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August 1, 2008

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

RE: Docket Number R-1315
Proposed changes to Regulation DD
Truth in Savings Act
73 Federal Register 28739, May 19, 2008

To Whom It May Concern:

As an employee of Cornerstone Bank I appreciate the opportunity to submit comment to the Office of the Thrift Supervision (OTS) proposed amendment to Regulation DD, which implements the Truth in Savings Act. Cornerstone Bank is located in east-central Nebraska covering 29 locations in 20 communities in this area.

In general, Cornerstone Bank is concerned that the proposed system of "opting-out" of overdraft fees may have adverse consequences for our customers. Overdraft fees can be avoided by customers without requiring a specific advance notice and opt-out followed by repeated periodic opt-out reminders. Customers regularly manage their accounts to avoid overdrawing them.

Cornerstone Bank offers a variety of overdraft options today without the burdensome compliance exercise of a formal one-size-fits-all opt-out requirement. We believe that it is important that an opt-out notice, if required, provide complete information to customers. Customers should understand the types of transactions that may result in an overdraft and which transactions will *not* be paid if they opt-out. They should also be aware of potential charges when items are returned unpaid, including fees imposed by the payment recipient. While customers should be aware of alternatives to avoid overdraft fees, it cannot be assumed that these alternatives are advantageous or less costly to the customer.

Cornerstone Bank would caution against "throwing the baby out with the bathwater" in proposing the extensive regulation of overdraft fees. Overdraft services provide countervailing benefits to customers and competition that outweigh the costs in fees. Bank customers desire the service and demonstrate that by utilizing it.

Overdraft fees can be reasonably avoided and are not unfair when assessed without a formal advance notice opt-out. Fees for covering overdrafts are addressed in the account agreement and new customers are made aware of these fees as well as any applicable maintenance fees and NSF fees at the time of opening their account. Bank customers know in advance what the rules and the costs are for overdrawing an account – all without the imposition of a formal opt-out notice.

Customers understand that it is their responsibility to balance their accounts – and overdraft fees provide both an incentive to do so and a user charge when they inadvertently fail to do so. Overdraft fees are not injurious, but rather are the price for bank accommodation in fulfilling a payment choice, instead of denying a transaction. Paying items rather than refusing them helps some customers to avoid merchant fees and adverse credit experience. If checks are returned, the merchants may be less willing to accept checks from these customers in the future.

It would not appear that the proposal for a partial opt-out of ATM and debit card transactions, while retaining coverage for checks and ACH transactions, is technically feasible under most processing systems available to bankers. The revisions to software that would be required by the proposal would require banks to incur significant expense and could not be implemented without numerous exceptions due to processing system complexity. The proposal would additionally have an adverse effect on customers who utilize debit cards for recurring payments.

In conclusion, providing accommodation for overdrafts does not cause “injury” to our bank customers, but rather provides a benefit. Any fees for overdrawing an account are reasonably avoidable through the exercise of normal care by bank customers. Overdraft accommodation programs are successful because the benefits outweigh the disadvantages. They are sustainable because customers want the bank to recognize that when they inadvertently overdraw their account they can be trusted to make it right.

Sincerely,

Daryl Wilton, Senior Vice President
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