



By electronic delivery

August 1, 2008

Jennifer J. Johnson
Secretary
Board of Governors of the Federal
Reserve System
20th St. and Constitution Ave, NW.
Washington, DC 20551
regs.comments@federalreserve.gov

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
ATTN: OTS-2008-0004

Re: BOARD Docket No. R-1314; OTS Docket No. OTS-2008-0004;
Unfair or Deceptive Acts or Practices; *73 Federal Register* 28904;
May 19, 2008 (UDAP Proposal)

Ladies and Gentlemen:

Northwest Georgia Bank thanks you for the opportunity to comment on the rule proposed by the Federal Reserve Board (Board), the Office of Thrift Supervision (OTS), and the National Credit Union Administration (NCUA) covering Unfair or Deceptive Acts or Practices (UDAP) involving overdraft protection service fees. As Catoosa County's oldest continuous business, Northwest Georgia Bank's image and history have entwined with the community's identity for more than 100 years. Chartered in 1904, Northwest has grown into the 16th largest bank in Georgia and the largest community bank in the Chattanooga metropolitan area, including our fourth branch in Tennessee currently under construction that will be the first 'green' bank in the state. Our Northwest Way of banking led to 2008 Business of the Year awards in Chattanooga and Catoosa County. In 2007, the Bank and its Foundation donated more than \$721,000 to local charities, while our 200 employees documented more than 4,000 community service hours. Our 104-year history has earned us a reputation for quick, local decision-making, naturally friendly people and genuine devotion to the communities we serve.

The Bank has developed an internal system, consistent with safety and soundness guidelines and superior customer service, to cover overdrafts for exceptional customers. The program is extended on a discretionary basis and is not promoted in any way. The program is successful because it provides a desirable back-up for customers who inadvertently overdraw their accounts. The fee for overdrafts is clearly disclosed to the customer not only at account opening, but is also listed on each statement that an

overdraft occurs. The accommodation of an overdraft can save the customer not only potential additional fees charged by a merchant for returned checks, but also the embarrassment of nonpayment for goods or services purchased.

The Bank strongly disputes the assertion of the proposal that these overdraft accommodation practices and the associated fees are unfair because the fees cannot be easily avoided without an opt-out mechanism for the customer. Conversely, the fee can be avoided with responsible account management by the customer, the practice the banking agencies themselves have publicly promoted as the best way to avoid overdraft fees. The Bank's customers have multiple ways to their balance and transaction history 24 hours a day, including free on-line banking, telephone banking, and ATMs. If customers are not expected to be held responsible for their own account management in the form of overdraft fees as the proposal implies, it could adversely impact all banking fees dependent on customer behavior.

The Bank also strongly opposes the proposal of a partial opt-out for ATM and debit card transactions. Due to technology constraints, the Bank would be forced to apply an all-or-nothing approach to the ATM and debit card transaction opt-out. This would adversely affect customers who use debit cards for recurring payments. Further, affording an opt-out for debit cards could be misinterpreted by a customer as a contractual obligation of the Bank to pay overdrafts rather than being at the Bank's discretion.

In summary, providing discretionary overdraft accommodation to honest and good customers is not injurious to the customer but rather a benefit. Further, as described in multiple Federal Reserve and Interagency consumer publications, the fees associated with an overdraft are easily avoided by the customer with consistent account management. With all of the free tools available to customers, including telephone banking, on-line banking, and ATMs, managing an account, knowing an account balance, and keeping track of transactions has never been easier.

Thank you again for the opportunity to comment on this significant proposal and the Bank asks the agencies to conclude that the banking industry's current overdraft practices are not unfair to customers. If you have further questions, please do not hesitate to contact myself or the Bank's Chairman and Chief Executive Office L. Wesley Smith at (706) 965-3000.

Respectfully,

Stacey Kennedy

Stacey Kennedy
Vice President Compliance