



Joe Bruce, President

July 6, 2004

Jennifer J. Johnson, Secretary
Agencies of Governors of the
Federal Reserve System
20th Street and Constitution Ave., N.W.
Washington, D.C. 20551

RE: Overdraft Protection Guidance
Docket No. OP-1198

Dear Ms. Johnson:

We appreciate the opportunity to comment on the proposed Interagency Guidance on Overdraft Protection Programs issued by the member agencies of the Federal Depository Institutions Examination Council. For over 30 years, Citizens Bank of Blount County has operated as a locally-owned, community bank striving to provide the best service and products for our customers. Our comments on the Proposal are listed below and are identified by the title of the section of the Proposal to which they relate.

Interagency Guidance on Overdraft Protection Programs/Introduction

ALL financial institutions offer a discretionary overdraft program, not just occasionally nor not just some financial institutions. Checks are presented every business day that create insufficient funds situations. The bank must make a discretionary choice of whether to return the check or pay the check into an overdraft balance. The account's statistics are reviewed each day, and the choice of procedure is decided. This means that any final guidance adopted by the regulators will affect all depository institutions.

There seems to be some confusion between "marketing" and "disclosing" the overdraft services that are available as a discretionary service at banks. The guidance seems to imply that providing an explanation of overdraft services is somehow a "promotion." It would seem that this information provides a disclosure to customers: of the cost of the service and of the discretionary nature of the service.

This overdraft service is NOT a line of credit provided to consumers. Instead, it is a discretionary payment of nonsufficient funds checks. There is not a contractual agreement to pay overdrafts.

Safety & Soundness Considerations

We believe that the 30-day time frame for charge off of an overdraft is too short. Our experience indicates that consumers will deposit sufficient funds in their account to clear any overdraft balance within a 45 to 60 day time frame. This additional time allows the consumer with a monthly paycheck sufficient time to cover the overdraft. Overdrafts

330 E. Broadway
P.O. Box 9730
Maryville, TN 37802-9730

(865) 977-5900

fax (865) 977-5923

cbbcbank.com

Community Banking By Choice

charged off are reported to credit agencies and turned over to collection agencies. The consumer is much better served by the additional time to make a deposit.

We also strongly disagree with reporting of the available amount of overdraft protection as an “unused commitment.” We do NOT make a commitment to pay overdrafts up to a “line of credit” amount. Instead, we offer a discretionary service. There is no obligation on the part of the bank to create an overdraft. In practice, several factors are considered by our bank each day in order to make our decision of whether to pay or return checks. We consider the account history, deposit frequency, average balance, and any negative loan situations or bankruptcy filings as some of these factors. The “preset” overdraft limit is NOT the definitive criteria for paying an overdraft.

Marketing and Communications with Customers

Fairly represent overdraft programs and alternatives. The Proposal suggests that depository institutions should inform consumers of other available overdraft services or credit products. This seems to indicate that the overdraft service is disadvantageous for the consumer. Compared to the cost of a loan or the cost of a return item to a merchant, the overdraft service is a fair and advantageous service.

Clearly explain discretionary nature of program. The emphasis should be on the discretionary nature of the overdraft service, not on disclosing the circumstances in which the discretion will be exercised. Banks have paid or returned checks for many years based on their judgment (risk assessment) of the customer’s financial situation.

Program Features and Operation

Provide election or opt-out of service. We currently provide an opt-out of the service to our customers. However, we do not see the value in requiring a burdensome opt-out process that does not also clearly explain the potential negative ramifications of declining the service. If the service is declined, several results may be negative for the consumer. Overdrafts will not be paid, regardless of the amount. Fees will be assessed by both the bank and the merchant for returned checks. Consequential damages such as late fees or default charges may result from returned checks.

Alert customer before a non-check transaction triggers any fees. Although prior notice is preferable when possible, it is just not possible with certain electronic debits such as preauthorized automatic debits and point-of-sell debits. It is still preferable for that these debits to be paid into overdraft for the consumer instead of returned.

Prominently distinguish actual balances from overdraft protection funds availability. “Actual” balance is not a terminology that customers nor banks have ever used and could be very misleading. Our bank uses “ledger balance” for teller transactions, ATM transactions, or telephone inquiries. But, the customer may create an overdraft that relies on an “available balance.” So, the customer is never misled as to their balance.

Promptly notify consumer of overdraft program usage each time used. Overdraft program criteria are given to the customer at account opening. And, notices with extensive information are sent to the consumer each time an overdraft occurs. We believe that a clear reference to information previously provided and an offer to provide a copy on request should suffice.

The Proposal suggests that the institution notify consumers in advance if the institution plans to terminate or suspend the consumer's access to the service. This situation is very fluid. A customer may be paid into overdraft or not paid based on varying criteria. It would be cumbersome and negative for the consumer if these notices had to be produced. This process would limit the bank's ability to respond promptly and fully to each customer's changing situations.

Consider daily limits. Each item that is paid avoids the possible imposition of retailer-assessed fees, late charges and derogatory credit implications. There are no limits placed on the number of items on which a retailer or payee may assess a returned item fee. For these reasons, we oppose the imposition of the daily limit.

Thank you for the opportunity to submit our comments on the Proposal.

Sincerely,

A handwritten signature in black ink that reads "Scott Edmondson". The signature is written in a cursive style with a large, prominent "E" and "D".

Scott Edmondson, Business Development Manager
Citizens Bank of Blount County
Knoxville. TN