

From: Kent Credit Union, Joseph D Crawfis
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Comments:

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Proposal: Regulation E - Electronic Fund Transfer
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Name: Joseph D Crawfis
Affiliation: Kent Credit Union
Category of Affiliation:
Address:
City:
State:
Country: UNITED STATES
Zip:
PostalCode:

Comments:

The initial regulation as adopted in November 2009 did provide guidance to institutions that have a policy and practice of declining ATM and one-time debit transactions that had insufficient funds at the time of authorization. It exempted them from opt-in and notice requirements, yet still allowed an NSF fee to be assessed on the transaction. Kent Credit Union follows a policy of declining any transaction if there are insufficient funds at the time of authorization. However, this does not mean that a customer cannot inadvertently overdrawn their account. They may have intervening transactions that clear between the time that a transaction is authorized and when it posts to the account. The financial institution should be able to assess a fee for the overdraft, as the customer should be responsible to maintaining their account balance at all times. I have checked with outside consultants, who advise to start an opt-in program in order to preserve the right to charge an NSF fee. We do not wish to do that, and currently customers would have nothing to opt-in to since we don't provide overdraft services on ATM/debit card transactions. The point of the regulation is to educate consumers and give them a choice. In our case, we have made a decision not to offer overdraft services for ATM/debit transactions, and we feel this is in the best interest of our customers. We should not be penalized for operating in this fashion. Please consider modifying the revision of 205.17(b)(4) to exclude institutions that BOTH do not have a formal overdraft program and have a policy and practice of declining to authorize and pay any ATM or one-time debit card transactions when the institution has a reasonable belief at the time of the authorization request that the consumer does not have sufficient funds available to cover the transaction from the prohibition on assessing overdraft fees under 205.17(b)(1).