

*By Electronic Delivery*

August 4, 2008

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

Regulation Comments  
Chief Counsel's Office  
Office of Thrift Supervision  
1700 G Street, NW  
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:

Univest Corporation of Pennsylvania, a financial holding company, and its subsidiary bank, Univest National Bank and Trust Co., provide these comments on the rule proposed by the Federal Reserve Board, the Office of Thrift Supervision and the National Credit Union Administration covering Unfair or Deceptive Acts or Practices involving overdraft protection service fees.

**Our institution is extremely concerned about this proposal's possible effect on our ability to exercise our risk-based discretion to pay customers' inadvertent overdrafts.** For several years, our institution has offered an overdraft protection program to virtually all of our customers *as an accommodation and without a contract*, utilizing safe and sound banking practices. Those customers who have had the experience of inadvertently overdrawing their deposit checking accounts have found real value in our standing behind their payment decisions. They appreciate being saved from paying merchant fees for refused items and the embarrassment of being identified as unreliable payors.

**Our customers know the price of such an accommodation as all fees are fully disclosed upfront,** and as a community bank that prides itself on superior service, our employees work very closely with our customers to manage their accounts prudently and to discuss alternatives for managing their transaction activity. We feel very strongly that because our customers are educated by us to understand their responsibility to manage their accounts, that any overdraft fees we assess are not injurious; rather, they are the cost for us to fulfill their payment choices rather than deny their transactions.

The majority of our customers do NOT overdraw their accounts at all. Those customers who do so periodically are fully aware of how our bank's discretionary overdraft protection program works and do not need repeated notices that they can opt-out of this convenience.

Regarding the “partial opt-out” proposal, our bank is only able to do a complete opt-out by removing the overdraft limit from a checking account. **Our software cannot handle a partial opt-out.** On the debit card side, the decision of whether to consider the overdraft limit when authorizing a transaction is made at the BIN level (the card type level) i.e., *MasterCard BusinessCard*, *MasterMoney*, or *ATM/STAR POS* card, etc. It applies to all types of card transactions, whether ATM, STAR PIN POS, or MasterCard signature-based POS. There is no override at the card level. We either have to make the OD limit available when authorizing transactions for *all* cards issued in a BIN or for *none* of the cards issued in a BIN.

**Allowing our customers to opt-in or opt-out by payment channel would cause the bank an undue burden and extremely high administrative costs.** Our customers do not understand the differences in payment channels and how transactions are cleared. This would present an extremely time-consuming, challenging education process for us and a very confusing one for our customers, to say the least. Additionally, many of our customers use debit cards as their primary payment method, and in addition, schedule recurring payments with their card. They appreciate that we accommodate overdrafts on debit card transactions and understand the fees that apply.

To speak to several other points in the proposal:

- The “request for authorization” online message format our bank uses for debit cards does not have a flag indicating whether the card is present or “not present” (recurring payments) during a POS transaction; our software cannot distinguish between the two.
- We do not offer customers the option to opt-out of a transaction at our own ATMs if there are insufficient funds in the account.
- Our software does not have the ability to clear items using one method and then determine the number of OD fees assessed based on another method; the time to explain such a methodology to our customers and the confusion this would cause are too great to imagine.

It should be noted that we have followed the *Interagency Guidance on Overdraft Programs* from 2005 since it was published, which includes detailed, up-front disclosures covering all fees and the ability to opt-out of our program. We have never been criticized by our primary regulator for the way we run our program. We are concerned that finalization of this proposal would label our program “unfair and deceptive.”

Thank you for considering our comments.

Sincerely,



Karen E. Tejkl  
Senior Vice President and Compliance Officer