From: Cheryl A. Nakashige [mailto:cheryl.nakashige@bankofcentralflorida.com]
Sent: Monday, August 23, 2010 4:56 PM
To: Overdraft Comments
Cc: Alesia L. Hickman
Subject: Overdraft Payment Programs Supervisory Guidance Comment Letter

Thank you for the opportunity to comment on the FDIC's Overdraft Payment Programs Supervisory Guidance. Since our Bank opened over three years ago, it has not had in place an automated overdraft payment program. Customers have the option of a linked account to transfer funds or applying for a line of credit account. In addition, the Bank has automatically declined ATM or POS transactions if there were insufficient available funds in the customer's account. Therefore, it would appear that most of the supervisory guidance may not apply in our Bank's case. Nonetheless, we do have a couple of concerns as follows:

- The guidance states to "Review check-clearing procedures to ensure they operate in a manner that avoids maximizing customer overdrafts and related fees through the clearing order. Examples of appropriate procedures include clearing items in the order received or by check number." Does this only apply to banks with automated overdraft programs since this was a bullet point under those types of programs? More clarification may be needed here. We don't necessarily agree either that check-clearing order is an area that should be scrutinized by the FDIC unless an unfair or deceptive act may be identified. To state what is an adequate check-clearing procedure may not necessarily be the best choice and depends upon each institution's internal procedures. We also see this as being an area that could very easily lead to inconsistent examiner scrutiny.
- Under the Regulation E section of the guidance, it states "Although the FRB did not address the payment of overdrafts resulting from non-electronic transactions, such as paper checks or ACH transfers, the FDIC believes institutions should allow customers to decline overdraft coverage (i.e., opt out) for these transactions and honor an opt-out request." Again, it is uncertain whether this only applies to institutions with automated overdraft programs. Nonetheless, we totally disagree with this particular recommendation by the FDIC—whether a bank has an automated overdraft program or not. Our Bank does not have the resources to implement such a program, as is probably the case with other small community banks. We were fortunate enough not to have to comply with the opt-out provisions of Regulation E for ATM and POS transactions since these are automatically declined. If we have to implement an opt-out program just for "check" transactions, we might as well simultaneously implement an automated overdraft program as well. There does not appear to be any win-win situation here for a bank that has opted not to unfairly gouge customers with overdraft fees. We kindly request that this provision be removed from the supervisory guidance.

Thank you for your consideration of these comments.

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