



March 9, 2007

Mr. Steve Hanft
Legal Division
FDIC
550 17th Street, NW
Washington, DC 20429

Comments
Study of Overdraft Protection Products
[72 *Federal Register* No. 25; 2/7/2007]

Dear Mr. Hanft:

The Consumer Bankers Association, whose membership includes most of the nation's largest bank holding companies as well as major regional banks, is pleased to submit this comment on the proposal by the Federal Deposit Insurance Corporation ("FDIC") to conduct a survey and study on usage and patterns of overdraft protection programs. Because CBA's members are leaders in the retail banking industry, this issue is of critical interest to us. Overdraft protection is a service offered by banks under the jurisdiction of all of the bank regulatory agencies, so that the proposed survey and study by the FDIC is of interest to all of our membership.

Reliability and Value of Survey

The FDIC plans to survey a sample of 500 state nonmember banks, but provides little information about its proposed methodology or selection criteria. As a result, we are concerned about the validity of the results. For example, it is unclear whether the proposed survey respondents will be invited or required to participate. Nor does the *Federal Register* notice indicate how information will be verified. Without such information, it is impossible to determine if the results will form a complete or reliable industry picture of overdraft programs.

It is also extremely difficult to provide any comments on a survey that has not been published. The *Federal Register* notice seeks input on a survey that is not available in that publication or on the FDIC web site. Yet the request for public comment asks for

questions about costs, burdens, reliability and other issues that are not answerable without access to a draft of the survey itself. We encourage the FDIC to make such information public and to seek comment on it prior to submission to the OMB.

Purpose of Survey

It is not at all clear from the *Federal Register* notice to what purpose the FDIC plans to put the results. Will it be for developing guidance only for state member banks under its jurisdiction, or for a larger industry-wide rulemaking? If a broader application is contemplated, the authority for that application is unclear, and the survey results, taken from a sample of a subset of the industry, may not be representative of the industry as a whole. If, on the other hand, the FDIC is undertaking this for application under its supervisory authority only, it should make that clear.

Understated Burden Estimates

We believe the agency's burden estimates are understated. Because the FDIC will undoubtedly impose a standard format for responding to that survey, collection of data on overdraft protection is likely to be labor intensive, as the data will not always be kept in the form a survey would contemplate. We therefore have serious doubts about the time estimates (e.g., survey response: 3 hours per respondent), as the collection and reformatting of such an extensive set of data (not to mention verification) is likely to involve many departments of the banks surveyed. This is notably inconsistent with the purposes of the Paperwork Reduction Act of 1995, under which auspices this notice on the overdraft survey is published.

Conclusion

We believe that there is too little information being provided to allow us to comment on the purpose of the survey, or on its merits. Nevertheless, and without being in a position to comment on the unpublished survey itself, we believe the FDIC is understating the cost and burden of responding to this survey. We urge the FDIC to clarify its objectives, and to publish the survey questions, permitting the industry to offer comments. The result would be a better and ultimately more useful survey.

We would be very happy to work with the agency or to respond to any questions you may have.

Very truly yours,

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