



June 28, 2010

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW.
Washington, DC 20552

Attention: OTS-2010-008

Dear Sir or Madam:

On behalf of the Texas Bankers Association's 49 state and federal savings bank members, thank you for the opportunity to comment on the Office of Thrift Supervision's Supplemental Guidance on Overdraft Protection Programs.

In reading the proposal, I was pleased to see comment drafters recognized the fact that many of the Best Practices addressed in the existing Overdraft Guidance are now required by the recent amendments made to both Regulations E and DD. However, I was concerned by what appear to be uncertainties that arise as a result of this proposed Supplemental Guidance.

For example, the proposed Supplement Guidance requires institutions to fairly represent overdraft protection programs and cautions institutions against targeting consumers who have experienced financial difficulties. This is certainly something each of our member banks works hard to achieve each day.

However, it fails to take into account the fact that banks offer products to consumers based on their needs. If a customer has informed the institution at account opening that he or she has utilized overdraft services in the past, and, as a result of that past history, the bank offers the customer an account with overdraft protection service, this should not be viewed as targeting the customer. Furthermore, the bank's sending the customer notice of account options *after* the customer has experienced an overdraft situation certainly should not be viewed as violating the FTC Act prohibition against deceptive practices as the Supplemental Guidance seems to indicate. The Supplemental Guidance could be more helpful to the institutions it is designed to instruct if it gave examples of when a bank could provide this information and still be in compliance with existing law.

Again, I appreciate the opportunity to comment on this proposed Supplemental Guidance and hope you will not hesitate to contact me if you have any questions about the above.

Sincerely,

Celeste May
Assistant General Counsel