



## Consumer Federation of America

1620 I Street, N.W., Suite 200 \* Washington, DC 20006

October 21, 2009

The Honorable Christopher Dodd  
Chairman, Committee on Banking, Housing, and Urban Affairs  
United States Senate  
Washington, DC 20510

Dear Chairman Dodd:

Consumer Federation of America (CFA) commends you for introducing important legislation to protect the public from abusive unauthorized bank overdraft loans. The **FAIR Overdraft Coverage Act** (S. 1799) will curb many of the abusive overdraft practices that banks are free to use due to inaction by the Federal Reserve. This legislation will help consumers manage their money, avoid astronomically expensive debt, and make it safer for consumers who live paycheck to paycheck to have a bank account.

American consumers are paying \$24 billion a year for loans that banks make by authorizing payments from checking accounts when funds are not sufficient to cover the transaction. Instead of denying, at no cost, a debit card purchase or ATM withdrawal when funds are depleted, most banks routinely cover the overdraft, charge a fee, and take payment in full out of the next deposit to the consumer's account. While acknowledging that a bank extends credit when it pays an overdraft and charges a fee, the Federal Reserve has failed to require banks to give consumers comparable cost-to-borrow information, to obtain consent to use a bank's most expensive form of credit, and to process withdrawals in a fair manner that minimizes overdrafts and fees.

There is no limit on bank fees for overdrafts and no relationship between fees and the cost to cover an overdraft. As a result, the largest banks charge the steepest fees with no limits on the cost or the number of fees that can be imposed. The most recent CFA survey found that the median large bank overdraft fee is \$35, with many banks charging tiered fees and sustained overdraft fees to escalate the cost to consumers who struggle to catch up. The Federal Deposit Insurance Corporation overdraft study found that a fraction of customers pay the majority of overdraft fees. In addition, most large banks manipulate the order of processing withdrawals to maximize the number of overdraft fees that can be charged. Our polling shows that 70 percent of Americans oppose this practice.

The **FAIR Overdraft Coverage Act** protects consumers against these practices by requiring banks to:

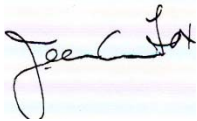
- Comply with Truth in Lending when making loans to cover overdrafts.
- Obtain consumer consent to use overdraft loans triggered by debit purchases and ATM withdrawals.

- Process payments from an account so as not to drive up the number of overdrafts.
- Limit overdraft fees to one per month and no more than six per year, ending the practice of charging additional “sustained” overdraft fees.

The bill also requires the Federal Reserve to limit overdraft fees to the reasonable and proportional cost of covering an overdraft. This combination of clear disclosures, affirmative consent, fee limits, and fair transaction ordering will go a long way toward lowering the cost and risk of using a bank account.

We look forward to working with you to win swift passage of this landmark legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Jean Ann Fox", is written over a light blue horizontal line.

Jean Ann Fox  
Director of Financial Services

cc: Senator Harry Reid  
Senator Sherrod Brown  
Senator Robert Menendez  
Senator Jack Reed  
Senator Charles E. Schumer  
Senator Carl Levin  
Senator Jeff Merkley