

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

Home:

1545 E. 119th Street
Mulvane, KS 67110-8039
316-613-1899 Cell Phone
PetDeGraaf@att.net

Topeka Office:

Kansas State Capitol Building
Room 459-W
300 SW 10th Street
Topeka, KS 66612-1504
785-296-7693 (During session)



PETE DEGRAAF
82nd District

Committee Assignments:

Chairman: General Government Budget
Financial Institutions
Member: Appropriations
Insurance
Joint Committees:
Streamlining Committee
Vice Chair: Children's Issues

Thursday, May 16, 2013

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street, SW., Suite 3E-218
Mail Stop 9W-11
Washington, DC 20219

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

Reference: Docket ID OCC-2013-0005: Proposed Guidance on Deposit Advance
Products Federal Deposit Insurance Corporation 6714-01-P

To Whom It May Concern:

I serve as Chairman of the Kansas House Financial Institutions Committee and appreciate the opportunity to express my views regarding proposed guidance on bank deposit advance products being considered by the Office of the Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation's (FDIC).

Our committee often deals in open debate on issues of short-term credit and consumer financial services. We attempt to ensure consumers have continued access to needed credit while balancing the need for consumers to be adequately informed and protected from predatory lending and/or collection practices.

While consumer protections are essential, I encourage your agency to carefully consider the consumer's need for a range of reliable short-term credit options – whether it be overdraft protection, cash advances, short-term loans, micro-loans, or some other form of credit. In particular, please closely examine any potential consequences proposed regulations may have on consumers' ability to access credit when they want it. Consumers want and benefit from having more alternatives, not fewer. Short-term credit options can help consumers manage shortfalls; thereby avoiding late payment fees, damage to credit scores, or experience a loss of critical services such as utilities and healthcare. I believe history shows that consumer needs are better served in a competitive and open marketplace.

While I would prefer to leave these issues for the States to decide, if regulations or more laws are forthcoming; then individual short-term credit options should not be examined or regulated in a vacuum or inconsistently. While I do not agree with all that is in the Dodd-Frank Wall Street Reform and Consumer Protection Act, it does call for the consistent regulation of like products. Any regulatory framework should:

Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
May 16, 2013
Page Two

- consider how consumers actually use the credit options available
- include uniform disclosure requirements to ensure consumers are equipped with all of the information they need to compare similar services
- apply any regulations – including limits on the number and frequency of use – equally to all comparable products, including overdraft protection services offered by banks and credit unions.

Regulations that randomly limit consumers' credit options risk a dangerous domino effect:

- Consumers receive the greatest benefit from a competitive financial services marketplace, with a wide array of options, including overdraft protection and cash advances from banks and non-bank retail lenders.
- Restricting consumers' access to certain forms of short-term credit such as advance products stifles competition and does nothing to address their continued need for credit.
- Arbitrary rules such as those proposed dictate winners and losers, rather than enabling a competitive marketplace. They will likely drive consumers to banks' preferred short-term lending product – overdraft protection – which is more expensive and punitive, with numerous hidden fees and confusing terms, or to pawn shops and riskier, unregulated options such as unlicensed lenders.

In answering the call to public service, we each make a commitment to protect our constituents and to look out for their best interests through fair and balanced policymaking and enforcement. I encourage the OCC and FDIC to carefully consider consumers' various short-term credit desires, with an eye toward rulemaking that consistently and fairly regulates the services consumers depend upon, while preserving the important role of short-term credit in the American economy and empowering consumers to make sensible financial decisions.

Thank you for your service. If you have any questions please free to call my office.

Respectfully,



Rep. Pete DeGraaf
Chairman, Financial Institutions Committee

ROB OLSON

SENATOR, 23RD DISTRICT
15944 S. CLAIRBORNE STREET
OLATHE, KANSAS 66062

STATE CAPITOL, ROOM 236-E
TOPEKA, KANSAS 66612
(785) 296-7358
rob.olson@senate.ks.gov



TOPEKA

SENATE CHAMBER**COMMITTEE ASSIGNMENTS**

CHAIR: FINANCIAL INSTITUTIONS & INSURANCE
MEMBER: FEDERAL & STATE AFFAIRS
COMMERCE
UTILITIES

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street, SW., Suite 3E-218
Mail Stop 9W-11
Washington, DC 20219

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

May 16, 2013

Re: Docket ID OCC-2013-0005: Proposed Guidance on Deposit Advance Products
Federal Deposit Insurance Corporation 6714-01-P

To Whom It May Concern:

I write to express my views regarding the Office of the Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation's (FDIC) recently proposed guidance on bank deposit advance products and to encourage the agencies to carefully consider American consumers' need for a range of reliable short-term credit options. In particular, the agencies must closely examine any potential consequences of such regulations on consumers' ability to access credit when they need it. Consumers want and benefit from having more alternatives, not fewer, and this need is better served in a competitive marketplace.

As a state senator from Kansas, I have participated in various reviews and debates regarding short-term credit and consumer financial services, all emphasizing the need to ensure consumers have continued access to needed credit with essential consumer protections. Based on my experience, I am concerned that such expansive regulation as now proposed does not adequately address consumers' needs for short-term credit or reflect their experience, nor does it fairly address the root of the financial challenges confronting many consumers. Providing effective financial safeguards for Americans while preserving access to credit should be the overarching goal of any new regulation.

I believe it is important to note that the need for short-term small dollar lending is clear. Millions of Americans continue to struggle to make ends meet, driving a need and demand for short-term credit. My understanding of a recent report from the National Bureau of Economic Research (NBER) is that it found that one in four Americans have used various forms of short-term credit – payday loans, auto title loans, and similar services – over the last five years. I sincerely believe that these short-term credit options help consumers manage shortfalls and avoid late payment fees, damage to credit scores or a loss of critical services such as utilities and healthcare. To me it is clear that consumers need and value these options, using them as many times as they need to – but only as many times as they need to – in order to bridge a gap in their finances.

It is my belief that when confronted with financial challenges, consumers examine their options, choosing the financial service that will help them overcome their challenges successfully and responsibly. So having a variety of competitive credit choices available to them, including credit cards and short-term

options such as overdraft programs and advances from banks, credit unions and retail lenders is very valuable. I think consumers also weigh their decisions against the costs and consequences associated with missing bill payments or submitting them late, including bounced checks, late payments to credit card companies and utility reconnections. Of these short-term options, overdraft programs are far and away the most frequently used.

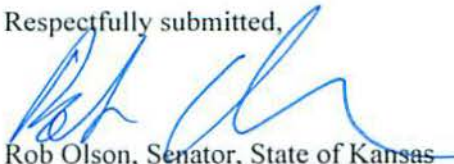
For some time now consumers have used these comparable products and services interchangeably. In fact many purposefully and routinely employ their personal bank's overdraft protection program to cover expenses, using the program as a short-term credit product – exactly like a bank deposit advance. I am sure you are aware that several academic institutions have concluded that overdraft and advance products are being utilized as credit substitutes.

My point in writing this letter is to strongly suggest that individual short-term credit options – from cash advances to overdraft protection – should not be examined or regulated in a vacuum or inconsistently. I hope that any regulatory framework should at the outset consider how consumers actually use the credit options available and include uniform disclosure requirements to ensure consumers are equipped with all of the information they need to compare similar services. I think it equally important to apply any regulations – including limits on the number and frequency of use – equally to all comparable products, including overdraft protection services offered by banks and credit unions.

I am hopeful you will agree that regulations that randomly limit consumers' credit options risk a dangerous domino effect. Consumers receive the greatest benefit from a competitive financial services marketplace, with a wide array of options, including overdraft protection and cash advances from banks and non-bank retail lenders. I firmly believe that restricting consumers' access to certain forms of short-term credit such as advance products stifles competition and does nothing to address their continued need for credit. Likewise, arbitrary rules such as those proposed dictate winners and losers, rather than enabling a competitive marketplace. They will likely drive consumers to banks' preferred short-term lending product – overdraft protection – which is more expensive and punitive, with numerous hidden fees and confusing terms, or to pawn shops and riskier, unregulated options such as unlicensed lenders. I hope you will concur with me when I suggest that requiring highly restrictive cooling off periods from advance products will ultimately force the most expensive credit upon consumers by virtue of the fact it will become the most difficult and untimely solution to their needs.

In answering the call to public service, we make a commitment to protect our constituents and all Americans, and to look out for their best interests through fair and balanced policymaking and enforcement. I encourage the OCC and FDIC to carefully consider consumers' short-term credit experience and perspective, with an eye toward rulemaking that consistently and fairly regulates the services consumers depend upon – from cash advances to overdraft protection – while preserving the important role of short-term credit in the American economy and empowering consumers to make sensible financial decisions.

Respectfully submitted,



Rob Olson, Senator, State of Kansas
Chairman, Financial Institutions and Insurance Committee