President & CEO

CC: Office of the Comptroller of the Currency
Senator John W. Warner
Senator James H. Webb
Congressman Rick C. Boucher
American Bankers Association