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July 3, 2008

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

Dear Ms. Johnson:

The purpose of this letter is to comment on proposed rules on unfair or deceptive acts or practices with the respect to deposit account overdrafts, and the proposed regulations under the Truth in Saving Act on deposit account overdrafts that were issued on May 19, 2008. I appreciate the opportunity to provide comment on these proposals as I have some serious concerns. Certainly, historically, federal agency guidance and regulatory changes have generally helped to improve overdraft service for our consumer accountholders.

**Purposed Changes to Regulation DD, 12 CFR Part 230 – TRUTH IN SAVINGS – Docket No. R-1315 (also reference Docket No. R-1314)**

1. Right to Opt Out.

The proposal requires institutions to provide consumers with notice and an opportunity to opt out of the payment of overdrafts, before any overdraft fees or charges may be imposed on consumers' accounts. Gesa Credit Union offers an "opt out" option for overdraft privilege which the consumer can exercise at any time. Additionally, information about the overdraft privilege program, including the opportunity to opt out, is presented to the accountholder at the time of account opening. I believe it would be a mistake to require a prescribed period of time to lapse between the date of notice (which is first made at account opening) and the time an overdraft item is presented as it would be a disservice to return items as "NSF" that could otherwise have been honored on behalf of the consumer. Activation of our overdraft privilege service (upon account opening) includes mailing of an initial reminder notice and quarterly reminder letters. Each of these communications reminds the consumers of their right to opt out.

Unfortunately, some accountholders don't realize the impact of overdraft privilege fees until they are incurred; then they decide to opt out of the program. Our practice is to refund fees when a consumer elects to opt out of the overdraft privilege service after a fee has been charged. Consumers are regularly educated about the resources available to them, including alternate sources of overdraft protection and the rules for our overdraft privilege service. This process is fair to the consumer and should be expressly permitted by any final rules.

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## 2. Opt out for ATM and Point-of-Sale.

The proposal requires institutions to provide the consumer the more limited option of opting out only for the payment of overdrafts for ATM and point-of-sale transactions initiated by a debit card. This new requirement is not currently supported by our core software application, nor can any other system that I know of. Compliance would not be possible until software systems could all be updated by the software publishers.

We offer consumers the ability to opt out of the payment of overdraft fees for all types of payments as a matter of choice, and we do not agree that offering overdraft privilege on all forms of payment is in any way unfair or deceptive. The consumer is not harmed by the payment of the overdraft. Indeed, failure to pay the overdraft would ordinarily result in greater costs to the consumer.

Our experience shows consumers have been demonstrably satisfied with the access to ATM and debit cards as part of the overdraft service. Furthermore, debit card transactions are largely replacing paper checks as a method of payment. Thus, consumers will have far less coverage available to them if they were to opt out of these prevalent transaction methods. To the benefit of consumers, we installed the ATM "alert" functionality on our proprietary ATM devices as soon as it became available. Review of ATM usage indicates that almost no consumers have elected to cancel their electronic transaction since the alert has gone into effect.

## 3. Debit holds.

The proposal would prohibit banks from imposing a fee when the account is overdrawn solely because a hold was placed on funds in the consumer's deposit account. This can occur where the final dollar amount of the transaction was not known in advance (for example, when a consumer purchases fuel at the pump, a hold is placed for the estimated amount of fuel that will be purchased).

Financial institutions are not responsible for the practice of placing holds when a consumer begins a transaction, such as at the gas pump or reserving a rental car. Companies such as VISA and MasterCard are responsible for this practice and should be required to change that practice to the benefit of the consumer, rather than effectively transferring responsibility for this practice to the card-issuing financial institution as this rule would effectively do.

This proposed requirement is also not currently supported by our core software application (or any other one that I know of). As a result, if this rule is imposed on us, compliance will result in significant manual handling of all overdrafts. Overdrafts handled at the teller line or in one of multiple daily ACH batches would require manual account overview to determine if debit card holds are in place. I believe that the operational impact of this proposed change would create excessive costs, undue staff burden and increase the likelihood of processing error.

## 4. Limits on fees charged.

We are concerned that setting a maximum amount of fees charged per day may take away the deterrent to incur additional overdrafts on that day. As a result, we believe no maximum

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should be imposed. Overdraft privilege provides a less expense alternative to check cashing services so it remains a beneficial alternative service to consumers.

5. Notice Format and content.

Our financial institution has made overdraft protection services available to all new accounts and regularly promotes these services to accountholders as part of our branch, marketing and web media campaigns. This service includes transfers from savings accounts and lines of credit. Unfortunately, most of our accountholders do not take advantage of these alternate sources for overdraft handling although they are attractive and less costly than our overdraft service. When asked, most accountholders report that they don't intend to have overdrafts or if they have overdrawn their account, that they don't intend to do it again. It is our role as a financial institution to assist and educate our consumer accountholders, but not to demand their use of these forms of overdraft protection.

To incorporate the language, "We also offer less costly overdraft payment services that you may qualify for, including a line of credit", and to follow that with the redundant comment "to opt out of our overdraft service" on the periodic statement appears to recommend that the consumer activate one of these alternate services. We believe that the subjective factors, including the sense of discipline that comes from not having an overdraft line of credit are important to consumers and that we should not substitute our collective judgment for the consumers own judgment when they have been offered alternatives. I recommend that the first sentence of the final paragraph of Sample Form B-10 be removed.

Thank you for the opportunity to express my comments during this period.

Sincerely,

A handwritten signature in black ink, appearing to read "Christina C. Brown". The signature is fluid and cursive, with a large initial "C" and a long, sweeping underline.

Christina C. Brown  
President and CEO