

July 29, 2008

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

Re: Proposed Rules Regarding Overdraft Services

Thank you for the opportunity to comment on the proposed rules regarding overdraft services. The Valley State Bank is a community bank based out of Belle Plaine, Kansas with assets of approximately \$114 Million.

As a small community bank, we have made the decision to not engage in a formal Overdraft Protection Program, but make decisions ad hoc on a daily basis for all overdraft accounts. I believe that if the proposed rules are instated as drafted, the opposite effect will be seen from your intentions. I appreciate your efforts to discourage predatory and deceptive practices, but including banks that do not have Overdraft Protection Programs punishes those banks unduly and puts more regulatory burden on them for something they are not even responsible for in the first place. My request first and foremost is that banks choosing not to offer this program be exempted from the proposed rules. If we are included in the proposed rules, you will have eliminated any incentive for banks to choose to not offer Overdraft Protection Programs.

Concerning the Opt-Out option given to consumers on their periodic statement, I agree that this action is warranted and should be ample opportunity for consumers to respond to their opportunity to opt-out of their institutions program.

However, the Partial Opt-Out option should be reviewed and reconsidered due to the unnecessary burden and unmanageable costs of implementing such an option for consumers. This partial opt-out option also flies in the face of the purpose of Overdraft Protection Services, which the Federal Reserve has recognized as a viable service. This service is offered as a convenience and as a shield against the embarrassment of inadvertently overdrawing an account. Imagine the embarrassment of buying \$100 worth of groceries and forgetting that you wrote a check yesterday for \$50, which left only \$50 in your checking account. When your debit card is declined it can be very embarrassing and avoiding this embarrassment is the driver of the Overdraft Protection Services. Additionally, our processor does not have systems capable of paying overdrafts for some,

but not all, payment channels. The cost of developing this capability would be enormous, and I do not agree that there would be enough consumers who would benefit from having the choice of a partial opt-out to outweigh the inevitable programming costs associated with this requirement.

In the proposed rules, there is reference to situations where a bank may not be able to avoid paying a transaction that overdraws an account. If the consumer has decided to opt-out, the proposed rules would prohibit the bank from charging an overdraft fee in connection with that transaction. This is an unreasonable requirement for banks to adhere to. It should not be the responsibility of the bank to assume all of the risk of paying a transaction that will overdraw an account without being compensated to help mitigate the risk of paying such transaction. I believe that in such situations, banks should be able to disclose that overdraft fees would be applicable if the institution is unable to avoid denying payment for the transaction.

The proposed rules would also prohibit banks from assessing overdraft fees on accounts that are overdrawn solely because of a hold on funds. The purpose of placing a hold on a check is to give the check reasonable time to clear the drawing bank before allowing the funds to become available. Under Regulation CC, banks are afforded the right to place holds on checks deposited at the institution. If a bank is adhering to the regulation, why should they be penalized for not allowing the funds to be available until the end of the hold period? This portion of the proposal should also be reviewed and greater consideration given to the effects of this requirement.

In conclusion, I believe that the issues that I have addressed above would harm the consumer more than protect the consumer. The above requirements will cause further tension in the bank-consumer relationship resulting in the elimination of the "courtesy overdraft" for those who opt-out of allowing banks to pay transactions that would overdraw the consumer's account. The inability of the average consumer to understand the opt-out process and all that it really means will not benefit the consumer, but cause great distress and harm to the consumer. I appreciate your willingness to allow me to comment on this very important issue, and I hope that you will consider the points I have addressed above.

Respectfully yours,

THE VALLEY STATE BANK

Jonathan C. Holmes
Assistant Vice President