From: Littlefield, Ken [Ken_Littlefield@centralbank.net]
Sent: Saturday, September 18, 2010 12:53 PM
To: Overdraft Comments
Subject: FIL 47 2010--Overdrafts

Attachments

Central Bank would like to submit the attached comments to the FIL listed above. My name is Kenneth Littlefield, President of Central Bank and we strongly oppose this FIL and urge the FDIC to not proceed with its implementation.

Ken Littlefield

Attachment:

Comments to FIL-47-2010, dated August 11, 2010

Overdraft Payment Programs and Consumer Protection

Central Bank, Jefferson City, Missouri, would like to comment on FIL-47-2010 and register our strong opposition to the letter and also its contents.

First, we do agree with the FDIC that some overdraft programs have gone too far and should be modified. We do not disagree with most of the limits and suggestions in the FIL. However, we believe it should be the FDIC's roll to regulate the excesses, not to set the industry standards as this FIL intends to do. Bank regulators should not be in the business of setting guidelines or standard products such as free checking accounts, overdraft practices or affordable small dollar loan programs. If the Federal Government wants banks to return to profitability and make more loans to credit worthy customers, these new regulations are the wrong direction. It was not consumer overdraft practices that lead to our financial industry problems but rather the unregulated mortgage originators and the weak and ineffective regulation of the large non bank financial institutions on Wall Street. The financial crisis was also made possible when federal bank regulators took their eye off safety and soundness and focused on issues that were never a systemic financial risk, such as Bank Secrecy Act and Information Security. This FIL is a lesson unlearned.

First, we would like to comment on the summary of the letter. From the very beginning of modern banking, banks have provided their customers with overdraft services. For a wide variety of reasons, our customers sometimes write checks or otherwise withdraw funds from their accounts in amounts exceeding their balances. Banks have honored many of these overdrafts and have charged a fee for the service. Prior to automation and sophisticated technology, bank officers would sort through the insufficient funds checks (NSF's) the next morning following the prior day's postings and either return the NSF check or pay it into overdraft. It is important to note that banks charge a fee to return the check NSF or to pay the account into overdraft. The fee covers the special handling of the NSF checks and the risk attendant to collecting the overdraft balance, plus a profit margin for the service.
Now, most banks have found a more efficient way to do this process for approximately 90% of NSF items. Though more efficient than a manual process, the technology to perform this procedure is expensive to develop and operate and banks take on a good deal of risk of repayment when we overdraw a customer's account. However, our customers appreciate this service. In fact, we think there would be significant customer dissatisfaction and clogged county court dockets if banks started returning large volumes of checks and merchants had to collect them. We would have very unhappy customers.

FIL 47-2010 states in the summary "Management should be especially vigilant with respect to product over-use that may harm consumers, rather than providing them with the protection against occasional errors or funds shortfalls for which the programs were intended". We disagree with this statement. These programs were not intended to protect consumers against "occasional errors or funds shortfalls"? Our customers use this service for a variety of personal financial management reasons many of which do not fit into the FDIC's summary of the intent of the programs. In addition, we do not think it is the FDIC's responsibility to make sure that a bank's consumers do not "over-use" their overdraft privileges? And, who gets to define "over-use". It should be the customer's choice in how they use this service, not the federal regulators. We have a customer, who is a high income attorney who overdraws his account several times a week. He would be very disappointed if we started returning his checks. In this example, the customer would not qualify for unsecured credit or home equity lending but is pleased to pay for our overdraft services. It is expensive to make small loans relative to a reasonable interest rate to cover our cost. The cost to book a $1000 consumer loan is something around $150 to $200, depending on how you account for your officer's time and occupancy expense and other variable costs associated with evaluating credit and paying third party vendors. Using a $200 cost to book a $1,000 loan, the loan would have to be fully funded for two years just to recover the cost of booking the loan, notwithstanding interest cost and the cost of credit losses.

The point here is that there are significant costs associated with alternative overdraft protection products and many customers would not qualify for them or want to pay for the service.
We believe, legally and morally, it is the consumer's responsibility to reconcile their checking account and avoid writing checks or withdrawing funds in excess of their account balance. In this regard, we get very few customer complaints about the use of our overdraft services. We assist our customers in making this decision with online banking, text messaging, telephone banking and mobile banking. Our customers' account balances are at the tip of their fingers. There is virtually no reason for them to ever write a check not knowing how much money they have in their account.

I'm sure you will agree that, as a customer, you would prefer your bank pay your overdraft rather than return the check to a merchant who will very likely charge something for the inconvenience of having to process a bounced check. In our market, these return check charges range from around $25 to $50, generally less than the fee we charge for paying the overdraft. These charges are in addition to the bank's NSF fee. And, we spare the customer the inconvenience of having to go to the merchant and replace the check or deal with the local prosecuting attorney for writing a bad check. If the FDIC is concerned with bank overdraft charges, are they going to regulate the retail industry, utilities and other merchants who charge fees for bounced checks? Will the FDIC suggest that these companies charge the customer for only six bounced checks in a rolling 12 month period?

In the highlights section the FIL states "---the FDIC expects financial institution to: 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". Surely the FDIC does not believe our bank should contact every customer in person or via telephone if they overdraw their account more than six times in a rolling 12 month period. I believe these calls would only disturb and irritate our customers.
We believe consumers make informed decisions to overdraw their account each and every time they write a NSF check. The decision they make is that they would rather pay the overdraft fee and get their bills paid on time. Perhaps the consumer wants to protect their credit rating and avoid a past due incident. Perhaps the check is issued to keep the electric company from cutting off their electricity—or to pay medical bills, or to buy groceries. Surely, the FDIC believes that consumers are capable of making their own banking decisions.

Finally, we would like to remind the FDIC that community banks have our customers' interest in mind. Our customers can choose to get their banking services from many competitors. We must satisfy them or we will lose them. We carefully monitor customer retention and the reasons our customer leave our bank for a competitor. If overdraft fees were a material factor, banks would change practices without the help of the government. Thank you for reading a frustrated banker's comments.