

From: Michael McCoy [michael.mccoy@bankofthecarolinas.com]
Sent: Friday, September 24, 2010 4:35 PM
To: Overdraft Comments
Subject: Overdraft Payment Programs and Consumer Protection, FIL 47-2010

September 24, 2010

By electronic delivery to:
OverdraftComments@fdic.gov

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

Re: Overdraft Payment Programs and Consumer Protection, FIL 47-2010

Ladies and Gentlemen:

I appreciate being given the opportunity to comment regarding the FDIC's expectations of institutions which it supervises with respect to overdraft payment programs, as detailed in Financial Institution Letter 47-2010 (FIL).

Although I support the effort to provide clear guidance to depository institutions and examiners regarding the supervisory expectations for the management and oversight of automated overdraft protection programs, I believe that the FIL imposes new regulatory responsibilities. Rather than providing guidance and clarity, financial institutions must monitor accounts for "excessive or chronic use" of automated overdraft programs by customers. Use of overdraft services varies widely among customers and it is impractical, if not impossible, to determine what constitutes "excessive or chronic use." To establish a threshold of six transactions in a rolling twelve-month period not only is arbitrary and impractical, but imposes a significant, additional regulatory burden.

In addition to adding regulatory burden and costs, the FIL's expectations are wholly unnecessary. The recent overhaul of the regulatory framework for overdraft protection programs provides significant protections to consumers, including a prohibition against imposing an overdraft fee for ATM and one-time, point-of-sale debit card transactions unless the customer has expressly consented, or "opted-in," to an overdraft program. Customers who opt-in make an informed choice and understand the fees associated with overdraft transactions. Banks should not be required to further monitor the account activity of a knowledgeable customer and to contact that customer regarding available alternatives.

Thank you for your consideration of these concerns.

Sincerely,

Michael P. McCoy
VP, Risk Manager
Bank of the Carolinas
106 York Way
Advance, NC 27006
(336) 998-1799, ext. 204
(336) 816-3546, cell

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Bank of the Carolinas, 135 Boxwood Village Drive, Mocksville, NC, USA <http://www.bankofthecarolinas.com>