

FDIC 2010 Overdraft Payment Program Guidance

Overview & Frequently-Asked Questions

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Agenda

- Opening Remarks
- Origins of the Guidance
- Overview of the Guidance
- Supervisory Considerations
- Questions and Answers

Origins of the Guidance

- ❑ 2005 Joint Guidance on Overdraft Protection Programs
- ❑ 2008 FDIC Study of Bank Overdraft Programs
- ❑ FDIC Chairman's Advisory Committee on Economic Inclusion (ComE-IN)
- ❑ Examination Issues & Legal and Regulatory Actions
- ❑ Comment Invited on Proposed Guidance

Overview of the Guidance

⇒ Scope and Focus

□ Automated Overdraft Payment Programs:

- Established
- May Be Computerized
- Predetermined Criteria
- No Employee Decision-Making

→ Versus Ad Hoc Approach to Overdraft Payments or Lines of Credit covered by Truth in Lending Act

Overview of the Guidance

⇒ Existing Laws and Regulations

- ❑ Truth in Lending Act/Regulation Z
- ❑ Truth in Savings Act/Regulation DD
- ❑ Electronic Fund Transfer Act/Regulation E
- ❑ FTC Act Section 5 – UDAP
- ❑ Equal Credit Opportunity Act/Regulation B
- ❑ Expedited Funds Availability Act/Regulation CC
- ❑ Community Reinvestment Act

Overview of the Guidance

⇒ Existing Guidance

- 2005 Interagency Joint Guidance on Overdraft Protection Programs
- 2008 FDIC Guidance For Managing Third-Party Risk

Overview of the Guidance

⇒ Focus of the 2010 Guidance

- ❑ Small Percentage of Excessive Users
- ❑ Mitigate Risks
- ❑ Customer Communications
- ❑ Informed Customer Choice

Overview of the Guidance

⇒ Elements of the 2010 Guidance

- ❑ Monitor Accounts
- ❑ Meaningful and Effective Follow-Up
- ❑ Fee Limits
- ❑ Transaction Processing
- ❑ Opt-Out for Transactions Not Covered by Regulation E Opt-In Requirement

Overview of the Guidance

⇒ More Elements of the Guidance

- ❑ Board & Management Oversight
- ❑ Review Marketing, Disclosure & Implementation
- ❑ Staff Training
- ❑ Consumer Education Resources
- ❑ Advance Notice – Technology
- ❑ Third-Party Vendor Oversight

Supervisory Considerations

⇒ Risk Mitigation and Examinations

- Additional Risk Mitigation Measures in place by July 1, 2011
- Overall Overdraft and NSF Programs and Practices
 - Existing Laws, Regulations, Guidance
 - Red Flags?
- 2010 Guidance
 - Automated Overdraft Payment Programs
 - Expanded Review for New Guidance
 - Overall Assessment of Risk Mitigation Efforts
 - Customer relationships, business model and justification

FAQs

- ❑ Ad Hoc vs. Automated
- ❑ Occasion Where a Fee is Charged
- ❑ Payment Suspension Not Mandatory
- ❑ Meaningful and Effective Follow-Up
- ❑ Continued Use

FAQs

- Fee Limits/Reasonable Fees
- Transaction Processing
- Opt-Out for Transactions Not Covered by EFTA/Regulation E
- Financial Education Options
- Other FAQs