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DONNE E. TROTTER
MAJORITY CAUCUS CHAIR
STATE SENATOR · 17TH DISTRICT

May 17, 2013

COMMITTEES:

APPROPRIATIONS I
APPROPRIATIONS II
ENERGY
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PENSIONS & INVESTMENTS

COMMISSIONS:

COMMITTEE ON
GOVERNMENT FORECASTING
AND ACCOUNTABILITY

Legislative and Regulatory Activities
Division
Office of the Comptroller of the Currency
400 7th Street, SW., Suite 3E-218
Mail Stop 9W-11
Washington, DC 20219

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance
Corporation
550 17th Street, NW.
Washington, DC 20429

Re: Docket ID OCC-2013-0005: Proposed Guidance on Deposit Advance Products
Federal Deposit Insurance Corporation 6714-01-P

To Whom It May Concern:

As the Office of the Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation (FDIC) continue to review proposed guidance on bank deposit advance products, I urge the agencies to fully consider the potential impact on the short-term credit marketplace and to ensure that any forthcoming regulations preserve and sustain competitive choices to benefit all American consumers. The proposed guidance can harm consumers more than it helps them.

As a state Senator in Illinois, I have participated in critical debates on short-term credit and consumer financial services, emphasizing the need to ensure consumers have continued access to needed credit with essential consumer protection.

The need for short-term small dollar lending is clear. Millions of Americans continue to struggle to make ends meet, driving a need and demand for short-term credit. A recent report from the National Bureau of Economic Research (NBER) found that one in four Americans have used various forms of short-term credit – payday loans, auto title loans, and similar services – over the last five years. Today, a variety of competitive credit choices are available to them, including credit cards and short-term options such as overdraft programs and advances from banks, credit unions and retail lenders. Consumers when determining which product fits their needs, weigh their decisions against the costs and consequences associated with the use of comparable products and services. Many purposefully and routinely employ their bank's overdraft protection program to cover expenses, using the program as a short-term credit product – exactly like a bank deposit advance.

Regulations that randomly limit consumers' credit options risk a dangerous domino effect. Consumers receive the greatest benefit from a competitive financial services marketplace, with a wide array of options, including overdraft protection and cash advances from banks and non-bank retail lenders. Restricting consumers' access to certain forms of short-term credit such as advance products stifles competition and does nothing to address their continued need for credit. Arbitrary rules such as those proposed dictate winners and losers, rather than enabling a competitive marketplace. They will likely drive consumers to banks' preferred short-term lending product – overdraft protection – which is more expensive and punitive, with numerous hidden fees and confusing terms, or to pawn shops and riskier, unregulated options such as unlicensed lenders. Requiring highly restrictive cooling off periods from advance products alone is anti-competitive and unfair.

In addition to creating regulatory inconsistency governing similar products and services, the proposed guidelines violate one of the important mandates of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which calls for the consistent regulation of like products.

In answering the call to public service, we make a commitment to protect our constituents and all Americans, and to look out for their best interests through fair and balanced policymaking and enforcement. I encourage the OCC and FDIC to carefully consider consumers' short-term credit experience and perspective, with an eye toward rulemaking that consistently and fairly regulates the services consumers depend upon – from cash advances to overdraft protection – while preserving the important role of short-term credit in the American economy and empowering consumers to make sensible financial decisions.

Sincerely,

A handwritten signature in black ink, appearing to read "Donne E. Trotter", with a long horizontal flourish extending to the right.

SENATOR DONNE E. TROTTER
Assistant Majority Leader
Illinois State Senate

DET:psg