

From: Robert A Steen
Subject: Reg E - Electronic Fund Transfer

Comments:

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Proposal: Regulation E - Electronic Fund Transfer

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To: Board of Governors of the Federal Reserve System Subject: Comment on Proposed Rule change Date: March 25, 2010 We understand the restrictions placed on the request for comments. We further understand that the Federal Reserve Board staff can choose to read and consider only those that limited comments consistent with those restrictions. While that may be convenient, the Board cannot restrict the words that we choose to submit. I have read virtually everything that I could get my hands on regarding the "clarification" process of Regulation E as it relates to overdraft rules including the examples set forth in the request for comments. If this is the Board's idea of helping consumers understand when and how their account can be charged for a transaction drawn against insufficient funds, the Board should know that the effort fails the reasonableness test. We will neither be able to explain this to each other, nor to our customers. But the bigger issue is the notion that the

Federal Reserve Board made a determination that a financial institution can not charge a fee for a product or service. This is an unprecedented journey that we can not take. Moreover, aside from some notion of authority that falls under a perceived superpowers law extended to the Fed, there is no authority to make such a decision. The right is limited to the requirement for clear and concise disclosure so that the consumer can make a reasoned choice. And there are over 8,000 choices just within the regulated banking industry and dozens within our market. Our small bank does offer a limited home grown overdraft service specifically for one time debit card or ATM transactions. It is a result of our good customers telling us that a denied transaction at a retail check out counter is an embarrassment and inconvenience that is unacceptable. We have never encouraged or advertised the overdraft service. Many like to talk about the \$35 overdraft fee resulting from a \$3 cup of coffee.

We would submit that we should be focused on the 11:00 P.M. transaction at the pharmacy for the little girl that desperately needs an inhaler or prescription for a diabetic reaction. Our customers know the difference. Our overdraft fee

was the lowest fee that the FDIC reported in their overdraft survey. We disclose that a debit card payment may cause an overdraft fee that would otherwise not be incurred if the transaction was denied. We further explain that for a \$2 fee, funds can be transferred from a savings account to avoid an overdraft fee. We spend a lot of time each day calling customers, monitoring for the next expected deposit, and other direct personal service to make critical payments and insure that our customers' transactions are completed. We know that if we do not, our customers will experience significant embarrassment, inconvenience and fees at the merchant level for return items. We also know that many merchants, including major retailers, do not follow the rules and resubmit returns in one form or another multiple times which result in layers of fees. Anything we can do to make sure the transaction is processed is in our customers' best interest and they appreciate it. We have always given our customers a right to opt-out of the service and we have no objection to the opt-in choice. It is insulting to our customers that we ask them to check a box, sign their name and drop off or mail their opt-in form, and then send them yet another letter telling them what they did. We would prefer not to participate in the ongoing effort to dumb down our valued customers. The most discouraging aspect of this clarification is that the Board actually does understand the payment system and all the messy aspects that can go with processing a transaction. The Federal Reserve was the leader and instrumental in the revolution of the payments system with the remarkable success of Check 21. But in this instance, rather than take a thoughtful and constructive approach to dealing with gross abuse, the process was relegated to a convoluted and illogical rule that precludes any discussion on the irrational. That is disappointing and is by any measure a path that our industry has a duty to challenge. This is outside the role of the Federal Reserve. We decide what we charge for our products and services and our customers decide if the cost is reasonable, fair and provides a value proposition. To reduce this to anything less is a path too dangerous to contemplate for our industry. Our bank assigns a value to risk. If this folly happens, we estimate that we will close 10-15% of our consumer accounts. Be careful what you wish, we serve these folks well.