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Unfair or Deceptive Acts or Practices

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Submitter Information

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General Comment

RE: OTS Docket No. OTS-2008-0004

Ladies and Gentlemen:

The purpose of this letter is to provide comment on the rule proposed by the Federal Reserve Board, the Office of Thrift Supervision, and the National Credit Union Administration covering Unfair or Deceptive Acts or Practices (UDAP) involving overdraft protection service fees.

Overdraft fees can be avoided by consumers without requiring a specific advance notice and opt-out followed by repeated periodic opt-out reminders. Customers are in the best position to know what their actual balance is. The vast majority of our customers regularly manage their accounts to avoid overdrawing them. Many customers closely maintain their checkbook register but others who may not keep their checkbook register use internet banking on a daily basis to keep track of their account activity. Others still choose to call their local bank branch to get an update on their account activity. Overdraft accommodation is a sound banking program and is so successful because customers want it and recognize that it provides real value. We offer several available overdraft options to our customers and this service is almost always expected by most of our deposit account holders. Additionally, compliance with a formal one-size-fits-all opt-out requirement would be burdensome to any bank.

The proposal for a partial opt-out of ATM and debit card transactions, while retaining coverage for checks and ACH, is not technically feasible with our core processing system. I don't believe this proposal could even be implemented without numerous exceptions due to processing system complexity. This proposal would also have an adverse affect on customers who pay for recurring payments such as cell phone bills using their debit cards.

The proposal covering debit holds is far too complicated to be implemented or for consumers to understand. Consumers look to their local bankers for guidance and clarification on complicated bank-related issues. I believe this proposal is even too complex for the well-versed bankers to understand and be able to explain to their customers. Besides the problem 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.

This UDAP Proposal will adversely affect our bank's ability to safely and soundly exercise our risk-based discretion to pay inadvertent customer overdrafts that are otherwise reasonably avoidable when our customers follow prudent account management practices. This proposal also has potentially serious adverse consequences for bank earnings and for customer service. I appreciate the opportunity to express comments on this significant proposal.

Sincerely,

Jason L. Davis
Assistant Vice President
Richland State Bank