



NEW REQUIREMENTS FOR DISCLOSING OVERDRAFT FEES AND ACCOUNT BALANCES

The Federal Reserve Board has amended Regulation DD, the regulation implementing the Truth in Savings Act, to require all depository institutions to disclose aggregate overdraft fees on periodic statements, and not solely institutions that promote the payment of overdrafts. In addition, the amendments require that any account balance disclosed to a consumer through an automated system (such as an ATM) exclude any additional amount available through an overdraft line of credit or other overdraft protection program. The amendments, which are effective on January 1, 2010, are discussed below.

I. Disclosure of Overdraft Fees on Periodic Statements

Under current requirements, if a financial institution promotes the payment of overdrafts in an advertisement, the institution is required to disclose on periodic statements the aggregate dollar amount totals for overdraft fees and returned item fees, both for the statement period as well as for the calendar year-to-date. Pursuant to the amendments to Regulation DD, this disclosure requirement will apply to all financial institutions and not just those that promote the payment of overdrafts.

The amendments also impose certain format requirements on the disclosure of these fees. The overdraft fees must be disclosed in close proximity to other account-related fees identified on the periodic statement, and must be in a format similar to the following:

	Total for this period	Total year-to-date
Total Overdraft Fees	\$60.00	\$150.00
Total Returned Item Fees	0.00	30.00

II. Disclosure of Account Balances

The amendments require that any account balance disclosed to a consumer through an automated system exclude any additional amounts the institution may provide under an overdraft program or that may be transferred from another account of the consumer to cover an item where there are insufficient or unavailable funds in the

consumer's account. An automated system includes, for example, an ATM, web site or telephone response system.

This purpose of this requirement is for the consumer to see what the actual account balance is, and not a balance that includes an overdraft line of credit or any other type of overdraft protection. The amendments allow an institution to disclose an additional balance that includes funds provided under an overdraft line of credit or protection program, so long as the institution prominently states that any such balance includes such additional amounts and, if applicable, that the additional amounts are not available for all transactions.

III. Further Information

Please note that this advisory is a general overview of the amendments and is not intended as a comprehensive explanation of all of the provisions of the amendments or as formal legal advice. For further information regarding the amendments, Regulation DD or overdraft requirements, please feel free to contact Joseph D. Simon at (516) 357-3710 or via email at jsimon@cullenanddykman.com.

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