

August 7, 2008

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, N. W.
Washington, DC 2055

RE: FRB Docket No. R-1314; OTS Docket No. OTS-2008-0004; Unfair or Deceptive Acts or Practices; 73 Federal Register 28904; May 19, 2008

Dear Sir or Madam:

Thank you for allowing us to comment on your proposed rule on Overdraft Fees.

By way of background, NewportFed is a federally chartered, OTS regulated savings bank. Including our main office in Newport, we have five branch offices with an additional two offices scheduled to be open in late 2008/early 2009. Founded in 1888, we currently have \$400 million in assets with much of our growth occurring in the past ten years during which we grew over 400%. A big part of our success has been a strong increase in checking account deposits. Since the mid-90s to the present, the number of our checking accounts has gone from just over 2,000 to nearly 11,000. Throughout this period we have provided overdraft protection to our customers without advertising or promoting this service. In addition, as technology has evolved, we have striven to give our customers as much access to the detail of their account as possible. Such access includes not only telephonic and in-branch conversations with Bank representatives but also on-line banking, Voice Response Units (VRU) and ATMs. Our aim is to provide depositors with as many ways possible to ascertain available balances, checks cleared, checks outstanding, account charges and any other information required to balance and stay informed about their account.

We manage our overdraft program with the help of a matrix that takes into consideration several factors including the balance of an account, overdraft frequency, overdraft amount and average length of time overdrawn. Overall, we have tried to be as accommodating as we can which at times has resulted in losses being sustained on our part. We point out that it has always been our policy that if a customer informs us that they do not wish to participate in our overdraft program then we immediately remove them from it. As an aside, this has happened very infrequently. By far, our customer feedback on

overdrafts has been positive. More often than not, our honoring of a check with insufficient funds in an account has saved customers from not only embarrassment and credit rating "dings" but also dollars in terms of potential merchant and vendor returned check fees.

For over a decade our approach of utilizing a matrix to qualify customers for overdraft protection and removing them from the program, when requested, has served our customers and our institution well. We urge that the financial Overdraft Fee Rule not contain a formal, one-size fits-all methodology but rather provides enough latitude for a financial institution to decide for itself the terms and conditions on which overdrafts will be honored and the degree of risk that it wishes to assume. Regarding the opt out reminders, we believe that this would cause more confusion than it is worth similar to the annual mailing of privacy notices. For your information, we share customer information solely with companies such as our core processor that are integral to our delivery of products and services to our customers. Nevertheless, the formal language required to explain our policy each year invariably causes several customers to close their accounts because they misunderstand the "required" language. In general, we find our customers to be diligent and savvy enough to decide for themselves what products and services they want to use without having to be periodically prompted with opt out reminders.

As to partial opt out of ATM and debit card transactions while retaining coverage for checks and ACH, this could be implemented on our processing system but would require numerous exceptions and involve much additional cost. Here again, we believe a partial opt out has the potential for creating much confusion. A partial opt out customer, particularly one who has had written overdrafts that have been honored, may over time not remember executing the initial partial opt out and find himself or herself bitterly disappointed if an after hours emergency cash situation is encountered. Accordingly, we urge that opt out be done on an all or nothing basis.

On a related matter, our ATMs provide a "warning" message to customers that proceeding with an ATM transaction could overdraw their account and, at that point, asking the customer if he or she wishes to inquire as to the account balance available. Depending on the customer's decision the transaction continues or is terminated. We have found that in almost all instances the transaction is continued.

Relative to the matter of the order of presentment of checks to be paid, our core processor provides three options from which we can choose just one. The options are:

1. Large to small amounts
2. Small to large amounts
3. As received

In summary, our institution has been offering overdraft protection for over ten years and in the process has learned quite a bit about customer behavior and attitudes. The knowledge we have gained is channeled back into the program in the form of periodic "tweaks". We view overdraft protection as a service that addresses a need of our customers. Certainly, based on the growth and success we have experienced, we believe our program is both effective and welcomed by our depositors.

Please note that our overdraft program has been scrutinized in at least a half dozen regulatory examinations and has always passed with flying colors.

A substantial overhaul of Overdraft Protection programs we find is not warranted and could quite possibly work to the detriment of the consumer. We urge that broad guidelines be considered as opposed to tightly written, cumbersome rules that leave little room for discretion. Restructuring what we have found to be a needed and welcome service for our customers into a complex, bureaucratic system may give us pause to consider whether the program is worth continuing. We earnestly hope the final rule does not lead us down this path.

Thank you for allowing us to comment.

Sincerely,

Kevin M. McCarthy
President/CEO