



EISENHOWER BANK®
Worldwide Military Banking
a division of Broadway National Bank, Member FDIC

Greg A. Oveland
President

August 4, 2008

Via electronic submission

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal
Reserve System
20th St. and Constitution Avenue, NW
Washington, DC 20551

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

RE: Board Docket No. R-1314; OTS Docket No. OTS-2008-0004;
Unfair or Deceptive Acts or Practices; *73 Federal Register* 28904;
May 19, 2008 (UDAP Proposal)
(addressing Overdraft Services)

Ladies and Gentlemen:

On behalf of Eisenhower Bank, a worldwide military bank and division of Broadway National Bank headquartered in San Antonio, Texas, this letter is intended to set forth our institution's views and concerns of the proposed amendments to Regulation AA and DD as they relate to deposit account overdrafts.

A. Overdraft Accommodation:

In the past, federal regulatory guidance and regulatory changes have helped improve our discretionary overdraft accommodation service as an important service to our depositors. We have observed the 2005 interagency guidance and best practices and by doing so should not now have our program rendered unfair.

We feel that our discretionary overdraft accommodation is a customer friendly practice and have developed a safe and sound program that is currently extended to most of our deposit customers. Feedback from our customers is very positive about the benefits of this service and customer complaints are extremely rare.

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Our customers realize that the fee for the service is fair and they understand that it is their responsibility to balance their accounts. They know that through good account management on their part overdraft fees can be avoided. Our customers who periodically overdraw their accounts are aware of the consequences and are intentionally showing their preference to have their overdrafts covered by the bank for a fee rather than have their transactions denied. Normally, denial of payment of a customer's transaction results in greater costs to the consumer. In addition, we provide other less costly ways for our customers to cover overdrafts such as an auto transfer from another account the customer has with us or from an internal line of credit established for this purpose. However, we have found most of our customers elect to rely on our discretionary overdraft accommodation to cover the occasional overdraft.

When asked, most customers report that they don't intend to have overdrafts or, if they overdraw, they don't intend to do it again. We feel it is our role as their financial institution to educate and assist our customers, but not to demand that they use these other forms of overdraft coverage.

B. Opt Out for Electronic Channels:

A large number of our customers use debit cards as their primary means for making payments. In fact, some carry no other means of payment. Our customers have been quite satisfied with our overdraft services for our electronic channels that cover ATM and debit card transactions and we have again found that they understand the fees and benefits associated with this service.

Partial Opt-Out

We feel that Reg AA's partial opt out for ATM and debit card purchases adds additional complexity and confusion for the customer in their choice of overdraft service. This is neither necessary nor warranted.

To complicate matters, even if a customer did opt out on the payment of electronic overdrafts, it still may be impossible for our bank to stop certain customer authorized electronic transactions from overdrawing their account. The Board's Reg AA proposal recognizes two such circumstances and there are others. An example would be if deposits to an account are returned after payments have been made based on those deposits and the debit card transactions that were presented for payment were not pre-authorized. Non pre-authorized transactions can take various forms such as under floor limit transactions. Floor limits are used to expedite small dollar transactions by not authorizing the transactions with the issuing bank or authorizing for a nominal amount to verify a good account. A transaction creating an overdraft due to being under the floor limit can be disputed with the merchant, but the cost for processing such a dispute would not be offset by an overdraft fee. As a result, the bank will be left with the choice to not dispute the transaction and accept the risk with the overdraft or incur more costs to dispute the items.

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We strongly oppose any partial opt out option due to added customer confusion, banks' systems restrictions and costs to allow this feature, and unknown and questionable costs versus benefits.

C. Debit Holds

This proposal would require that institutions must not assess a fee or charge on a customer's account with an overdraft fee if the overdraft would not have occurred but for a hold placed on funds in the customer's account that exceeds the actual purchase or transaction amount.

Debit card holds are generated by merchants through the card processing systems so financial institutions really have no control over debit merchant holds being made or their accuracy. When an institution authorizes a transaction, it is required to make payment upon presentment for settlement and the debit holds are intended to prevent the risk of loss from being placed solely on the financial institution. If an institution is no longer able to assess an overdraft fee, they may be inclined to decline any subsequent authorizations or transactions on the account if future payments could cause the account to be overdrawn.

We feel that the Agency's proposal could have the unintended effect to cause financial institutions to impose stricter standards for approval of debit cards and may issue debit cards only to very select customers.

In Conclusion

Eisenhower Bank appreciates the Agency giving us the opportunity to comment on proposed changes to Regulations AA and DD. We understand your desire to protect consumers that frequently overdraw their accounts and incur overdraft fees. However, we are concerned that, while well intended, some of the Agency's proposed rules may have the opposite desired effect. Most banks in the United States have managed customer overdrafts for many years using a risk-based approach to pay or not to pay customers' overdrafts. This system has worked well for both the customer and bank over these years and we ask for caution in your actions.

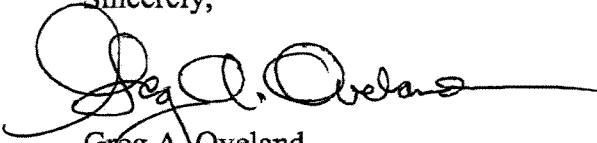
We have found over the years that the most effective way to help our customers avoid excessive overdrafts is through our system that detects account management problems early, one on one account management counseling provided by our trained bank personnel and help services like our Overdraft Workout Account.

I have provided testimony of our approach to overdrafts by participating on a 2006 FDIC Panel called by FDIC Chairman Sheila Bair and Chairman of the House Financial Services Committee, Barney Frank. As a result of the Panel's testimony, the FDIC is promoting the use of some of the solutions presented.

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We respectfully submit customer education as the solution over increased rules and regulation.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg A. Oveland", with a long horizontal flourish extending to the right.

Greg A. Oveland
President

GAO/tb