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To: Overdraft Comments
Subject: FIL 47-2010

Haberfeld Associates is a consulting and marketing company that specializes in helping community banks grow their customer base. On behalf of community banks and consumers, we are concerned about some of the proposed changes to overdraft programs. In particular, we are concerned about requiring banks to contact customers who have had six overdrafts within a twelve month period in order to provide education and alternatives.

In the past few years, starting with the Joint Guidance document in 2005, there have been many changes to these programs to improve transparency and communication for consumers. Banks can no longer advertise free checking and overdraft programs together in a way that suggests overdrafts are also free. They cannot show an "available balance" that includes any kind of overdraft allowance, and they must also show customers their year-to-date overdraft fees on monthly statements. These were all positive changes that cleared up confusion and provided customers with good information.

More recently, amid growing concern about the impact of overdrafts incurred at the point of sale or at an ATM machine, we had the amendments to Reg E. Over these last several months, banks across the country have been talking to their customers about "opting in" and what that means. We have not seen any firm national statistics on this yet, but we keep hearing phrases like, "higher than expected" to describe the customer response. Recent statistics from our clients show that the highest opt in rates are amongst the group that overdraws the most. Basically, customers have been voting, and those that use the overdraft service the most have voted "yes" in a landslide.

The highest frequency overdraft users – the 5% of customers that account for nearly 65% of overdrafts – also use debit cards at very high rates (87% vs. 54% for those with no overdrafts). Therefore, we feel confident that most people who would have six or more overdrafts in the course of a year have already had a chance to make their preferences known. For these people, it is a lifestyle choice, and the high rate at which they are opting in to overdraft coverage under Reg E is evidence of that.

Requiring the bank to contact customers who have six or more overdrafts will be confusing to customers and put the bank in an awkward situation of looking as though they do not listen to their customers' wants. These customers have told us they want this service, so limiting (or appearing to limit) the number of times they can use it would result in some of this group eventually closing their checking account – either because the customers make this decision or because the bank is forced to make that decision. Making another segment of consumers unbanked cannot be the intent of any regulations.

It seems to us the most objectionable aspects of overdraft programs have already been curtailed. Most high users have already said they are fine with paying these fees. Also, through the vehicle of the required form, they know of the available alternatives and have consequently made an informed decision. Shouldn't we allow them to retain responsibility for that decision? They can, after all, change their mind at any time, but contacting them again will be confusing. Additionally, we know of no bank in our client group that would not allow this particular group of customers to opt out of all overdrafts should the customer request it. Financial institutions should be required to let their customers opt out at any time.

To summarize, we believe the changes made to overdraft programs in the past five years have removed the most objectionable aspects. Customers have more information, leading to informed decisions. They should now be allowed to manage their account the way they want. Given how recently the Reg E

requirements have gone into effect, we also believe we should wait and see how the new environment plays out before we layer on more restrictions.

Thank you for listening to our concerns. We collect data from most of our clients on a monthly basis, which gives us many insights into consumer behavior at community banks. In addition, we train our clients' front-line employees on a regular basis and hear what customers are saying. We would love to share what we see and hear with you and other agencies that regulate our clients.

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