Washington Trust Bank

September 27, 2010

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

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

At Washington Trust Bank, we feel the suggestion that financial institutions *monitor accounts and provide counsel to customers who overdraw six or more times during a rolling twelve month period* will be overly burdensome due to the frequency of overdrafts initiated by many clients.

The suggestion of counseling would lead one to believe customers would be open to the counseling, would take appropriate action, and would change their behavior. While counseling may be understandable when applied to a new customer who is just entering into an overdraft cycle at a bank, it is not at all effective for those customers who are obviously choosing to manage their finances in this manner, as they have done so for many years.

Also, the suggestion to limit fees does not seem to be an effective approach to help change overdraft behavior. In fact, it may encourage overdraft behavior to continue.

Our bank has multiple overdraft coverage options, including automatic transfer from a savings account for a low fee, and/or automatic transfer from a credit card or credit line with the fees based on the standard cash advance practices.

WTB also offers free telephone transfer and free online banking service to consumers, both of which allow transfers from savings accounts to checking accounts at no fee. In addition, these services afford customers the opportunity to keep tabs on their accounts and provide information to help prevent overdrafts from happening.

Based on our experience, customers are very busy and not always responsive to attempts at contact. For example, in our recent efforts to contact customers to help educate them on *our standard overdraft practices* and help them understand what opting-in or opting-out would mean to them, after two attempts to contact each customer with a history of overdrafts, we were only able to make contact with 25%. Since we were dealing with thousands of customers, this required significant resource time for a specific window of time. If required to make personal contact with customers every time a 6th overdraft occurred, banks would be expending significant resource time on an *ongoing* daily basis without much chance for success.

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A more reasonable alternative might be to add language to overdraft notices that would include any low cost alternatives, such as overdraft coverage from a savings account, credit card or line of credit. These options, plus the overdraft information and fees detailed on the notice, as well as the overdraft information summarized on their monthly bank statements, would give customers a clear picture of their overdrafts and how the resulting fees are impacting their finances – as well as options for avoiding overdrafts altogether.

Another thing that would help with this endeavor would be the repeal of the Regulation D limits on electronic transfers from savings accounts. This regulation actually inhibits customers from responsibly managing their finances, as the limits take away the convenience of automatic transfers and forces these customers to make a special trip to the bank. In today's electronic world, these limits on transfers seem quite archaic.

If meaningful and effective action would be to remove customers from an overdraft program once they had their 6th occurrence, long time customers would be strongly opposed, as the majority of these customers know exactly what they are doing and what the consequences are; and they take responsibility for their actions by paying the resulting fees and clearing the overdrafts in a timely manner. Most are also very aware of the various ways to avoid paying overdraft-related fees, but may not be in a position to set aside funds in a savings account, or qualify for additional credit.

Bear in mind that Overdraft Payment Programs refer to ***paying*** items that create an overdraft, versus returning those items which may cause even greater challenges for consumers, including calls and charges from collection agencies due to mortgages, rents, car payments, etc. being returned **unpaid**.

The very act of *helping* customers prevent overdrafts when the only option is to return, rather than pay against insufficient funds may also force them into the ranks of the "unbanked", which would result in a much greater disservice to consumers.

The proposed guidance may also put banks' risk management practices at odds with regulatory requirements, as it appears we are being encouraged to offer low-cost credit options to cover overdrafts for individuals who would not normally qualify for credit under traditional lending practices.

In conclusion, if it is decided that counseling will be the expectation, we strongly recommend increasing the threshold to something more manageable (15-20), and/or only applying it to new customers (less than one year) that are entering an overdraft cycle for the first time.

Thank you for any consideration in implementing additional rules based on our feedback.

Sincerely,

Cindy Anderson, VP, Retail Operations and Deposit Compliance Team Lead at Washington Trust Bank.

Janeen Van Slyke, VP, Director of Operations and BSA Officer at Washington Trust Bank.