



July 29, 2008

Regulation Comments  
Chief Counsel's Office  
Office of Thrift Supervision  
1700 G Street, NW.,  
Washington, DC 20552  
ATTN: OTS-2008-0004

Re: FRB Docket No. R-1314; OTS Docket No. OTS-2008-0004;  
Unfair or Deceptive Acts or Practices; 73 *Federal Register* 28904;  
May 19, 2008

To whom it may concern:

Thank you for the opportunity to comment on the proposed rules regarding unfair or Deceptive Acts or Practices. Central Bank has always been very conscientious with regards to fees that it charges our customers. All of our fees are regularly reviewed and based on the service rendered and applicable risk associated with that service. We disclose all of our fees to our customers when they open an account as well as before we make any changes to our fee structure. We provide an overdraft service to our customers as an accommodation to them for several reasons, among them to help the customer avoid embarrassment with the merchant and returned check charges associated with bounced checks. Our customers are aware of the service that we offer and they clearly recognize that the fee is the price that they pay for that accommodation. Any misunderstanding with regards to our overdraft services are quickly clarified and resolved with our customers.

As we have reviewed the proposed regulations, we have several concerns that we would like to address.

1. **Customer Responsibility and proposed "Opt-out" rules** – All too often because of a very small vocal minority of customer complaints or because of deceptive practices of a handful of institutions (ie. Enron, etc.) the vast majority of customers and financial institutions end up paying for very costly and confusing regulations. We believe and have seen that the vast majority of

Provo-Downtown  
75 N. University  
375-1000

Provo-Mortgage Loan  
95 N. University Ave  
375-3336

Springville  
202 S. Main  
489-9466

American Fork  
175 E. Main  
756-9900

Spanish Fork  
1 N. Main  
798-7481

Provo-Riverside  
1300 N. State  
375-5963

Orem  
415 N. State  
224-1420

Mapleton  
385 N. Main  
489-5640

Lehi  
475 E. Main  
766-3886

Payson  
182 N. Main  
465-9276

our customers are educated and financially responsible and that they completely understand their responsibility as it relates to the balancing of their accounts. The customer is well aware of the overdraft fee associated with the overdrafting of their account. Overdraft fees do not injure our customers. Our customers understand that the fees are the price that they pay for their financial choice of "borrowing" from the bank on a temporary basis. They would prefer to pay that fee as opposed to us denying the transaction or them paying a merchant fee. The service also helps the customer avoid the reputation risk associated with writing a "bad check". Our customers understand that should they chose to not use this service that they merely need to practice good financial management on their part or they can also notify us and we can discontinue the overdraft privileges for that customer. The majority of our customers never use our overdraft service and the minority that do are well aware of their position and are acting in accordance with that awareness. **They do not need repeated "opt-out" notices for a service that they are already aware of and know that they can discontinue at anytime.** It would be the equivalent of receive a notice from my cell phone company every year notifying me that if I can "opt out" of using my cell phone by canceling the service. I already well aware that I have that option.

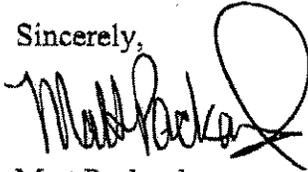
2. **Partial "Opt Out" proposal/technology limitations** – Many of our customers use only debit cards as their primary means of payment. These customers also appreciate the accommodation that is provided by covering up to a certain amount of their debit card charges if needed. Our technology does not allow us to differentiate a transaction at an ATM vs. a transaction at the merchant. Nor can our technology tell the difference between a POS transaction from a recurring debit transaction. The only choice that we really can offer the customer is an all or nothing choice as it pertains to overdraft services (which is what we currently do). We technologically cannot handle a partial opt out option and it would be virtually impossible to do so without a great deal of programming and expense. In addition, practically speaking to provide a partial "opt out" provision would greatly confuse our customers who don't differentiate between the different types of debit transactions (ie. Check vs. debit card, ATM vs. merchant, etc.)
3. **Order of Payments** – Our system pays transactions in the order received. Overdraft fees are calculated based on that system. We understand that different banks may process payments differently based on many factors such as the processing system and different risks associated with their different processing channels. We do not manipulate our payment systems to generate overdraft fees. It would be impossible to give customers the right to alter the bank's clearing processes as well as it would greatly confuse the customer to attempt to explain to them how the various processes work in any disclosure.

In summary, we have provided overdraft services for many years. We have followed the interagency guidelines issued in 2005 and we have never been criticized by our examiners. Our customers understand the service and the vast majority are grateful to have it available to them. They also know that they can discontinue the service at anytime should they desire. We educate any customer that has a question. We are quick to resolve any problems that a customer might have with the service because it is our customers that keep us in business.

We would strongly recommend that you do not try to "formalize" opt-out or partial "opt out" rules nor transaction processing orders as it would only serve to confuse the customer and create a great deal of expense and challenges for our financial institution. We would suggest instead that should there be deceptive practices performed by a handful of institutions that you encourage the regulators to deal with them one on one by implementing more sever sanctions and tighter audit standards/controls. As we affectionately say in our institution, "Please don't try and kill the fly with the 50 pound sledgehammer." This is what we feel is being attempted with the proposed regulations.

Thank you again for allowing us to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Packard". The signature is stylized with a large, looping flourish at the end.

Matt Packard  
President & CEO  
Central Bank