



*By electronic delivery to:*  
[OverdraftComments@fdic.gov](mailto:OverdraftComments@fdic.gov)

September 24, 2010

Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20429-9990

**Re: Overdraft Payment Programs and Consumer Protection, FIL-47-2010**

Ladies and Gentlemen:

The Savings Bank welcomes the opportunity to respond to the proposed Federal Deposit Insurance Corporation's (FDIC) Financial Institution Letter (FIL) articulating the FDIC's expectations for management and oversight of automated overdraft protection programs. As a member of the American Bankers Association (ABA), we are in receipt of its comment letter and agree with the points made.

**The Savings Bank's Overdraft Protection Program**

The Savings Bank is a small state-chartered community bank. Upon introducing "Bounce Protection", our automated overdraft protection program in 2008, we automatically enrolled existing customers into the program unless they had a history of NSF activity and posed a greater risk of loss to the bank. New customers are enrolled after 30 days. We provide maximum coverage of \$750 per account, inclusive of fees. Our fee is \$25 per occurrence. Every customer has the option to opt-out of the program at any time and that is communicated to them both at the time of account opening and via the brochure that details the program's terms and conditions. We have a daily limit on fees of \$200 (8 transactions) and I'd like to point out that no customer has ever reached or exceeded that threshold. We post credits first, followed by electronic debits, followed by checks low-to-high order. We hope that this order serves to minimize the fees incurred by our customers.

**Complying with the Changes to Regulation DD and Regulation E**

We started a team to address the required changes to our Bounce Protection program last December, 2009, a process that took 9 months. The first issue we addressed was a Regulation DD requirement – removing the Overdraft Line-of-Credit from the available balance displayed at ATMs. (We could not provide a disclaimer at the point of transaction that the balance may include these types of funds.) In order to accomplish this, based on core processor constraints, the end result was that our customers could no longer access their Overdraft Line-of-Credit at the ATM (for withdrawals or transfers), at the Point of Sale, or through on-line banking (for transfers). This impacted over 900 customers, with 360 active users of their Overdraft Line-of-Credit for electronic transactions. In our communication with these customers (a personalized letter sent 30 days prior to our taking the privilege away) we did inform the customer that Bounce Protection was available to cover these transactions. We

reminded them about the opt-in requirement to retain this coverage after August 15, 2010. So, the consumer protection sought by amending Regulation DD resulted in our customers losing a privilege (accessing an overdraft line-of-credit with an interest rate of 18%) and replacing it with Bounce Protection at \$25 per transaction.

The second issue was the changes to our program as a result of the Regulation E changes. We did a great job communicating to our customers through an early education campaign, followed by an opt-in campaign (statement inserts, lobby collateral, alerts on the web site and on-line banking, newsletter articles). We also identified our frequent users of Bounce Protection for ATM and one-time Debit Card transactions. There were 480 accounts. What did we do for this group? To insure they were not left stranded during a summer vacation, we increased our efforts in communicating with them. Personalized letters were sent from the Branch Managers, followed by courtesy telephone calls, followed by a second personalized letter. Were we successful? Absolutely. 348 of the 480 frequent users have opted-in (73%). Compare this to the 24% of new accounts that have opted in since July 1, 2010. Our frequent users are serious about retaining their Bounce Protection privilege!

We completed two waves of employee training. We conducted several sessions on the changes to Regulation E and what they mean to consumers in general. These sessions were **mandatory** for every employee of the Bank and its three subsidiaries (TSB Securities Group, TSB Insurance Services, and First Financial Trust). We believe that every employee must be able to speak intelligently about what is happening in the consumer banking industry regardless of his/her area of expertise because customers will ask questions.

The second wave of training was **mandatory** for all front line staff, covering the operational changes as a result of the Regulation E changes and, even more importantly, communication with our customers to help alleviate their confusion and assist them in making **informed decisions** about the overdraft coverage that best meets their needs.

We use the A-9 Model Consent Form for Overdraft Services as our opt-in form. This form fully explains to the customer how the “Bounce Protection” Program works – what is covered, the fees associated with coverage, the alternatives (Overdraft Line-of-Credit), and the ability to revoke his/her decision to opt-in at any time **by mail, telephone, or visiting a branch.**

### **Concerns about Prescriptive Monitoring and Follow Up Requirements**

We have several concerns about supervisory expectations. Operationally, it would require new tracking reports we are not even sure we can produce and staff to monitor them on a regular basis to identify customers’ who have had 6 overdraft transactions in a rolling 12-month period. Of greater concern though is reputation risk. We have just spent several months educating our customers on the choices they have for overdraft protection. And they have made **informed choices**. Now we have to communicate to them that, in fact, we think their judgment is flawed, that we are shutting down their participation in the “Bounce Protection” program if they continue to use it “excessively” after 1 or 2 communications from the Bank offering alternatives and financial counseling.

We would like to suggest, from practical experience and observation of customer behavior, that 6 occurrences of use of Bounce Protection over a 12-month rolling period is not “excessive”. We find that regular users access Bounce Protection **1-2 times per month**, mainly as a cash flow fix between payrolls. We are not talking about low-to-moderate income customers here, but across all demographics. What happens if your mortgage payment is due by the 15<sup>th</sup> (to avoid late charges and negative reporting to the credit bureaus) but your monthly payroll does not post until the 16<sup>th</sup>? “Bounce Protection” saves the day.

This is not to say that we don't monitor for excessive activity. Our branch staff review overdraft activity reports every day and reach out to customers that appear overly dependent on the "Bounce Protection" program, utilizing the full coverage on a frequent basis. This outreach is in the form of face-to-face counseling and/or telephone conversations.

Most of these customers do not want to give up their privilege. Most are not credit-worthy and most do not have any savings balance to speak of to facilitate an automated transfer of funds from a savings account to cover an overdraft. We have one case in particular of a father single parenting an autistic son. His son's medical and daily life needs have drained the man of his resources. He has tapped out his credit and savings and relies on his Bounce Protection coverage to provide the necessary cash flow he needs between paychecks, disability payments for his son, etc. Another customer dependent on her Bounce Protection coverage is a young, new, unemployed mother. Her child was born with some difficulties and had a lengthy stay in the hospital (several months). This woman had no regular source of income and was dependent on assistance from her father and the baby's father until she could return to work. Bounce Protection provided peace of mind during her long days at the hospital.

### **Concerns about Requiring Board Approval of Overdraft Protection Program Features**

We would also like to comment on the requirement for annual Board approval of overdraft program features. We cannot expect our Board members to have the same level of expertise in program design and bank operations that Bank management has. The Board relies on us to research and understand the needs of our customers and what our competition is doing in designing services that meet both the needs of our customers and advance the Bank's strategic plan. Better use of a Board's time is in corporate governance and strategic oversight.

### **Conclusion**

We'd like to close with an analogy. There is a statute in Massachusetts General Laws that prohibits abuse of elders (individuals 60 years+), mental, physical, and financial. Banks are not mandated reporters; however we have actively trained our staff in recognizing signs of abuse and reporting it to the Office of Elder Affairs. But – and the Office of Elder Affairs in implementing the statute is adamant about this – the elder has the right of "self-determination". This means that a competent elder can refuse intervention or assistance even if the decisions they make are not in their own best interest. Shouldn't we allow our Bounce Protection customers the right of "self-determination"?

If you have any questions about these comments, please contact the undersigned at (781) 224-5424 or via e-mail at [msnyder@tsbawake24.com](mailto:msnyder@tsbawake24.com).

Sincerely,

Marla A. Snyder  
Assistant Vice President, Compliance Officer