



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

Re: OTS Docket No. OTS-2008-0004; Unfair or Deceptive Acts or Practices; 73 Federal Register 28904; May 19, 2008

To whom it may concern:

We respectfully would like to express our concern and opposition to the proposed rule changes regarding overdrafts. While we believe it is in the best interests of all concerned for consumers to avoid overdrafts and the costs associated with them, we feel that the proposed rule changes would not improve the current system and, instead, would cause unnecessary confusion and complexity for a program that meets the needs of our customers.

It is our experience that customers regularly manage their accounts to avoid overdrawing them. Consequently, any related overdraft fees can be avoided by consumers without requiring a specific advance notice and opt-out followed by repeated periodic opt-out reminders. However, when overdrafts occur unexpectedly, our customers appreciate the fact that we will stand behind their payment decisions. They understand an overdraft fee to be an acceptable price to pay in order for us to provide this accommodation and help them avoid merchant fees and potential public embarrassment.

We also believe that the partial opt-out of ATM and debit card transactions, while retaining coverage for checks and ACH, is not technically feasible under our processing system and could not be implemented without numerous exceptions due to processing system complexity. In determining overdraft fees, our technology simply would not allow us to differentiate debit card transactions from ACH or checks at the customer level. There also would be a significant adverse impact on our customers who use debit cards for recurring payments.

Further, we feel that the proposal covering debit holds is much too complicated to be implemented or for customers to understand. Merchant, bank and card system practices are evolving constantly in an ever-changing economic environment. This issue is one that involves all the aforementioned parties and

cannot be solved by putting the burden solely on banks which simply are acting in a safe and sound manner to assure that funds are available for authorized transactions.

Last, we would object to any regulatory requirement on payment clearance processing and the order of recognizing payments. Not only does order recognition vary from bank to bank, but different types of items are presented for processing at different times. No single rule would provide a practical solution. Allowing individual customers to choose an alternative payment processing order would be virtually impossible to manage.

Our current system for overdraft accommodation is a sound banking program that is successful because our customers want it and recognize its genuine value to them. For those who find themselves in more difficult financial circumstances, we go even further by providing personal financial counseling and a special no-interest loan program for those who are unable to immediately pay back their overdraft amount.

We appreciate your receiving and considering our comments on this matter.

Respectfully,

First State Bank

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