

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:

This response to your request for comment on proposed regulations on overdraft protection programs is based upon Fidelity Bank's experience as a \$400 million mutual bank in central Massachusetts. As recently as eight years ago the 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.

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.

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,

Fidelity Bank Identical Multi-signatories (963341)

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