From: Keith Chambers [mailto:Keith@austinbank.com]
Sent: Monday, September 27, 2010 3:48 PM

By electronic delivery to:
OverdraftComments@fdic.gov

September 27, 2010

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

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

Ladies and Gentlemen:

Austin Bank, Texas National Association welcomes the opportunity to respond to the proposed additional regulatory guidance noted above. Because our bank feels so passionately about customer service and has such a long history of serving our communities, we find it very difficult to see the need for yet more regulations in this area. This is even more the case when the proposed guidance seems to be based on the faulty premise that banks are intentionally deceiving and taking advantage of their customers. This bank has been in existence for 110 years with the majority ownership held by a family who has been actively involved in Texas banking for four generations. Such longevity of service could not have occurred by abusing customers and violating their trust. Federal regulations are not the reason for this record of success; in fact I might venture to say that in spite of onerous regulatory requirements this bank continues to be successful in serving the needs of our customers and communities.

I wish to comment on a few of the many aspects of the proposed regulations. First is the requirement to monitor consumer accounts for 'excessive or chronic use' and if a customer overdraws their account on more than six occasions in a 12 month period we are to undertake meaningful and effective follow-up action. The majority of our customers who overdraw their account know what they are doing and are choosing to manage their personal finances in this manner. Daily overdraft and weekly reminder notices are mailed to these customers. We provide, without charge, access to their account information 24x7x365 via a 1-800 number, internet banking and now mobile banking. They of course can also obtain account information from ATM's, our branch offices, and from their monthly statement. As you know, the monthly account statement now contains a required disclosure detailing the number of fees charged for NSF activity for the month and year-to-date (regulation DD). The interpretation of 'excessive or chronic use' should be determined by the bank and its customer, not regulators.

Federal price controls on the amount and or number of fees that a customer could incur for overdrawing their account are unnecessary in a free market system. Competition is keen in today's market and I can assure you we and other banks are doing everything possible to retain customer relationships. We routinely waive and refund fees to customers who clearly did not intend to overdraw their account. We should not be barred from collecting fees from customers who have decided to overdraw their account.

Regulatory mandates concerning check-clearing or item processing would seem to ignore the realities and complexities on how checking account transactions are received and handled. Many different types of transactions are received from multiple sources at multiple times via multiple delivery channels throughout a business day. Obviously, trying to determine the exact order items were presented to the bank would be very unreliable and in many cases impossible. A case can even be made that such a regulatory attempt could harm customers as incoming cash letters containing checks drawn on customer accounts are received early in the day and would be posted before customer deposits are received later in the day after the bank lobby is open. This, of course, would not be the first time the 'law of unintended consequences' would be applied.

Finally, as a for profit enterprise which has contractual relationships with its customers, we must be allowed to price our credit services in a manner that compensates us for risks and costs incurred. Overdraft services offered to consumers provided them an unsecured line of credit on demand without documentation at a lower cost than similar credit amounts could be obtained from non-bank sources such as pay-day lenders, pawn shops, car-title small loan companies and similar sources. The FDIC's attempt to protect consumers may actually harm this very group by forcing them out of the banking system and to seek funds from unregulated sources of short-term credit.

Sincerely,
Keith Chambers
SEVP & CFO
903.541.2022