August 5,2004

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

Re: Overdraft Protection Guidance; Docket No. OP-1198

Dear Ms. Johnson:

The Community Financial Services Association of America (CFSA) appreciates the opportunity to comment on the proposed Interagency Guidance on Overdraft Protection Programs. CFSA is a national trade association of state-licensed payday lenders and federally insured depository institutions that offer payday loans. CFSA's 119 members operate over one-half of all payday loan offices in the United States.

CFSA's Best Practices Compare Favorably to the Proposed Best Practices

Like overdraft protection programs, payday loans have raised credit, legal, and reputational risks for lenders. CFSA has pro-actively addressed these risks through the issuance of its own Best Practices, which are a condition of membership in CFSA. As Attachment **A** indicates, our Best Practices compare favorably to the best practices proposed in the interagency guidance.

Our Best Practices require that the terms of a payday loan be fully disclosed in accordance with the Federal Truth-in-Lending Act, that lenders advise borrowers that payday loans are a short-term cash flow tool, not a solution for longer term financial needs, and that lenders not engage in inappropriate advertising, collection and other practices. CFSA's Rest Practices also address third party relationships with insured depository institutions, requiring that the institution be responsible for the loan. A complete set of our Best Practices appears in Attachment B.

CFSA's Best Practices have helped to transform the payday lending industry, and in so doing, have reduced the credit, legal and reputation risk associated with payday lending. The impact CFSA' Best Practices have had on risk is reflected in the following –

- Today, over one-half of all payday lending offices, as well as a number of banking institutions that offer payday loans, do so in compliance with CFSA's Best Practices:

Attachments available upon request in Sec'y Office

- Over two-thirds of the states approve of and regulate payday lending. Thirty-one states and the District of Columbia have adopted specific state laws regulating payday lending. Another five states regulate payday lending under small loan laws. CFSA has supported these state laws, and many of the provisions in these laws are based upon CFSA's Best Practices. In all of these states, banks have received public confirmation that payday lending is a mainstream, acceptable financial service to offer consumers; and

- In recognition of CFSA's Best Practices, over 107 members of Congress are on record in support of payday lending, including the Chairman of the House Financial Services Committee, the Chairman of the Financial Institutions Subcommittee of the House Financial Services Committee, and 13 Democratic members of the House Financial Services Committee. These statements appear in letters to the federal banking agencies, copies of which appear in Attachment C.

Payday Loans Compare Favorably to Overdraft Protection Programs

The growth of payday loans and overdraft protection programs reflects a consumer demand for short-term, low-denomination credit. There are, however, significant differences between payday advances and overdraft protection programs. Basically, payday loans are more transparent and less costly than overdraft protection programs. They also are subject to greater consumer and safety and soundness protections. The differences between payday loans and overdraft protection programs are summarized in Table 1.

Table 1
Comparison of Overdraft Protection Programs and Payday Advances

	OVERDRAFT PROTECTION PROGAMS	**PAYDAY ADVANCES**
What Is The Demand For The Product?	Over 250 million interbank checks were returned in 2000.	There were over 100 million payday transactions in 2003.
How Many Banks Offer The Product?	Somewhere between 1,000 and 1,500 financial institutions offer overdraft protection programs.	Currently, eleven state-chartered banks offer payday advances.
Must A Consumer Apply?	No. Most consumers are automatically enrolled when they open a checking account. Therefore, a consumer must "opt-out" of the program if he or she does not want coverage.	Yes. A consumer must affirmatively apply for an advance, and be approved based upon credit underwriting standards established by the lender.
Does Consumer Sign A Loan Agreement?	No. Overdraft protection programs are part of a checking account agreement.	Yes. The terms of the loan are governed by a loan agreement signed by the consumer.