

By Electronic Delivery to:  
[OverdraftComments@FDIC.gov](mailto:OverdraftComments@FDIC.gov)

September 27, 2010

Federal Deposit Insurance Company  
550 17th Street, N.W.  
Washington, D. C. 20429-9990

Ladies and Gentlemen:

Thank you very much for seeking industry comment regarding the FDIC's expectations for management and oversight of automated overdraft protection programs. Fulton Financial Corporation is a \$16 billion financial holding company operating 8 affiliate banks and 271 branch offices in Pennsylvania, New Jersey, Maryland, Delaware and Virginia. Fulton Financial is in full agreement with the views expressed on FIL-47-2010 by The American Bankers Association in their recent letter. We believe they articulate the key points very well and accurately present the issues that are considered key not only by our company but also by the banking industry.

By way of specific background, our company introduced a matrix-based automated overdraft program to its customers in November of 2007. We believe the program created and continues to create value for our customers who choose to use it. During implementation, we diligently followed the best practices contained in the February 2005 Joint Guidance on Overdraft Protection Programs. Every component of those best practices was contained in our program initially and all continue today. We believed strongly then and believe just as strongly today that our customers should be given the opportunity to make an informed choice regarding the utilization of automated overdraft services, regardless of their preferred delivery channel. From the outset, our automated overdraft product was designed to promote financial accountability among our customers and to proactively offer alternatives to overdraft coverage should the customer prefer to use them.

It is important to state a few basic beliefs held by our company. First, we do not want any customers using our automated overdraft service if he/she does not understand how it works, what it costs and the pros and cons associated with using it. When introduced in November of 2007, we extensively trained our retail employees so they could convey their knowledge to our customers. We set up a special telephone outreach unit to call clients who we felt were using the product inappropriately or where they were incurring excessive overdrafts and related charges on a daily basis. Our goal from this outreach effort was to point out alternative and less expensive ways to cover overdrafts by using the transfer feature from savings or by establishing an overdraft line of credit, among others. Interestingly, despite all our contacts and outreach, and despite a full understanding by our customers about the cost of overdrawing their accounts, in a vast majority of cases they chose to continue doing so. In addition, with each overdraft that occurred and continues to occur today, we send a notice that warns the customer about the charges associated with overdrafts along with the opportunity to opt-out of our program at anytime.

We at no time encouraged our customers to use the service, at no time presented automated overdraft coverage without presenting other lower cost alternatives, and were reasonable in refunding fees if our customers simply did not understand the program. Nor did we ever mislead them by including the overdraft line in their ATM available balance. We do not pay items presented for payment from high to low amount order. We did not send letters advertising or "rewarding" customers with an overdraft line of credit that we felt promoted fiscal irresponsibility. We seek to empower our customers to make the decision that they deem best for them. We continue to pursue practices that are in keeping with our core values of honesty, integrity, fairness and full disclosure.

Because of the high standards we set for ourselves, we were disappointed when we were required to duplicate everything we did correctly in the first place for one-time debit and ATM transactions with the new guidelines on August 15th. We again trained our people and developed a series of letters that, quite frankly, did not say anything that our existing overdraft notice did not already contain with the exception of opting in for ATM and debit, an approach that to this day creates confusion on the part of our customers. Incidentally, when we have the opportunity to speak with customers who use the service, our opt-in rate is 90% . Customers who use the service know the value it creates for them and they are fully aware of the expenses associated with it. The main thing that seems to be lacking in recent legislation is a respect for consumer choice. We do not encourage customers to use our automated overdraft service if they do not want it. We are careful to make sure new customers are shown all the available alternatives as they begin new account relationships with us.

Our regular monthly checking account statements reflect any year-to-date overdraft fees that have been paid as required by regulation. We also monitor excess overdraft activity and contact customers by phone or email with suggestions and recommendations about available alternatives. Despite our best efforts, many customers choose to continue their past and current usage patterns. We believe that is their prerogative.

As you might imagine, when we consider all that we have done and continue to do to help our customers use their automated overdraft service efficiently, we are quite concerned about yet another layer of cost and duplication of effort being suggested by having to track and follow-up every consumer account that has six overdraft transactions in a rolling 12 month period. We believe that customers who use the automated overdraft service are keenly aware of the number of overdrafts they incur each month and keenly aware of what it costs them if they persist. Our goal is not to see how much fee income we can generate from our customers through our automated overdraft program. Our goal is, however, to make sure that every customer knows the alternatives available to them so they can make an informed choice.

We strongly urge the agency not to make our company or the banking industry incur another round of costs associated with monitoring a program that we believe customers agree is managed effectively and in their best interests. Our goal is to provide our customers with financial peace of mind. The suggested rolling 12 month monitoring would cause them significant embarrassment and annoyance. Interestingly, many customers who chose not to respond to our multiple opt-in, opt-out notices are finding out about it the hard way, ie. when their one time debit or ATM transaction is denied for the first time. Now embarrassed and angry, they contact us. Those customers think that we made the decision to stop providing the value they were accustomed to receiving. After explaining we were compelled by regulation to do so, they quickly ask us to opt them in. But before automatically doing so, we again point out alternatives.

Lastly, the corporation's Board of Directors approved our automated overdraft product in early 2007 prior to market introduction. They were duly informed on the details of the program at that time. They believed it created customer value then and they believe it continues to do so today. We have kept our board abreast of regulatory changes as well as our work to comply with those changes. Given the fact that we have followed every new directive issued, we believe that annual Board approval is redundant and unnecessary and respectfully ask that annual board approval not be required.

Moreover, since the new regulations are only a little over one month old, we would ask that the agency exercise restraint in promulgating yet another level of burdensome cost and regulation on the industry and its customers. We believe that it would be advisable for all parties i.e. regulators, the industry, consumers and individual banks to absorb and assimilate the new guidelines. We suggest

monitoring reactions to the regulations and monitoring consumer behavior for a reasonable amount of time before considering additional changes.

We want to thank the agency for allowing us to comment on this very important topic and trust that you will give serious consideration to our comments.

Very truly yours,

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