First Bank & Trust

Member FDIC

January 16, 2007

DELIVERED VIA EMAIL

Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429-9990

Re: Comments on Proposed Guidelines for Affordable Small Dollar Lending

Dear Mr. Feldman:

We wish to extend our appreciation for the FDIC's effort to raise awareness of the very formidable challenges for banks to provide affordable small dollar loans. Our comments on the recently released Proposed Guidelines for Affordable Small Dollar Lending ("Guidelines") come on the heels of a November 22, 2006 letter we sent you regarding the launch of our Revel Card (copy enclosed). This letter is intended to supplement many of the observations and comments in our prior letter.

We share the FDIC's view that small dollar lending is a worthwhile endeavor for financial institutions, and with one exception, we view every provision in the Guidelines to be a legitimate supervisory expectation consistent with the spirit of the Community Reinvestment Act ("CRA"). Our lone point of concern is the recommended 36% APR ceiling, which we believe: (a) will only deter banks from offering scalable small loan products that will actually challenge the grip payday lenders have in the marketplace and (b) serves as discordant public policy.

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The Economic Deterrence of a 36% Maximum APR

As you know, banks have unique advantages when it comes to extending credit nationwide that are not shared by the payday loan industry. Financially, our cost of funds is generally less than that of nonbank lenders. Legally, we are able to preempt state usury laws and are exempt from many licensing laws that inhibit interstate lending. However, banks also face significant obstacles when it comes to challenging the payday loan industry for market share. Foremost, we simply have not been able to provide as convenient but less expensive products on the same scale.[1] For a variety of reasons, we cannot realistically establish a lending office in what seems like every strip mall in the country. Consequently, we are generally less physically accessible, which in turn, impairs our ability to compete.

Because banks are not as prevalent in many neighborhoods where payday lenders have taken root, we are challenged to originate enough small dollar loans to reach economies of scale and thereby create a truly competitive product.[2] We believe that the Guidelines must encourage banks to utilize existing nonbank delivery channels as access points for affordable financial products and services. We hope that the final Guidelines will encourage the use of check cashers, convenience stores, credit unions, and the internet as possible delivery channels for small dollar loan alternatives.

At the same time, using alternative delivery channels as a means to reach scale comes at a cost, given that these parties expect to be compensated for their services. Creating a competitive alternative also requires significant marketing expense, especially as it relates to trying to entice consumers to change their current financial behavior. Also, credit risk cannot be overlooked given the expectation that any small dollar loan product will resonate largely with subprime consumers. Developing underwriting systems and models that adequately protect against losses and at the same time ensure the broadest possible reach of the product requires significant investment and experimentation. Finally, any profit model must consider the reality of a bank's tax status, an obligation that our credit union counterparts do not share.

Collectively, these economic realities pose formidable challenges to being able to profitably offer an alternative to payday loans that will generate returns commensurate with the risk. Placing a rate ceiling of 36% discourages banks from tackling these challenges and relegates our efforts to piecemeal, one-off products that will never pose a threat to the payday loan industry's three competitive advantages: volume, convenience, and simplicity.

Banks must have the freedom to price products based on cost and risk. We encourage the FDIC to remove this barrier to entry for progressive banks thinking about

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[1] Page 3 of the *Military Small-Dollar Loan Template* made available by the FDIC following the December 6, 2006, FDIC conference on this same topic, specifically recognizes the need to develop products that can be delivered as quickly and conveniently as a payday loan.

[2] See the enclosed article from the January 4, 2007 edition of the *Wichita Eagle*, where Kansas bankers recognize the same scalability problems.

developing an appealing brand, creating a distribution network, investing in scalable technology platforms, and experimenting with underwriting models - all of which will undoubtedly result in added cost upfront but are necessary in order to eventually reduce marginal costs and create competition.

Discordant Public Policy and Practical Shortcomings

The FDIC appears to have borrowed from the recently adopted Talent-Nelson Amendment[3] when determining what constitutes a reasonably priced loan. Recall that during your recent seminar on affordable loans for the military, a number of panelists from banks serving predominantly military markets commented that servicemembers generally perform better than the general public. The panelists' comments are logical given the military's unique consumer credit risk factors such as stability of employment, the almost universal acceptance of direct deposit and electronic payments, and the repercussions from superiors of not repaying loans as agreed.[4] Implanting Talent-Nelson logic to determine price reasonableness incorrectly assumes correlative repayment behavior between two different types of customers. Given the profitability constraints identified above, a 36% ceiling leaves little (if any) room for the increased credit losses already experienced by military banks today.

In addition, establishing any sort of "recommended" interest rate is not supported by the legislative history of the Community Reinvestment Act and, more importantly, should be a policy decision left to the state legislatures. Providing "CRA credit" only to those institutions offering loans below 36% is effectively using the CRA as a federal usury law for a specific type of credit. The result is a bureaucratic end-run around long-standing public policy and case law that recognizes state legislatures as the proper venue for establishing the legal definition of a usurious loan.

As you know, an abundance of mortgage, home equity, automobile, and credit card products with effective APRs above 36% exist today, most of which are originated by banks. Practically, the Guidelines will force the agency and its examiners to determine whether institutions offering small dollar loans above 36% should actually be criticized under the CRA, which as you know is a public evaluation with financial ramifications relating to a bank's application activities. Conceivably, the Guidelines could subject state, nonmember banks to disproportionately more rigorous CRA evaluations and enforcement or preclude FDIC-supervised banks from offering loan products lawfully originated by national banks, state member banks, credit unions, and thrifts because the Guidelines are not an interagency initiative.

Finally, the inevitable customer overlap between the affordable small dollar loans envisioned in the Guidelines and existing bounce protection products cannot be

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[3] For purposes of this letter, the Talent-Nelson Amendment is used to reference Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. 109-364, Section 670, "Limitations on Terms of Consumer Credit Extended to Servicemembers and Dependents."

[4] These unique credit factors were specifically cited on page 3 of the *Military Small-Dollar Loan Template* that was distributed by the FDIC following the conference.

overshadowed. The 36% rate cap does little to incent banks to transition customers off the banking industry's version of spiraling, high cost credit and onto a product that without scale will generate fractions of the returns banks and credit unions recognize on their bounce protection products. Even the North Carolina State Employees Credit Union ("NCSECU"), a panelist at the FDIC's recent seminar and a fixture in media articles and community group studies on small dollar lending, enjoys payday loan-like returns generated on their overdraft protection product by customers more deserving of only double-digit APRs. NCSECU share draft statements from our customers who also have accounts with NCSEU show repeated usage of overdraft privilege each month without limitation.

TILA's Formula for Calculating the APR Makes It Ill-Suited for Such Emphasis

We hope that the FDIC recognizes the distortion and volatility caused by the APR formula as it is required to be calculated for small dollar loans pursuant to the Truth in Lending Act ("TILA"). First, the formula does not take into account loan restrictions such as cooling off periods that banks may employ to prevent customers from borrowing on the same frequency for an entire year. The APR formula is also ill-suited for small dollar credit because of the volatility associated with the small dollar amounts and short durations of this type of credit. For a two-week, $500 loan, the APR could be impacted by tens of percentage points if a finance charge is increased or decreased by just a few dollars.

Finally, studies support that small dollar loan customers do not consider the APR calculation to be a determining factor in assessing their credit options. Rather, price-sensitive consumers focus more on the hard-dollar costs and the resulting impact on their personal cash flow. When asked why they choose payday loans, customers consistently state that it is because the product's hard dollar costs are discernable, which in turn enables them to weigh those costs against the product's convenience and accessibility. We believe the APR should continue to be disclosed in accordance with TILA for any consumer credit transaction, including loans contemplated in the Guidelines. However, the limitations of the calculation and the confusion that may result warrants tempering use of the APR as the sole determinant of cost reasonableness.

Proposed Changes

As a means to address the concerns above, we would propose that the agency consider the following in lieu of a 36% rate cap:

- Allow for a product that may start with APRs above 36% but provides the ability for customers to graduate to lower APRs over time and with good repayment performance.

- Encourage banks to make loan products equally accessible by targeting existing nonbank distribution outlets that have already established the relationships with customers that have been so elusive for banks to date.

- Shift greater emphasis to the need for banks to offer credit with terms that allow for amortizing payments that fit in the consumer's ability to repay, prohibitions on constantly renewing principal, and established cooling off periods – all of which are legitimate needs in the marketplace and are contrary to the typical payday loan.

- Focus more on the savings customers recognize over the alternative loan products in the marketplace.

- Affirm that institutions offering products with high APRs are not violating the CRA and will not be criticized in CRA evaluations if their products do not meet the eventual definition of "affordable" but are, nonetheless, offered in a compliant and lawful manner.

The Revel Card

As we mentioned in our November 22 correspondence, our Revel Card was developed to be the first scalable bank alternative to payday loans. We will be able to gain scale because we utilize technology and delivery platforms that can be made easily available to nonbank entities, such as grocery stores, check cashers, and credit unions, all of which have been more successful than banks in establishing financial relationships with the small dollar loan customer.[5] The Revel Card, Revel Advance, Revel Save, and Revel SpendTrend provide the consumer with a full-featured bank on a card and the consumer protections that come along with doing business with a bank.[6] However, because we share revenue with third party distributors, spend significant resources on marketing and information technology, expect to experience higher than typical credit losses, and pay income taxes, we cannot offer our loan feature universally at rates below 36% - at least initially.

Since our prior letter, we have instituted a graduation scale that allows customers who have performed well and built up their Revel Save account to borrow below 36% within six to nine months of establishing their borrowing relationship. We are hopeful that over time we can slide the rate scale and graduation timeline down so more customers can benefit from lower rates sooner. Although the 36% rate cap may only be a recommendation, it will severely inhibit our ability to attract other banks to sign on as distributors of the Revel Card because they will be hesitant to offer any product that even appears on the surface to disregard the recommendation of a federal regulator.

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[5] As mentioned in our November 22, 2006, letter, we have been fortunate to receive positive coverage of our Revel product launch and have garnered support from groups who recognize our attempt to compete in the small dollar loan marketplace. Enclosed is a copy of a letter received from the National Black Caucus of State Legislators, expressing appreciation for our efforts to date.

[6] Just recently, the Revel Card program was nominated for three awards at the upcoming Prepaid Card Expo on February 27, 2007: Best Consumer Promotion Program, Best Underbanked and Underserved Program, and Most Innovative Product or Service.

We view the underbanked marketplace, especially those consumers who choose to conduct their financial affairs at nonbank providers, as one of the last frontiers for banks to penetrate. Today, banks have become too accustomed to acquiring new customers at the expense of their competitors and vice versa. Thus, marginal gains in market share are difficult without feeling pressure to sacrifice lending standards or net interest margin.

We believe that the FDIC has an opportunity to use the Guidelines to provide banks the flexibility necessary to become a competitive force in the underbanked market. However, we believe that the Guidelines as drafted inhibit the FDIC's ability to induce change in the marketplace because they fix profit margins at a level that will only discourage the development of sustainable and scalable alternatives. Simply put, the 36% rate cap stifles innovation and ensures that the payday loan industry will never view banks as a competitor.

As always, we look forward to any opportunity to discuss our correspondence with staff at the FDIC. Should you have any questions, please feel free to contact Trent Sorbe at 605.696.1739 or tsorbe@bankeasy.com.

Sincerely,

Van D. Fishback

Van D. Fishback
President and CEO

Enclosures

First Bank & Trust

Member FDIC

November 22, 2006

The Honorable Sheila C. Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429-9990

Re: The Revel Card

Dear Chairman Bair:

We are writing with particular interest in two recent initiatives by the FDIC to expand on the availability of affordable financial products and services to the unbanked, underbanked, and military consumer. Specifically, we would like to discuss our new Revel Card program with your staff as they prepare for the upcoming conference on Affordable, Responsible Loans for the Military: Programs and Prototypes, as well as their work to support the Advisory Committee on Economic Inclusion. Ironically, the Revel Card was developed after attending a similar FDIC seminar in September of 2005 entitled: Affordable, Responsible Short-Term Credit, which included a session that you moderated on alternative short term loan products.

We are writing today to explain why we believe that the Revel Card is one of the few financial products that is scalable, economically sustainable for insured depository institutions, and an affordable and prudent alternative to the nonbank financial alternatives that have only perpetuated the American consumer's short term borrowing needs and impeded long term asset building.

Background

The Revel Card is a prepaid MasterCard that functions much like a traditional demand deposit account, except it cannot be accessed by paper check. The card is issued by First Bank & Trust, Brookings, South Dakota ("FBT" or "Bank"), a state, nonmember institution with assets of $725 million. First Bank & Trust is owned by Fishback Financial Corporation ("FFC"), a five-bank holding company with assets of $1.3 billion. The Revel Card was released in June at the Unbanked Financial Services Forum in Chicago (press release enclosed). The Revel Card can be obtained locally at all FFC branch locations and nationwide via a toll free telephone call and various other partner locations that to date include check cashers, credit unions, banks, and convenience stores.

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Specific features of the Revel Card include:

- Acceptance anywhere MasterCard is accepted,
- Online account access,
- Access to the GreenDot network of 32,000 retail locations where customers can load cash onto the card,
- Access to the MoneyPass network of over 9,000 surcharge-free automated teller machines,
- Ability to accept direct deposits of payroll, government benefits, or automated clearinghouse transfers from other depository institutions,
- Money transfers to and from other cards and other bank accounts,
- Online bill payment, and
- FDIC-insured balances

The fees associated with the prepaid card features described above are consistent with the fees charged in the marketplace for similar cards. For your reference, I have enclosed a spreadsheet comparing the terms of the Revel Card to those of other established prepaid cards.

Revel Advance

There are three additional features of the Revel Card that make it a truly unique product offering. The feature that has garnered much of the positive coverage of the card to date is Revel Advance, a small denomination line of credit available to Revel Card customers who have funds direct deposited on to the card. Customers are able to apply over the telephone for a line with available credit up to $1000.[1] Proceeds from each advance are loaded directly onto the Revel Card, enabling customers to have almost immediate access to funds.

Revel Advance is risk-based priced. Fees for each advance range from 8% to 10% of the advance amount. There is also a $4.95 to $9.95 monthly fee whenever a balance is carried on the account. There is no cost to apply and no cost to set up the line in order to have it there for future use. In addition, performance is reported to the three major credit bureaus. Repayment is made automatically from the Revel Card on dates that generally correspond to the customer's payroll dates. Revel Advance customers make 20% minimum payments each payday, which will usually retire the debt in four to eight weeks. So, unlike products where the consumer's short term cash need may be perpetuated by loan terms that discourage principal reduction, Revel has eliminated the "cycle of debt" with amortizing installment payments.[2]

The following example details the savings opportunity for Revel Advance customers:

Borrowing Need:	$400 to be repaid over three months	
Cost Comparison:	*Revel Advance*	*$69.85*[3]
	Bounce Protection	$162.84[4]
	Subprime Credit Card	$217.45[5]
	Storefront Payday Loan	$432.00[6]
	Internet Payday Loan	$600.00[7]

[1] The average balance on the lines is projected at around $375.
[2] Because Revel Advance is a line of credit, new advances are quick and convenient for customers. At the same time, we have instituted controls over the frequency of new advances that essentially provide one month cooling off periods between advances.
[3] Assumes $9.95 per month for three months plus a $40 advance fee – the highest pricing tier of Revel Advance. Customers qualifying for the lowest pricing tier would pay $46.85.
[4] Assumes two bounced checks per month at the bankrate.com national average of $27.14 per occurrence.
[5] Total of all fees required to obtain the card in order to make a $400 cash advance or purchase.
[6] Assumes a two-week payday loan that is renewed without principal reduction five additional times at $18 per $100 borrowed.

As the example above illustrates, the potential savings to the consumer can equal as much as $530.15, which can then be saved or put to use for other cash flow needs by the consumer.

Revel Save and Revel SpendTrak

The last unique feature is the linkage of a savings account to the Revel Card. Specifically, customers will be able to move money on pre-established intervals or on demand to a federally-insured Revel Save account that earns market rates of interest. The savings account may be with FBT or with a local bank or credit union interested in partnering to offer the Revel Card to local customers. As part of our Revel Save program, we are also developing Revel SpendTrak, a budgeting feature that will allow Revel customers to establish income, spending, and savings goals, track the activity on the Revel Card, and compare it to their budget goals – all free of charge.

Other Features

The table below describes other features of the Revel Card that when combined with the unique features above make Revel a consumer's "Bank on a Card".

Feature	Description
Online Account Access	Log onto revelcard.com to check balances and transaction history.
Real Time Transaction Notifications	Purchases, deposits, and balance information can be sent via text message or email as they occur or periodically according to the cardholder's desired schedule.
Bill Payments	Pay any bill online at revelcard.com.
Overdraft Protection	A modest overdraft protection feature is included. Customers can opt-out of the feature if desired.[8]
Secondary Cards	Friends and family members can receive secondary Revel Cards that are tied to the primary accountholder. The primary accountholder is able to monitor spending activity online or via text message and email.
Funds Transfer	Funds can be moved from any bank account onto or off of the Revel Card. Funds can also be transferred from the primary accountholder to secondary accountholders on a recurring basis or as a one-time event.
FDIC Insurance	Funds placed on the Revel Card and in the Revel Save account are insured by the FDIC.

Revel Partnerships

As mentioned above, the Revel Card is currently being offered by a variety of bank and nonbank distributors. One of the more exciting models for purposes of the FDIC's current underbanked initiatives involves offering the Revel Card through other banks and credit unions as the first rung on the financial products ladder. By using the Revel Card as the product for those customers who do not qualify for or are apprehensive about establishing a traditional checking account or small dollar loan, banks and credit unions now have a means by which they almost never have to say "no" to a potential customer.

Plus, with the addition of Revel Save, these same financial institutions can form account relationships with customers who they otherwise would have likely turned away.[9] The Revel Card and

[7] Same assumption as Footnote 5 except fees of $25 per $100 borrowed.
[8] In addition, customers are not eligible for the overdraft protection feature if they have already established a Revel Advance line of credit.
[9] The Center for Financial Services Innovation's recently released *A Case Study of Checking Account Inquiries and Closures in Chicago* supports that there is significant consumer demand for checking accounts from individuals with past derogatory information on file at ChexSystems and institutions need to have the right products and data to properly mitigate risk of loss.

Revel Save establish the all-important connection with the unbanked consumer that has been so elusive for banks to date. More importantly, for those consumers whose financial situation improves, these pre-existing account relationships will prove invaluable when the same consumer begins to think about his or her first mortgage or small business loan. Quite simply, we recognize the finite nature of the product for most consumers and embrace the role it serves as the onramp for connecting our fellow bankers with a very viable customer base. This particular model has the potential to be a very attractive product offering for banks and credit unions serving our military personnel.

Revel Branding Strategy

Unlike other bank products targeted to the same customer demographic, we have branded the product and developed marketing materials that customers find exciting and that do not unfairly label them as some sort of alternative or undesirable customer. More specifically, we have deliberately avoided the obvious dogma associated with product names like the "Second Chance Checking Account". The imagery behind the card and the associated collateral material is designed to avoid the more stoic banker reputation. Instead, we have opted for a more vibrant image that delivers the safety and consumer protections associated with doing business with a bank without reflecting the banker stereotype.

What Others Have Said About Revel

The Revel Card has been warmly received as an affordable and safe bank alternative. For example, the Iowa Credit Union League has included Revel in a task force report on responsible payday loan alternatives that is set to be released in early December. Respected policy makers and public figures have also recognized Revel's potential.

"Banks have historically had a difficult time connecting with the growing number of underbanked consumers, including our men and women in uniform. The Revel Card is establishing this once elusive connection with their exciting 'Bank on a Card' concept." – General Norman Schwarzkopf

"Revel is the long-awaited affordable financial solution for the millions of Americans who do not enjoy the benefits of having a bank in their neighborhood." – Representative Mary Coleman, President of the National Black Caucus of State Legislators

I have also enclosed copies of Revel Card collateral material, the customer fee schedule, and some of the positive media coverage we have received to date. Additional information on the Revel Card and Fishback Financial Corporation can be found at www.revelcard.com or www.fishbackfinancial.com.

I trust that you will recognize the opportunity that the Revel Card presents to FDIC-insured financial institutions as they strive to meet the legitimate financial needs of their marketplace. However, if you have additional questions please feel free to contact Trent Sorbe directly at (605) 696-1739 or tsorbe@revelcard.com.

Sincerely,

Van O. Fishback

Van D. Fishback
President

Enclosures

Kansas.com

Posted on Thu, Jan. 04, 2007

Banks may offer payday loan alternatives

BY JERRY SIEBENMARK
The Wichita Eagle

A federal bank regulator is trying to get state-chartered banks to offer short-term, small-dollar loans in an effort aimed directly at the payday loan industry.

Last month, the Federal Deposit Insurance Corp. proposed that the banks it regulates offer the loans, generally $1,000 or less, citing a "huge demand" for them but "far too few low-cost options available."

"It's a way to provide alternatives to payday loans," said FDIC spokesman David Barr.

Some local bankers are skeptical that offering such loans will be cost effective for them, while others think it can be done profitably for a few banks.

Payday lenders said they welcome the competition, but don't think that banks will be able to compete effectively with them.

"It lets the consumer choose among a variety of products," said Steven Schlein, spokesman for the Community Financial Services Association of America, a trade group that represents the payday, or deferred presentment, industry.

Rocky Waitt, president of Rose Hill Bank, thinks it would be tough for his bank to offer short-term, small-dollar loans profitably.

He's not swayed, either, by the FDIC's enticement that it would look favorably at banks when they are examined for their lending practices to minorities and disadvantaged businesses. The FDIC regularly examines banks for lending to those groups under the Community Reinvestment Act.

Banks are heavily governed by state and federal rules, and typically have caps on the annual percentage rate they can charge -- well below the 391 percent APR some payday lenders charge.

" (Payday lenders) don't have near the red tape that we do," Waitt said.

But Mike Daniels of Kansas State Bank of Manhattan said he has seen models of how banks and credit unions are offering such loans profitably. But those models require that a bank have "large numbers to get economies of scale."

"If you have that right type of customer base, it definitely could work," he said.

Daniels, whose bank plans to open a Wichita branch this year, said it's still uncertain whether Kansas State Bank will offer the loans.

Bruce Harris is owner of A-OK Inc., which owns and operates five A-OK Pawn and Retail stores in the Wichita area. Part of his business includes providing payday loans.

Harris said he thinks a lot of banks don't want to offer payday loans because that would impact the money they get from bounced check fees.

"They probably don't want to do short term loans" for that reason, he said.

Also, he said, his company has gotten efficient about issuing payday loans and doesn't have the same processes as a bank. His is a much quicker process, Harris said.

"It's a whole different type of thing," Harris said. "It's quick and convenient.

"In our fast-paced society" customers expect that, he said.