

October 8, 2010

**By electronic delivery to:**  
[OverdraftComments@fdic.gov](mailto:OverdraftComments@fdic.gov)

Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, NW  
Washington, DC 20429-9990

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

Dear Sir or Madame:

I am writing on behalf of Mountain National Bank, a \$585 Million bank located in Sevierville, Tennessee. We have 12 full service banking offices and serve Blount and Sevier Counties just outside of Knoxville, Tennessee.

I strongly oppose the FDIC's proposed guidance (FIL-47-2010) that addresses overdraft coverage programs. Simply put now is not the time to introduce further regulation targeted at overdraft coverage products. My bank has just implemented new requirements under Regulation DD (Truth in Savings) and Regulation E (Electronic Fund Transfers) at great expense and manpower. Having to rework our bank's deposit products and to accommodate a regulatory moving target does not help my bank serve its customers. Our bank is fortunate in that we do have a full time compliance officer and a full time trainer, but their ability to assimilate and effectively train is stressed to the maximum at present due to the unprecedented amount of regulatory changes we have been going through as an industry.

I fear that this proposal will ultimately do a great disservice to my customers, many of which appreciate the assurances that accidental overdraft coverage offers in preventing a bill being returned unpaid or a merchant-imposed fee being levied. If regulatory barriers and requirements become too burdensome, I will be faced with discontinuing these services and returning all check and ACH transactions, exposing my customers to fees far greater than those imposed by my bank. As a reference point, thus far over 78% of our customers who have made a choice on accidental overdraft protection have opted IN FAVOR of having that protection.

My bank does not manipulate transaction processing to generate more fees and higher revenue. My bank is accountable to its community and its success is dependent on a mutually beneficially relationship with customers. If we engaged in "price-gouging" tactics, we COULD NOT do business in our community.

If the FDIC proceeds with adoption of the proposed guidance, please consider the following:

- To specifically exempt ad hoc programs from this guidance. Ad hoc overdraft coverage is an extension of my bank's customer service and is based on our knowledge of the individual customer. Including ad hoc overdraft coverage in this guidance would damage the relationship between my bank and its customers.
- The elimination of the requirement that banks monitor programs for excessive or chronic use (six overdrafts in a rolling twelve month period) and then contact the customer (in person or via telephone) to discuss less costly alternatives. This mandate would be extremely burdensome and operationally unworkable for my bank and would result in an excessive number of calls, causing us to either discontinue our overdraft coverage program, or to close

the customer's account and return all payments. Mountain National Bank's staff is already stretched very thin, and we could not afford to add staff for this function.

- To eliminate the requirement to set daily thresholds on overdraft fees. We price this fee to manage the associated risk and as a deterrent to encourage consumers to engage in more financially-responsible practices. We educate our customers in financial management and encourage them to be responsible in the usage of their checking accounts, but we cannot be expected to literally help them balance their accounts on a daily basis.
- Not to prescribe the order of transaction posting. Banks should retain the ability to post transactions in the order they deem appropriate as long as they do not manipulate processing to maximize overdraft fee income. When our bank opened in 1998, we initially paid checks in smallest to largest number, and were immediately bombarded with complaints that we were returning their car payment or mortgage payments yet paying small checks. We changed the processing within 6 months and currently pay large important items first, and our customers rely on that.
- To allow banks to charge a fee for returning items paid by check or ACH. Processing return items represent expense and employee attention and should not be provided free of charge. We cannot prevent a customer from overdrawing their account; their carelessness results in added work for my staff.

I urge the FDIC to carefully consider this measure to ensure that the guidance does not impede my bank's ability to provide overdraft coverage services to my customers. If we are forced to abandon or significantly alter these services due to regulatory burden, the result could lead more consumers into becoming unbanked or relying on other products such as prepaid debit cards and check cashing services, which have higher fees and foster unsound financial practices.

Respectfully submitted,

Michael L. Brown  
Executive Vice President and  
Chief Operating Officer