

Subject: Regulation AA

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Proposal: Regulation AA - Unfair or Deceptive Acts or Practices

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Docket No. R-1314 To Whom It May Concern: As in any business there is a need for laws so that consumers are not misused. The Unfair and Deceptive Acts or Practices law has been a part of banking for many years. I have been in banking for over twenty-five years and know that we have to have laws to control the few who try and take advantage of people. But sometimes when one looks at an act or practice if we only look at it from one side we will never see the whole picture. When making a change in a law all sides need to be looked at and the impact to both sides reviewed. The section on Overdraft services is one of them. First for a fair number of years we have had a law (Regulation Truth in Savings or Reg DD), which require us to clearly tell the customer in writing all the fees associated with their checking account. So the customer does know what it will cost them if they write a Nonsufficient Funds (NSF) check or use their Debit cards or have a recurring ACH transaction that causes them to be overdrawn. The only thing they do not know is if the bank will pay the item and cause the overdraft or return the item. And unless they have changed the law and did not publish it, it is still a crime to write a check, use a debit card, ATM card or ACH transaction that overdraws their account and people get taken to court for this. Secondly, why

should any bank be made to make a loan to a customer without a fee being assessed? When a customer has a debit of any kind hit their account and there is not enough money in the account for it that is a loan. The Banks are in fact helping the customer out by paying their checks and not sending them all back NSF. If banks have to give an opt out first before paying items into overdraft then the following issues will have to be addressed. These will both cost the industry a large amount of money to change (if it is even possible) their core systems and end up doing far more harm to the customers. First say the customer opts out of certain items but not others. The bank has no way of ever not paying by type of item. Then there is the issue of checks because in today's world a written check can come into the account as a check, as an ACH or as both. So even through the customer wrote a check there is no way banks can stop them or pay them because there is no way to tell what the item coming in started out as. Next the banking systems could not handle first determining what order to pay the checks and then those that are NSF selecting which ones the customer has opted for returning. In the end it would mean that banks would have to manually do the returning based on each customer. This is just not feasible to do. Banks will have no choice but to return all items as the opt-out method in a lot of cases is not even a possibility. We currently give to each new customer at account opening a listing of all of our fees including overdraft and NSF fees. And we notify them at least 30 days in advance and post it in our lobbies before changing the fee. So the end result will be that all checks will be returned that are NSF and the customer's credit will be gravely harmed. As for debit holds the banks have very little to do with these. Banks are only acting to make sure that funds are available for the customers to use. It is the merchants and the card networks that are controlling the holds placed with a card is used. We don't have any control what is sent through the network to use. This would best serve the consumers to address this matter with merchants. They should never be allowed to place a hold for more than the amount of the transaction and never should hold extra for any length of time. We as a bank have customers who have problems due to the holds placed by merchants and held for several days. It does not affect their balance in our bank but it does prevent them from using their debit cards with the extra money held by the merchants. Sincerely, Nancy Cone Compliance Officer The Bank of Tescott