

From: James Battaglieri
Subject: Electronic Fund Transfers

Comments:

Board of Governors of Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Dear Federal Reserve Board Director:

I support the proposed requirement that would require financial institutions to obtain consumers' affirmative consent (or opt-in) before any overdraft fees or charges may be imposed on consumers' accounts.

Banks should get explicit permission before enrolling customers in the most expensive overdraft system, automatically covering overdrafts and charging high fees, and should be stopped from using unfair practices to increase their overdraft fees.

The rules in place work well with handwritten checks that consumers write and use to pay bills or make purchases.

With Debit Cards, it is a whole different story.

Why? Because the "available balance" of an account and its "actual balance" are usually two different amounts. Then most banks allow a consumer to complete a transaction that is proper, authorized and executed, only to later that night or the following night, re-order the debits to cause the authorized transaction to become an overdraft. This overdraft, and it could be for \$1.00, will then cause the consumer to be charged an overdraft fee (my bank charges \$35.00 per overdraft, up to a maximum of 8 per day and can charge 8 more the following day).

As is often the example used, thinking that I have a dollar or a few dollars in my account, I get a cup of coffee and use my debit card. I have not spent any more money than I actually have in my checking account, but my "available balance" is overdrawn or negative. If the dollar or so debit for my cup of coffee hits the bank before my "authorized" lunch charge does from the day before, and it likely will as it is a pure debit transaction, not like the restaurant payment that is processed as a "credit" transaction out of my checking account and takes longer to process, I will be charged \$35.00 for a overdraft fee. To the bank, my available balance is less than enough to pay the small dollar plus amount for the coffee.

Personally, I have had debits of \$1.87 or \$2.59 and other small amounts trigger these \$35.00 overdraft fees, but not because I did not have the funds in the bank. The funds were there, but they were "held" by authorizations. If an authorization for a rental car or a hotel stay used all my available balance, when a charge for a \$5.00 sandwich is processed, it will generate an

overdraft fee. I will not have access to the "additional amounts" held by the authorizations for several days, sometimes up to one full week. Meanwhile, other small debits, even checks written the funds were held, will be treated as overdrafts.

The financial institutions only do this to increase their revenues, not to aid the customer. The vast majority of customers would never want a \$2.00 debit to cause them to have to pay the bank an additional \$35.00 per overdraft. The banks does this unilaterally, without any consent from the consumer.

What you can do now as you consider changes is to stop the practice of automatically allowing consumer accounts to be overdrawn when a debit card is used. If the attempted debit will cause the account to be levied an overdraft fee, then the attempted debit should be declined. The transaction should be halted at that point, and the consumer must use another form of payment if he wishes to proceed with the sale. That technology fully exists today. In the future, the technology can be modified to allow the consumer the option of halting the transaction or approving it with the knowledge that he will be likely overdrawing the account and a fee will be imposed. After all, if you use another bank's ATM machine, it is required that the usage fee be prominently displayed and the consumer must accept the fee or cancel the transaction.

This change will help consumers many times, and may be a simpler solution for now than trying to change how banks reorder debits or change how they apply the principles of "available" versus "actual" balance. I know of no consumer who wants to buy a cup of coffee with a debit card for between a dollar or two, an

Sincerely,

James Battaglieri