



Michael T. Murphy
Executive Vice President and
Chief Financial Officer

By electronic delivery

August 1, 2008

Jennifer J. Johnson
Secretary
Board of Governors of the Federal
Reserve System
20th St. and Constitution Avenue,
NW.
Washington, DC 20551
regs.comments@federalreserve.gov

Regulation 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

Ladies and Gentlemen:

I oppose the proposed rule that will create a huge burden on our community bank and thousands of others like it around the country. Overdrafts are incurred by a small minority of our deposit customers. Regulations that would require sweeping changes to our operating systems, our processes and how we serve the majority of our customers are counterproductive to the greater good of the consumer and to the banking community.

Please remember that customers can avoid overdraft fees by setting up transfers from other accounts or using a line of credit. Transfers are free at First American and the line of credit charges current market rates. The additional option of using our Overdraft Privilege is already *optional* and the customers can opt out at any time. The majority enjoy the ability to have that extra cushion should they overdraw their account inadvertently. We charge an average rate for our market for overdraft fees, but paying that check often avoids larger fees by the merchants. Why are you not looking at them and the fees they charge?

We provide disclosures at account opening and throughout the life of the account, which outline in multiple forms the customer's responsibilities and fees associated with their account activity. Our representatives review the forms, specifically regarding overdraft coverage, with each customer. That information is even shown on our website. I have even seen our representatives contact customers who would be better served with a line of credit or a sweep of their savings account to make that change.



The Opt Out clause you are proposing based on transaction type is simply not feasible. Our system reads a certain balance field for all transactions to be paid from- including checks, ach transactions, debit cards on line, debit cards at a store, or ATM transactions. If you want to limit the ability to access your monies in one of these, it limits it in all. We have explored the possibility to separate these before. Again, it hurts the consumers – because that balance information also draws the available balances from that more traditional overdraft sweep account and the overdraft line of credit – so the customers using those access points would have their ability to use them curtailed.

We process checks, electronic items, and any other transactions in the order they are presented regardless of size. Mandating that the smallest item be processed first may mean that the least important item to the consumer is paid and the most important item (like rent or a mortgage payment) goes unpaid. Also, for the bank, it creates the need to reset our processing and programming at significant expense to us.

After the 2005 Interagency Guidelines were published, we went through great effort and expense to meet the best practices outlined in it. If we continue to experience these attempts to control our business offerings and services, we then get forced to look for other sources of revenue or increase fees system wide. This impacts a far greater base of our customers than the minority that will feel any impact of the new rules. I do not believe this is anyone's intent.

Please the present safeguards in place and avoid processing any new changes to the existing rules.

Sincerely

A handwritten signature in cursive script that reads "Michael T. Murphy".

Michael T. Murphy
Executive Vice President/CFO