

# One MORE Reason...

July 16, 2008

## FARMERS STATE BANK

Member FDIC

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

RE: Docket No. R-1314 and Docket No. R-1315

Dear Ms. Johnson,

I am a Vice President of a community bank with current assets of over \$500 million. I appreciate the opportunity to provide comments regarding the proposed changes to Regulation DD and Regulation AA, specifically in regards to overdraft protection services.

My financial institution provides an overdraft protection program to our customers. It is not promoted or advertised in any way other than providing a welcome letter to the client, along with an opt-out option. We have had a very minimal number of customers exercise the opt-out option. Our periodic statements do provide the customer with year-to-date and current period overdraft and non-sufficient funds charges. Following the addition of that information to the periodic statement, we did not have any customer requests to opt-out of our overdraft protection program showing it has had little impact on our customer base.

You have requested comment on the burden to banks and benefits to consumers that would be provided by an opt-out given both at account opening and periodically (either on monthly statements or on overdraft notices). I do not have an issue with providing the opt-out notice at account opening or before an overdraft fee is charged. As stated, my financial institution currently has this process in place, without a regulatory requirement. I also do not have an issue with the content requirement of the notice.

However, I do feel it is burdensome to banks to require they send out repeat notices. Right now, regulation requires banks to send privacy notices out on an annual basis, even if there has been no change to the content. Currently, there is legislation pending that would repeal that requirement because it has been shown duplicate disclosures provide little benefit to consumers and a significant burden, and cost, to banks. With that being said, I urge you to remove this duplicate disclosure requirement from the final rule. An alternative solution might be to add a simple statement to the back of the statement paper (where disclosures generally appear) such as "For information on how to opt-out of certain overdraft protection programs, call us toll-free at XXX-XXX-XXXX or visit us at [www.anybank.com](http://www.anybank.com)". This would make consumers aware of the option with little, if any, programming changes. It would also allow consumers to contact banks in the method they prefer.

You have also requested comment on whether the opt-out notice should allow consumers to choose the types of transactions they would like included in an overdraft protection program and the types of transactions they would not like included in an overdraft protection program. We feel allowing these options will only cause confusion to consumers

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and additional burden to financial institutions. Transactions clear the bank in a variety of ways. If the consumer chooses to opt-out of the payment of checks, how is the bank to respond when that check has been converted to an electronic item? How will our customer understand that the item was allowed to clear because it was electronic, even though they wrote a check? Again, we feel that the consumer has the right to choose to be in the program or not, but do not feel it would be effective to allow them to pick and choose which transactions should be allowed to be paid into overdraft and which transactions should not.

Another area in which you have requested comment is on whether or not the order payments post requires regulation. My institution has heard arguments on both sides of this issue. If you post smallest to largest, consumers may have fewer overdrafts and therefore reduced fees. However, there is fear their rent or mortgage may be returned unpaid. If you post largest to smallest, they have a better chance of having their mortgage or rent paid, but possibly more overdraft fees if several items are trying to clear. My institution has chosen a different route and pays items in check number order. This area needs no regulatory intervention and is a decision that should be left up to the individual institution. There is consumer benefit, and possible hardship, either way.

Finally, you have requested comment on whether sufficient time has been allowed to implement the regulatory requirements. I feel a twelve-month implementation period should be sufficient for our institution at this time.

Again, I urge you to consider lightening the regulatory burden and cost to financial institutions these requirements would cause. Consumers should be held accountable for only using funds available to them in their accounts. Those that manage their accounts poorly and pay the most in overdraft fees generally do not open their account statements rendering the additional opt-out requirement useless. Lack of an overdraft protection program will lead to more items being returned, resulting in non-sufficient funds charges along with charges imposed by merchants and possibly additional late charges, only increasing out-of-pocket charges. These programs are beneficial for those consumers who do not abuse it, especially when utilized as a fallback for recordkeeping missteps.

Again, thank you for the opportunity to comment.

Sincerely,



Jason M. Neighbor  
V.P. Retail Operations  
Farmers State Bank - Marion, Iowa

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