



Barry Orr
Chairman & CEO

September 21, 2010

Federal Deposit Insurance Corporation
550 17th Street NW
Washington, D.C. 20429-9990

DELIVERED VIA E-MAIL:
OverdraftComments@fdic.gov

Re: FIL-47-2010

Dear Sir or Madam:

I am writing today in regards to new regulations proposed by the FDIC concerning overdraft protection. I am the proud CEO of FirstBank & Trust in Lubbock, Texas. We have just under \$500 million in assets, employ more than 130 people and have provided service to more than 10,000 customers over the past 14 years. I feel that the FDIC, in proposing this guidance, is operating on the mistaken belief that community banks, such as ours, are willfully and deliberately taking advantage of their customers through their institutions' overdraft payment programs. Nothing could be further from the truth. The fact of the matter is that we retain our customers because of the customer service we provide them. If they felt as though we were taking advantage of them, we would certainly no longer be their bank.

I would like to comment on the following specific areas of concern in the proposed supervisory guidance. First, the proposed requirement that a financial institution monitor their overdraft programs for excessive or chronic customer use, and, if a customer overdraws his/her more account on more than six occasions in a rolling twelve-month period, undertake meaningful and effective follow-up action. This proposal makes a number of assumptions that I believe are erroneous. It may be hard to believe, but we have customers who take advantage of overdraft programs rather than maintaining an accurate picture of their account's balance. For these customers, who have repeatedly indicated that they are willing to absorb any overdraft charge because it saves them money for return charges at the merchant, time hassle and even prosecution. They are willing to accept responsibility for poor record keeping. Frankly, requiring us to contact them and offer less costly alternatives would yield no benefit. In fact, we have sat down with many of these customers and tried to counsel them on less costly alternatives. These are good customers that we want to keep and they have simply refused to change their habits. Furthermore, if we are not providing overdraft protection, many of these customers will resort to payday loans and money stores at exorbitant fees and interest rates.

Second, I am very concerned with the notion that our bank, a for profit enterprise with whom our customers have a contractual relationship, must limit the amount of fees that one of our customers could incur as a result of neglecting their depository contract (i.e., the depository agreement setting out the customer's duty with regard to maintaining a positive account balance.)

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As a business, we are certainly operated to make money; that is the nature of business. However, we are not willing to do so at our customers peril because we want to continue to keep our existing customers and attract new customers. This is a competitive market and I would hazard to say there are few banks that willingly drive their customers away. However, the poor practices of large, national banks should not be reflected in punishment of smaller, community banks. A fair market system allows any customer to choose who they bank with. We see customers who are unhappy with their current bank walk into our lobbies all the time and we gladly accept them and their business.

Finally, there seems to be an inconsistency with the rolling twelve month period the FDIC suggests we follow to monitor our customers' use of overdraft programs. With existing federal regulations; specifically, Regulation DD currently requires disclosure of the total dollar amount for all fees or charges imposed on an account for paying checks or other items when there are insufficient or have unavailable funds. It also applies to the account that becomes overdrawn and the total dollar amount for all fees or charges imposed on the account for returning items unpaid. This must be done both for the statement period and for the calendar year. Introducing an inconsistent rolling time range for which we must reach out to our customers to counsel them on their overdraft usage imposes additional compliance burdens and costs on all banks, which will likely lead to increased costs for all bank customers. I am struck by the fact that the FDIC is proposing this guidance with the hopes of protecting customers, but customers will ultimately be harmed by the adoption of said guidance.

In closing, I am an advocate for consumer protection and rights. As a banker with more than 35 years experience, I have seen practices that I have disagreed with. However, I do not believe the FDIC should be quick to impose regulation that affects all banks, good and bad. I can assure you that we do not participate in predatory practices and never will. We believe in the core foundation of the banking industry. We want good, solid citizens to keep their money at our bank in a deposit relationship so that we can lend that money to good, solid citizens who want to invest in our community and make it a better place to live.

I appreciate your providing me with the opportunity to comment on this matter and I hope the FDIC will reconsider the promulgation of this guidance and withdraw it from consideration.

Sincerely,



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