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May 30, 2013

Robert E. Feldman
Executive Secretary

Attention: Comments on Proposed Guidance on Deposit Advance Products
Federal Deposit Insurance Corporation
550 17th St. NW
Washington DC 20429

To Whom it May Concern:

The National Community Reinvestment Coalition (NCRC) appreciates that the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency propose guidance intended to prevent abusive deposit advance products. NCRC is an association of more than 600 community-based organizations that promotes access to basic banking services, including credit and savings, to create and sustain affordable housing, job development, and vibrant communities for America's working families. As such, NCRC and its members have worked with victims of abusive payday lending who have experienced debt traps and wealth stripping.

Several years ago, the FDIC and the OCC put a stop to banks partnering with payday lenders because the agencies were concerned that the payday loans were not affordable or responsible. A number of years later, some large banks flouted this agency directive by directly entering the payday lending arena and offering various deposit advance products that were just as harmful as payday loans made by third parties.

According to a recent report by the Consumer Financial Protection Bureau, deposit advances are expensive with Annual Percentage Rates ranging from 152 percent to 456 percent. Indebtedness is high; more than half of deposit account customers have outstanding deposit advances totaling more than \$3,000. Indebtedness also continues for a long time period with median lengths of 112 days or approximately one third of the year. About two thirds of customers have overdrafts, suggesting that deposit advances over-extend customers who run out of money in their checking accounts.

The proposed guidance states that deposit account products have "characteristics seen in traditional payday loans, including: high fees, very short, lump-sum repayment terms, and inadequate attention to the consumer's ability to repay." The repeated borrowing that is often necessary because consumers cannot payback the advance with their next paycheck is referred to as "churning" in the proposed guidance and "is similar to the practice of 'loan flipping' that the OCC, the FDIC, and the Board have previously noted to be an element of predatory lending."

The proposed guidance emphasizes that several deposit advance products do not adequately consider the borrower's ability to repay. By their very design, these products are problematic in terms of affordability. Some banks allow consumers to

receive advances up to 50 percent of their scheduled direct deposits. Moreover, the banks will immediately and automatically withdraw funds from the consumer's account as soon as the next direct deposit is received before the consumer pays for any other transactions. In other words, the direct advance is repaid before the mortgage or other expenses for basic necessities. High levels of indebtedness and the disregard for paying for basic necessities is financial servitude instead of a product that legitimately meets credit needs in an affordable manner.

The FDIC and OCC appropriately require in their guidance that an ability-to-repay analysis must consider whether the consumer receiving a deposit advance would have enough left in their bank accounts to afford basic necessities and other debt obligations. In addition, the agencies state that the ability-to-repay analysis must ensure that deposit advance borrowers would not have to engage in repeat borrowing. In addition, NCRC strongly supports the requirement that a deposit advance loan must be repaid in full before another deposit advance loan is offered. The proposed "cooling off" period of waiting one month after repayment before a customer is eligible for another deposit advance will help avoid repeat borrowing.

The agencies appropriately warn banks that abusive deposit advance products could violate the Federal Trade Commission Act, the Truth in Lending Act, the Electronic Fund Transfer Act, the Truth in Savings Act, and the Equal Credit Opportunity Act. The agencies should add the Community Reinvestment Act (CRA) to this list. According to the CRA regulation, abusive products that violate anti-discrimination and consumer protection laws, if offered on a widespread scale, will result in downgrades of CRA ratings. Abusive deposit advance loans that strip wealth, impoverish vulnerable consumers, and make it difficult to pay for basic necessities are not meeting legitimate credit needs and thus thwart the statutory purpose of CRA. The FDIC and OCC are correct in suggesting at the end of their proposed guidance that responsible small dollar loan products could meet credit needs more affordably than deposit advance products. We ask the agencies to go one step further and make it clear that products that strip wealth and savings is the opposite of meeting credit needs, and that such products will result in penalties on CRA exams.

We support the propose guidance and urge its expeditious implementation. Thank you for the opportunity to comment on this important matter. If you have any questions, please contact myself or Josh Silver, Vice President of Research and Policy, on 202-464-2708.

Sincerely,



John Taylor
President and CEO