



March 30, 2009

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Mary Rupp, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

**Re: Proposed Guidance on Regulation E for Overdraft Protection Plans
(Docket No. R-1343)**

Dear Members of the Board and Ms. Rupp

The Maryland & District of Columbia Credit Union Association (MDDCCUA) appreciates this opportunity to comment on the Agency's proposed guidance on Overdraft Protection. MDDCCUA is a regional trade association serving the needs of over 170 credit unions whose asset size vary from \$300,000 to \$1billion, in Maryland and Washington, D.C., which serve more than 2 million members.

This comment letter is submitted in response to the notice of proposed rulemaking ("Proposed Rule") and request for public comment by the Federal Reserve Board ("Board") published in the Federal Register on January 29, 2009. The proposed rule address issues regarding the ability of a financial institution to assess an overdraft fee for automated clearinghouse transactions ("ACH") and debit card transactions.

The Proposed Rule raises a several issues, and the Board in some instances proposed alternatives to resolve them. MDDCCUA believes that the appropriate resolution of these issues is critical to our ability to continue to serve our members. First, in our analysis, we support the "opt-out" approach to our members' participation in overdraft protection programs offered by credit unions. Our credit unions find that their members generally do not initially anticipate the need for overdraft protection, but appreciate the immediate availability of this service when confronted with the consequences (merchant fees, late charges, etc.) of overdrawing their checking accounts. Credit unions should have ability to offer overdraft protection plans to their members to help them resolve short-term financial problems.

Application of Rule: ACH Debit Cards

The Proposed Rule should be expanded to include recurring debit card and ACH transactions.

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Segregating these types of payments would cause great confusion to consumers.

Next, the rule should not be enforced for a minimum of 12 months after implementation. If a shorter timeframe is implemented, credit unions (especially smaller credit unions) would most likely encounter logistical issues that may prevent them from being fully compliant with the regulation.

Reasonable Time: 30 Days

30 days is an appropriate and reasonable amount of time for credit union members to be able to receive, review, and decide whether to exercise their option to “opt-out” of overdraft protection services offered by the credit union. The 30 day timeframe balances the rights of credit union members to be notified in a timely fashion without placing an undue operational burden on credit unions.

Toll-free Telephone Number

Credit unions should not be required to provide a toll-free telephone number as a means to “opt-out” of overdraft programs. Mandating that credit unions establish a toll-free telephone number in order to comply with this proposal would place a considerable financial burden on the financial institution. Thus, this additional burden may make it cost prohibitive for many credit unions to provide overdraft protection assistance to their members.

As an alternative, we feel that permitting a consumer to write a letter should be added to the list of opt-out options that complies with the rule.

Partial Opt-Out

As an operational matter, the Proposed Rule would place an extraordinary administrative burden on credit unions, many of which lack the resources to effectively implement the Proposed Rule as written. Further, the technology currently does not exist to differentiate between the options. As a result, this provision constitutes an onerous burden on credit unions. If credit unions are unable to comply with the Proposed Rule due to operational limitations, credit union member confidence may be eroded, tarnishing the reputation of the credit union.

Periodic Statements

Credit unions should provide notices in periodic statements to their members if the member used the overdraft protection service in the most recent periodic cycle. In addition, every time a member receives a statement detailing their participation in the overdraft service offered by their credit union, the member should also receive a notice explaining that he/she has the ability to opt-out of future participation in the program. If a credit union member is eligible, but has not used the overdraft protection program, the member should receive one notice at the close of the calendar year. This would be sufficient to notify and update the member.

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Sending our repeated opt-out notices only seems to confuse consumers and would create an operational burden for credit unions that far outweighs any benefits the consumer may receive from additional notices.

Customer Request: Reasonably Practicable

Each credit union should have the ability to determine the service level needed to comply with a credit union members' opt-out request. What is "reasonably practicable" for one credit union, may not be for another credit union. Next, permitting an "oral" opt-out option would be a burden to credit unions due to operational concerns. In addition, it has the possibility of creating confusion due to the fact there would be no written record of the transaction should a dispute arise at a later date.

We appreciate the opportunity to comment. For further information concerning these comments, please contact B. Kirk Fox, Vice President of Regulatory Affairs at (800) 492-4206.

Sincerely,

A handwritten signature in cursive script that reads "Michael V. Beall".

Michael V. Beall
President/CEO

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