



**GEORGIA BANKERS ASSOCIATION**  
the resource that empowers

September 21, 2010

Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20429

VIA Email

Re. Comments on Overdraft Payment Supervisory Guidance FIL-47-2010

Dear Sir or Madam:

On behalf of more than 300 commercial banks and thrifts doing business in Georgia, I write to communicate comments and concerns with the FDIC Overdraft Payment Supervisory Guidance. With the new Regulation E requirements implemented in July with respect to the payment of ATM and point-of-sale (POS) debit-card overdrafts, our member banks are more aware than ever that responsible management of overdraft programs benefit both the customer and the bank. However, with this Guidance, the burden is shifting further toward requiring financial institutions to manage customers' actions and financial decisions. In addition, financial institutions could decide the burden is too great and discontinue such programs, thereby exposing customers to similar fees for returned checks without the benefit of having their items paid.

Recent Reg. E changes have addressed public concerns regarding debit card and POS overdraft coverage, but if a check or ACH is returned as unpaid, the accountholder still incurs an NSF fee in addition to merchant fees, possible late fees, potential legal action and adverse credit reporting from the merchant. These fees and actions could easily be more damaging to the consumer and his or her financial well-being than the cost of benefitting from the bank's courtesy overdraft payment. The Federal Reserve agreed when it concluded that payment of overdrafts for check and ACH transactions enable consumers to avoid adverse consequences that could result if such items are returned unpaid. It is our members' experience that customers have come to expect and welcome overdraft payment programs, and we oppose efforts to curtail their customers' automatic inclusion in an overdraft program for check and ACH transactions.

The Guidance discusses monitoring overdraft programs for excessive or chronic use and contacting a customer after he or she overdraws the account on more than six occasions in a rolling twelve-month period to discuss less costly alternatives to the automated overdraft program. This is redundant given that both Reg. E and the FFIEC's Joint Guidance issued in 2005 already require banks to give accountholders information about alternatives to overdraft services. Further, the Guidance proposes the method for financial institutions to contact accountholders is in person or by telephone. This requirement adds to compliance costs for both staffing and infrastructure, with no guaranteed success rate. Any required customer notification should be in written or electronic form.

Many member banks already adhere to appropriate daily limits on overdraft fees and in some instances, the fees are waived on a case-by-case basis in an effort to resolve unusual circumstances and enhance customer service. However, there are customers who will abuse an absolute daily limit, as suggested by the Guidance, and continue making transactions once he or she has surpassed the daily limit and the deterrent is gone. This concern could be mitigated by not having to disclose the daily limit.



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As the GBA has communicated with the FDIC in the past, there are a variety of interpretations among examiners in the field on a number of issues. This Guidance could add additional disparities given the supervisory expectations in the Guidance need further clarification to ensure examiners and financial institutions know what is expected and how to comply. Further clarification is warranted about monitoring of overdraft programs by boards of directors, standards for employee training and standards for providing accountholders with information about access to financial education or counseling.

The GBA appreciates the opportunity to comment on this Guidance.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Brannen".

Joe Brannen  
President & CEO