



## JOINT GUIDANCE ON OVERDRAFT PROTECTION PROGRAMS

### Finalized *Joint Guidance* Sets Solid Parameters For Discretionary Overdraft Payment Services

**D**iscretionary overdraft payment services continue to increase among financial institutions nationwide. Their value to the consumer as well as to the financial institution makes them a strong addition to any institution's service portfolio. But providing a discretionary overdraft payment service is more than merely incorporating an additional software program to better manage overdrafts. Given the newly released bank and credit union regulatory agencies' *Joint Guidance on Overdraft Protection Programs*, a framework is now in place that outlines appropriate and specific parameters under



which overdraft services should be designed, implemented and managed.

To some extent, we as an industry have self-governed these programs, resulting in services that have taken various shapes and forms. Our position has always been that if we don't adopt self-imposed standards of conduct governing these services, we invite regulatory over-action, reaction and well-intended but burdensome legislation. Regrettably, a few overdraft payment programs have been ill conceived and have drawn the attention of regulatory agencies and consumer advocacy groups.

As the financial industry's leading provider of discretionary overdraft payment services, we have strongly urged adoption of "common sense" guidelines governing these services. We also believe that any reputable advisor or expert in discretionary overdraft payment services should *already* be implementing systems that employ best practices and *already* adhere to federal and state regulations. With the issuance of the *Joint Guidance*, such practices are now imperative.

#### Guidelines Welcome

**A**lthough the federal agencies' *Joint Guidance* provides a more comprehensive architecture for discretionary overdraft services, we shouldn't perceive them as burdensome or a threat to the operation of discretionary

overdraft payment programs. In fact, they define systems that all reputable financial institutions and overdraft service providers should *already* have in place. They emphasize the need for basic tracking to help manage risk and they re-emphasize the need for compliance at the federal and state levels. They want institutions to show a *verifiable* commitment to legal and regulatory issues affecting these services.

Other areas covered in the *Joint Guidance* include new reporting procedures, financial transparency, program safety and soundness and proper due diligence efforts when selecting an outside overdraft service provider. The guidance emphasizes the need to provide marketing and educational materials that *clearly* define the overdraft program's benefits, features, costs, and limitations. The *Joint Guidance* also makes it clear that consumers should be made aware of alternatives that may be available. These are all guidelines we can live with, **for when designed and managed properly, a discretionary overdraft payment service is truly at its best when it operates in partnership with existing overdraft protection loan products.** In addition, compliance with the policies, procedures and Best Practices within the *Joint Guidance* will ensure a more consistent and better service for financial institutions and consumers.

So what do we take away from all this? First, all of us have or should have a vested interest in the future health and viability of overdraft services. As the financial industry's foremost discretionary overdraft payment service provider, it is our core business. As a financial services provider, you likely have an overdraft payment service in place or are considering one. The message within the *Joint Guidance*, in itself, is simple:

**OVERDRAFT SERVICE PROGRAMS ARE ACCEPTABLE TO FEDERAL REGULATORY AGENCIES AS LONG AS THEY ARE DESIGNED AND MANAGED WITH BEST PRACTICES THAT TAKE INTO ACCOUNT THE GUIDANCE THAT HAS BEEN SET FORTH.**

#### Validation and Definition

**N**ow that the *Joint Guidance* has been published and a procedural platform has been created to validate and give discretionary overdraft payment service an identity, how will it affect overdraft protection programs on



a practical level? We see the directives and Best Practices contained in the Joint Guidance as **a refined process to formalize and better manage discretionary overdraft payment services**. They can be characterized as a necessary and prudent enhancements of what most financial institutions *already* practice on a daily basis. They provide a substantial improvement in an institution's service portfolio.

## A "WIN-WIN" Situation

**T**he cliché is true. Discretionary overdraft payment services are a "win" situation for consumers. And *only* because of its real value to consumers, is it a "win" for financial institutions as well -- a *true* "win-win". In other words, it's a service that *really* saves consumers money in expensive third party fees they incur when their occasional overdrafts are returned unpaid. *At the same time* it strengthens your bottom line.



Who uses overdraft protection services? They are consumers you deal with every day. They represent all income levels. They may not balance their checkbooks each month but are otherwise capable, competent and *financially trustworthy*. They are people who sometimes make mistakes and they need, deserve and expect your CONSIDERATION.

Consumers like it, and are increasingly *demanding it*. It results in increased loyalty toward your *institution* and, often, can serve not only to stabilize, but expand, market share. For example, one executive, whose financial institution did not have a formalized discretionary overdraft service in place, told us he was losing account holders to a competing institution that did provide a discretionary overdraft payment service. His comment to us was, "That got my attention." His financial institution now has a formalized service in place and feels he is no longer losing account holders to the competitor.

## Third Party Providers

**T**here is no question that compliance with the final guidance will require a thorough and well prepared approach to marketing, communications and operational processes and procedures. If your institution is considering an outside source for a discretionary overdraft payment program or you feel that you need a "fresh look" at your current overdraft protection services, choose your provider wisely. Safety and soundness procedures are

considered crucial by the federal agencies. Therefore, it's extremely important that your provider is able to put the proper communication, policies, procedures, processes and training in place. And now that the *Joint Guidance* has been finalized, proper and thorough due diligence is more important than ever. Credible providers should be able at least to: (A) demonstrate a *history of significant* commitment and expertise in compliance, legal and regulatory issues affecting overdraft protection services and (B) provide regular, comprehensive updates to their institution clients on changes affecting these services.

These providers will have a demonstrable in-depth understanding of Best Practices that meet or exceed common sense guidelines. Of course, you know this is easier said than done; for yourself and for your chosen partners. In short, we can't stress enough that institutions should conduct extensive, objective and unbiased due diligence on any outside service provider they are considering; for any purpose or service, but, in this context, *especially* for 3<sup>rd</sup> party "vendors" of discretionary overdraft services. The *Joint Guidance* makes this clear. We think that's a very good thing and long-overdue.

## Moving Forward with Clarity and Purpose

**W**e strongly believe that the final guidance will benefit consumers and their financial institutions and, when managed well, will serve to reinforce consumer confidence in discretionary overdraft payment services. **The Joint Guidance on Overdraft Protection Programs will allow all of us to move forward with clarity and purpose.** Consumers have demonstrated their desire and expectation to receive this consideration and this service from the financial institution community – rather than from some other entity.

**DISCRETIONARY OVERDRAFT SERVICES ADD REAL AND FAIR VALUE TO CONSUMERS AND FINANCIAL INSTITUTIONS ALIKE. ULTIMATELY IT IS UP TO ALL OF US; CONSUMERS AND THEIR ADVOCATES, REGULATORS, FINANCIAL INSTITUTIONS AND THEIR SERVICE PROVIDERS – TO MAKE SURE THESE SERVICES ARE DESIGNED AND MANAGED RESPONSIBLY; WITH PRUDENT RESTRAINT AND PROTECTION AGAINST CONSUMER ABUSE.**



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