



Jonathan Mintz
Commissioner

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Open Letter to Providers of Overdraft Opt-In Consulting and Services:

New York City's Department of Consumer Affairs (the Department) is monitoring how financial institutions implement the opt-in requirements for overdraft protection set forth by the Federal Reserve Board in Regulation E. I am concerned that your consulting services to financial institutions may encourage practices that flout the new rules.

Through aggressive enforcement of the City's local consumer protection law and work with federal and state regulators, the Department works across industries to prohibit misleading marketing and other practices that strip consumers of their legal rights. For example, our enforcement team recently inspected more than 1,100 tax preparers, issuing over 500 violations and bringing actions for false advertising. In addition, the Department has obtained more than half a million dollars in settlements from wireless phone companies for deceptive advertising. Our educational campaigns help ensure that consumers in New York City are not misled by deceptive products or services. The Department's actions help clean up the New York City marketplace and set the standard for consumer protection agencies throughout the country.

The new Federal Reserve Board protections, which go into effect July 1, 2010, provide consumers with a meaningful choice about fee-based overdraft protection. Financial institutions may not skirt the spirit or letter of the law by employing marketing strategies that trick consumers into opting into overdraft without full and complete disclosures and informed consent.

If your company offers marketing and other services to financial institutions, we would like to learn more about the strategies you are offering to ensure that these strategies comply with the Federal Reserve Board's rules.

A letter I issued today to SoundBite Communications, a company offering an opt-in strategy that includes text message solicitations and elections, is available on our website. I would like to meet with you to assess whether your marketing strategies—whether text, email, letter or telephone—are similarly aggressive and flout the regulations.

Please contact my office immediately at (212) 487-4403 to discuss any services you are offering. In the interim, I strongly urge you to guide your clients within the confines of the law. Together, we can work to ensure New York City's consumers are given the fair choice about overdraft protection that the Federal Reserve Board intends.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Mintz". The signature is stylized and cursive.

Jonathan Mintz