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COMMISSIONER OF BANKS

June 3, 2010

To Whom It May Concern:

This letter is written in response to the Federal Deposit Insurance Corporation's (FDIC) solicitation of comments on Proposed Templates for Safe, Low-Cost Transactional and Basic Savings Accounts.

The Massachusetts Division of Banks (Division) is the primary regulator of 231 state-chartered depository institutions which are regularly examined by this agency for compliance with consumer protection laws and regulations and the Community Reinvestment Act (CRA). Additionally, the Division licenses and examines 2500 Money Service Business locations, including Check Cashers, Check Sellers, and Foreign Transmittal Agencies, businesses routinely utilized by unbanked and underbanked low to moderate-income (LMI) households.

Currently, over 120 banks in Massachusetts, which includes 75 percent of the Commonwealth's state chartered banks, participate in the *Basic Banking Program,* a voluntary initiative established in 1994 through the Massachusetts Community & Banking Council (MCBC). The goal of the Basic Banking Program is to provide affordable checking and savings banking alternatives for people with modest incomes.

By establishing traditional banking relationships, a consumer is able to accumulate significant transaction cost savings over non-traditional, high-cost, banking services. The availability of flexible and low-cost financial products within our local banks has helped to draw-in unbanked consumers who have historically elected to rely on check-cashing and/or pre-pay money businesses.

Having affordable banking options, as the one endorsed by MCBC, has played a role in Massachusetts being one of the top ten States with the lowest percentage of unbanked households (4%).[1] It is important to note that the benefits of low-cost banking are not only experienced by consumers but also by the banking industry which often relies on direct insight from its depositors to develop new products and marketable services. Clearly, the benefits of establishing traditional banking relationships are vast for low-to-moderate income consumers with limited capital and disposable income. Having access to lower cost deposit and credit products and the expansive protection afforded through federal and state consumer protection

[1] 2009 FDIC's National Survey of Unbanked and Underbanked Households.

regulations such as the Federal Reserve System's Regulation E (Electronic Funds Transfers) and Regulation DD (Truth in Savings) is simply the safer and most financially practical option.

There are best practices already in place which can be drawn upon to replicate ideal check-writing and other affordable account transaction models. Under the enrollment guidelines of the *Basic Banking for Massachusetts* program, a minimum opening amount for deposit is no more than $25 for checking accounts and no more than $10 for savings account; a maximum monthly fee of $3 for checking accounts and no monthly fee for savings accounts with balances of at least $10, $1 for lower balances; at least 15 free withdrawals, including 8 checks per month for checking accounts with a charge of no more than $1 if the set limit is exceeded; and the payment of interest on savings account balances over $10. However, these guidelines should not impede other innovative options which may include not requiring a maximum number of monthly checks processed or charges for other secondary services, if financially feasible for the institution.

Banking institutions interested in gaining greater access to the underbanked may also consider performing an independent market analysis of this group to understand and develop an ideal pricing strategy to offset its internal costs while also maintaining an affordable advantage. This is particularly relevant for additional services, e.g. money orders, non-government check cashing, and domestic and international wire transfers, whereby account holders versus non-account holders may warrant different pricing models depending on their banking relationship and account status.

In Massachusetts, the Division, through statute and regulation, is proactive in establishing reasonable guidelines and in ensuring service costs are kept within affordable standards. For example, banks doing business in Massachusetts must cash government benefit checks such as social security checks for pensioners or retirees even if the individual does not have an account with the bank and may not impose any check cashing fees (M.G.L. C. 167, s. 46). A bank may charge a one-time fee set by regulation for the establishment of an identification procedure, currently set at $5.00. Also, the "18-65" law requires state-chartered banks to make available a service charge free checking and savings account to individuals 18 years old or younger or 65 years of age or older. Other account-related fees are also limited such as a $5.00 maximum fee for a returned check. Lastly, the Division sets the maximum fee that can be charged by depository institutions for a deposited item that is returned (DRI). The current DRI maximum charge is $5.15, set by determining the median cost incurred by the financial institutions sampled.

To foster a fair and competitive environment for consumers as well as banking institutions, federal and state regulatory agencies play an important role in monitoring and curtailing business practices which may be deemed unfair, deceptive and predatory in nature. The Division recently entered into six Consent Orders with Massachusetts licensed check cashers who had partnered with out-of-state banks to steer Social Security and SSI beneficiaries into abusive direct deposit arrangements whereby substantial portions of recipient benefit checks were assessed multiple fees bearing no correlation to the risk of cashing these instruments. The Consent Orders provided for the immediate termination of these direct deposit arrangements. In addition, the Division filed a Community Reinvestment Act (CRA) public comment letter with the bank's primary regulator in the case of another bank operating a similar direct deposit program through third-party check cashers in the Commonwealth. It should be noted this is a

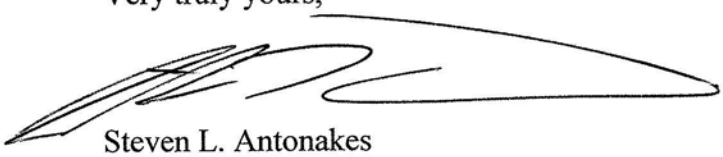
parallel consideration for regulatory agencies to take into account as part of the effort of encouraging safe, low-cost transactional and basic savings account products.

In summary, banks should be encouraged to be flexible in designing products and services within the suggested guidelines and performing outreach efforts designed to disseminate information about the availability of these products and services to the targeted LMI underbanked consumers. Conventional financial institutions should explore business development models that are cost-efficient but also appealing to the unbanked and/or underbanked individual. There are opportunities to learn from others in the industry about successful service delivery options for working people with limited time to research banking options. In some instances, the installation of a check-cashing ATM at a place of employment may be the most practical avenue towards initiating the first banking relationship. These collaborations between employers, banks and employees can, over time, generate multiple benefits. Another possible product option which has gained some recent popularity by consumers and federally insured institutions is the Prepaid Debit or Value Card. While on the surface this may be a viable financial option for basic payment transactions, actual account structure and consumer protections should be further examined or explored.

The committed efforts in outreach and in innovative business models are vital for the success of any program and such community development investments should earn positive recognition by regulators through the CRA evaluation process. Conversely, products and services designed to prey upon this group of consumers should receive swift attention by regulators.

Thank you for the opportunity to comment on these proposed templates. If you have any questions, please feel free to contact me at (617) 956-1500, extension 512 or Mayte Rivera, Deputy Commissioner for Community Affairs and Outreach at extension 557.

Very truly yours,



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