

Press Releases

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OTS 05-03 - OTS Announces Issuance of Final Guidance on Thrift Overdraft Protection Programs

Office of Thrift Supervision

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For further information

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OTS ANNOUNCES ISSUANCE OF FINAL GUIDANCE ON THRIFT OVERDRAFT PROTECTION PROGRAMS

WASHINGTON, D.C. - The Office of Thrift Supervision (OTS) announced today that it is issuing final guidance on overdraft protection programs for savings associations. The guidance is intended to assist institutions in ensuring adequate disclosures in connection with, and the responsible administration of, overdraft protection programs made available to their customers.

OTS is issuing this guidance in response to numerous concerns raised about a relatively new type of overdraft protection service commonly referred to as "bounced-check protection" or "overdraft protection" being offered to depository institution customers. This issue was highlighted in guidance first proposed by the federal banking agencies last June. Today, OTS is finalizing for savings associations best practices--similar to those previously proposed by the federal banking agencies--that address marketing and communications that accompany the offering of overdraft protection services, as well as the disclosure, and operation, of an institution's program features.

The final OTS guidance provides significant flexibility to thrifts in designing and implementing overdraft protection programs, but also requires institutions to implement programs in a manner that fairly and equitably respects the interests of their customers. In particular, institutions may not manipulate transaction-clearing procedures to inflate fees charged to their customers.

A key aspect of the final guidance requires thrift institutions to alert their customers before a transaction triggers a fee. Thrift customers attempting to withdraw, transfer, or otherwise access funds--other than by check--made available through an overdraft protection program should be provided a specific consumer notice that completing the transaction will trigger an overdraft protection fee. The notice should be presented in a manner that permits a customer to cancel any attempted transaction after receiving the notice. For types of transactions for which this is not feasible, an institution should provide its customers an opportunity to "opt out" of overdraft protection programs for such types of transactions, even if the overall effect of the "opt out" limits overdraft protection only to check transactions.

Pursuant to the final guidance, thrifts are expected to implement best practices in order to apprise their customers regarding overdraft protection programs, including:

- Fairly representing overdraft protection programs and available alternatives;
- Training thrift institution staff to explain program features and other available overdraft protection programs offered by the institution;
- Clearly explaining the discretionary nature of overdraft protection programs offered by the institution;
- Clearly disclosing overdraft protection program fees;
- Explaining the impact of the institution's transaction-clearing policies; and
- Monitoring overdraft protection program usage by the institution's customers.

Final Guidance - <http://www.occ.gov/static/news-issuances/ots/press-releases/ots-pr-2005-03a.pdf>

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The Office of Thrift Supervision, an office of the Department of the Treasury, regulates and supervises the nation's thrift industry. OTS's mission is to ensure the safety and soundness of, and compliance with consumer protection laws by, thrift institutions, and to support their role as home mortgage lenders and providers of other community credit and financial services. OTS also oversees the activities and operations of thrift holding companies that own or control thrift institutions. Copies of OTS news releases and other documents are available at the OTS web page at www.ots.treas.gov.