



September 24, 2010

Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, NW

Washington, DC 20429

**Submitted via Email**

**Re: Proposed Overdraft Payment Programs and Consumer Protection; Comment Request;  
FIL-47-2010**

Ladies and Gentlemen:

I appreciate the opportunity to comment on the proposed overdraft payment supervisory guidance as issued by the Federal Deposit Insurance Corporation (FDIC). While there are a few specific items which I believe deserve further consideration, I am most concerned that the overall tone of the guidance implies that we are trying to mislead or take advantage of our customers. Nothing could be farther from the truth. We value the relationships with our consumer customers and are simply trying to meet all their financial service needs.

### **I. Monitoring Programs for Excessive or Chronic Customer Use**

The FDIC is assuming that consumers are accidentally overdrawing their accounts when most of our high-volume overdraft users know what they are doing. They do not want to keep accurate account records. They just want to know that when they write a check or swipe their debit card the transactions will be paid and they are willing to pay for that service. One of our highest-volume overdraft users regularly deposits over \$10,000 a month – this is not a consumer that needs counseling from the bank but a person that has made a life-style decision regarding their personal finances.

An arbitrary choice of six transactions in a rolling twelve month period is an inappropriate trigger for any mandatory contact. If the proposal to require contact from the bank is adopted the determination of what is an “excessive or chronic” user should be left to the individual bank.

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## **II. Limits on Daily Fees**

Banks should be allowed to price their services in a manner that is both profitable and competitive in their markets. The idea that regulators should limit the amount a for-profit entity should be able to charge for a service is very concerning. We routinely waive overdraft fees for customers who clearly did not intend to overdraw their account and have not done so in the past but we should be allowed to collect the fee from customers who are consciously using the product.

## **III. Check-clearing Procedures**

A regulatory mandate for check-clearing ignores the reality of how we clear items. Items can be received at any of our offices as well as from the network of ATMs and Point of Sale terminals. Items can also be received several times throughout the day from Federal Reserve Offices or Correspondent Banks with which we have a relationship. Items must then be sent by courier from these various locations to a central processing site, prepared for processing, etc. Obviously trying to determine the exact order items were presented to the Bank would be unreliable. Also, debit items are often received in early morning shipments from other banks before customer's deposits are received during the day. In that instance, posting in exact order received would be harmful to the customer.

Finally, banks must be able to price their credit services in a manner that compensates them for the risks incurred. Overdraft programs offer consumers access to unsecured lines of credit on demand with no documentation required at a lower cost than similar credit could be obtained from non-bank providers such as pay-day lenders or pawn shops. While the FDIC is attempted to protect consumers they actually will be harmed by this guidance since they will be forced out of the banking system and forced to use high-cost unregulated sources to meet their short-term credit needs.

Sincerely,



Todd A. Burton  
Executive Vice President/Controller