



Stockman Bank

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Federal Reserve Board and the Office of Thrift Supervision

Submitted Electronically

RE: Docket R-1314 (FRB) and OTS-2008-00004 (OTS)

Dear Sir or Madam:

New pending regulations on overdrafts will likely have significant drawbacks for consumers and force unneeded and overly complex regulatory burdens on financial institutions. I believe the only true effect of these pending regulations will be to confuse and confound consumers. Customers will now be even more confused on how payments work within their checking account and their ever growing paper and rules burden of a simple banking process. Customers have a choice. If a customer is not satisfied with prices or service at one financial institution, over 8,500 choices exist across the United States.

For over 50 years Stockman Bank of Montana has dealt with overdrafts on customer accounts. This practice is nothing new and we have accomplished this by complying with safe and sound banking practices and following existing regulations. Based upon our relationship with customers, over time and as payment alternatives grew, we routinely pay checks, ach, debit card and other transactions which overdraw our customer's accounts. We also have numerous letters where customers have thanked us for paying a check or item. Customers all make errors from time to time, and customers *realize that paying an item which creates an overdraft situation provides real value to them whether in an established overdraft program or not.*

A few points specific to the proposal:

- a. Overdraft fees can be avoided by consumers today without requiring a specific advance notice and opt-out followed by repeated periodic opt-out reminders. Consumers regularly manage their accounts to avoid overdrawing them. Stockman Bank of Montana has offered overdraft options for over 50 years without the burdensome compliance exercise of a formal one-size-fits-all opt-out requirement. Customers understand the existing rules and options.
- b. The proposal for a partial opt-out of ATM and debit card transactions, while retaining coverage for checks and ACH, is not technically feasible under our existing processing systems and could not be feasibly implemented without numerous exceptions due to processing system complexity. Additionally, we believe that it would adversely affect customers who use debit cards for recurring payments and has the promise of only causing exceptional frustration with consumers who use debit cards and tends to move our payment systems back to a cash only basis.
- c. The proposal covering debit holds is far too complicated to be implemented effectively or clear enough for consumers to understand. The issue is really one that involves merchants and the card networks and cannot be solved by putting the onus only on banks who are simply acting in a safe and sound manner to assure funds are available for authorized transactions. Once again this rule has the promise of causing exceptional frustration with a preferred consumer payment system, the debit card, and if too much trouble could well encourage a move to a cash only payment system.

Stockman Bank of Montana has and continues to observe the 2005 Regulatory Interagency guidance and best practices for overdrafts. Overdrafts and the handling of presented items on insufficient funds is not unfair or improper and has been a normal process of financial institutions for over 100 years. The proposed additional disclosures and rules for overdraft will most likely lead to significant payment issues and frustrations by our customers who will not understand why their cards or other account access devices no longer work.

Most customers will think it ridiculous when financial institutions tell them that the government requires the bank to ask them to make a choice to pay overdrafts or not when they open an account, and then asks them the same question each month. After all, in plain terms, what would a consumer choose, "probably" pay my overdraft and charge me a fee or always return my NSF items and charge me a fee. Obviously the choice is pay my item if possible, and as such a choice is a fruitless exercise. The raw fact is these new regulations will merely be another supply of unread and misunderstood information to customers, another group of wording that is ignored with the existing mass of regulatory disclosures given at account opening. Further, payment systems check backs, if even possible, and similar interruptions will lead to misunderstandings and frustrations for both banks and customers, most likely causing payment type shifts to less bothersome and troublesome methods like cash and regular paper checks.

Comments have also been requested by regulators on the order of check presentments and payments, Stockman Bank of Montana objects to any regulatory requirement on processing order. The order of item presentment recognition varies across the industry to take advantage of system efficiencies and other customer service issues. For example, the largest amount presentment in our markets is normally a house payment. As such Stockman Bank after customer input over many years has generally chosen to pay the house payment first (larger items) versus other items in presentment, however this also has become more difficult due to new payment transaction types and requirements of those items. Today, with many new payment types presented for processing requiring payment guarantees and with presentments at varying timeframes, no single rule (such as low to high) is truly practical or possible. Further allowing individual customers to choose an alternative payment processing order would be virtually impossible to manage with technology available today. Regulation of this area would be a micro-managing disaster.

Overall, I believe that the proposed overdraft regulations and resulting confusion over item processing and payment or nonpayment of items along with another round of additional account disclosures would, in the end, not be practical or provide any worth to our customers.

Sincerely,



Harold A. Klem
Sr. Vice President/Chief Administrative Officer
Stockman Bank of Montana