

October 28, 2009

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

Dear Chairman Dodd:

We, the undersigned civil rights, labor, and consumer organizations, applaud your commitment to addressing abusive overdraft practices and offer our enthusiastic support for S. 1799, the “Fairness and Accountability in Receiving (FAIR) Overdraft Coverage Act of 2009.”

As you know, overdraft loans cost consumers nearly \$24 billion each year and are typically charged without consumers’ explicit consent. Research shows that overdraft fees hit lower-income consumers and communities of color especially hard. At a time when families are suffering tremendous blows to their net worth because of predatory lending practices, we are obligated to do all that we can to protect these financial assets from further abuse.

The most common triggers of overdraft fees are debit card transactions that could easily be denied for no fee; in fact, until recent years, they most often were. Today, banks and credit unions routinely approve debit card overdrafts with no warning, charging a fee averaging \$34 for an overdraft averaging only \$17. All too often, charging overdraft fees on debit cards unnecessarily forces low-income families into a cycle of snowballing fees that eats up a large portion of their paychecks.

Fee-based overdraft coverage is, by far, the most expensive way to have an overdraft covered. But financial institutions typically automatically enroll their customers into this coverage, rather than encouraging them to choose among lower cost options. Often, these financial institutions then manipulate the order in which they post transactions, which further maximizes fees.

S. 1799 would address the most abusive features of today’s typical overdraft programs by establishing the following key reforms, among others:

- requiring that all overdraft fees be reasonable and proportional to the cost to the institution of processing the transaction;
- limiting the number of overdraft fees institutions can charge per month and per year, without preventing them from offering a lower cost alternative if they want to continue charging for overdrafts;
- requiring institutions to obtain consumers’ affirmative consent to fee-based overdraft coverage for debit card and ATM transactions;
- clarifying that overdraft fees are a finance charge under the Truth in Lending Act;
- requiring a real-time warning at an ATM before a cash withdrawal would trigger an overdraft fee; and
- prohibiting institutions from reordering transactions to maximize fees.

Thank you for your leadership on this issue. We look forward to continuing to work with you to pursue reform of abusive overdraft loans and other predatory lending practices.

Sincerely,

American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)

Americans for Fairness in Lending (AFFIL)

Black Leadership Forum

Center for Responsible Lending

Consumer Action

Consumer Federation of America

Consumers Union

CWA-UAW Legislative Alliance

Leadership Conference on Civil Rights

NAACP

National Association of Consumer Advocates

National Black Caucus for Local Elected Officials (NBC-LEO)

National Consumer Law Center (on behalf of its low-income clients)

National Consumers League

National Council of La Raza

National People's Action

Public Citizen

Sargent Shriver Center on Poverty Law

Service Employees International Union

U.S. PIRG