The Bank *of* Southside Virginia

PO Box 40
17208 Halligan Park Road
Carson, VA 23830

July 23, 2008

Regulations Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
ATTN: OTS-2008-0004

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:

The Bank of Southside Virginia is very concerned about the impact that of proposed regulations relating to overdraft protection programs as referenced above. We wish to comment about these proposals and share our bank's perspective with you.

Checking accounts are the backbone of customer relationships in our bank. While we encourage customers to handle their accounts responsibly, we understand that mistakes happen and that unforeseen circumstances may cause items to be presented for payment when there are insufficient funds in the account to cover them. Therefore, at our discretion, we pay the items and overdraw the account in anticipation that the customer will make deposits to cover the shortfall.

By overdrawing an account, the bank runs the risk of non-payment and incurs notification and collection expenses. A reasonable overdraft fee is compensation to the bank for handling the item. Our customers view overdrafts as a benefit. They appreciate having us pay the item versus returning it to the payee stamped as Non-Sufficient Funds (NSF). Customers understand that the bank charges an NSF fee and that a second fee is often levied by the payee. Thus they may well pay twice for a returned item and be subject to an embarrassing and possibly litigious situation.

Offering customers an "opt-out" of overdrafts may result in regulations overriding with what the bank perceives as good customer service. Our customers receive fee schedules when an account is opened, and all fees are disclosed in the account agreement. Those who repeatedly overdraw their accounts know that the fee is charged. Sending repetitive, periodic opt-out notices will serve no useful purpose. In fact, it will drive up the cost of operation and ultimately be reflected in higher costs to the customers.

Operationally, a partial opt-out covering ATM or debit cards could result in the customer being denied service when that was not the intent. Systems such as ours cannot differentiate between in-person debit card use versus recurring payments. Thus a recurring debit payment for a mortgage, utilities, insurance or some other vital service could be denied because of the partial opt-out. At ATMs we provide an opt-out option by which the customer can cancel a withdrawal when it taps into funds from a source other than those on deposit in their checking account.

When setting up a debit card system, the bank chooses whether to authorize transactions based on available, current or collected balance. This is done system-wide, and cannot be handled individually by card. In order to prevent a debit card transaction from overdrawing a customer's account, which is the goal of a partial opt-out, the parameters would have to exclude all cards from overdrawing customers' accounts. This would prevent the bank from offering a valuable service to the majority of debit card holders who want the option to use available funds from sources other than the checking account and who do not abuse the practice.

Debit card holders, and especially those who travel a great deal, may see holds placed on funds in their checking accounts that exceed the dollar amount of the service rendered, i.e., hotels, car rentals or restaurants. Card associations allow this practice due to the nature of the businesses involved, but the impact on the customer may be that funds are held unnecessarily. Our bank has a procedure to handle situations like this. It seems only reasonable that any bank that issues debit cards would have in place a similar method to retain the merchant's claim to funds but also accommodate their customer's need to have unclaimed funds released.

Banks choose the order in which to pay items, small to large or large to small, depending on many factors. Our bank chooses to pay large to small, based on the assumption that large dollar items are those that would have the greatest negative impact on the customer if they were returned as NSF items. The methodology is system-wide and cannot be altered individually by account.

Customers are our first priority. We pride ourselves on doing what is right for the customer within the framework of our responsibility to manage the bank's risk and liability. The vast majority of our checking account customers handle their accounts as expected. Those who take advantage of the overdraft privileges that we allow know that fees are assessed for service rendered. Therefore, we feel that adding additional regulations such as those proposed in the UDAP Proposal on Overdraft Accommodation would create an unfair restriction on the service that banks now offer. We have followed the Interagency guidance on overdraft programs since 2005; examiners have not criticized our program; and we do not feel that we are engaging in unfair or deceptive practices.

Our comments on the proposed regulations stem from a sincere desire to serve the financial needs of our customers. In doing so we factor in the risks involved, the cost of doing business, and our processing technology. We feel that the overdraft programs, policies and procedures that we have in place are fair and equitable to our customers, to our bank and to our industry.

We thank you for this opportunity to share our comments. My staff and I will be glad to answer any questions you may have about these comments.

Sincerely yours,

J. Peter Clements
President / CEO

CC: Board of Governors of the Federal Reserve System