



February 2, 2007

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

Dear Mr. Feldman:

On behalf of the Coalition for Financial Choice (CFC), I would like to take this opportunity to provide comments to the FDIC's draft guidelines on small-dollar loans, issued on December 4, 2006.

To give you a better context for my comments, perhaps a brief description of the Coalition would be useful. The CFC is comprised of companies, trade associations and other organizations that believe that all Americans are entitled to basic fundamental rights with regard to financial services. The coalition was formed to *educate* key stakeholders – lawmakers and regulators, the media, the business community, and the general public – about the importance of maintaining choice and access to basic financial services for all. It also *advocates* for responsible government policies that will ensure that all Americans, not just the wealthy, have the opportunity to fully participate in our economy and society. For additional information, please visit www.coalitionforfinancialchoice.org.

As to the FDIC's draft guidelines on small-dollar loans, there can be no question that there is a strong demand in the marketplace for these products. Thousands of Americans take out such loans every day to help them address financial shortfalls due to car repairs, medical bills and a host of other, unexpected expenses.

To the extent the FDIC wants to encourage banks to enter into this marketplace, it must be sure to issue guidance that does not unfairly impact the ability of alternative financial service providers of such loans which already are adequately serving a large segment of this market in the 38 states where they are licensed to do so, because it would impact on consumer choices.

The press release issued on December 4, 2006 "Affordable Small-Dollar Loan Guidelines" suggests that the FDIC has a pre-disposition to favor loan products offered by banks versus those currently offered by payday lenders. In fact, the guidelines state:

"The widespread use of fee-based overdraft programs and the growth of payday lending confirm that loans in small-dollar amounts are in strong demand. Consumers who make use of these products are bank customers because both products typically require consumer to have a checking account. Providing more reasonably priced small-dollar loans to existing customers can help banks retain these customers and avoid the reputation risk associated with high-cost products."

CFC's concern is that FDIC may be inclined to treat bank products as more "respectable" and "consumer friendly" than those offered outside the realm of banks. However, a closer inspection, and comparison, of those products may tell a different tale. For example, two banks, U.S. Bancorp and Wells Fargo, recently announced that they are now offering "direct deposit loans" which for all practical purposes are payday loans. The banks are charging a fee of 10% for these new loans. Though they claim that their fees are lower than those charged by payday lenders, laws vary by state; in some states the bank loan is less expensive and in other states is more expensive than the offerings of licensed payday lenders.

Further, the only option provided to the consumer to repay this loan is via direct deposit, which is far more restrictive than it is consumer friendly. We are concerned that "automating" small loans in this fashion could play havoc with the bank accounts of these consumers, causing them to incur overdraft fees, bounced check fees, etc, unnecessarily. It is critical that in the development of any new small loan products consumer choice remains a foremost consideration. We find it absent from this model and hope this is not the standard that the FDIC will be setting for others to follow.

Another concern that must be addressed is the general public's *access* to credit. Banks abandoned small loans twenty to thirty years ago, thus creating the void that alternative loan providers stepped in to fill. Banks then went on to abandon the very neighborhoods of the customers most in need of the small loan product. They chose instead to locate their branch offices in those neighborhoods that contain a high number of their "target" or "preferred" customers - those with high FICO scores - in mostly affluent suburban areas and wealthy segments of cities. Even if the FDIC's call to action is heartily embraced by banks and credit unions that will offer loans that consumers with poor credit or no credit can qualify for, it is unlikely these institutions will open new branches to service these consumers within their own communities.

The current state of affairs has been exemplified by an important recent study undertaken by Dr. Rickie Keyes, Ph.D., titled "Financial Empowerment for the Unbanked and Underbanked Consumer: Crossing the Redline" His research confirms that in a diverse array of cities across the country -- including but not limited to Charlotte, NC; Memphis, TN; Columbus, OH; Washington, D.C.; Jackson, MS; and Denver, CO -- banks tend to locate where middle to upper income consumers live and licensed payday lenders and check cashing companies tend to locate in lower to middle income neighborhoods.¹

The reality is that even with a plethora of new small loan products to choose from, many consumers will continue to utilize the services provided by those entities whose locations, hours and eligibility requirements make them convenient and available to consumers at the time they need them. The waiting periods and minimum balances currently required by some banks and credit unions offering small loans today would

¹ University of Denver African-American Policy, "Financial Empowerment for the Unbanked and Underbanked: Crossing the Redline," December 2006

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preclude many consumers from using those institutions even if they were community based. If this remains the case, the creation of new products will not eliminate the *access deficit* for Americans with lower FICO scores, living in inner cities and poorer communities.

Lastly and most importantly, the FDIC must remember that consumers today choose between available small loan solutions, on a case by case basis, to address their short-term credit needs. These consumers know which options are available to them in their given circumstances and choose the products which best fit their immediate financial needs. The Coalition wholeheartedly supports the development of accessible, convenient, new small loan products that consumers can add to their portfolio of options.

Some entities proffer the idea that these consumers are financially ignorant, precisely because they utilize such products. This reflects a bias that cannot be supported by facts. These consumers make informed, sophisticated choices when weighing their options to make the best financial decision for them at the time of their need for a small loan. Many utilize several products and services in doing so. This is supported by the findings of the Federal Reserve Bank of New York Study, "Defining and Detecting Predatory Lending" which found that "Households with uncertain income who live in states with unlimited payday loans are less likely to have missed a debt payment over the previous year...consistent with claims by defenders of payday lending that some households borrow from payday lenders to avoid missing other payments on debt."²

The market economy works best when there is open competition and consumers have access to a wide array of products and can choose the ones that best suit their needs. It is the Coalition's hope that the FDIC guidance regarding small-dollar loans will inspire the development of more workable options for consumers while fostering a level playing field where all interested parties can compete fairly to service this demand. And where consumers retain full access to and choice of all products that they determine best suit their financial needs.

I appreciate your consideration to my comments.

Respectfully,

William Murray
Vice President of Communications

² Federal Reserve Bank of New York, "Defining and Detecting Predatory Lending," Donald P. Morgan and Samuel G. Hanson, January 5, 2007