

From: Newell, Chris [<mailto:Chris.Newell@ANB.COM>]
Sent: Monday, September 27, 2010 4:54 PM
To: Overdraft Comments
Cc: Newell, Chris
Subject: FIL 47-2010 Overdraft Guidance

September 17, 2010

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

DELIVERED VIA E-MAIL:
OverdraftComments@fdic.gov

Re: FIL-47-2010

Dear Sir or Madam:

We are writing today on behalf of Amarillo National Bank. ANB is a \$2.8 billion, independent family owned bank operating in Amarillo, Texas since 1892. We serve the banking needs of approximately 54% of the people in Amarillo, Texas, a city with an MSA population of 245,837. We employ over 650 people to serve these customers.

We have had an overdraft program for over twenty years. The “program” was and still is one of an automated method for paying inadvertent overdrafts. Whether to pay the item or return it is entirely discretionary. In any event, the bank charges a modest fee of \$19 for either paying the item or returning it. We waive about 30% of these fees consistently year to year. Items are cleared and paid lowest amount to highest amount in order to reduce the number of overdraft items and fees. Customers are notified daily as an overdraft occurs so they can manage their accounts timely. We also offer alternatives to overdraft protection through an advancing loan or a savings sweep. We are one of few banks who aggressively lend in small dollar amounts conveniently to all qualified borrowers.

We want you to know this because we feel the federal agencies have proposed the guidance under the mistaken belief that bankers are willfully and deliberately taking advantage of customers through overdraft payment programs. Nothing could be further from the truth. The fact of the matter is that if we try to mislead our customers for profit’s sake, we would soon have no customers. Our 54% market share proves that we are doing everything we can to ensure we keep the customers we have by treating them fairly. If they felt as though we were taking advantage of them, we would certainly no longer be their banker.

Our customers have shown that they appreciate our overdraft program. Of our accounts offering overdraft protection, nearly 30% of the account holders have more than 6 overdrafts per year. In fact, over 70% of those account holders have opted in to paying ATM and one-time debit card transactions. We have always given customers the choice to opt out of the program at account opening and anytime thereafter. Only about 4% have chosen to do that. Nevertheless, an overwhelming 96% have demonstrated they want some form of overdraft protection!

Based on our history and experience with overdraft protection, we would like to comment on some areas of concern in the proposed supervisory guidance.

Limiting fees:

Consumers contract through their deposit agreement for overdraft services at a price. The idea that banks must limit this contracted fee is troubling to say the least. Market demand and competition will control service features and pricing. Banks such as ours charge a reasonable fee for a contracted service. We will not price the service in a manner that drives the customer away.

Monitoring and follow-up action every six months:

The guidance assumes that customers are unaware of the consequences of overdrawing their account and have no way of knowing when this will occur. Therefore, they should be notified repeatedly and counseled on alternatives to overdraft protection. In truth, the majority of our customers make sound financial decisions. These customers have often told us that they prefer to pay our overdraft fees rather than a payday lender or credit card company to help them manage their accounts. In these cases, counseling will do no good. Counseling could be considered harassment if repeatedly offered and could result in the customer taking business to state banks or credit unions!!

Six transactions in a rolling 12 month:

The suggestion of a rolling 12-month period for monitoring excessive usage is inconsistent with the reporting on statements required by Regulation DD. This regulation requires data for the year to date and the statement cycle. This will require additional compliance burdens to manage leading to additional bank costs and customer costs. We suggest the guidance work in conjunction with other regulatory requirements instead of creating additional ones.

Appropriate daily limits:

There is no indication of what “appropriate daily limits” is. If this language remains in the final guidance then it should clearly define “appropriate daily limits” in order for banks and examiners to apply consistently.

We appreciate your providing us with the opportunity to comment on this matter and we hope the FDIC will reconsider the promulgation of this guidance.

Sincerely,
Stan Callahan
Executive Vice President of Finance & Operations

Chris Newell
AVP & Compliance Officer