

August 24, 2011

By electronic delivery

Mr. John Walsh
Acting Comptroller of the Currency
Office of the Comptroller of the Currency
250 E Street, S.W.
Washington, DC 20219

The Honorable Ben S. Bernanke
Chairman
Board of Governors of the Federal Reserve System
20th Street & Constitution Avenue, N.W.
Washington, DC 20551

The Honorable Martin J. Gruenberg
Acting Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429

Mr. Raj Date
Special Advisor
Consumer Financial Protection Bureau
1500 Pennsylvania Avenue, N.W.
Attn: 1801 L Street
Washington, DC 20220

Re: Imposing Undue Regulatory Burdens on Consumer Choice and Compliance

Dear Gentlemen:

I am enclosing a copy of the comment letter filed by the American Bankers Association in response to the Office of the Comptroller of the Currency's Proposed Guidance on Deposit-Related Consumer Credit Products. Our decision to send the letter to each of you underscores the banking industry's concern that recent experience with the regulation of overdraft programs suggests a suboptimal future in which each of the regulatory agencies writes its own, conflicting rules of the road resulting in confusion for banking customers and burdensome and inconsistent regulatory mandates on banks.

Just one year ago, in August 2010, after extensive consumer testing and consideration of stakeholder comments, the Board of Governors of the Federal Reserve System implemented a new rule to regulate overdraft programs by adopting a strong, simple standard that extends to bank depositors the following elements:

- Affirmative decision to opt-in to overdraft program coverage;
- Unlimited ability for individuals to pull the plug on coverage whenever they so choose;
- Complete disclosure of available options for managing overdraft occurrences; and
- Notice of applicable fees in advance and a periodic recap of overdraft fees incurred.

Despite having participated in the rule-making, and without its own public track record of studying the impact of the new Federal Reserve rule, the OTS, the FDIC, and very recently the OCC *each* proposed supervisory "guidance" imposing additional obligations on the operation of

overdraft programs. Now, instead of one clear rule applicable to all overdraft protection programs, four different regulatory standards are emerging—all within the space of a year and all but the Federal Reserve rule outside of the specific agency rule-writing authority. These proliferating agency mandates create a moving target for compliance and add unnecessary costs to a program that customers, pursuant to the new Federal Reserve rule, have explicitly chosen to use (and continue to use) of their own free will with full information about its costs, consequences, and options.

This troubling accretion of agency requirements is at odds with the regulatory relief initiative announced by President Obama in January 2011, and it is in direct conflict with the Dodd-Frank Act's goal of ensuring consistent and data-driven consumer protection regulation. ABA's letters to your agencies taking up the President's invitation to pursue regulatory relief demonstrated our sincere commitment to work with you to reduce regulatory burden. The continuing weakness of the economy, in spite of major fiscal and monetary stimulus efforts, demonstrates the need to reduce regulatory costs and burdens.

That is why we are reaching out to each of you again – to ask that you back away from adding new requirements on overdraft programs beyond the rule change implemented by the Federal Reserve one year ago. At the same time, we urge a reassertion of the interagency mission of the FFIEC banking agencies, including the new Bureau of Consumer Financial Protection, to apply a uniform set of supervisory expectations to the enforcement of this and other consumer regulatory standards.

Sincerely,



Wayne A. Abernathy
Executive Vice President
Financial Institutions Policy
and Regulatory Affairs