

Connecticut Bankers Association
10 Waterside Drive
Farmington, CT 06032-3083

August 6, 2004

Memo to:

Office of the Comptroller of the Currency
Attention: Public Information Officer
250 E Street, S.W.
Mail Stop 1-5
Washington, D.C. 20219
[Docket No. 04-14]
Email: regs.comments@occ.treas.gov

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the
Federal Reserve System
20th Street & Constitution Avenue, N.W.
Washington, D.C. 20551
[Docket No. OP-1198]
Email: regs.comments@federalreserve.gov

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429
Attention: Comments
Email: Comments@FDIC.gov

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, N.W.
Washington, D.C. 20552
[No. 2004-30]
Email: regs.comments@ots.treas.gov

Ms. Becky Baker, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 23214-3428
Email: regcomments@ncua.gov

Re: Interagency Guidance on Overdraft
Protection Programs 69 FR 31858
June 7, 2004 (VIA E-MAIL)

Dear Sir or Madam:

The Connecticut Bankers Association (CBA) welcomes the opportunity to comment on the proposed interagency guidance on overdraft protection programs, which was issued by the Office of the Comptroller of the Currency, the Board of Governors of the Federal

Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision and the National Credit Union Administration (collectively, the “Agencies”).

CBA Position

CBA supports the ability of community banks to offer various types of overdraft protection services to their customers. Community banks also believe it is important to assist their customers in better managing their finances. We also believe that fair and accurate disclosures, together with regular financial education, help avoid confusion and misunderstanding among consumers about the true nature of overdraft protection and its costs.

While we are supportive of the overall the efforts of the Agencies to provide meaningful examples of optimal practices relating to overdraft protection services, we have several concerns about the proposed guidance, both in terms of format and content. We urge the Agencies to revise the proposed guidance to both narrow its scope of application and to address certain ambiguities. In particular:

- The proposed guidance does not draw the important, necessary distinction between the discretionary nature of overdraft protection services, which increasingly are automated, and overdraft lines of credit, which are promises to extend credit under certain defined terms. CBA opposes aspects of the guidance that would incorrectly label all forms of overdraft protection as a credit service. Only specifically developed overdraft lines of credit or similar credit products should be reported as loans, assessed for credit risk and subject to the Truth in Lending Act (TILA) and its implementing regulation, Regulation Z.¹
- The proposed guidance fails to recognize that overdraft protection services are a response to customer-initiated transactions. All institutions must be able to decide

¹ 15 U.S.C. § 1601 *et seq.*, 12 C.F.R. Part 226.

whether to pay checks or other items initiated by customers and presented against insufficient funds.

- The proposed guidance also does not take into account that many customers have come to expect some form of overdraft coverage. For institutions that do offer some form of non-credit overdraft protection, the majority report that customers respond very favorably to the service and appreciate its benefits.
- The proposed recommendation to “charge off” overdraft balances after 30 days is unworkable from an operational standpoint and also would negatively impact customers. It should be increased to a minimum of sixty days to allow flexibility to the customer and to allow the bank to properly assess when the chargeoff should occur.
- CBA strongly urges the Agencies to confirm that any best practices should not be viewed as a minimum standard, but rather as offering a range of optimal practices that may be adapted to fit an individual institution’s program and customer base. Institutions should be able to tailor their policies and procedures to the specific facts, marketplace concerns, circumstances of their institution, its customers and the particular aspects of that bank’s overdraft protection services. We also are concerned that examiners, consumers and others will view these best practices as mandatory requirements, which may lead to criticism and the potential for litigation. CBA strongly urges that the Agencies clarify that it is not necessary to adopt all of the suggested practices and that the practices are only guidance.

Thank you for the opportunity to comment on this matter. If you have any questions, please contact the undersigned at 860-677-5060 or via e-mail at MongellowT@CTBank.com

Sincerely,

Thomas S. Mongellow,
Vice President & Treasurer
Connecticut Bankers Association

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