



September 15, 2010

Federal Deposit Insurance Corporation

550 17<sup>th</sup> 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 on behalf of the close to 600 members of the Texas Bankers Association. As the President and Chief Executive Office of the nation's oldest and largest state banking trade association, I have the distinct pleasure of representing the hardworking men and women who have ensured that Texas banks, unlike the multitude of others across our nation, remain both fiscally strong and responsive to their customers' needs. I am proud of the work our members do each and every day on behalf of both their communities and their customers.

I begin my comments with the above because I feel that the FDIC, in proposing this guidance, is operating on the mistaken belief that bankers 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 if a bank were trying to mislead its customers for profit's sake, the bank would soon have no customers. Competition in today's marketplace is tough, and our members are doing everything they can to ensure they keep the customers they have.

So, with this being said, 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 or 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. Our members tell me that they often 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 caused by their own failure to keep good records, requiring the bank to contact them and offer less costly alternatives would yield no benefit. In fact, the majority of

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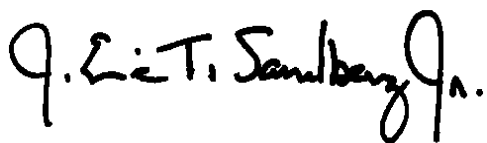
these customers have been counseled on less costly alternatives and have simply refused to participate in them. Furthermore, if a customer repeatedly tells his banker that he is okay with any overdraft expenses incurred, a banker calling that customer every six months to counsel him on credit alternatives could not only be viewed as harassing, it could also be grounds for the customer taking his business to another bank.

Second, I am very concerned with the notion that a bank, a for profit enterprise with whom its customers have a contractual relationship, must limit the amount of fees that a customer could incur as a result of violating their depository contract (i.e., the depository agreement setting out the customer's duty with regard to maintaining a positive account balance.) As for profit entities, our members are certainly operated to make money; that is the nature of the business. However, they are not willing to do so at their customers peril because they want to continue their operations. Again, this is a competitive market and I would hazard to say there are few banks that willingly drive their customers away.

Finally, there seems to be an inconsistency with the rolling twelve month period the FDIC suggests our members follow to monitor their customers' use of overdraft programs and with existing federal regulations; namely, Regulation DD. 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 unavailable funds and the account 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 banks must reach out to their 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.

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.

Sincerely,

A handwritten signature in black ink that reads "J. Eric T. Sandberg, Jr." The signature is written in a cursive, slightly slanted style.

J. Eric T. Sandberg, Jr.  
President and CEO