



Consumer Federation of America

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

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CONTACT:
Jean Ann Fox 202-387-6121
Susan Weinstock 202-387-6121
Jack Gillis 202-737-0766

CFA Calls on House to Pass the Overdraft Protection Act of 2009, H.R. 3904

Bill is needed to protect consumers from unauthorized and unjustifiably high-cost overdraft loans, the banking equivalent of payday lending.

Washington, DC -- The Consumer Federation of America (CFA) today urged Congress to protect consumers from unauthorized and unjustifiably high-cost overdraft loans. Jean Ann Fox, Director of Financial Services for the Consumer Federation of America testified before the House Financial Services Committee on the need for Congress to pass this legislation to rein in overdraft loan abuses.

“Marketed as ‘overdraft protection’ or ‘courtesy overdraft,’ fee-based overdraft programs allow banks’ to maximize fees while jeopardizing the financial stability of many of its customers,” said Fox. “Rather than competing by offering lower cost, truly beneficial overdraft products and services, many financial institutions are hiding behind a smokescreen of misleading terms and opaque practices that promote costly overdrafts.”

CFA has long called on regulators to help consumers avoid the tricks and traps associated with these fees. Without asking for consumer consent, banks and credit unions unilaterally permit most customers to borrow money by writing a check, withdrawing funds at an ATM, using a debit card at the point of sale, or preauthorizing an electronic payment that exceeds the funds available in a checking account. Instead of rejecting the debit card purchase or ATM withdrawal at no cost to the consumer, or returning the check unpaid with a bounced check fee, most institutions will now cover the overdraft and impose an expensive fee for each transaction.

“Consumers do not apply for this form of credit, do not receive information on the cost to borrow bank funds via overdrafts, are not warned when a transaction is about to trigger an overdraft, and are not given the choice of whether to borrow the funds at an exorbitant price or simply cancel the transaction,” continued Fox. “This legislation will help stop the abuse, without limiting the ability of financial institutions to provide genuine

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protection for their customers,” she said.

CFA’s most recent survey of the nation’s sixteen largest banks found that overdraft fees continue their upward spiral, with the largest fees charged by big banks ranging from \$34 at Citibank (up from \$30 in the last year) to a maximum \$39 charged by Citizens Bank. The median maximum overdraft fee for the largest banks is now \$35. While major banks have announced changes to their overdraft programs in recent weeks, none of the largest banks have lowered the price for an overdraft.

The Overdraft Protection Act, H.R. 3904 will prevent abuses by:

- Requiring financial institutions to obtain account holders’ specific written consent to enroll them in fee-based overdraft programs
- Once banks obtain consumer permission, they would only be able to charge account holders for overdrafts no more than once a month or six times per year.
- Requiring banks and credit unions to warn account holders before making a high-cost loan at an ATM or with a teller and to then permit consumers to terminate the withdrawal to avoid the fee.
- Prohibiting banks from manipulating the order in which checks or debits clear an account if the result is an increase in overdrafts.
- Clarifying that an overdraft fee is a finance charge subject to the Truth in Lending Act, thus requiring cost-to-borrow disclosures as determined by the Federal Reserve.
- Requiring the Federal Reserve to set “reasonable and proportional” bank overdraft fees, based on the cost to banks to cover these loans.
- Requiring banks to provide information to consumers about the less expensive and more appropriate products that would cover overdrafts or extend small dollar loans.

“Consumer Federation of America’s support of this bill is part of CFA’s campaign to strengthen regulation of financial products that trip up consumers,” said Susan Weinstock, Director, Financial Reform Campaign at CFA. “We look forward to the day that the Consumer Financial Protection Agency will be in place to ensure that consumers get a fair deal from lenders on a range of financial products and services, including overdrafts, credit cards, mortgages and the like.”

The Consumer Federation of American is a non-profit association of more than 280 groups that, since 1968, has sought to advance the consumer interest through advocacy and education.