

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

September 24, 2010

Federal Deposit Insurance Company  
550 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20429-9990

Re: Overdraft Payment Programs and Consumer Protection

Ladies and Gentlemen:

We are a \$330MM community bank with 7 locations in Texas. Currently we do not offer a formal, automated overdraft protection program to our customers; however, the guidance proposed in FIL-47-2010 is somewhat disturbing to our industry nonetheless.

To date we have been able to sustain discretionary, case-by-case decisions regarding the payment of overdrafts. As our bank continues to be successful and grows to serve more customers, however, we will no doubt be forced to consider moving to a more automated process in order to meet the demands of our customer base.

If customers make an informed decision regarding their use of overdraft services (in accordance with existing supervisory guidance issued in 2005) they should be afforded the opportunity to utilize that service at their discretion. Setting regulatory limits and defining "excessive use" essentially disallows consumers to control their own financial management.

These restrictions will ultimately result in decreased availability of overdraft protection, at an increased cost to consumers. Instead of payments being approved, they will be returned and the consumer will be left paying the bank fees for handling the return AND additional merchant fees that could have been avoided, not to mention the possibility that their freedom to continue doing business with that merchant may be revoked.

We believe that many of the statements of supervisory expectation included in the financial institution letter impose new regulatory requirements that will impose significant new costs and burdens with little or no consumer benefit. Having one clear statement of supervisory expectation rather than individual agency pronouncements layered on top of the amended regulations and the 2005 Guidance will promote clarity and consistency, ensuring effective consumer protection.

Respectfully,

  
K.C. Wyatt, President & CEO