

ARMED FORCES BANK_{N.A.}

"Your Hometown Bank Around The World"

27 September 2010

Federal Deposit Insurance Corporation
550 17th Street Northwest
Washington, D.C. 20429-9990
OverdraftComments@fdic.gov

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

Ladies and Gentlemen

Thank you for the opportunity to provide comment on the proposed Federal Deposit Insurance Corporation's (FDIC) Financial Institution Letter (FIL) addressing the FDIC's expectations for management and oversight of automated overdraft programs.

Armed Forces Bank of California, a \$19 million national association bank headquartered in San Diego, Colorado, operates 8 branches throughout the state of California. We offer courtesy overdrafts to our customers and fully comply with existing regulations that affect this area as well as the [2005 Joint Guidance on Overdraft Protection Programs](#). We welcome inter-agency efforts to ensure consistency and fairness for banks and the customers we serve. The proposed supervisory expectations of overdraft payment programs and consumer protection seem, however, an attempt to regulate a process that needs modification rather than regulation.

Institutions should provide clear and meaningful disclosures and other communications about overdraft payment programs, features, and options.

The disclosure of policies regarding overdraft programs by financial institutions in a manner that is readily understood is not unreasonable. The recent implementation of new amendments to Regulation DD (Truth in Savings) and Regulation E (Electronic Funds Transfer) has evidenced that such disclosure is achievable. It also further evidences that the significance of these amendments is accompanied by significant expense in time and resources for financial institutions to educate customers many of whom opted to continue with their current overdraft practices or opted simply to disregard provided disclosures. Supervisory efforts that provide clear and meaningful disclosure on what constitutes "clear

and meaningful disclosure” for customers, specifically with attention to simplicity and accuracy, would be welcomed.

Institutions should monitor accounts and take meaningful and effective action to limit use by customers as a form of short-term, high cost credit, including giving customers who overdraw their accounts more than 6 occasions in a rolling 12-month period, an opportunity to choose a less costly alternative and decide whether to continue with fee-based overdraft coverage.

Armed Forces Bank of California currently has established a program that identifies customers with repetitive overdraft practices and offers them an alternative to end the cycle of overdrafts. This program is recognized as a pilot of the small dollar loan program, initiated by the FDIC, and has been cited as successful. Our current program could be considered to operate within a rough framework of the proposed mandate. However, the profoundly significant operational cost and implementation of this proposed mandate, specifically with identifying customers at a minimum of six overdrafts, would be burdensome. Again an expenditure of time and resource, to include changes to our core processor, excessive numbers of calls, and additional, continued employee training would be required.

Furthermore, this mandate seems absent the consideration of the shared expectation of customers and banks when opening and maintaining accounts — customer accountability. The choice to spend beyond available funds is indeed the choice and resulting actions of any customer. It is the responsibility of all customers to manage their accounts in a current and orderly fashion. Today’s financial institutions provide numerous tools for customers to access account information and keep in touch with their respective financial institutions. Online banking, 24-hour call centers, 24-hour automated account lines, ATM’s, mobile banking, electronic notifications, and monthly bank statements all provide customers with the means to access account information in a timely, often cost free manner. The previously noted amendments to Regulations DD and E provided greater empowerment of choice to customers. The varied and numerous aforementioned tools serve as a foundation of customer accountability and an extension of empowerment.

Institutions should institute appropriate daily limits on overdraft fees.

Armed Forces Bank of California overdraft fees are below the national average. Our fee structure for paid or returned items is the same and a daily fee is not assessed to overdrawn accounts. Overdraft items are paid to as courtesy to our customers, many of whom consider payment of an overdraft item and the subsequent charge incurred far less damaging than the potential issues associated with a returned or rejected item, to include negative account status with a merchant, merchant imposed return item charges, e.g. bad check charges, and access to funds in emergency situations.

Institutions should not process transactions in a manner designed to maximize the cost to consumers.

Banks should retain the ability to post transactions in the order they deem appropriate so long as manipulation to maximize overdraft fee income does not occur. Armed Forces Bank of California pays items from low to high, maximizing the number of payments that are made without incurring overdraft charges. Furthermore, overdraft charges are not assessed for items less than \$5.00 or when the total overdraft does not exceed \$10.00. This alleviates issues arising from low dollar debit card entries that potentially overdraw accounts.

Institutions should promptly honor customers' requests to decline coverage of overdrafts resulting from check and ACH transactions.

Payments of overdrafts are not without risks. Financial institutions pay overdraft items at the hazard of incurring significant charge offs from the account they allow to overdraw. Customers who currently participate in overdrawing their accounts are already versed in the rules, fees, and limitations. Requiring an additional "opt in" response from every customer and then tracking all received responses would create an unnecessary and time-consuming expense. Ensuing effects from these measures would place financial institutions in an overdraft decision "limbo" while they await customer decisions. Additionally, processing return items represents an expense and employee attention that should not be provided free of charge.

The concerns expressed and subsequent guidance set forth in FIL 47-2010 continues to address the need for responsible consumer financial management and consumer education, as recently prescribed and enacted with amendments to Regulations DD and E. Armed Forces Bank of California, N.A. supports this endeavor. However, until the impact of amendments to said regulations have been thoroughly examined and understood, within a timeframe of no less than 12 – 18 months, we respectfully request the delay of the of announcement supervisory expectations of overdraft payment programs and consumer protection. Only when the full impact of recent changes has been allowed to develop and evolve should further supervisory expectations be considered.

Respectfully

Don C Giles
President/CEO