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Reform Reading: FDIC Says Banks Should Relax Overdraft Fees

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Consumers who incur bank overdraft charges more than six times a year should be given a chance to choose a less-costly alternative, the U.S. Federal Deposit Insurance Corp. told U.S. banks. In what the agency calls a “final guidance letter” to banks, the FDIC also said it expects lenders to set “appropriate daily limits” on overdraft fees for debit cards and to “consider eliminating” fees for transactions that overdraw an account by a negligible amount.

“Management should be especially vigilant with respect to product over-use that may harm consumers, rather than providing them the protection against occasional errors or funds shortfalls for which the programs were intended,” the FDIC told banks. The letter also told banks that they should stop deliberately processing the biggest transactions first, which hurts consumers with low balances.

Earlier this week, *Financial Reform Watch* reported the Consumer Federation of America’s call for the Fed to step in and stop banks from manipulating payment order to drive up overdraft fees until the new Consumer Financial Protection Bureau is up and running in July. The advocacy group says that consumers pay $23.7 billion annually in fee-based overdraft programs, an amount greater than the “loans” extended in exchange for those fees because of the hefty cost of overdraft protection.

FDIC Chairman Sheila Bair said the new guidance is common sense. “Some banks operate automated programs that lead to excessive use of these high-cost, short-term credit products,” Bair said in a statement. “When banks spot a pattern of excessive use of an automated overdraft program, they should contact their customers about a more appropriate and lower-cost alternative that better suits their needs.”

Wanted: Chief Economist Who Doesn’t Need Any Time Off

The Securities and Exchange Commission is under pressure to fill the job of chief economist, a critical position to help draft scores of financial reform regulations required by the Dodd-Frank reform law in a way that can withstand court challenges from Wall Street.

The job – which pays up to $230,700 per year – has been empty for eight months since James Overdahl resigned in March. He departed a few months after SEC Chairman Mary Schapiro restructured the position so that the chief economist reported to a new SEC unit responsible for monitoring market risks, reports Bloomberg's Jesse Westbrook. But after seeing two candidates for the chief economist job fall through, Schapiro now says the position will report directly to her.

Like most other federal agencies, the SEC's chief economist examines draft regulations for economic consequences, such as whether the broader benefits to markets and the public outweigh the costs that businesses must pay for employees, software, legal advice, and other items in complying with the regulation. The chief economist role is especially important now as the SEC hurries to complete all the regulations mandated by the financial reform law. The agency has seen past regulations successfully challenged in court by industry groups who point to a 1996 amendment to federal securities laws that requires the SEC to consider "efficiency, competition and capital formation" when writing regulations, and not just investor protection issues.

The chief economist job is not on the federal government's current listing of openings, but the SEC is advertising for a director of the new Office of Minority and Women Inclusion. The office was created by the Dodd-Frank reform law, and the director's job pays up to $226,160 per year.

Fed's Emergency Lending Analyzed

At the height of the financial crisis in 2008, the Federal Reserve created a half-dozen lending programs to try to unfreeze credit markets, tapping its rarely-used emergency powers under section 13(3) of the Federal Reserve Act.

The Fed's inspector general has compiled a useful report examining exactly how each program, known as a "lending facility" in Fed-speak, operated and the amount of loans extended. The six programs together accounted for some $600 billion in credit and have generated about $9 billion in interest and fees.

All have stopped making new loans, and only one – the Term Asset-Backed Securities Loan Facility or TALF – has outstanding loans, which total about $42.5 billion and will mature by March 2015. TALF loaned money to investors to revive the securitization market for consumer auto and credit card loans, student loans, and small business loans.

Did TALF make a difference for consumers? "While it is difficult to determine the specific impact of the TALF, market data suggested that TALF helped to improve ABS [asset-backed securities] market conditions," the inspector general wrote, adding that TALF funded 101 securitization transactions that made credit more widely available to consumers.

Other winners were the big banks, fund managers, and consultants hired to help run the Fed's emergency lending programs such as BlackRock, PIMCO, JPMorgan Chase, State Street Bank, and Promontory Financial Group. However, the report does not detail how much each vendor was paid for its services.

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