

July 31, 2008

Jennifer J. Johnson
Secretary
Board of Governors of the Federal
Reserve System
20th St. and Constitution Ave., 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

I write with regard to the rule proposed covering Unfair or Deceptive Acts or Practices (UDAP) involving overdraft protection service fees. I appreciate the opportunity to comment on this important matter.

Overdraft accommodation is a customer friendly practice for banks to offer that is financially sound. Banks have always exercised discretion to cover overdrafts for good customers – today we have developed safe and sound programs that extend that accommodation to virtually all our customers. Neither customers nor regulators should lose sight of the fact that our program is an accommodation based on the bank's exercise of risk-based discretion – there is not a contract to pay overdrafts.

The reason our bank makes money on an overdraft program is not because people go away unhappy, but because our customers see real value when the bank stands behind their payment decision. They recognize that the fee is the known price to pay for that accommodation.

In many instances, our customers are saved from paying merchant fees for refused items and avoid being identified as unreliable payors by community merchants because we provide them this accommodation.

Fees for covering overdrafts are in the account agreement and new customers are made aware of these fees as well as any maintenance fees and NSF fees at account opening. In other words, they know in advance what the rules and the costs are for overdrawing an account – all without a formal opt-out notice. Further, our customers receive a summary of the overdraft fees they have paid in the current month, as well as year to date, printed on each month's bank statement.

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Further a “partial opt-out” covering ATMs and debit cards is neither necessary, nor feasible. Our technology will not allow us to differentiate debit card transactions from ACH or check at the customer account level—meaning that all we can really offer a customer is an all or nothing choice. Changing these systems would be very expensive costing the banking industry millions on a national basis. I don’t think this is a prudent area of focus for banks during the current environment when so many real issues are demanding our attention and resources.

In closing, our accommodation programs are successful because the benefits outweigh the disadvantages. They are sustainable because our customers want the bank to recognize that when they inadvertently overdraw their account they can be trusted to make it right. The UDAP proposals are not desired by our customers, are not needed and the cost to implement is imprudent.

Sincerely,

John Davis
Employee and Customer
Summit Community Bank