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Comments:

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I am a lawyer and professional investment advisor and am writing to urge restoration of the consumer protection laws in place in the late 1970's when I went to law school in Washington. Then such laws were envisioned to protect the poor and preyed upon. Overreaching financial arrangements or contracts of adhesion were thought to be void against public policy. Now we all need protection, as the predators are our friendly bankers. Regarding the proposed regulation, I offer the following comments: 1. Consumers should always have to elect a service before being charged for it. That means the Consumer should be in the driver's seat and always have the choice to opt- in. Opting out and "noticing" all manner of treating people badly is a corporate tool created by lawyers with the help of lobbyists and friends in Congress. They abandoned basic common law concepts of offer and acceptance, and placed the burden on the individual, rather than the hawkers of services, in this case, the banks. The sheer size of the banks makes the blizzard of small print "notices" and "choices" feel like an assault by weapons of "too much information" via U.S. Mails and now e-mails. The banks count on the fact that most people are too busy to respond. 2. Casually granted overdraft "protections" are essentially loans at extremely high rates to people who are spending more than they have. Even Jamie Dimon, head of JP Morgan said recently, you don't do anyone any favors giving loans to people who can't pay them back. Getting an overdraft notice is a warning that you are not on top of your financial situation and need to pay more attention to your spending and available balances or you will be penalized. This has a sound moral basis for society and is simple boring banking. In prior years, not everyone was eligible for overdraft protection. Now it is granted to everyone, even if you didn't ask for it, which is precisely the kind of thinking that got us into the mess we are in. Debit cards encourage not knowing what you have in your account. To encourage the irresponsible use of this tech tool is, in my view, very short sighted. But the banks remain eager to charge usurious rates for loans they insist you take, much like the loan sharks of old, because they think it is good for business in the short run, and maybe you will not notice. They do not seem to care much

about what bad financial habits it encourages or that favored customers fees are waived while those that can least afford it are gouged. Please stop them soon, as the nation's blood pressure continues to rise with each new "notice" of lost control over ones funds, privacy, etc. The rules should be simple and work to protect your grandmother, rich or poor, and not just some tech wiz who can spend all his time chasing bank errors and opt outs. 3. Transactions should be stopped at the point of purchase, the way credit card companies do, if there are no available funds. ATM machines should check balances before funds are allowed to be withdrawn. Also customers (not the banks) should be able to put a limit on their debit purchases from their accounts to help them control their spending and for security. This allows the customer to trim his purchases at the point of sale and not get in a tangle with bank over fees. Point of sale control should be made mandatory on the banks before they can raid customer accounts for more fees. Greater use of a card which is filled up from your account (like a gift card) would also eliminate much of this overdraft problem. The bank's business model should not rest on tricking customers into overdraft fees and higher interest rates and penalties. 4. Please reinstate the usury laws. A quick Google check notes that the National Banks persuaded a gullible Congress to do away with this time honored, indeed biblical, protection against loan sharks. The bankers pleaded with Washington that they could not make money when the interest rates were in the teens. So, the long-time cap of 18% in most states (and 20% in others) was eliminated and in effect de-criminalized. Now, even those with good credit are treated to knee breaking rates of 30% and more, while the banks are enjoying the lowest interest rates in modern history at close to 0%. Again this is just plain wrong, especially now. Someone should fix this fast, before people take to the streets in earnest, because it feels criminal, like a RICO type scam authorized by Congress. These high credit card rates also artificially inflate the bank's accounting of its alleged credit card "losses" suggesting artificially inflated tax payer bailout bills. Please see what I see. The Banks are only thinking of the Banks and they remain mired in extremely thoughtless, greedy and arrogant habits. The People need the strong not soft power of their government to protect them against these sharks and restore a sense of balance, decency and community. I applaud the reemergence of strong regulation and enforcement. It is as important as printing money to restore confidence and is much cheaper.

3/30/09 Comment on Proposal Regulation E - Electronic Fund Transfers [R-1343]