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Partners
Meredith & Clarke
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OceanPoint Insurance Agency, Inc.

July 30, 2008

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW.,
Washington, DC 20552
ATTN: OTS-2008-0004

Re: Proposed UDAP Regulations Relating to
Overdraft Protection Programs

Dear Sir or Madam:

I have several concerns regarding the proposed rule on overdraft fees that I feel compelled to offer for your consideration.

BankNewport has had a formal overdraft protection program in place for almost five years. Great care was taken both at the time we introduced this program and in the ensuing years to ensure that all interagency guidelines and best practices were considered and incorporated whenever possible. The Bank has received many compliments from customers about this service, primarily because it provides an alternative to the consequences of paying credit card bills and other installment loans late, or incurring the expense and embarrassment of returned check fees.

The vast majority of banks are fair, reasonable, and open in their communication about overdraft protection programs. BankNewport, for example, offers an opt-out option at the time of eligibility. This option is communicated in a letter that also discusses alternatives such as sweeps and lines of credit. In addition, we disclose overdraft fees paid by the customer on monthly statements, displaying those fees incurred during the latest statement period as well as year to date. Banks rely heavily on customer loyalty and word of mouth referrals, and have nothing to gain by surprising, tricking, or otherwise taking advantage of those same customers. We have found that customers can manage their accounts to avoid overdraft fees when necessary, and do not believe that additional "opt out" notices are necessary.

The proposal for a partial opt-out of ATM and debit card transactions, while retaining coverage for checks and ACH, is not technically feasible to implement due to limitations in our core processing system. Even if it were possible, we believe excluding debit card transactions from overdraft protection would be a great disservice to customers, who may

The proposal covering debit holds is much too complicated to be implemented or for consumers to understand. The problem is really one that involves merchants and the card networks, and cannot be solved by placing the onus only on banks that are simply acting in a safe and sound manner to assure funds are available for authorized transactions.

With regard to the issue of payment clearance processing, it would be virtually impossible to mandate a uniform approach. For example, our bank operates in a “real time” environment, which means that electronic transactions and “on us” items are posted immediately regardless of dollar amount, whereas Fed inclearing items are paid according to a predetermined hierarchy. Banks using a batch system will have other processing priorities. The system we use is not equipped to allow consumers to opt-in to alternative clearing priorities.

In summary, we strongly believe that the proposed rule is unnecessary. Our overdraft protection program provides a real service to those customers who use it. In the nearly five years we have had the program, I have not received one letter from a customer complaining about any aspect of our program. Attempts to “micro-manage” these programs by imposing additional regulations will only succeed in adding layers of complexity and uncertainty to an established process, without any appreciable benefit to banks or consumers.

Sincerely,



Thomas W. Kelly