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To: Overdraft Comments
Subject: FIL-47-2010 Response
Response to FDIC Letter FIL-47-2010

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While I continue to be concerned about the impact of new regulations on small, community banks such as ours, I am most concerned with the 2nd proposal under the Regulation E Requirements of this letter. It would seem to me that the FDIC is attempting to circumvent the Federal Reserve Bank's revised Regulation E rules. The FDIC's suggestion to handle overdrafts resulting from paper checks in the same fashion as the new "opt-in" requirements is illogical, as Regulation E has no authority or provision over non-electronic items. The regulation states this clearly in Section 205.1(b):

"(b) Purpose. This part carries out the purposes of the Electronic Fund Transfer Act, which establishes the basic rights, liabilities, and responsibilities of consumers who use electronic fund transfer services and of financial institutions that offer these services. The primary objective of the act and this part is the protection of individual consumers engaging in electronic fund transfers."

The suggestion to require further regulation of non-electronic transactions under Regulation E should not be considered as it would be in contradiction to the Regulation itself.

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