

From: Kirk Jones [mailto:KPJones@sbsu.com]
Sent: Friday, September 24, 2010 5:16 PM
To: Overdraft Comments
Subject: Comments about Proposed Overdraft Regulations

Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429-9990

RE: Comments regarding proposed overdraft regulations

Dear FDIC:

Just when I thought it was safe to sit back and observe the effects of the new Reg E Overdraft rules, the FDIC proposes even more rules.

Your proposals will have the nasty consequence of forcing more people out of banks. You can't have it both ways. Either you let consumer make their own choices, or you create rules that force them elsewhere.

Let's look at one of the proposals:

- **Proposal:** Monitor accounts and provide counsel to customers who overdraw six or more times during a rolling twelve month period. Take "meaningful and effective action" to limit customer use of overdraft protection as a form of short term, high cost credit and provide a reasonable opportunity for them to choose less costly coverage or to opt-out of fee-based overdraft coverage.

Predicted Outcome: Did it ever occur to regulators that a consumer who writes an overdraft check *is* making a rational choice? When it comes to short-term financing, a *bank overdraft may be the least-costly option available*. Take that option away and what does the consumer have left?

Well, let me tell you what is left. A loan at a pay-day lender for \$300 for one year costs the consumer \$1200 - \$1500. Meanwhile, that same consumer could have overdrawn his account at our bank for the same \$300 on 24 different occasions for less than \$600.

Where would you have that consumer go?

The rules you are proposing are *not even well intended*. I can only assume they are being proposed by someone who believes that regulations have only good consequences and that individual behavior can be controlled by issuing guidelines to banks.

You know that is nonsense.

Before our bank instituted our overdraft protection program (pay overdrafts up to \$300 - \$500), I *personally* fielded many complaints from consumers who were **upset** that we **did not pay certain overdrafts**. They were not concerned about a fee. They wanted their check covered.

Those complaints stopped cold the day we began covering checks up to certain limits. Customers like the program. They know when they can overdraft and by how much. The vast majority of our customers use it judiciously. Why do you feel it is your duty to intervene in a mutually beneficial arrangement?

Here is what will happen when a bank takes “meaningful action” to prevent overdrafts:

- We return checks. What other “meaningful action” is there?
- Consumers incur return check charges at the retailer. Collection agencies get involved and may resort to garnishment proceedings through legal channels.
- Consumers who have had accounts garnished are more likely to join the ranks of the “unbanked”.
- Unbanked consumers still have financing needs. Where else can they turn except pay-day lenders? Perhaps a loan shark is what you had in mind?

The FDIC’s proposals will do nothing except take away options. The unintended consequences will surely make matters worse, *particularly for consumers with no other financing options*. Honestly, are regulators *trying* to create more unbanked people?

Moreover, the proposals are yet another disheartening example of government-promoted irresponsibility. Overdraft fees are easily avoided by anyone who takes a few seconds to check his or her balance through a myriad of systems that banks have available 24 x 7. Whose job is it to know when the money in an account is gone? Whose job is it to exercise self-control? Whose job is it to decide when a purchase is worth an overdraft fee?

Is it yours? Is it mine? Of course not! It is the individual’s responsibility!

Moreover, consumers with acceptable credit scores can get an unsecured line of credit very inexpensively. It’s not hard to fill out an application.

So why not mandate that banks fill out credit applications for consumers? I’ll tell you why. Even a dyed-in-the-wool regulator believes that a consumer has a certain level of responsibility. You can’t fill out the application for the consumer and neither can I. You can’t control what the consumer thinks or does and neither can I. You can’t tell the consumer when or where to spend money and neither can I.

The FDIC can, however, take away options and create hassles all in the name of “consumer protection” that do nothing but invade the basic premise of individual responsibility.

There is no excuse on the planet to do what you are proposing.

Sincerely,

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