



Overdraft Protection – Regulation DD Disclosure Requirements

In 2008, the Federal Reserve adopted final amendments to Regulation DD (Truth in Savings) to address financial institutions' disclosure practices related to overdraft services. The effective date for the final rules is January 1, 2010. On April 17, 2009, a correction of a technical error was published in the Federal Register. A correction was made to the Aggregate Fee Model (B-10), as illustrated in the information below. On May 28, 2010, the Federal Reserve published clarifications to address questions that have arisen and provide further guidance regarding compliance with certain aspects of the final overdraft rules.

Alert Date: August 24, 2010

Status: Effective January 1, 2010

Links: [FRB Press Release - Initial Rule 12-18-08](#)

[TISA Technical Error Correction 04-17-09](#)

[FRB Press Release - Clarifications to Regulation DD 05-28-10](#)



In 2008, the Federal Reserve Board (FRB) amended Regulation DD, which implements the Truth in Savings Act, and the official staff commentary to add two requirements for overdraft protection: a periodic statement disclosure for discretionary overdraft protection, and requirements for automated systems that show overdraft amounts. Both requirements became effective on January 1, 2010.

What must be disclosed on periodic statements?

The final regulation required **all depository institutions** to disclose aggregate overdraft fees for the period and year to date on periodic statements. Previously, the requirement had only applied to institutions that promoted the payment of overdrafts. The final rule also added format requirements to help make the aggregate fee disclosures more effective and noticeable to consumers.

On April 17, 2009, the Aggregate Fee Model (B-10) was published in the Federal Register. The aggregate fee disclosures must be provided using a format “substantially similar” to the model. Further, as published in the Federal Register on January 1, 2009, the FRB clarified that financial institutions may use terminology such as “returned item fee” or “NSF fee” to describe the fees for returning items unpaid. As a result, with the exception of allowable alternatives to the term “returned item fees,” institutions must include on their periodic statements a disclosure that looks like 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

On May 28, 2010, the FRB announced final clarifications that address questions that have arisen with the final rule. Two important clarifications provided are:

- The aggregate fee disclosure is only required on periodic statements “if applicable.” As a result, the disclosure need not appear on a periodic statement where the consumer has not incurred any overdraft fees for the period or year to date.
- The periodic statement aggregate fee disclosure must state the total dollar amount for all fees or charges imposed on the account for paying overdrafts using the term “Total Overdraft Fees,” regardless what the financial institution calls the fee on its fee schedule or elsewhere in its periodic statement. According to the FRB, institutions should consider this particular disclosure to be a category of fees, not a reflection of one particular fee that must utilize consistent terminology.
 - On a related note, the official staff commentary to Regulation DD provides that institutions should not use the generic term “insufficient funds fee” or “NSF fee” to describe both fees for paying overdrafts and fees for returning items unpaid. Financial institutions may group itemized fees, but may not group together fees for paying overdrafts and fees for returning checks or other items unpaid.

What requirements apply to ATMs, online banking and other automated systems?

The final rule also requires an account balance disclosed to a consumer through any automated system (including, but not limited to, an ATM, Internet Web site, or telephone response system) to exclude additional amounts that the financial institution may provide 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. The rule is designed to ensure that consumers are not confused or misled about the available amount of funds in their account when they request their account balance.

The final rule permits financial institutions to disclose an additional balance that includes funds provided pursuant to a discretionary overdraft service or a line of credit, or funds that could be transferred from a consumer's linked individual or joint account, so long as the institution prominently states that the balance includes these additional amounts. For institutions that disclose additional balances, additional disclosures are required only if certain kinds of transactions may be paid into overdraft.

The final rule applies only to the extent balance information is offered on an automated system. It does not require financial institutions or other automated systems owners to provide balance information on automated systems available to consumers.

Recommendations for Next Steps

1. Verify with your automation provider that the periodic statement disclosures will be generated by January 1, 2010.
2. Identify the types of automated systems that your institution uses and which ones provide balance information. Then contact your vendor for each system that provides a balance to determine what the vendor is doing to comply with the requirements and ensure that the necessary changes are made by January 1, 2010.