

From: Pat Stalfort [mailto:pstalf@yahoo.com]
Sent: Friday, September 24, 2010 8:44 PM
To: Overdraft Comments
Subject: Comments on FIL47-2010 regarding Overdraft Payment Programs

Thank you for allowing me to respond to the FDIC Overdraft Payment Supervisory Guidance. First let me say that I am employed by a small community bank in Georgia. We did not accept any bail out money and we do not have an overdraft privilege program.

By saying this I mean that we do not authorize any ATM or POS items into overdraft, they are declined if funds are not available. We do not charge NSF fees on uncollected funds. We do have an 'ad hoc' overdraft program where we review on a daily basis those customers who have items presented for payment that would put them into an overdrawn position should we pay the items. When deciding whether to pay a customer into overdraft, we look at each individual customer and the circumstances that created the shortfall in their account. We also look at their previous account history and attempt to contact the customer by phone before making a pay or return decision (we can currently do this because we have so few NSF accounts – as we grow, this will not be possible). We generally don't even have to call as we're already aware of why they are short because we know our customers. We know that Aunt Sally died yesterday and they couldn't get to the bank to make a deposit or that their son Johnny, away at college, used that ATM card one too many times. We allow other accounts to be linked for overdraft protection and we do not charge a fee for the transfer of funds. We post all credits first, then teller cashed checks, then ATM/POS that have been authorized, then checks in check number order, then ACH items. We are not attempting to gouge our customers nor are NSF fees our major source of revenue. We understand that mistakes do happen and we generally don't charge a fee to someone who rarely has an NSF item or this is their first occurrence. We don't charge NSF fees for overdrafts of \$10.00 or less. Most of our customers are never in the position of being charged an NSF fee because they manage their accounts responsibly. We do, however, have those few customers that regardless of their circumstances will have NSF items almost daily. They know this when they write the checks or initiate the ACH payments. They know we will charge them an NSF fee and they gladly pay it. They always cover the overdraft and the fees and never complain about it. It is not for me to say why they do this, it is their choice. These customers come from many walks of life. They are not just poor or uneducated; in fact most of them have good jobs and are educated. The fees charged for the NSF items help us continue to provide free checking, free bill pay, free debit cards and free internet banking. If you force us community banks to limit OD fees to no more than six per 12 month rolling period, we will be forced to return all items that would cause an overdraft simply because we cannot afford the additional staff or systems to monitor, make calls, etc. This will not be cheaper for the consumer. They will still be charged a return item fee by us and a return item fee by the merchant not to mention the embarrassment and possible warrant issued for writing a bad check. After all, writing bad checks is a felony in the State of Georgia. Trust me, the consumer who regularly has NSF items knows exactly what they are doing and choose to continue to do it.

I think it's time for the government to point their arrows at the target and not at everyone in general. I know there are banks out there that convene committees to determine how to get the maximum number of NSF fees they can. I know this because I used to work for one of the 'Big Banks' responsible for the problems consumers complain about with NSF fees. I've sat on these committees. As with the mortgage loan debacle, instead of focusing your regulation at those who made the mess, the big non-bank mortgage lenders, you have created a regulatory nightmare for most community banks who try every day to do the right thing for their customers. You have made it almost impossible for us to compete and allow consumers to have a choice. Instead the over regulation has had the opposite effect, consumers are now forced to make loans with the very folks that created the mess to begin with because community banks

can no longer afford to be in the mortgage lending business. You will do the same thing with checking accounts if you are not very careful.

The recent Reg E opt-in is another example. If you had targeted your regulation at the VISAs/MCs and the card networks to force them to get their items to us the same day they are authorized, there wouldn't be this cascading of NSF fees. Most consumers rely on their internet banking for their balances. They know they paid \$10.00 at McDonald's yesterday using their debit card and expect that today's balance reflects that \$10.00 deduction but generally it does not because McDonald's has up to 60 days to submit that charge. By then the hold placed by the authorization is gone, the consumer thinks the money has already been debited from their account and uses the money again, and the bank is left having to pay an item into overdraft (because the card 'rules' say you can't return it if you authorized it) and cannot even charge a fee for the overdraft. And then there are the merchants who choose a 'floor limit' and don't even bother to get an authorization and the banks still have to pay the items into overdraft and not charge a fee. That is wrong. But it's the banks, again, that get to bear the cost.

I urge you to consider the banks and non-banks that are the source of the vast majority of the consumer complaints and target your guidance (and fines and penalties) to these banks as you examine them rather than slapping everyone's hands for something they have not done and penalizing them with more and more compliance costs. I also urge you to consider that many of the consumers making the complaints have no one to blame but themselves. The vast majority are fully aware of what they are doing, but our government has 'bailed them out' so many times they know if they scream loud and hard, you'll do it again.

I am not only a community banker; I am also an American who hates what my taxes are being used for. Over regulation is killing this country and it's time to put a stop to it. Especially when those doing the regulating don't see the full picture, don't understand the repercussions and the unintended consequences.