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March 18, 2009

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

Mary Rupp, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Re: Docket No. R-1343

Dear Ms. Johnson (or Ms. Rupp):

This comment letter is submitted in response to the notice of proposed rulemaking ("Proposed Rule") and request for public comment by the Federal Reserve Board published in the Federal Register on January 29, 2009. The Proposed Rule would amend Regulation E, which implements the Electronic Fund Transfer Act, and seeks to provide consumers certain protections relating to the assessment of overdraft fees. The Proposed Rule would address issues regarding the ability of a financial institution to assess an overdraft fee for paying automated teller machine ("ATM") withdrawals and one-time debit card transactions that overdraw a customer's account.

We recognize that in certain cases, financial institutions may have charged customers overdraft fees that either the customers did not anticipate or that the customers believed were disproportionate in amount to the value of any overdraft service received from the financial institution. However, in our experience credit union members are generally grateful for the overdraft service since it allows them to make purchases when in need. In some cases, this service enables members to avoid more significant adverse economic consequences, such as merchant fees for returned checks or worse consequences of the failure to pay a bill. We have found that this service is even more valuable to our members as their means of accessing



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their deposit accounts proliferate through debit card and automated clearinghouse (“ACH”) transactions.

At the same time, this increase in the types of debits that we must process and post to our member’ accounts has made it more difficult for us to identify transactions that may cause overdrafts. Paper checks clear as ACH items and more members are using their debit cards to pay bills. It can be difficult to understand which electronic channel processed the item.

The Board has identified a number of issues in the Proposed Rule and, in some cases, has proposed alternative approaches to addressing them. We believe that the appropriate resolution of these issues is critical to our ability to continue to serve our members effectively.

First, the Board has proposed that members either be able to opt out of any overdraft service that assesses a fee or charge for overdrafts due to ATM withdrawals or one-time debit card transactions or that the member be required to opt in to this service. We believe that the opt-out option will be more consistent with member expectations. It enhances the relationship between the member and the credit union since it epitomizes the objective of people helping people by not returning items unnecessarily and lending a helping hand in a time of need. As a practical matter, there are extraordinary technological difficulties in allowing the partial opt out of ATM and debit card transactions while continuing to pay paper checks and ACH items.

Rather than imposing the partial opt out, we believe that the member should be allowed to either have access to the overdraft services for all types of transactions or to opt out of the overdraft services solution altogether. In addition, a “partial” opt out is likely to confuse members and lead to the need for extensive explanations as to the different types of transactions that are or are not covered by the member’s choice with respect to an opt-out decision. The variety of payment and processing options will cause frustration on the member when they expect the payment to clear and it is returned. A simple “on or off” solution will be much easier for members to understand.

In addition, the Board has proposed alternatives with respect to the pricing accounts where the member opts out. Under one alternative, the Board requires that the



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terms of the accounts for members who opt out be the same as the terms for accounts for members who do not opt out, effectively giving the member an option to unilaterally change the price structure of the account relationship.

The other alternative would recognize that by charging for overdrafts, credit unions are able to make other features of deposit accounts more attractive, including such features as minimum balances to avoid account maintenance fees, funds availability policies and rates paid on the accounts. We believe that we should be able to vary the terms of accounts that opt out of overdraft fees to reflect the differences between member accounts where the member opts out and those where the member does not. However, we believe that such differences should not be designed to coerce member choices.

Finally, we are pleased that the Board has recognized that the fact that a member may have adequate funds on deposit to cover an ATM withdrawal or a one-time debit card transaction at the time that the transaction was authorized does not mean that those funds will not be withdrawn or needed to cover another transaction, and permitted the financial institution to impose a fee or charge for an overdraft resulting from such a transaction regardless of the member's choice on whether to opt out. Frequently we authorize these transactions only to have the funds disappear due to another transaction before the authorized transaction settles. At the same time, we do not want to reject these intervening transactions for operational reasons and because there is always a possibility that the authorized transaction will not be completed as authorized.

Thank you for the opportunity to comment on this important matter.

Sincerely,

A handwritten signature in cursive script that reads "John Servos".

John Servos
President
Neighbors Credit Union
6300 South Lindbergh Blvd
St Louis MO 63123