

July 28, 2008

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

Re: FRB Docket No. R-1314; OTS Docket No. OTS-2008-0004; Unfair or Deceptive Acts or Practices; *Federal Register* 28904; May 19, 2008

To the Chief Counsel:

As recently as eight years ago Fidelity Bank enforced a strict non-payment overdraft policy, and on a weekly basis we would receive criticism from customers for not allowing overdrawn balances on credit-worthy accounts. We began relaxing that policy on an account-by account basis, but that process remained arbitrary and resulted in customer dissatisfaction. Over three years ago we instituted a formal overdraft protection program based upon Strunk & Associates recommendations. Since its inception, our customers' enthusiastic acceptance of this program has demonstrated that they see true value in this service. Our Bank has a very low opt-out rate, and we receive letters of gratitude from customers for saving them the embarrassment of non-payment of transactions as well as preventing them from incurring returned check fees.

We are concerned with the Proposal's requirement that additional opt-out notices be provided at least once during every statement period in which the consumer incurs an overdraft service fee. We believe that providing an opt-out notice, which will in most cases be accompanied by an explanation of the potential harms that might result from the consumer's decision to opt out, would simply bury consumers with information. Instead, we recommend that a concise statement of the consumer's right to opt out be placed on the consumer's periodic statement in close proximity to the aggregate fee disclosures mandated by 12 C.F.R. Part 230.11.

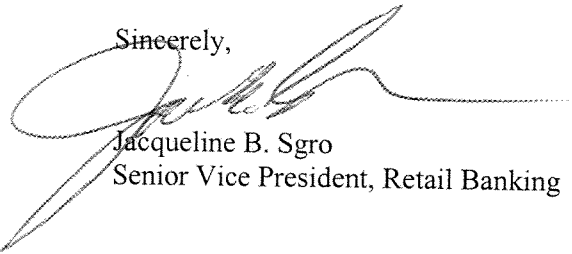
The value to the Bank of this program is in providing a clear, non-arbitrary policy and procedure for addressing an on-going need for our customers. With so many ways to access their funds, whether by check or ACH or debit card or internet payment, our customers tell us that their lifestyles makes it difficult for them to keep a daily tally of their account balances. They rely on the overdraft protection program to keep them out of trouble, and they are willing to pay the \$25 service fee for that value.

Fidelity Bank

HELPING YOU GET WHERE YOU WANT TO BE

Our Bank is pro-active in ensuring that this program remains a benefit to our customers. We have adopted the 2005 interagency guidance for overdraft protection programs. If we observe that a customer is misusing the program, we counsel them on how to responsibly manage a checking account, and will terminate their participation in the program if the misuse continues. Customer service employees are given liberal authority to rebate overdraft fees when they believe a customer has misunderstood the program. This self-regulation has worked and we continue to receive strong support from our customers for this service. Our customers who do not see value in that service can easily opt-out, and have done so without any loss of the other values offered by our checking accounts. We strongly disagree with any characterization of overdraft protection plans as unfair or deceptive business practices, and do not see the need for further consumer regulation of this product. Thank you for your consideration of our comments.

Sincerely,



Jacqueline B. Sgro
Senior Vice President, Retail Banking

FITCHBURG

GARDNER


LEOMINSTER

MILLBURY

SHIRLEY

WORCESTER

9 Leominster Connector, Leominster, MA 01453 800.581.5363 fidelitybankonline.com

 Equal Housing Lender. Member FDIC. Member SIF.