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Sent: Monday, September 27, 2010 5:58 PM
To: Overdraft Comments
Cc: Gary Pewitt
Subject: FDIC Overdraft Response Letter

September 23, 2010

Federal Deposit Insurance Corporation via overdraftcomments@fdic.gov
or via fax to (703) 465-4303

RE: FDIC FIL-47-2010 dated August 11, 2010 "Overdraft Payment Supervisory Guidance"

I am pleased to provide comment on the FDIC proposed overdraft guidance. In general, I would agree that overdraft programs and charges by some banks in some cases have become abusive. I would not be at all opposed to the establishment of simple limits on charges for overdrafts and return charges for items presented for payment or even daily limits for charges. The historical origin of NSF charges was intended to be as much a deterrent to the undesirable overdraft activities of consumers as it was a fee by the banks to recapture the costs of processing the NSF item. I believe charges for overdraft privileges and NSF items are still a meaningful tool in educating consumers and represents a deterrent to possible irresponsible financial management by some consumers; however, to think that banks will be successful in educating and counseling consumers away from this type of activity when the punitive financial cost of this activity has not been successful does not appear reasonable.

Our bank currently has an overdraft program, as well as alternatives for customers who qualify, including larger overdraft loans and transfers from other deposit accounts to cover overdrafts for a minimal fee. Unfortunately, there is a large segment of our customer base who do not qualify for these programs. We have experienced considerable expense to comply with the new Regulation E and DD requirements. We made multiple contacts with over 20,000 customers, and our opt-in rate has been over 70%. I do not believe it should be incumbent on the bank to decide for the customer which product best fits their use.

Specifically directed toward some of the more significant recommended guidance, I would have the following comments:

Monitor accounts for "excessive or chronic use". The development cost of the software to monitor excessive or chronic use would be minimal, but human intervention and contact by phone would be more cost prohibitive, plus intrusive. I do not like being called at home, and certainly would not appreciate financial counseling even from my banker. Automated contact would be preferred. This would probably be more in the form of a disclosure which would include telling the customer chronic use of this product is typically not a good use of their financial resources and identify some alternatives. If this is reduced to a disclosure, why not require that this disclosure be included with the overdraft/NSF notice that is currently required to be sent with each occurrence. This would eliminate the need for tracking and special handling and not require the segmentation of a group as chronic violators. Requiring identification of excessive or chronic users and the additional management burden of that segment of users would likely influence most banks to quickly move that segment to the non-bankable ranks through closing their account relationship.

Undertake "meaningful and effective follow-up action" with those customers. Again if notice to the customer that they have incurred a punitive charge from the bank and in some cases from a merchant for an overdraft item isn't sufficient reinforcement, they may be beyond the educational capabilities of bankers who are not necessarily educators. The most meaningful and judicious follow-up from the bank's

safety and soundness standpoint would be to close the account, thus moving the customer to the ranks of the unbanked.

Institute daily limits on customers' costs. In general, I am in favor of limiting the fee and the daily limits, but I would make a distinction between customer and account level charges. There are obvious complications when you get into limiting or tracking charges at the customer portfolio level; therefore, the tracking and daily limits should be at the account level. The charges for this activity should continue to be punitive. Reducing the charge to a level that would only capture the cost of processing that transaction would not be a deterrent. In addition, banks in general are for profit business and providing a delivery and payment channel to those segments of our customer base that are not profitable is and should be considered an unsafe and unsound banking practice. Significantly restricting the fee will likely have the effect of ultimately shutting out a portion of the consumer base from some of the delivery channels, payment types, and services that are currently made available.

Our bank and state banking organizations have been advocates of financial education. Our state banking organization, along with the help of its members, have been instrumental in requiring personal financial education as a curriculum requirement in schools in our state, and our bank has been actively involved in community financial educational projects through our schools, including "Teaching a Child to Save" sessions taught by our employees.

It is a mistake to try to push financial education to consumers through mandated consumer regulatory requirements imposed on banks. Certainly there have been some abuses by some banks, and these past abuses have been followed by cumbersome regulatory guidance for all banks. I believe the abusive pricing practices by some banks should be more directly and easily addressed without the punitive additional regulatory burden for all banks. There is a more simplistic approach to fixing these abuses rather than trying to push social reform through the banking system.

Thank you for your time and the consideration of my comments.

Respectfully,
Gary W. Pewitt
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Montgomery Bank, NA