

BSG Financial's continuing commitment to keep its clients abreast of changes impacting your Overdraft program.

Dear Valued Client:

Many of you participated in our discussions and received our compliance updates of Regulation E (Electronic Fund Transfers) in connection with implementing new rules requiring affirmative consent from consumers in order to charge overdraft fees for the payment of ATM and one-time debit card overdrafts. Those rules are required to be in place no later than July 1, 2010 for new customers and by August 15, 2010 for existing customers.

On Friday, May 28, 2010, the Federal Reserve Board released final clarifications to both Regulation E (Electronic Fund Transfers) and Regulation DD (Truth in Savings) to address concerns and provide further guidance regarding the previously issued overdraft rules. While there are no major changes from the proposals that were previously released for comment, the final rules officially clarify a number of gray areas that were open to interpretation. For your review, we have provided the following highlights of the final rules and attached a more detailed analysis of each regulation comparing the current regulation and the final amended regulation. Except as noted below, these final rules are effective 30 days after publication in the Federal Register.

Highlights

Regulation E

1. The new rule clarifies there is absolutely no exception available that permits an institution to charge a fee to a consumer for paying an ATM or one-time debit card transaction when the account has insufficient funds, unless the consumer affirmatively consents to such service. This rule applies regardless of the institution's overdraft policies or practices, or lack thereof, or the inadvertent payment of such transaction, even if the payment is through no fault of the institution.
2. The new rule clarifies that overdraft fees for ATM or one-time debit card transactions can only be imposed on transactions occurring after the written confirmation of the opt-in is mailed or delivered to the consumer.
3. The new rule clarifies if and when a sustained or negative balance overdraft fee can be charged in situations where the consumer has not opted into the payment of ATM and one-time debit card overdrafts, and the consumer incurs both an ATM or one-time debit card overdraft (although no fee is charged) and another overdraft transaction that is not an ATM or one-time debit card transaction, and both transactions are part of the resulting negative balance.
4. The new rule clarifies certain aspects of the Model Form.

Regulation DD

1. The new rule requires the use of the terminology "Total Overdraft Fees" on the applicable line item in the periodic statement. Previously, institutions were permitted to use terms such as "Total NSF Fees" if the institution used "NSF" in place of "Overdraft" when referring to such fees. The effective date of this rule is October 1, 2010.

Please do not hesitate to contact us with any questions or concerns at 502-581-1511, Option 2. You are the reason we are here and we are pleased to serve you.

Sincerely,

The BSG Financial Support Team