

Subject: Regulatory Compliance
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Those following the recent media and congressional focus on overdraft protection (ODP) programs may be wondering about the potential impact on customer relationships and future profitability. Before we examine the most recent news on this front, let us put the discussion in “Pinnacle Perspective.”

- ▶ **Pinnacle’s ODP programs have always met or exceeded regulatory guidelines**, and we will continue to ensure our programs are compliant now, and in the future. They have been designed to be customer focused and consumer-friendly.
- ▶ **Pinnacle anticipates, and responds to, any impending regulatory changes** that will help keep our clients ahead of the curve. We know it is not enough to simply make the changes necessary to keep programs in compliance.
- ▶ **Pinnacle’s client commitment is backed by a staff of banking experts**, including a 24-year veteran of the FDIC and a former General Counsel of the Federal Reserve.

With more than 12 years of industry experience, we are uniquely positioned to address any discussion regarding ODP products, legislation and compliance, so let us put the matter in appropriate context.

Practice	Latest Big Bank Response	Pinnacle Perspective
Payment Order	The big banks are now changing their payment order from high to low for the clearing of electronic items.	Pinnacle has never been an advocate of manipulating the clearing order, but has rather supported serial order or “as received” for checks, and “as received” for electronic items.
Threshold	They are no longer going to charge for very small overdraft amounts of less than 5-10 dollars.	Pinnacle has always recommended providing this small cushion before charging a fee, whenever systems have allowed it.
Item Cap	They are now capping the number of items for which they charge fees on a daily basis to approximately 4.	A daily cap on fees has long been among Pinnacle’s critical success factors.
Consumer Choice	They are now moving to an “Opt In” program, in which a customer’s overdraft will not be covered unless they affirmatively request the coverage. (This is in anticipation of the finalization of the proposed amendment to Regulation E by the Federal Reserve.)	Banks offering Pinnacle’s disclosed ODP program have always respected the customer’s choice and were among the first to offer customers an easy way to opt out of the service, an option previously not made available to customers of most of these larger institutions. Should an “opt in” for POS become the rule, Pinnacle’s communicated program will be easily adapted.

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In light of last year's financial turmoil, legislatures have been discussing new laws to curb some of the more questionable practices exercised by some of the nation's largest financial institutions. Meanwhile, regulators are increasing their scrutiny of ODP programs, the Federal Reserve continues to propose amendments to regulations, and several of the nation's largest institutions have recently changed their policies to appear to be more "consumer-friendly."

For banks that have been running Pinnacle's disclosed programs and following Pinnacle's critical success factors and regulatory best practices, there is no reason to make any changes at this time.

First of all, not all regulations have yet been formalized. These regulatory events are still unfolding, and too much information is still being delivered in the form of incomplete sound bites. Therefore, we believe strongly that implementing any changes at this point would be premature. Moreover, an overreaction prior to the issuance of new regulations could be costly and disruptive to both financial institutions and their customers. Pinnacle's practice has always been to maintain prudent, comprehensive, and evidence-based recommendations in an ever-changing regulatory environment.

Secondly, the latest "response" by the big banks has been to focus on some of their controversial and

less than consumer-friendly practices. As the chart on the front of this page shows, these are areas in which we, and therefore our clients, have already held a pioneering and leadership position in championing the consumer.

No matter what happens with pending legislation, the reality is that consumers who have been using an ODP program will most likely want to continue to do so, and they will want financial institutions to continue offering the service. The challenge will be to make sure that they understand their options and that their wishes are communicated to the respective providing institution.

Customer communication is another area in which Pinnacle has had years of experience. Disclosed programs have always been built on customer education and communication. And community banks and credit unions are themselves part of their communities, they typically have an easier time getting customers to respond.

Pinnacle's strength remains its ability to understand the regulatory issues and advise clients on the requirements for maintaining a competitive, compliant and consumer-oriented program. We are here to support our clients with modifications whenever needed, in everything from operating procedures to communications materials, in order to maintain regulatory compliance.

This Pinnacle Perspective report is part of an ongoing program to provide regular compliance updates and other news of interest to community banks and credit unions. If there are others in your organization who should also be kept apprised of these issues and their potential impact on your operations, please forward this report and/or encourage them to sign up at compliance.pinnstrat.com.