
From: Rob Sullivan [mailto:RSullivan@oakbank.com]
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To: Overdraft Comments
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I want to share some comments about our bank's experience so far with the new regulations. In the past, we've offered our overdraft protection program to all customers with DDA accounts and have covered overdrafts up to a \$500 limit for them on all transactions excluding at the ATM (which includes one-time POS). Though we've never forced this product on our customers, we find ourselves having been lumped into a one size fits all regulation that ultimately will have negative effects for customers of banks everywhere. The well-intentioned regulations that have been implemented have sweepingly included banks everywhere that have never compromised the financial position of their customers. That may change for many bank customers because of these new rules.

An example I'm seeing quite often now that we're paying very close attention to transaction timing is that our debit and ATM transaction processing system is far from perfect and unfortunately far from acceptable for the powerless participants, the community banks. We've now seen on several occasions over the last 6 weeks situations where POS transactions are posting to the account WEEKS after they were "authorized" through the network using our positive balance feedback file. So at the time of "authorization" or POS, the account was positive enough that the transaction was authorized to consummate. But when that same transaction actually posts several weeks later, the account is negative. And since the timing between authorization and presentment are so far apart and this POS transaction is the last transaction to come in, we cannot charge an overdraft fee on it and we did not charge on several other items (checks and ACH items) that would have been overdrafts had the POS transaction posted in a reasonable amount of time (1-2 days). The unfortunate result of this regulation is that those banks that have never taken advantage of its customers and have always afforded them every opportunity to redeem themselves will be put on the defensive because the only way to curb bad behavior is by levying consequences great enough to change that behavior. Once customers realize the gaps in the new system, banks will be put in the position to stop banking that demographic of customer. Perpetual overdraft abusers are a common problem for many banks and the risks associated with those customers have always been mitigated by charging a penalty. With that penalty limited and the consumer not held responsible, you'll find a greater percentage of that demographic going unbanked.

There are some easy fixes and some difficult fixes to the system. I understand I'm just a tiny fish in a massive ocean, but I would be remiss if I didn't at least attempt to fix a system that from all angles looks to be broken. The difficult fix is to pick up the ailing POS network and dust it off and bring some accountability back to those with the power. The MasterCard and Visas of the world have long reigned over the system and put all of the risk on the plate of the bank – at least the community bank given they have actually no leverage against these giants. The reason there is no change to this disturbed system is that it's essentially a monopoly with no oversight. They make the rules and those rules include community banks eating the losses. Not the merchants, though they should be checking signatures on a credit transaction, not the credit card issuing bank, not the credit card companies, not the network, but the bank. As I mentioned above, the POS items that take days and weeks to post do so because merchants are given a 60 day time frame to submit these transactions for posting. That is ludicrous given the absolutely imperative need for speed that comes with the debit and ATM network. The reason we've gone to this system is because of its flexibility and ability to bring speed between transaction consummation and posting. The merchant should be required to go back for authorization if not submitted within a 12 hour period of when the origination occurred. That's a simple first step to start with. Let's really make this a real time system. Also, those banks that do not actively participate in paying items from one-time POS or ATM transactions, regardless of opt-in or not, should not be penalized with the new regulations because of the timing authorization and posting. I think starting with these two things could alleviate much of the negative side of what a very good intentioned consumer protection regulation would bring.

Thanks for taking the time to read our thoughts and consider our position.

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