VIA email – comments@fdic.gov.

May 30, 2013

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

Subject: Docket ID FDIC-2013-10101 – Proposed Guidance on Deposit Advance Products

Dear Mr. Feldman:

This letter is submitted on behalf of Regions Bank in response to the proposed supervisory guidance ("proposed guidance") for Deposit Advance products published in the *Federal Register* on April 30, 2013, by the Federal Depositor Insurance Corporation ("FDIC") and the Office of the Comptroller of the Currency ("OCC"), respectively. Regions Bank (hereinafter, "Regions") is an Alabama banking corporation and member of the Federal Reserve System. While the FDIC is not Regions' primary federal banking regulator, we appreciate the opportunity to comment on the proposed guidance. We appreciate the opportunity to comment on the proposed guidance.

By way of background, Regions Bank entered the small-dollar credit space as a direct request from our existing customers. In 2007, in response to our customer satisfaction surveys as conducted by Gallup, they informed us that they were seeing deposit advance products elsewhere—from other lending institutions to payday lenders but not from Regions. As a result, we developed "Ready Advance" as a way to meet our customers' demands. Since then, our customer satisfaction scores for our Ready Advance ranks among the highest in overall satisfaction of any product offered at Regions. Customers cite the lower cost, convenient access to credit, flexible repayment options, and the fact "their bank" offers such a product as some of the many reasons for their satisfaction. Customers often note the reason for needing access to short-term funds in order to meet daily living expenses, unexpected expenses, utilities, and medical bills.

Additionally, our product helps customers to rebuild, repair, and establish credit with monthly reporting to all three major bureaus. As such, forcing a customer into a cool-off period at least six times per year could have adverse affects on the benefits of reporting to the bureau because of the extended time that would be required for an established repayment history. In addition, as customers' credit scores improve, they are solicited for traditional credit products such as auto and unsecured loans.

The stated intent of the proposed guidance is to "ensure that any bank offering these products does so in a safe and sound manner and does not engage in practices that would increase credit, compliance, legal, and reputation risk to the institution". Small-dollar credit is a real need in the marketplace, and consumers expect that their financial institution to meet their credit needs. Unfortunately, for a variety of reasons, banks have long overlooked these needs and forced consumers to find solutions in non-regulated industry such as payday lenders. The economic environment has greatly intensified the need for short-term liquidity, but many institutions are reluctant to offer products to meet the need for fear that any small-dollar product will be labeled as “deposit advance” or “payday lending”. It is critical for the banks and regulators to work together to find solutions that are beneficial for all parties. More specifically, we urge the regulatory agencies to review such products on an individual basis, giving emphasis to the voice of the customer.

A number of banking institutions, including Regions, are exploring new ways to meet customers’ borrowing needs, and while the proposed guidance may help in some ways to freely develop new strategies, at least from the perspective of understanding regulatory expectations, we believe the proposed guidance will also hinder innovation and credit availability because the technology, infrastructure, and additional overhead requirements necessary to comply with these regulatory requirements will be too costly to justify the deployment of capital for these types of credit products. The proposed guidance encourages banks to offer “viable, sustainable, and less expensive” alternatives. However, the basic effect of the requirements set forth in the proposed guidance would seem to be increased overhead requirements for banks and more restricted or limited access to funds for consumers. As a consequence, less small-dollar credit will be available to consumers from banks, fewer consumers who need it will be able to obtain it, and it will be more costly for consumers to obtain it. Specifically, three key provisions of the proposed guidance materially diminish the business case for offering a small-dollar, short-term credit product: (i) only one advance per cycle, (ii) the extensive ability to re-pay analysis, and (iii) cooling off period of one cycle following each cycle in which an advance is made.

We do not consider our Ready Advance product to be a feature of the checking account. Rather, Ready Advance, like similar credit products offered by other banks, is designed as an open-end line of credit. Regulation Z defines open-end credit as “consumer credit extended by a creditor under a plan in which…the creditor reasonably contemplates repeated transactions…the amount of credit that may be extended to the consumer during the term of the plan (up to any limit set by the creditor) is generally made available to the extent that any outstanding balance is repaid.” In contrast, Regulation Z defines closed-end credit as any credit “other than open-end credit.” The one advance per cycle requirement set forth in the proposed guidance would seem to preclude the classification of Ready Advance and similar products as open-end credit, resulting in a default classification of the product as closed-end credit and the imposition of Regulation Z compliance responsibilities for closed-end credit. We strongly recommend that the final guidance take into consideration the need for a true open-end credit product that allows consumers to access their credit when their need arises and as they repay their outstanding balances.

The proposed guidance requires a one-cycle “cooling off” period following each cycle in which an advance occurs. While we believe a cooling off period is beneficial in connection with this type of credit product (in fact, our Ready Advance product provides for a one-cycle cooling off period after six months of maximum usage), the cooling off structure set forth in the proposed guidance would not be helpful to consumers. Regions' experience has been that customers use the line of credit product on an "as needed" basis, meaning they take only the smallest advance needed during a certain period of time. The cooling off structure in the proposed guidance will incentivize customers to take the maximum available advance each time they use the product because they know they will be forced into the "cooling off" period in the next cycle. As a result, consumers will pay more in fees because they advanced more than they actually needed, and they will continue to look to alternative providers of short-term credit because their short term credit needs will still exist.

The extensive ability to repay requirement set forth in the proposed guidance could create a disruption in the current automated customer eligibility process – a process that reduces overhead and allows financial institutions to offer a lower cost credit product as a result of the streamlined process, and also could create additional adverse action compliance responsibilities that will increase overhead costs for financial institutions. Implementation of the ability to repay analysis would certainly reduce the population of eligible borrowers, as currently defined by banks, and would most likely eliminate consumers who most need access to this type of credit. While our product is serving customers across all income levels, it is clear that a certain percentage of customers would not be able to obtain the product under the proposed guidance and would have no other opportunities to access credit outside of alternative providers.

The proposed guidance links repeat advances to poor underwriting, yet it also requires the underwriting criteria to be "designed to assure that the extension of credit can be repaid according to its terms". This seems odd for customers who have shown an ability to repay. We know of no other consumer loan product in the industry where a borrower who has demonstrated a financial ability to repay a loan "according to its terms" is nevertheless restricted from using the product through repeated cooling off periods and limitations on the number of advances. Repeat usage of a credit product does not necessarily indicate "a cycle of debt" for a consumer. Many responsible consumers regularly and repeatedly use lines of credit (including credit cards, home equity lines, unsecured line, etc.) as part of their ordinary financial management practices.

We believe that our product can help customers rebuild, repair, and establish credit because we report a consumer's Ready Advance usage and performance to all three major credit bureaus on a monthly basis. As a consumer establishes a regular performing payment history on Ready Advance, the assumption is that the consumer's credit score will improve and the consumer will begin to be solicited for traditional credit products such as auto and unsecured loans. The requirement in the proposed guidance that a consumer be put into a cool-off period as many as six times per year could delay or disrupt the establishment of a regular payment history and prolong the improvement of a consumer's credit score.

The proposed guidance notes that deposit advance loans typically are "repaid from the proceeds of the next direct deposit…repaid in a lump sum in advance of the customer's other bills". However, this is not the case with Ready Advance. Ready Advance payment obligations are not given any precedence or priority over other debit items that are presented against the checking account at the same time, and there is no certainty that a Ready Advance payment obligation will be paid before the customer's other debit transactions.

We also would point out that Ready Advance customers who do not wish to repay advances through automatic debits may elect to repay their balances in installments. This option is somewhat unique in the marketplace and offers customers flexibility with their repayment while allowing them to have access to additional advances in the event a need arises.

The proposed guidance recognizes that deposit advance loan products carry reputational, compliance, legal and credit risks. Certainly, any credit product in the marketplace carries these risks to some degree. In any event, we believe that we have adequately managed any such risks with respect to Ready Advance through extensive internal oversight and the promotion of product transparency. We believe that the overwhelming positive customer feedback we have received about Ready Advance validates our approach with respect to the product. In other words, we believe Ready Advance has been a success both for Regions and for our customers. It is our hope that any final regulatory guidance with respect to deposit advance products will not require us to fix something that is not broken.

In closing, financial institutions are spending a great deal of time addressing the needs of the underserved consumer. Unfortunately, they are spending even more time defending and explaining innovative products they have designed for the underserved consumer. When financial institutions are in a position to meet the liquidity needs of underserved consumers they are able to deepen the banking relationship and provide consumers with alternatives to traditional payday lenders, pawn shops, and title pawn businesses. We are in favor of a collaborative effort between banks and their regulatory agencies for the establishment of a fair, responsible and commercially viable framework for meeting the consumer need and demand for this type of credit. However, onerous regulatory requirements will certainly discourage banks from entering the marketplace for these products and will result in continued use by consumers of alternative credit providers. We urge all regulatory agencies to bear this in mind as they continue to formulate and issue guidance in this area.

We appreciate the opportunity to comment on the proposed guidance and to provide information about the experiences we have had with our own product.

Sincerely,