
Joint Release

**Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation
National Credit Union Administration
Office of the Comptroller of the Currency**

For immediate release

February 18, 2005

Agencies Issue Final Guidance on Overdraft Protection Programs

The federal bank and credit union regulatory agencies today announced final joint guidance to assist insured depository institutions in the disclosure and administration of overdraft protection programs.

Depository institutions may offer overdraft protection programs to transaction account customers as an alternative to traditional ways of covering overdrafts. In response to concerns about the marketing, disclosure, and implementation of these programs, the agencies published for comment proposed interagency guidance on overdraft protection programs in June 2004. The final joint guidance responds to comments received by consumer and community groups, individual consumers, depository institutions, trade associations, vendors offering overdraft protection products, other industry representatives, and state agencies.

The final joint guidance contains three primary sections: Safety and Soundness Considerations; Legal Risks; and Best Practices. The safety and soundness discussion seeks to ensure that financial institutions offering overdraft protection programs adopt adequate policies and procedures to address credit, operational, and other associated risks.

The legal risks discussion alerts institutions of the need to comply with all applicable federal and state laws, and advises institutions to have their overdraft protection programs reviewed by legal counsel to ensure overall compliance prior to implementation. Several federal consumer compliance laws are outlined in the guidance.

The best practices section addresses the marketing and communications that accompany the offering of overdraft protection programs as well as the disclosure and operation of these programs. Some of these best practices include: avoiding the promotion of poor account management; providing a clear explanation of the discretionary nature of the overdraft protection program; clearly disclosing fees; explaining the impact of transaction clearing policies on the overdraft fees consumers may incur; and monitoring program usage. The agencies also advise insured depository institutions to distinguish overdraft protection services from “free” account features, to prominently distinguish balances from overdraft protection funds availability, and to alert consumers before a transaction triggers any fees.

The guidance is being issued by the Federal Reserve Board, the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency (OCC). It will be published shortly in the Federal Register.

The Federal Register notice is attached.

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Attachment:

Joint Guidance on Overdraft Protection Programs

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