



Compliance News...

Separate Itemization of Overdraft and NSF Fees on Periodic Statements

In our [May newsletter](#), we wrote an article about the new Regulation DD requirements effective July 1, 2006. The **requirement for all financial institutions** to separately itemize overdraft and non-sufficient funds (NSF) fees, **regardless of whether a “courtesy” overdraft protection program is offered or promoted**, appears to have created some confusion.

Simply put, if your financial institution currently charges one fee (what we’ll call an “overdraft fee”), regardless of whether an item was paid or returned, beginning July 1, 2006, you must have two separately distinct fees. For example, your financial institution may choose to disclose the fee associated with all items paid as an “overdraft fee” and the fee associated with all items returned as an “NSF fee.” Also, if like fees are grouped together, the description must make it clear that the dollar amount represents more than a single fee (i.e. “total fees for overdrafts this period” and “total fees for NSFs this period”).

If your financial institution is not already doing this you must have the changes in place by July 1, 2006, to be compliant with the new requirements. Additionally, in order to maintain consistent terminology, remember to update your Truth in Savings disclosures and other applicable fee schedules.

For those of you who are “compliance gurus” here is the regulatory reference:

Section 230.6 Periodic statement disclosures.

(a) General rule. If a depository institution mails or delivers a periodic statement, the statement shall include the following disclosures:

(3) Fees imposed. Fees required to be disclosed under §230.4(b)(4) of this part that were debited to the account during the statement period. The fees shall be itemized by type and dollar amounts. Except as provided in §230.11(a)(1) of this part, when fees of the same type are imposed more than once in a statement period, a depository institution may itemize each fee separately or group the fees together and disclose a total dollar amount for all fees of that type.

Official Staff Commentary to Section 230.6, periodic statement disclosures, comment #2:

2. Itemizing fees by type. In itemizing fees imposed more than once in the period, institutions may group fees if they are the same type. (See §230.11(a)(1) of this part regarding certain fees that are required to be grouped when an institution promotes the payment of overdrafts.) When fees of the same type are grouped together, the description must make clear that the dollar figure represents more than a single fee, for example, “total fees for checks written this period.” Examples of fees that may not be grouped together are:

- i. Monthly maintenance and excess-activity fees;*
- ii. “transfer” fees, if different dollar amounts are imposed” such as \$.50 for deposits and \$1.00 for withdrawals;*
- iii. fees for electronic fund transfers and fees for other services, such as balance-inquiry or maintenance fees; and*
- iv. fees for paying overdrafts and fees for returning checks or other items unpaid.*

The important part is the last sentence of the commentary (iv). No financial institution can group overdraft and NSF fees (paid and unpaid items) together after July 1, 2006.