



# First Community Bank

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September 21, 2010,

Federal Deposit Insurance Corporation

Via [OverdraftComments@fdic.gov](mailto:OverdraftComments@fdic.gov)

Re: FDIC FIL-47-2010 dated August 11, 2010 "Overdraft Payment Supervisory Guidance"

Ladies and Gentlemen:

This comment letter is submitted by First Community Bank (FCB) in response to the Overdraft Payment Supervisory Guidance issued by the Federal Deposit Insurance Corporation (FDIC). FCB appreciates the opportunity to comment on the proposed guidance.

**Institutions should provide clear and meaningful disclosures and other communications about OD payment programs, features and options.** We agree that disclosures are an important tool for customers to understand the different benefits and costs associated with any given account type. Most banks use model forms and clauses that are set forth in the regulations because they provide a safe harbor to ensure compliance for the institution. FCB would welcome a change to the disclosure requirements in Reg DD and Reg E that would accomplish this expectation of the FDIC.

**Institutions should promptly honor customers' request to decline coverage of overdrafts resulting from non-electronic transactions.** While in theory we concur that this would be a beneficial feature. We would need further clarification on how the FDIC would envision this "opt in" would work. If it would be similar to the current "opt in" requirement for ATM and one time POS transactions we would have to rely on our core processor to make changes to their system. Without federal regulation requiring this I find it hard to imagine that they would spend the time, money and effort to make the changes necessary to accomplish this. Without that help from the core processor this would have to be done manually at the bank which would be a costly and time consuming burden to go through each and every day. If this "opt in" is to be structured as the current regulatory requirements in Reg E for one time debit card transactions and ATM transactions where the customer can change their preference at any time and as many times as they wish this would be impossible to manage on a manual basis.

**Institutions should monitor accounts and take meaningful and effective action to limit use by customers as a form of short-term, high cost credit, including giving customers who overdraw their accounts more than 6 occasions in a 12-month period, an opportunity to choose a less costly alternative and decide whether to continue with fee-based OD coverage.** This would also be an

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incredible burden to place on banks. This again would require some sort of core processor help to develop an automatic way to monitor each individual consumer and their use of their checking account. Without this programming from the core processor this would be an unbelievable burden to the bank in time and cost. FCB already, as required by Regulation DD, provides customers with a running total of the fees that have been charged for overdraft and returned items for that month and for the year to date on their monthly statement. Also, the recent amendments to Regulation E give consumers the ability to opt in and opt out of the paying of ATM transactions and one time debit card transactions at any time. We feel customers can easily monitor how their individual use of the overdraft protection program is affecting them and make their own decision as to whether they should continue to use the OD program or handle their finances in another manner.

**Institutions should institute appropriate daily limits on OD fees.** FCB agrees that there should be a limit on OD charges that can occur in a single day and we have established such a limit. Although requiring banks to do this without a federal regulation requiring it does not seem appropriate. Again customers have the ability to see the monthly and year to date OD fees on their monthly statement and if they decide they do not want to pay these fees they can contact their bank and revoke their Regulation E opt-in to help themselves manage the fees. Consumers should also compare OD programs at different institutions and after reviewing the benefits and fees associated with the different OD programs should open an account at the institution they feel has the program that will best fit their needs.

**Institutions should not process transactions in a manner designed to maximize the cost to consumers.** The issues of presentment, settlement and payment order of all transactions not just checks is very complex and involves many issues. “Clearing items in the order received or by check number” as given as an example for appropriate procedures does not seem to take these issues into account. It has been our experience that customers want their important items paid first, which are usually high dollar amount items. Without rules from the agencies on how to clear items this will continue to be an issue for debate and something that cannot be resolved by these supervisory expectations.

Thank you for the opportunity to comment on these very important issues.

Respectfully,

Terri Stafford  
Vice President  
First Community Bank

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