



March 25, 2009

Jennifer Johnson, Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, D.C. 20551

RE: Regulation E, Docket No. R – 1343

Dear Sirs or Madams:

The concerns expressed and subsequently addressed regarding overdrafts are clear and understandable. However, the proposed regulations seem an attempt to regulate a process that needs modification rather than regulation. Most Financial Institutions (FI) operate reasonable overdraft programs to provide a service to their customers. Customers who currently employ overdraft programs will continue to do so regardless of documentation they may be required to sign. As with Truth in Savings, such documentation will be signed but not reviewed or referenced, or in some cases left at the FI, by the majority of customers.

**Opt In or Opt Out:**

Financial Institutions' desired choice would be for customers to opt in for overdraft service at the time of account opening. The ability to "opt in" at account opening would set the least amount of burden upon customers and FI's. This proposed requirement should be established from the implementation date forward. Existing customers should be grandfathered into overdraft programs rather than being required to sign and return a form indicating their "opt in" or "opt out" selection. Such a requirement for existing customers would prove a lengthy and expensive task with its completion often unmet.

Established customers who currently participate in overdraft programs are already versed in the rules, fees, and limitations of these programs. Soliciting a response from every customer and then tracking all received responses would create an unnecessary and time-consuming expense. Ensuing effects from these measures would place FI's in an "overdraft decision limbo" while they await customers' decisions.

Perhaps another example may be taken from Truth in Savings. With Truth in Savings FI's were required to obtain customers' signatures on disclosures at the time of account opening. FI's were not required to obtain signed disclosures from existing customers. The same process should apply for overdraft programs.

**Overdraft Programs:**

Worthy of consideration is the thought that the best solution may not be to require customer acknowledgement of participation, or lack of, in an overdraft program, but rather imposed limitations on what FI's may or may not do regarding overdrafts.

All FI's should be required to pay items from low to high. This would create the least amount of fees for overdraft customers.

Financial Institutions should not be allowed to charge daily fees in addition to the fees assessed to overdraft items.

Financial Institutions could waive overdraft fees for items that are less than \$5.00 or when the total overdraft does not exceed \$10.00. This should alleviate the current issues arising from low dollar debit card entries that potentially overdraw accounts.

Financial institutions should be required to disclose actual account balances, absent of any overdraft limits, so exact account balances are available to customers.

Disclosure of policies regarding overdraft programs by FI's is not unreasonable. Such disclosure should be accomplished at account opening.

**Responsibility:**

Absent from the current proposal is customer accountability. The choice to spend beyond available funds is indeed the choice and resulting action of any customer. It is also the responsibility of all customers to manage their accounts in a current and orderly fashion. Today's FI's provide numerous tools for customers to access account information and keep in touch with their respective FI's. Online banking, call centers, 24-hour automated account lines, ATM's, mobile banking, and monthly bank statements all provide customers with the means to access account information in a timely, often cost free manner.

Also absent from the current proposal is consideration of the fact that while FI's pay overdrafts to foster stronger customer relationships, they do so at the hazard of incurring significant charge offs from the accounts they allow to overdraw. The overdraft program does not come without risk for FI's. They are responsible for any losses taken when honoring overdrafts.

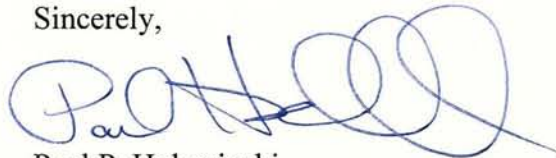
Customers, it must be remembered, are not without choice. Customers do have the right to terminate a current FI relationship if they believe they are not being serviced properly or if their FI is charging excessive fees. In today's economic climate, the choice of customers to leave their FI is a choice that no FI wants.

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**Summary:**

The disclosure of policies regarding overdraft programs by FI's is not unreasonable. Such disclosure, however, needs to be executed in a manner that does not place excessive expenses on Financial Institutions while simultaneously creating complicated situations when attempting an overdraft decision for a(n) (undetermined) opt in/opt out customer. Any proposed regulation should keep at its forefront the large percentage of customers and Financial Institutions who do not abuse overdraft programs (as current study indicates) rather than the small percentage that do. Doing so will perhaps lead to modifications rather than regulations to a system that is presently quite reasonable.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul P. Holewinski", with a stylized flourish extending to the right.

Paul P. Holewinski