Subject:	Regulation AA
Date:	May 31, 2008
Proposal:	Regulation AA - Unfair or Deceptive Acts or Practices
Document ID:	R-1314
Document Version:	1
Release Date:	05/02/2008
Name:	Daniel W Shields
Affiliation:	
Category of Affiliation:	
Address:	935 SW 12th Avenue
City:	Boca Raton
State:	FL
Country:	UNITED STATES
Zip:	33486
PostalCode:	33486

Comments:

It is my belief that the current state of banking rules, as they apply to overdraft fees, are in disrepair. The technology used by banks to moderate individual or commercial checking accounts is infested with flaws which apply to the way in which processing occurs and, subsequently, fees apply to overdrafts. Essentially, there is a system constructed to induce poor banking habits, then perpetuate damaging torts on the consumer at the benefit of the bank, with no leverage alloted to the individual. My experiences with Wachovia, Bank of America, and BankAtlantic are exactly the same. Each willingly opened an account for my wife and myself to build our "safe-keeping" for checking account expenditure. When they opened, however, each also applied an overdraft protection, which was poorly explained and buried in the text of their account disclosures and operations agreements. Each levied fees on a scale which increased to a maximum over the number of instances, based on their opinion or operation of their method of technological calculation. Disclosure was poor, and, in the case of Wachovia, was against the specific instruction at the time of commencing deposit with the bank. In each case, two balances are presented to the user at ATMs, on the telephone, or over the world wide web. One is an active available balance, the other is a posted balance. A third, which I propose exists, is the optimized processing balance. The optimized processing balance is that which continuously pits the items in process versus the available balance and constructs an order for the items to be dealt with to increase the likelihood of acquiring fees for using overdraft. The proof for this exists in the extreme inconsistency of the computation of the items presented. I have documented over 8 months of applied science to try to uncover the 'de facto' state of the processing and have been, thus far, unable to do so. An example of this is that, one gas station in Deerfield Beach uses and continues to use the same processing system for their merchant account. We continue to use the same bank. We purposely filled our vehicles on different days with the same amount of gas, costing the same amount of money (which, in itself was a challenge with the inherent fluctuation in gas prices now). Both times, we chose to pay by credit against our personal checking account using the same debit card. On one occasion, the money never looked to come out of the account until 3 days where it all came out at once without showing in our processing balance. On another, it showed processing, but the balance remained available in the expendable total. When applied to an accounting software, like Quicken, neither of these instances were downloaded until after the transaction cleared the account, making this, again, much more difficult to correct. In essence, what is happening is that the bank is creating a micro-loan. They lend whatever amount of money is necessary and mathematically geared toward their benefit, in a small amount of time, with the consequences of payback sometimes exceeding the amounts for the entirety of the borrowed sum. For example, if I buy a sandwich at a shop for $14.00, knowing my account is at $150 by my ledger, then my balance should go to $136.00. If any item is presented for payment which goes into processing electronically for more than that amount, I may be charged $35.00 or about 25%. If the bank sees fit, and I would argue that often they would, they would change the order of these charges to maximize the fees to two items presented. First, the large item which creates the overdraft becomes an obvious win to them; then, the $14.00 is an opportunity for them to make 300% interest under the guise and protection of doing the consumer a favor if they opted in (or even if they were unaware that they opted-in). This is a much simpler example of this practice, but rest assured, both accurate and consistent with the banks which provide what they consider "protection" of our personal finances. As to motive of the bank, its clearly profitable and concentric. The bank makes, like in the example above, a high percentage yield on a service which costs them very little more than a mathematician's wages and a computer program. Its gives them discretionary control over hundreds of accounts per week, plus the ability to shut off the faucet on accounts, which, so long as the bank is invested in the secondary credit market locally, can also benefit from that strategy (i.e. the Check Cashing Store or Western Union locations having accounts with the National Bank or the bank directly moderating 'Funds' associated with the subprime credit markets). Honestly, for us, its better to have nothing and not feed the bank's machine than to continuously be unaware of our position with the bank in spite of several coherent and studious attempts to understand it. This imposition is no longer a desired account feature. Its cascading costs have rendered our financial position, on many occasions, compromised and at the mercy of our bargaining skills with less than understanding bank employees who feel it is their right to deride us for our banking practices instead of making suggestions to overcome the issue. The abuse which we've endured has been psychologically, financially, and physically unhealthy to attempt to correct what we continuously felt was deficient accounting. Having acquired three college degrees between us and maintained continuous and gainful employment for more than 15 years with 0 math errors (I mean perfect grades in college algebra and trig) outside of our checking accounts, I've come to the conclusion its not us. Further, the same issue appears to be compromising more than our demographic. I would be willing to provide documentary proof as well as statistical data associated with the level at which this is occuring and to which groups more frequently, and at what cost. If you want to stimulate the economy, don't send out small checks for people to buy digital televisions; give them a sense of confidence in their accounting practices by not allowing the chartered banks the ability to legally obfuscate accounting and take money directly from the consumer at a high rate of interest based on consequence without their knowing or having some form of resolve.