



July 30, 2008

Addressees: Jennifer J. Johnson  
Secretary  
Board of Governors of the  
Federal Reserve System  
20th Street and Constitution Ave, N.W.  
Washington, D.C. 20551

Regulation Comments  
Chief Counsel's Office  
Office of Thrift Supervision  
1700 G Street, NW  
Washington, DC 20552

Re: FRB Docket No. 1314 (Overdraft Protection)  
OTS Docket No 2008-0004

Sun Bancorp would like to take this opportunity to comment to the Board of Governors of the Federal Reserve System and the Office of Thrift Supervision on the Agencies' notice of proposed rules on unfair or deceptive acts or practices with the respect to deposit account overdrafts, and the proposed regulations under the Truth in Saving Act on deposit account overdrafts that were issued on May 19, 2008.

We urge the Agencies to proceed with caution on the proposed rule and the application of the FTC's UDAP unfairness standards to the banking payment processing systems and to remember that consumers can avoid overdraft service fees by proper management of their financial behavior.

Sun Bancorp has concerns with several points of the proposal:

**I. Right to Opt Out.** - The proposal requires institutions to provide consumers with notice and an opportunity to opt out of the payment of overdrafts, before any overdraft fees or charges may be imposed on consumers' accounts

Sun Bancorp offers its consumers several options to avoid having a check returned or transaction declined for non-sufficient or unavailable funds:

- A consumer may chose to tie a savings account to checking account thereby allowing automatic transfers from the savings to the checking account should a consumer not have sufficient funds to cover a transaction.
- An overdraft line of credit is also available to consumers who apply and qualify for it.

Additionally, for customers who do not chose one of the above options, Sun Bancorp may consider paying or approving transactions including checks, POS, ATM withdrawals, ACH debits and Bill payments for established customers. As provided in our account disclosure an Overdrawn/Non-sufficient funds fee is assessed. We do not market or promote this service and we do send letters to consumers who have excessive overdrafts counseling them in ways to manage their account.

We do not feel it is necessary to place an unfair burden on the banking industry to provide consumers with a notice and opportunity to opt out of payment of overdraft before any fee is imposed because:

- Consumers have no legal right to write bad checks;
- Consumers can avoid these fees by properly managing their accounts;
- Balance information is readily available to consumers via on-line banking, voice response units, a visit or call to a branch;
- Initial account disclosures provide the consumer with information on fees assessed;
- Industry feedback indicates consumers would rather have the transaction processed or item paid than be embarrassed by having a transaction declined or item returned;
- By paying the item a consumer may avoid other charges assessed by vendors and merchants thereby saving the consumer money.

**2. Opt out for ATM and Point-of-Sale.** The proposal requires institutions to provide the consumer the more limited option of opting out only for the payment of overdrafts for ATM and point-of-sale transactions initiated by a debit card.

We do not feel the banking industry should provide a more limited option for the payment of overdrafts related to ATM, ACH or POS transactions because:

- Such a distinction of these transactions cannot be made by core processing systems and involve multiple processors and their systems and is therefore not feasible;
- Debit (POS) transactions are taking the place of check transactions and to limit the ability to honor those transactions could be detrimental to the consumer;
- Consumers with recurring transactions could be negatively impacted;
- Consumer access to cash via ATM is often necessary in off banking hours or when away from home.

**3. Debit Holds.** The proposal would prohibit banks from imposing a fee when the account is overdrawn solely because a hold was placed on funds in the consumer's deposit account.

We do not feel the banking industry can be responsible for determining if the funds are not available due to a hold on an account where the final dollar amount of the transaction was not known in advance because:

- Such a distinction cannot be made by our processing systems and would also involve the processing systems of others including merchants and credit card processors;
- Consumers transactions could be declined for lack of funds due to the practice of holds being placed on funds at the onset of a transactions (such as checking into a hotel) resulting in an appearance of funds not being available.

**4. Limits on fees charged.** The proposal would limit the maximum fees assessed per day.

We do not feel this proposal is warranted because:

- The fees act as a deterrent to excessive overdraft activity;
- The consumer has to accept some responsibility for not properly maintaining their account;
- The fees are less than if the consumer were to use a check casher or other MSB business to conduct transactions.

Throughout the year, Sun Bancorp offers financial educational opportunities to consumers within our geographic footprint. Our education program includes information on how to handle a checking account.

At the time accounts are opened, we make customers aware of the opportunity to tie a savings account to a checking account to protect them against inadvertent overdrafts and the fees associated with them. They are also given an opportunity to apply for an overdraft protection line of credit.

**About Sun Bancorp**

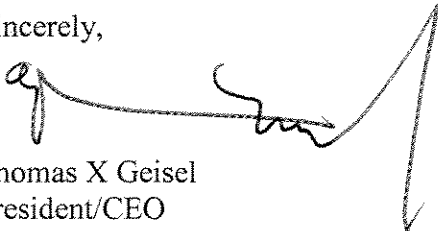
Sun Bancorp, Inc. is a multi-state bank holding company headquartered in Vineland, New Jersey, with over \$3.3 billion in assets (as of 03/31/08). Its primary subsidiary is Sun National Bank, serving customers through 70 branches in New Jersey and Delaware.

As a community-centric bank, Sun prides itself on personalized customer service with local decision making. Sun's Retail Banking Division includes all of the bank's branch locations, its ATM network and the Customer Service Call Center. Available to Sun's Retail customers are a full range of banking products and services, including traditional checking, savings and money market accounts, consumer loans, including personal, auto and home equity loans, residential mortgages through Sun Home Loans, Inc., and investment services through Sun Financial Services, Inc.

Sun National Bank started in 1985 as a small community bank with a philosophy that doing business in the community meant being a part of it...and that is still true today. The bank and its employees support hundreds of events, programs and organizations every year through partnerships, donations, volunteerism and board appointments.

Sun Bancorp respectfully submits this commentary for serious consideration.

Sincerely,



Thomas X Geisel  
President/CEO  
Sun Bancorp