



Publisher of Consumer Reports



Consumer Federation of America



June 10, 2005

Members of the Committee on Banking, Housing and Urban Affairs
U.S. Senate
534 Dirksen Senate Office Building
Washington, DC 20510

Members of the Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Senators and Representatives:

Over 90 percent of banks now routinely cover overdrafts for most accountholders without their permission, charging them at least \$10 billion in fees annually. According to a new report from Consumer Federation of America, the biggest banks that control over half of all checking accounts reap enormous profits from exorbitant fees charged when banks cover overdrafts without notice or consent of their customers. Unlike traditional overdraft protection, applied for by consumers that guarantees to cover overdrafts for reasonable fees and affordable repayment terms, banks that use “courtesy overdraft” programs charge steep penalty fees, take payment in full directly out of the consumer’s next bank deposit, and encourage consumers to overdraw their accounts.

The report highlights the need for Congress to clarify that overdrafts are covered by the basic consumer protections found in the Truth in Lending Act. Federally insured depository institutions should be required to provide affordable repayment terms when making overdraft loans and to warn consumers when ATM and debit card transactions will overdraw an account and trigger a fee.

Banks covering overdrafts do not ask for consumers’ affirmative consent to borrow from the bank, do not guarantee to pay overdrafts, and do not disclose the loan’s interest rate. Banks that advance cash at the ATM or point of sale when consumers overdraw bank accounts turn consumers’ debit cards into credit cards without the benefit of credit card protections. For example, banks cannot collect credit card bills by unilaterally taking money out of a customer’s checking account at the same bank. Banks that make overdraft loans use setoff to routinely collect payment by taking the overdraft and the fee out of the consumer’s next deposit.

Federal bank regulators have failed to protect consumers from hidden and expensive bank overdraft “bounce” loans. The Federal Reserve Board has left a Truth in Lending loophole in Reg Z that exempts banks from disclosing overdraft fees as a finance charge – (with the annual percentage rate) -- as long as there is no contract to pay overdrafts and the fees are the same for overdrafts as for bounced checks. Instead of closing that loophole, the Federal Reserve Board

adopted regulations under the Truth in Savings Act that only require banks that advertise their overdraft loans to include certain information in ads and to post overdraft totals on periodic bank statements.

The burden of paying billions in overdraft and bounced check fees falls on a fraction of bank customers. We are most concerned for consumers who have just entered mainstream banking and who do not have large balances or linked accounts to provide real overdraft protection. These young and less affluent consumers are at risk of losing their bank accounts or having to close them to avoid unexpected and uncontrollable penalty fees.

Linked below please find the CFA report “Overdrawn: Consumers Face Hidden Overdraft Charges From Nation’s Largest Banks,” and the recent study by the Center for Responsible Lending, “High Cost & Hidden From View: The \$10 Billion Overdraft Loan Market.” Together these reports document the staggering cost to consumers of bank bounced check and overdraft fees and practices and describe bank tactics used to maximize overdraft fee revenue.

If you have any questions, please call Jean Ann Fox, CFA, at 757-867-7523. We look forward to working with you to preserve consumer confidence in banking and to protect consumers from overdraft loans without contracts or cost disclosures.

Sincerely,

Jean Ann Fox
Consumer Federation of America

Susanna Montezemolo
Consumers Union

Eric Halperin
Center for Responsible Lending

Margot Saunders
National Consumer Law Center

Edmund Mierzwinski
US Public Interest Research Group

Consumer Federation of America’s report, “Overdrawn: Consumers Face Hidden Overdraft Charges From Nation’s Largest Banks” is available at:
<http://www.consumerfed.org/CFAOverdraftStudyJune2005.pdf>

Center for Responsible Lending’s report, “High Cost & Hidden From View: The \$10 Billion Overdraft Loan Market” is available at: http://www.responsiblelending.org/pdfs/ip009-High_Cost_Overdraft-0505.pdf