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Subject: Electronic Fund Transfers

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Comments:

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Proposal: Regulation E - Electronic Fund Transfers  
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Comments:

Subject: Electronic Fund Transfers I am very pleased that you are proposing improvements to the current bank overdraft rules. While banks have been raking in fees at all time highs, their greediness has without a doubt caused many families who are in the lowest two income brackets(the ones that pay most of the OD and NSF fees) to face irreparable financial losses, while sinking deeper and deeper into debt because of the unsolicited "loans" as a result of using check cards. And the worst part is that a lot of bank employees are not properly educated on when they must return funds that were wrongfully taken out of customers accounts (whether it be due to bank error, or improper setoff in violation of the Truth in Lending Act). In fact, it has been my experience that front line customer service reps at some institutions are instructed to deny all requests for fee refunds regardless of whether the customer has a legitimate claim or not. The customer must then speak to several other people higher up the management chain, or file a complaint with the OCC in hopes of recovering their funds. Given that banks have the ability to deduct money from customers' accounts at their whim; it's disturbing how laid back government regulators are in making sure that banks are not taking money which they are not entitled to it. For example, at the beginning of the year my bank deducted funds from my personal and business checking accounts in OD fees which snowballed out of control because of the gross manipulation in which the bank posted transactions, purchases and authorizations. The bank's employees told me they were entitled to these charges because ". . . if more than one item is presented for payment on a business day, U.S. Bank reserves the right to pay the items in a posting order of the bank's choosing." Do I get to charge a fee for the bank taking my money for over a month without a right? No. Customers should not have to jump through hoops and wait unreasonable amounts of time for money that was wrongfully taken from them. If the government is going to allow banks to even offer a service like Overdraft Protection, they need to ensure that bank employees are properly educated so that they protect both the institutions rightfully earned funds, and return funds which they are not entitled to and make sure that consumers are given the choice to opt-in this type of practice. Another perfect example of some banks complete and total disregard of their customer's rights - A customer notices on online banking

that there are several duplicate charges pending on their account. Due to these duplicate charges existing, other debits that come in put the account negative. However, when the system realizes that some charges were duplicates, the extra duplicate charges are removed, and the account balance is now positive. While the system did delete the duplicate charges, it did not delete the overdraft fees that were charged while the account was temporarily negative as a result of a bank error. I had this exact situation happen to me. After all this happened, my revised online account detail showed no charges that put my account negative, and there were OD fees charged that one would expect a customer service rep to instantly remove since the balance was never below 0. Many banks make it a very long and tedious process to get your money back. With regards to customer choices - Banks should be required to have customers opt-in to this service. The companies who offer OD privilege programs to banks advertise that they will work with the bank to evaluate how they can maximize their fee income. Many consumers do not want to be able to spend any money except their own. Since there are a percentage of customers that do not want the bank's money unless they apply for a loan, then the other percentage of customers who are interested in the service should sign up for it. Unilaterally subjecting people to be enrolled in services that cost them money they don't want to spend is ridiculous. As it stands now, people can't just deposit their money, pay the monthly service fee, and feel confident that they can spend their money without having to worry about paying for services they don't want. If other companies had this mentality, we would have situations such as cell phone companies requiring customers who have purchased pre paid minutes to also provide a credit card "just in case" they accidentally go over those minutes. The customer should keep track of their usage, and if they happen to go over then the phone company could claim it was providing an extra feature by giving them minutes "on the fly" and then charging a penalty fee for doing so. Obviously that wouldn't happen, but it begs the question- "Why are banks allowed to set up these situations to the detriment of their customers?" Further, if a customer deposits a check at an ATM, and withdraws money after the funds become available, and then the deposit is returned unpaid and the account goes negative- the bank should only be allowed to charge a fee per returned deposit. They should not be allowed to charge fees for each transaction that occurred while the funds were made available prior to the check being returned. Allowing the latter would certainly affect the safety and soundness of the general public. Bank employees have testified in federal cases that banks incur almost no extra expenses in administrating Bounce Protection Programs(see, for example JOHN M. FLOYD AND ASSOCIATES, INC., v RELIANT FEDERAL CREDIT UNION.) Regardless of this, customers shouldn't be unfairly subjected to repeated charges for one transaction that essentially is the cause of the account going negative (since the customer assumed that the check would clear). Since outside companies are sharing a percentage of the fee income, those companies should also have compliance reviews since it is obviously to their benefit to create as many possible ways for customers to overdraw their accounts. The rest of the situations where OD should and should not be charged are common sense and the Board should enact regulations that make sense for the general population and prevent banks from charging customers in situations that are at all questionable and seem unfair, manipulative, and blatantly wrong. The board should require these changes within 6 months, as there is no need for this nonsense to be allowed for another year. Banks certainly can use all this generated fee income to bring themselves into compliance in an expedient manner for the sake of the entire country that is affected by these unfair practices. I think that the proposal needs to be strengthened and urge that you please take into consideration the inclusion of the following modest characteristics of Maloney's bill - HR 946: A. Require notice to customers when an ATM or

point-of-sale debit card transaction is about to trigger an overdraft. B. Give consumers a choice to accept the overdraft service, and the associated fee, or not. (You should be alerted at point of sale if you will exceed funds and incur an overdraft fee if you choose to continue.) C. Require an opportunity for account holders to choose to have an overdraft plan or not. (FDIC reports that over 75% of surveyed banks automatically force their customers into an overdraft program and some do not allow customers to opt out and that isn't right.) D. Prohibit manipulation of the order of posting deposits and withdrawals so as to maximize overdraft fees. (Charging the largest posting first even if it was the last thing you purchased that day so that you pay multiple OD fees instead one on the big ticket purchase.) Thank you for providing this forum and allowing us consumers to take a stance on this long-overdue issue.