



COMMUNITY BANK, N.A.
5790 Widewaters Parkway, DeWitt, New York 13214-1883 (315) 445-2282

March 25, 2009

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, D.C. 20051

Re: Docket No. R-1343
Proposed changes to Regulation E - Electronic Fund Transfers Act
74 Federal Register No. 18, January 29, 2009

Dear Ms. Johnson,

Community Bank, N.A. (CBNA) is pleased to submit its comments to the Federal Reserve Board's ("Board") proposed amendments to Regulation E, which implements the Electronic Fund Transfers Act. The Board is proposing to amend Regulation E in order to limit the ability of a financial institution to overdraw and assess the overdraft fee for paying automated teller machine (ATM) withdrawals and one-time debit card transactions, unless the consumer is given notice of the right to opt-out of, or opt-in to the payment of such overdrafts.

Community Bank System, Inc. is a registered bank holding company based in DeWitt, N.Y. Its wholly-owned banking subsidiary, Community Bank, N.A. has \$5.3 billion in assets and 158 customer facilities across Upstate New York and Northeastern Pennsylvania, where it operates as First Liberty Bank & Trust, a division of Community Bank, N.A.

While respecting the good intentions of the Board, the Bank is not entirely certain that the average consumer would benefit from the changes proposed. We have found the overwhelming majority of consumers are very proficient at, and in the best position to manage their own financial matters. Other customers may not fully recognize the consequences of a decision at account opening to opt-out or opt-in to an overdraft service. They may not perceive the potential embarrassment of being present at the grocery store check-out, with a cart full of groceries and having their debit card transaction declined because they "opted-out" of the overdraft service. Community Bank, N.A. and other banks have a long-standing policy of promptly honoring any and all requests made by its customers to discontinue overdraft services. Mandating a process to accomplish this objective is unnecessary.



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Community Bank, N.A. further opposes the additional regulatory burden these amendments would place on the banking industry. The Bank feels this legislation would be punitive from a cost perspective and has been presented at a most inopportune time. The proposal should be considered in the context of other upcoming revisions to the Real Estate Settlement Procedures Act, Truth-in-Lending Act, NACHA International ACH Transaction rules, Prohibition on Funding of Unlawful Internet Gambling Act, Home Mortgage Disclosure Act, Truth-in-Savings Act, and possible changes to the Americans With Disabilities Act as it pertains to ATM accessibility. The human resources needed to carry out the upcoming changes will be vast. The added cost for rollout and system enhancements would also be material. For example, the Bank's existing core-processor does not allow for coding at the customer level, of those customers wanting to opt-out of overdraft payment services for ATM withdrawals and point-of-sale debits. System enhancements to accommodate this coding alone have the potential of exceeding \$100,000 which is a material amount for numerous community banks such as us. These costs would be compounded by the increased FDIC insurance premiums being placed on the banking industry in 2009, along with the anticipated special one-time assessment of at least 10 basis points, in a year of tremendous economic turmoil and challenges.

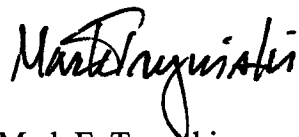
Notwithstanding the above, should the proposed amendments be made final, Community Bank, N.A. does have several opinions on the content of the proposal. Comments are set forth as follows:

- CBNA prefers the Board's proposal for an opt-out approach, as it would maintain consistency with the existing opt-out approach being utilized for Privacy matters. This would avoid customer confusion surrounding an opt-out approach for Privacy in contrast to an opt-in approach for payment of overdrafts.
- The opt-out is a more favorable approach in that it allows institutions to incorporate the model language into existing new account documentation, vs. the alternative opt-in, which would require the language be maintained on a separate document resulting in added costs and added retention.
- Additionally, we favor the opt-out approach as it simplifies notification of our existing customer base without requiring an unnecessary separate notice. This would avoid the additional cost and confusion of a separate one-time mailing to the institution's entire customer base at a price exceeding \$50,000.
- The Bank agrees with the initial opt-out notice content and favors the option to reflect abbreviated subsequent opt-out language on periodic statements, providing customers with instruction on how to opt-out as well as the availability of alternative overdraft services and guidance on how to contact the Bank for added information.

Board of Governors of the
Federal Reserve System
March 25, 2009
Page 3

In conclusion, Community Bank, N.A. appreciates the opportunity to comment on this important matter. Should the proposed rules be made final, the Bank urges the Board to consider offering an extended implementation phase given system implementation requirements and costs, preferably into the later portion of 2010.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark E. Tryniski". The signature is written in a cursive style with a large, prominent initial "M".

Mark E. Tryniski
President & CEO

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