



Robert W. Hoxworth
President

September 17, 2010

Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429-9990

DELIVRED VIA E-MAIL:
OverdraftComments@fdic.gov

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

Dear Sir or Madam:

On behalf of First National Bank Texas, I appreciate the opportunity to provide comments to the Federal Deposit Insurance Corporation on the Financial Institution Letter (FIL-47-2010) regarding Overdraft Payment Supervisory Guidance. First National Bank Texas is a federally chartered bank providing full service banking products and services throughout the State of Texas with headquarters located in Killeen, Texas, and currently operating 216 branches supported by 2,460 banking professionals.

First National Bank Texas supports accurate and clear communication with consumers about overdraft programs to include features, options, costs and consequences. Armed with complete and accurate information about all programs and products available, we believe the consumer is then best suited to make a decision about the products and services that are right for them given their unique needs and situation. The changes to Regulation DD and Regulation E that were recently enacted, required significant system and operational changes, and have only recently been fully implemented, empowering the consumer to make his or her own informed choice. The results from changes already made to overdraft programs as a result of new regulation should be fully evaluated before additional agency-by-agency expectations are mandated that are most likely not even necessary.

The initial portion of the guidance by the FDIC as proposed in FIL-47-2010 appears to be redundant in that it reiterates that banks should follow existing regulation concerning clear and meaningful communication as well as adherence with the updates to Regulation E concerning ATM and debit card overdraft coverage. Accordingly, there appears to be no need for the FDIC to include in the proposed guidance, a "reminder" on regulations and laws wherein compliance is already mandated and not discretionary.

Although not specifically required by regulation, our bank has and continues to offer customers the option to decline coverage of overdrafts resulting from non-electronic items. This non-electronic item option is in addition to the required electronic item overdraft coverage opt-in that is now required pursuant to the changes to Regulation E that became fully effective August 15, 2010. We support that the customer should ultimately make the decision concerning the overdraft services that are right for them; however, the consumer should also be educated as to the reality that returning a non-electronic item for insufficient funds may compound the consumer's costs associated with that item being NSF since it cannot be denied and stopped at the initial point of sale prior to being accepted for payment by a merchant, service provider or creditor.

In addition to up-front clear and meaningful disclosures, we support banks having programs to educate consumers that find themselves incurring higher levels of overdraft fees within a rolling twelve month period. We currently offer consumer education on how to resolve their account issues and avoid them in the future through the use of account management tools and other funding alternatives (i.e. savings account transfers or affordable small dollar loans); however, we have found that the most effective and efficient means to provide this education is to present it online and through correspondence that allows the consumer to sit down with the material and review it at their own pace at a time and place convenient for them.

Attempting to provide account management education and counseling via telephone or in-person over the teller line presents multiple problems for banks and consumers that include: 1) the inability to reach customers by telephone due to timing of work schedules and/or out-of-date telephone contact information, 2) the difficulty in reaching a customer at a time that is convenient for them to discuss their personal financial matters confidentially, 3) the challenge of having adequate time to completely review the educational information with the customer, 4) the expense and difficulty of staffing a call center so that these calls can be made and return calls taken at a time convenient to the customer, 5) ensuring that the necessary time is spent with each individual customer to review the material at their pace in a confidential setting, 6) the inconvenience to other bank customers waiting for assistance by a teller or a call center representative that is reviewing educational information with a customer.

Consumers, when armed with accurate and relevant information are best qualified to make decisions concerning their personal depository accounts. Many have determined that overdraft services for both electronic and/or non-electronic transactions are a valued service. The arbitrary establishment of six "occasions" will cause many customers inconvenience when they believed that they had already made an informed decision with their financial institution concerning the handling of overdrafts. Additionally, it is not reasonable to believe a consumer will keep up with the number of "occasions" they have been charged a fee in a twelve month period to know when six "occasions" have been exceeded resulting in an action taken by the bank that may alter the service they previously had access to, even before the customer has checked online or received a bank statement.

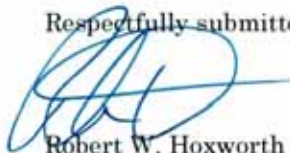
Of late, there has been much discussion as to the appropriateness of placing daily limits on the number of overdraft charges a customer incurs. A few financial institutions have instituted daily limits; however, many have not and there is no clear inter-agency guidance on this topic.

Any guidance as to daily limits should be promulgated as inter-agency guidance and should only be done so after study is made to support the same by quantitative data from consumer and industry input.

In the management of our overdraft program, we have established annual fee limitations and in conjunction therewith, we have implemented robust consumer education for these customers that includes basic account management, overdraft avoidance tips and available alternative products and resources. We have found that this program strikes a balance of education and choice that has been positively perceived and is not viewed as an unwarranted intrusion. The proposed guidance arbitrarily sets six as the number of "occasions" for this trigger without the support of meaningful data or a clear understanding of the consumer's value and use of these programs.

While the proposed guidance is presented by the FDIC in an effort to protect the consumer, it is the consumer that will ultimately experience disruption and unwanted intrusion as a result thereof. Consumers should not be denied services they understand, want and value. Additionally, the changes recently enacted via Regulation E and Regulation DD should be fully understood and the impact thereof examined prior to agencies imposing additional regulatory "expectations" and burden on the industry. We appreciate your consideration of our concerns with the proposed rules regarding overdraft services and urge withdrawal of the proposed guidance.

Respectfully submitted,



Robert W. Hoxworth

cc: Office of the Comptroller of the Currency
Senators Kay Bailey Hutchison and John Cornyn
Representative John R. Carter