

From: Purdue Employees FCU, Evelyn Royer

Subject: Electronic Fund Transfers

Comments:

QUESTIONS TO CONSIDER REGARDING THE REGULATION E PROPOSAL ON OVERDRAFT PROTECTION PLANS

1. Should this rule apply to recurring debit card and ACH transactions, in addition to ATM withdrawals and one-time debit card transactions? What would be the appropriate amount of time that institutions should have to implement this rule?

I don't believe this rule should apply to recurring debit card and ACH transactions. These items are generally pre-authorized with an active authorization therefore the consumer should be responsible that funds are available to clear such transactions. If implemented, financial institutions should be given at least 18 months to comply

2. Once a consumer receives an opt-out notice, he or she must be given a reasonable amount of time to exercise the opt-out, with 30 days being considered reasonable. Would a shorter time period, such as 15 or 20 days, be more appropriate?

I would agree that a shorter time period would be more appropriate. A shorter timeframe would be more efficient thus allowing future transactions to clear appropriately sooner

3. Should institutions be required to provide a toll-free telephone number as a means to opt-out of the overdraft program? Should the rule add examples of opt-out methods that would not comply with the requirement to provide a reasonable opportunity to opt-out, such as requiring the consumer to write a letter?

Institutions should provide a toll free number to opt-out. The additional requirement to write a letter would be unnecessary in my opinion although it should be taken as a method to opt-out

4. A financial institution will not be allowed to condition the right to opt-out of the overdraft service for ATM and debit card transactions on the consumer also opting out of the service for checks, ACH, and other transactions. The rule will also prohibit an institution from declining to pay checks, ACH, and other transactions because the consumer opted out of the service for ATM and debit card transactions. What are the merits of this approach and are there other, more effective means to ensure consumers are not discouraged from opting out of the overdraft service for ATM and debit card transactions?

If the consumer is allowed to opt-out of overdraft service, all services should be included. Differentiating the types of transactions being opted out of will be confusing to the consumer and could be programmatically difficult for the institution to process requiring more manual transactions that can result in an increase in human errors. Such a differentiation would also be costly for the financial institution increasing the cost of products and services which may in turn result in the consumer receiving a lower benefit for their services

5. The Fed is considering another approach in which an institution would be permitted to condition the consumer's ability to opt-out of the overdraft service for ATM and debit card transactions on the consumer also opting out of the service for checks and other types of transactions. This means the institution may decline to pay checks, ACH, and other types of transactions if the consumer has opted out for ATM withdrawals and one-time debit card transactions. This other approach is intended to address the operational issues associated with implementing a partial opt-out rule. What are the merits of this approach and are there other approaches that would also address operational concerns, while not discouraging consumers from exercising the opt-out?

See response above. If opt-out capabilities are implemented, it would be to the consumers benefit for an all or nothing approach. This will minimize confusion for the consumer as to whether or not they have the service to effectively manage their accounts. This will help them better understand the advantages and disadvantages of participating in such a program.

6. The proposal provides alternatives for implementing the consumer's choice for both the opt-out and opt-in approach. One alternative would be for the institution to offer an account with the same terms, conditions, rates, fees, and features that are provided to those who participate in the overdraft plan, except for features that address the payment of overdrafts. Another alternative would allow institutions to provide such accounts with different terms, features, or conditions, as long as they are not so substantial that they discourage a reasonable consumer from exercising his or her right to opt-out of the plan, or compel a reasonable consumer to opt-in. What are your views on these alternatives? Do you currently place consumers in different accounts, based on whether they elect to use the overdraft service, and do you vary the terms on these accounts? If so, which terms are different and why are they different?

I think this proposal would be operationally inefficient. If a different account is established just for the purpose to be able to opt-in or opt-out for the overdraft, it would require marketing and other disclosures to consumers that can ultimately be more confusing and difficult to understand. This would also increase operational costs to implement and maintain. Today, we do not place our members into different accounts based on the election of overdraft service.

7. Should the opt-out notice be segregated from other disclosures to ensure the notice will be seen by the consumer?

Perhaps, however if the consumer is truly interested in the opt-out notice they would see it whether or not it is embedded or separated from other disclosures. Separating the disclosure may impede the consumer from seeing the disclosure altogether because of the number of current disclosures already required to be provided by a financial institution.

8. For the opt-out notices that are on periodic statements, should institutions be permitted to include the notice in any cycle in which a fee has been assessed, even if it was not incurred in connection with an ATM or debit card transaction? Should institutions be permitted to provide opt-out notices on periodic statements, even if no fees were assessed? Will the operational benefits of either of these approaches be outweighed by the fact that consumer may just consider this boilerplate language, especially if the notice is on

every periodic statement?

Yes, opt-out notices should be included in an periodic statement even if there aren't any assessed. Separating the notice from the periodic statement would be a costly operational issue and thus inefficient for the financial institution. Although it may be perceived as boilerplate language, if a consumer truly wants to exercise this option, they be able to do that at any time.

9. The notice to the consumer must include the maximum fee, or range of fees. Is additional guidance needed if a fee is determined by other means, such as if it is based on a percentage of the overdraft or a percentage of the transaction? Is there other information that should be included in these notices, other than what is required or permitted under this proposed rule?

No comment

10. The proposed rule requires that the institution comply with a consumer's opt-out request as soon as "reasonably practicable" after the institution receives it. Is more guidance needed on the term "reasonably practicable" and how long it should be? Should a consumer be permitted to revoke the opt-out orally, such as by telephone or in person? What are the other costs and benefits of the opt-out process, as described in this proposed rule and how do these costs and benefits compare to the opt-in approach?

Reasonable practicable should be given a guidance between 14-30 days to eliminate major difference between institutional policies. A consumer should also be able to revoke orally. Costs/benefits associated with opt-out service should be a better alternative because any process requires forms and employee processing expenses. In my opinion, the opt-out method operations would be less costly because I feel that more consumers would opt-in versus opt-out in the credit union system.

11. The proposed rule will prohibit the institution from conditioning the payment of overdrafts for checks, ACH, and other transactions on the consumer opting in to the payment of overdrafts for ATM and debit card transactions. Likewise, the institution would be prohibited from declining to pay checks, ACH, or other transactions because the consumer did not opt-in to the service for ATM and debit card transactions. What are the merits of this approach? Are there other means to ensure consumers are not compelled to opt-in to the overdraft service for ATM and debit card transactions?

Allowing the consumer to choose what payment types to opt-in/opt-out of will be confusing and very difficult to communicate to the consumers. Such exceptions or conditions will need to be customized per payment type which would require core processor changes that may take time to develop and costly to the financial institutions

12. Alternatively, the Fed is considering allowing institutions to condition the payment of overdraft for checks, ACH, or other types of transactions on the consumer also opting in to the program for ATM and debit card transactions. What is the merit of this approach and is this preferred in order to address operational issues associated with implementing the opt-in to specific transactions, as opposed to all transactions? Are there other approaches that address concerns about compelling consumers to opt-in to ATM and debit card transactions in order to have overdrafts paid on checks, while also addressing the operational issues for the institutions?

The same situation would occur as described above. Anytime one sets different conditions with different parameters will cause further confusion and impede an average consumer from making educated decisions.

13. Is there a better approach with regard to the opt-in process for existing consumers? Instead of just an opt-out or opt-in process, the Fed is considering a hybrid approach in which there would be an opt-out rule for existing accounts and an opt-in rule for new accounts. Under this approach, the institution could continue to pay overdrafts and assess fees for ATM and one-time debit card transactions for existing consumers who have not opted out, but would be prohibiting from assessing fees on new consumers who have not opted in to the overdraft service. What are your views on this alternative approach?

Different conditions based on existing and new accounts will require customization to the extent that new account types may need to be created causing confusion for financial institution staff and it's customers. If this legislation passes, this alternative may be the best approach

14. Under the opt-in approach, the institution must cease assessing fees for overdraft services if an existing consumer has not opted in within sixty days after receiving the notice. Is sixty days adequate or should it be longer or shorter?

I think the maximum opt- in period should be 30 days. The earlier the consumer opts in, the more efficient service they will obtain with their accounts. It should also minimize the length of time that advertising and notification would need to be provided.

15. Overall, what are the costs and benefits of the opt-in approach, for both consumers and financial institutions? Would the opt-in or opt-out approach be more optimal for institutions and consumers? Does either of these approaches present unique operational or cost issues that would not be associated with the other approach?

It is my opinion that the opt-out method would be more optimal for the consumer and the financial institution. The opt-in alternative will cause overdrafts to not be paid when the consumer would have wanted it. I think consumers would want their financial institutions to honor items submitted by merchants they use in order to minimize return fees assessed by the merchant ultimately causing reputation damage for the consumer.

16. The prohibition on overdrafts in connection with debit holds will not apply if the institution adopts procedures designed to release the hold within a reasonable period of time, and the rule provides that two hours will be considered reasonable. Do you agree with this approach or would another time period be more appropriate in light of operational constraints at smaller institutions, which may only receive authorization and settlement information periodically during the day?

From this institution's perspective two hours is unreasonable for releasing the holds. The majority of financial institutions do not post electronic non-pinned transactions in real time. A minimum of 48 hours should be reasonable as the majority of transactions are processed through the merchant and the financial institutions during that time.

17. The debit hold overdraft prohibition applies in situation in which the merchant can determine the actual transaction amount within a short period of time after authorization of the transaction. Is more guidance needed with regard to this timing requirement? Do you have comments on any other aspects of these debit hold provisions, especially the cost and benefits for both institutions and consumers? Should the Fed issue additional rules to require merchants or processors to submit debit card transactions promptly for settlement? Should they be required to submit them within the two hour time period described in the previous question?

Again, most financial institutions due to cost effectiveness and balancing process no-pinned transactions in a batch mode which is on every business day. Merchants should be required to submit their receivables for processing within 12-24 hours of the transaction. Any transactions not processed in this timeline could be subject to charge-back to the merchant thus costing them more losses for goods and services.

18. Other comments?

I continue to disagree with the overall requirements of this legislation. A reasonable fee for overdraft protection is necessary to protect the consumer. There are definite benefits for the consumer who experiences the occasional overdraft like maintaining their reputation with merchants they deal with. If a member's overdraft is not honored, they could experience more fees than the overdraft fee currently being assessed. This legislation creates undue burden for both consumers and reputable financial institutions without resulting in a consumer benefit.

Evelyn Royer
Purdue Employees FCU
VP Risk Mgmt/Support Svcs
P O Box 1950
West Lafayette, IN 47996-1950

**