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September 24, 2010

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

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 North Carolina Bankers Association (NCBA) appreciates the opportunity to comment regarding the FDIC's expectations of institutions which it supervises with respect to overdraft payment programs, as detailed in Financial Institution Letter 47-2010 (FIL). The North Carolina Bankers Association is a trade association of all banks and savings institutions that are headquartered or are doing business in North Carolina.

Although the NCBA supports the effort to provide clear guidance to depository institutions and examiners regarding the supervisory expectations for the management and oversight of automated overdraft protection programs, we believe that the FIL imposes new regulatory responsibilities. Rather than providing guidance and clarity, financial institutions must monitor accounts for "excessive or chronic use" of automated overdraft programs by customers. Use of overdraft services varies widely among customers and it is impractical, if not impossible, to determine what constitutes "excessive or chronic use." To establish a threshold of six transactions in a rolling twelve-month period not only is arbitrary and impractical, but imposes a significant, additional regulatory burden.

In addition to adding regulatory burden and costs, the FIL's expectations are wholly unnecessary. The recent overhaul of the regulatory framework for overdraft protection programs provides significant protections to consumers, including a prohibition against imposing an overdraft fee for ATM and one-time, point-of-sale debit card transactions unless the customer has expressly consented, or "opted-in," to an overdraft program. Customers who opt-in make an informed choice and understand the fees associated with overdraft transactions. Banks should

not be required to further monitor the account activity of a knowledgeable customer and to contact that customer regarding available alternatives.

Thank you for your consideration of these concerns.

Sincerely,

A handwritten signature in cursive script that reads "Edmund D. Aycock". The signature is written in dark ink and is positioned above the typed name.

Edmund D. Aycock  
SVP and Regulatory Counsel  
North Carolina Bankers Association