



*South Dakota  
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District 3*



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Legislative and Regulatory Activities Division  
Robert E. Feldman  
Office of the Comptroller of the Currency  
400 7th Street, SW., Suite 3E-218  
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Washington, DC 20219

Executive Secretary  
Attention: Comments  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street NW  
Washington, DC 20429

May 30, 2013

Re: Docket ID OCC-2013-0005: Proposed Guidance on Deposit Advance Products  
Federal Deposit Insurance Corporation 6714-01-P

To Whom It May Concern:

I write to express my views regarding the Office of the Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation's (FDIC) recently proposed guidance on bank deposit advance products and to encourage the agencies to carefully consider American consumers' need for a range of reliable short-term credit options. In particular, the agencies must closely examine any potential consequences of such regulations on consumers' ability to access credit when they need it. Consumers want and benefit from having more alternatives, not fewer, and this need is better served in a competitive marketplace.

As a state legislator in South Dakota, I have participated in critical debates on short-term credit and consumer financial services, emphasizing the need to ensure consumers have continued access to needed credit with essential consumer protections. Based on my experience, I am concerned that such expansive regulation does not adequately address consumers' need for short-term credit or reflect their experience, nor does it get to the root of the financial challenges confronting many consumers. Providing effective financial safeguards for Americans while preserving access to credit should be the overarching goal of any new regulation.

The need for short-term small dollar lending is clear. Millions of Americans continue to struggle to make ends meet, driving a need and demand for short-term credit. A recent report from the National Bureau of Economic Research (NBER) found that one in four Americans have used various forms of short-term credit – payday loans, auto title loans, and similar services – over the last five years. These short-term credit options help consumers manage shortfalls and avoid late payment fees, damage to credit scores or a loss of critical services such as utilities and healthcare. Consumers clearly need and value these options, using them as many times as they need to – and only as many times as they need to – in order to bridge a gap in their finances.

When confronted with financial challenges, consumers examine their options, choosing the financial service that will help them overcome their challenges successfully and responsibly. A variety of competitive credit choices are available to them, including credit cards and short-term options such as overdraft programs and advances from banks, credit unions and retail lenders. Consumers also weigh their decisions against the costs and consequences associated with missing bill payments or submitting them late, including bounced checks, late payments to credit card companies and utility reconnections.

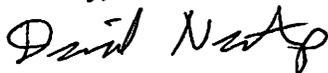
Consumers receive the greatest benefit from a competitive financial services marketplace, with a wide array of options, including overdraft protection and cash advances from banks and non-bank retail lenders. Restricting consumers' access to certain forms of short-term credit such as advance products stifles competition and does nothing to address their continued need for credit.

Arbitrary rules such as those proposed dictate winners and losers, rather than enabling a competitive marketplace.

In addition to creating regulatory inconsistency governing similar products and services, the proposed guidelines violate one of the important mandates of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which calls for the consistent regulation of like products.

Consumers thrive in a competitive, regulated financial services market. Through the creation and enforcement of a level regulatory playing field, the OCC, FDIC and other regulators can foster such an environment. As long as similar services are treated consistently, competition and transparency will rule the day, driving costs to the lowest point and providing the greatest benefit to consumers. I encourage the OCC and FDIC to develop fair regulation across short-term financial services – from deposit advances to overdraft programs – so that consumers will be empowered to make sound, informed financial decisions and attain greater financial security.

Sincerely,



Rep. David Novstrup  
South Dakota House of Representatives