Federal Deposit Insurance Corporation
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Washington, DC 20429-9990

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Ladies and Gentlemen:

As an OTS regulated thrift, we appreciate the opportunity to provide the following comments which were solicited in your proposed FIL-47-2010 - *Overdraft Payment Supervisory Guidance (the Guidance)* dated August 11, 2010:

In general, we are in agreement with the comment letter filed by the American Bankers Association. It would be our hope that any such guidance or regulatory regime would be issued through the FFIEC in order to maintain the competitive balance among various charter types.

Also from a general perspective, this exercise seems to be an effort to put banks in the position of having greater responsibility for what should be basic financial management by consumers. Currently, we provide a notice of Non-Sufficient Funds (NSF) by mail for each instance an NSF fee is imposed. We provide real time account activity with balances via internet banking products that are available typically at no cost to the consumer so they can monitor their accounts on a real time basis. Each month we provide Month to Date and Year to Date overdraft fee information on each customer's statement. So customers are not uninformed as to what their NSF activity is on both a historical basis as well as a real time basis. The question that needs to be asked is, "What are consumers responsible for when it comes to making basic financial decisions?" Right now it seems the discussion is only on "What should banks do to make sure consumers don't make (seemingly) poor decisions?" However, it could be argued that in many (if not most) instances consumers are making decisions with all of the requisite information available to them and are making the decision that the value of the NSF fee is equal to or greater than the degree of cost and inconvenience they would suffer were the transaction not consummated and the fee assessed. This is especially true in light of the recent changes to Regulation E with all customers having the opportunity to opt out of overdraft protection programs at any time.

One specific issue within the Guidance deals with the monitoring of "excessive or chronic" customer use of overdraft payment programs with six overdrafts in a 12 month period being the threshold. We would submit that the end result of this constraint for many customers will be moving their account to another bank (which includes the time and inconvenience of closing one account and opening another, not to mention changing all direct deposits and drafts into the account) until such time as they exceed the 6 in 12 limitation with the new bank and it is time to move to another. Obviously, in time, these customers will stop moving to another bank and will simply become one of the many unbanked that we are now trying to pull in to the banking system or they will be sentenced to deal with payday lenders in order to obtain the liquidity they need in order to live the lifestyle they have chosen to live. Either outcome is in direct opposition to what both the banking industry and the regulators have been fighting for at least the past decade.

Another specific comment we would offer deals with the "reasonableness" of an NSF fee. One of the major things we seem to be leaving out of this discussion is the fact that in virtually every instance where a bank overdraft protection fee is charged on a check or an ACH item and the item is paid, the consumer is saving real costs.

Perhaps we should take a moment to remember what took place prior to overdraft protection programs coming on the scene: If a check or ACH item was presented against insufficient funds, the bank would charge a NSF fee. The item would then be rejected and returned through the banking system to the merchant who took the check or who originated the ACH transaction. In the case of a check the merchant would contact the customer and ask them to return to the store where the check was presented and to bring cash that would be sufficient to cover the amount of the check **and** a "returned check" fee that the merchant assessed to compensate him for his troubles in collecting the check (and also to offset his losses for checks he could not collect). For purposes of example, let's say the bank charged a $25 NSF fee and the merchant charged a $25 fee. Each "bad check" would cost the consumer $50 plus the time and inconvenience of returning to the store and the embarrassment of facing the store owner or manager to rectify the situation.

With overdraft protection programs, the total cost to the consumer is the $25 overdraft protection fee assessed by the bank and the check is paid. Because of this action by the bank the consumer is saved: 1) the $25 merchant fee, 2) the time and inconvenience of obtaining cash and returning to the store, 3) the embarrassment of standing face to face with the store owner or manager and 4) (and perhaps the most important) the risk of having "hot check" charges filed by the merchant. In addition, under the overdraft protection scenario, the risk of loss is transferred from the merchant to the bank. I guess we fail to see how overdraft protection programs are harming the consumer in light of the way overdrafts were handled and the consumer was impacted prior to overdraft protection programs, which in turn questions the need for the Guidance.

We appreciate the opportunity you have afforded us to respond to the proposed Guidance.

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