

February 17, 2009

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

Re: Docket No. R-1343

Dear Ms. Rupp,

We are submitting our comments in response to the notice of proposed rulemaking (Proposed Rule), as requested by the Federal Reserve Board published in the Federal Register on January 29, 2009. The Proposed Rule would amend Regulation E, which implements the Electronic Fund Transfer Act, and seeks to provide consumers certain protections relating to the assessment of overdraft fees. The Proposed Rule would address issues regarding the ability of our credit union to assess a fee for paying automated teller machine ("ATM") withdrawals and one-time debit card transactions that overdraw a member's account.

We recognize that our credit union may have charged members non-sufficient funds (NSF) fees they did not anticipate, or that they believed did not equal the value of any service received from the credit union, especially when the item was not honored, but returned unpaid. The majority of our members appear to appreciate the availability of our No Bounce courtesy coverage service when an overdraft situation does occur. In most cases, this service enables members to avoid adverse action or fee from the payee and/or payee's institution.

We think the imposition of an NSF fee serves two (2) purposes; to offset overhead related to the handling costs of the rejected item, and to modify the member's future actions. There has been an emphasis on the increased income that has resulted from these fees, but less discussion as to the inability and/or willingness of members to modify their actions to eliminate their occurrences. We think that is because the service has real value for our members. At the same time, the increase in the different types of debits along with increased volumes processed and posted to our members' accounts has made it practically impossible for us to select and prohibit specific transactions that may cause overdrafts.

The Board has identified a number of issues in the Proposed Rule and, in some cases, has proposed alternative approaches to addressing them. We believe that the appropriate resolution of these issues is critical to our ability to continue to serve our members effectively.

First, the Board has proposed that members either be able to opt-out of any courtesy overdraft service that assesses a fee or charges for overdrafts due to ATM withdrawals or one-time debit card transactions, or that the member would be required to opt-in to this service. As stated above, we believe that the opt-out option is more consistent with member-anticipated use of service. We consistently have provided the ability to opt-out of our No Bounce program since its inception in 2001, as well as provide refunds of related NSF fees upon those occasions. This mirrors the most effective programs in place in the market and provides all members with the opportunity to receive the service, unless they determine that it does not suit their needs. It also enhances the relationship between the member and the credit union since it epitomizes the objective of institutions who strive to "do no harm" to members by returning items unnecessarily. Our experience is that very few members request to opt-out, and many that do then request to be re-instated when they see the impact that the loss of the service can have on their household.



Our experience is that very few members request to opt-out, and many that do then request to be re-instated when they see the impact that the loss of the service can have on their household. Our experience also supports that members would be unhappy to be advised after an item was returned as unpaid that they could have avoided that from happening by having "opted-in."

The Board has also proposed alternative approaches to the relationship between the credit union member's choice with respect to ATM and debit card overdrafts and other overdrafts, including check overdrafts. One alternative the credit union would be permitted is to condition the payment of check and other overdrafts that were not ATM withdrawals or one-time debit card transactions on the member's choice to have the credit union pay overdrafts due to ATM withdrawals or one-time debit card transactions. Under the other alternative, the credit union would be prohibited from imposing such a condition. As a practical matter for us, as well as the vast majority of credit unions, there are extraordinary technological difficulties in allowing the partial opt-out of ATM and debit card transactions while continuing to pay paper checks and ACH items. In addition, the debit card was created as an alternative method to paying third parties. This card is also referred to as a "check" card. While the electronic delivery of these items would group them with ATM transactions, in nature they are "check" transactions. The member's responsibility of maintaining their records and monitoring their transactions prior to seeking funds would be expected to match the check and ACH circumstances.

We appreciate that the Board has recognized the fact that while a member may have adequate funds on deposit to cover an ATM withdrawal or a one-time debit card transaction at the time that the transaction was authorized, they may not have those funds available to cover the transaction upon receipt. Therefore, we are permitted to impose an NSF fee resulting from such a transaction regardless of the member's choice on whether or not to opt-out. Frequently we authorize transactions only to have the funds used for another transaction before the authorized transaction settles. At the same time, we cannot reject those or other intervening transactions for operational reasons. Moreover, since we do not have the option to reject and return these items as we do inclearing checks and/or ACH transactions, requiring the credit union to courtesy cover an item without fee would be detrimental to the credit union.

Rather than imposing the partial opt-out, we believe that the member should be allowed to either have access to the overdraft services for all types of transactions or to opt-out of the overdraft services solution altogether. In addition, a "partial" opt-out is likely to confuse members and lead to the need for extensive explanations as to the different types of transactions that are or are not covered by the member's choice with respect to an opt-out decision. A simple "on or off" solution will be much easier for members to understand, as well as to most consistently and equitably administer. As we are not obligated to pay any item for which sufficient funds are not available, the credit union's extension of our No Bounce coverage is a courtesy service we provide to our members based on their deposit history/relationship with our credit union. We would appreciate our continued ability to provide that service in the most equitable and understandable method possible.

Thank you for the opportunity to comment on this important matter.

Respectfully,



Jill Hall
AVP/Controller