From: Steven A. Glazer [mailto:glazerandfamily@msn.com]
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To: Overdraft Comments
Subject: Comments on FIL-47-2010

To the FDIC:

I wish to offer comments on the FDIC's Financial Institution Letter regarding "Overdraft Payment Programs and Consumer Protection."

My comments are on the following FDIC requirements of member institutions:

- **"Give consumers the opportunity to affirmatively choose the overdraft payment product that overall best meets their needs":** Overdraft protection is a good idea if it is based on a credit line that has reasonable terms and conditions. Basically, those should be a reasonable interest rate, credit limit, and repayment terms. It is a good idea for banks to offer initial terms and conditions to a new customer that are somewhat stringent, but after observing a customer's repayment history over time, a bank should be willing to extend more generous terms based on that history, such as a higher credit limit where necessary. A bank should not require a customer to fulfill the requirements of obtaining a regular revolving line of credit to do so, because overdraft protection is supposed to act as a short-term covering loan in order to help a customer's cash flow, not to carry balances over a long period of time or to act like a credit card. A bank should be willing to work with a customer to tailor the protection to the customer's needs. It should not insist on pushing its credit card on a customer as the only way to offer more generous terms and conditions.

- **"Promptly honor customers' requests to decline coverage of overdrafts (*i.e.*, opt out) resulting from non-electronic transactions":** The solution that Congress has created here, to create an "opt-out" provision, is a classic example of Congress "fixing" a problem by catering to the wishes of the banks that lobby them rather than to the customers who vote for them. An "opt-out" provision does not help banking customers because overdraft protection is actually a good thing for them. The "opt-out" provision merely gives banks an opportunity to drop customers that they don't really want to serve, but are not allowed to treat differently from customers that they do want to serve. It is more appropriate for the Government to require banks to offer *reasonable terms and conditions* for overdraft protection, including reasonable fees, credit limits and interest rates, than to offer customers the right to "opt out" of the service.

- **Monitor accounts and take meaningful and effective action to limit use by customers as a form of short-term, high-cost credit, including, for example, giving customers who overdraw their accounts on more than six occasions where a fee is charged in a rolling twelve-month period a reasonable opportunity to choose a less costly alternative and decide whether to continue with fee-based overdraft coverage":** FDIC and the Federal Reserve should not look upon a customer's frequent use of overdraft protection as any more evil than a bank's frequent use of the Federal Reserve's overnight loan window. Customers, like banks, have cash flow needs that require short-term credit. They are willing to pay a reasonable price for it. The number of times that overdraft protection is called upon by a customer is not the problem; a customer's failure to repay the short-term loan in a timely manner is the problem. Therefore, FDIC should not instruct banks to get tough with customers who merely use the service frequently; rather, banks should only be instructed to get tough with customers who do not repay their short-term overdraft protection loans on time.

- **"Institute appropriate daily limits on overdraft fees":** This is perhaps the most important thing that FDIC could do on this issue. Banks are taking incredibly unfair advantage of customers and are relying on these fees as a major profit center for themselves. Banks now combine the use of "holds" on deposits, unfair check ordering, and the hiding of information from customers by not returning paper checks to customers that show the paper trail of each check and the relevant dates of presentation and payment, to maximize their overdraft fees. Fees should not be based on a fixed charge, like $39 per item. They should be based on a *percentage* of the check amount up to a fixed maximum, because the cost of processing an overdrawn check is only the interest that the bank must pay to cover it. The notion that a bank can charge a customer $39 for an overdraft for a $4.00 cup of coffee is ludicrous, and is nothing more than an inducement to banks to play "gotcha" with customers ever more ferociously.

- **"Not process transactions in a manner designed to maximize the cost to consumers":** This, too, is extremely important for FDIC to enforce. My bank has been quick to point to its "Bank Services Agreement," which states that POS transactions "may be processed before deposits, checks, and other items that are also presented for payment . . . this method would allow more items to be paid in the order they were conducted but could result in additional overdrafts . . . We may change our priorities or posting order in our sole discretion at any time without notice to you regardless of whether additional fees may result." Of course, this is a "take it or leave it" contract that I was not at liberty to negotiate with the Bank. Essentially, my bank affords itself total discretion to charge me any way it likes to, or not, and to do so without any notice to me. This is not a contract; this is an invitation to steal. It is an unconscionable deal and FDIC should disallow it.

I hope that the FDIC will take a close look at these banking practices and device rules that have the customer in mind. All of you are customers of banks yourselves as well as regulators, so you should have no problem understanding a customer's point of view.

Thank you for affording me the opportunity to comment on your inquiry.

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