Consumer Federation of America

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New Study: Most Big Banks Level High "Courtesy Overdraft" Loan Fees Without Consumers' Permission

Big Banks Bury High "Courtesy Overdraft" Loan Charges In Fine Print

Washington, DC – Over eighty percent of the nation's largest banks charge consumers high overdraft fees without their permission, according to a new study released today by the Consumer Federation of America. Consumers are only informed of these charges in the fine print of their account agreements, which can cause them to inadvertently overdraw their accounts when making an ATM or debit card transaction.

"Large banks are increasingly allowing consumers to unwittingly overdraw their accounts and then hit them with hidden fees," said Jean Ann Fox, director of consumer protection for Consumer Federation of America (CFA). "A loophole in Federal rules actually permits this deceptive and abusive practice."

While recent regulatory action by the Federal Reserve singles out smaller depository institutions that promote "courtesy" overdraft loans, the nation's largest banks have also included identical provisions in their checking accounts but do not advertise them.

"The Federal Reserve missed an opportunity to require banks to give customers information about the true cost of overdraft loans. As a result, banks can continue to hide the cost of these products," said Eric Halperin, policy counsel at the Center for Responsible Lending, "Federal regulators must do more to protect consumers from these abusive loans."

CFA's study, **"Overdrawn: Consumers Face Hidden Overdraft Charges From Nation's Largest Banks,"** documents that the nation's biggest banks charge fees for discretionary overdrafts without consumer consent and that the overdraft fees charged by these banks exceed industry averages. CFA surveyed large banks controlling over half of all assets held in consumer deposit accounts. The fees at the banks CFA surveyed average \$28.57, five percent higher than average overdraft fees at two hundred bank accounts surveyed by *BankRate.com* in May 2005. Banks that offer this discretionary "courtesy" overdraft coverage in their account agreement disclosures also state they are not bound to pay transactions that overdraw depositors' accounts. If consumers who receive "courtesy" overdraft loans do not repay the overdraft quickly enough, many banks tack on an additional sustained overdraft surcharge.

Penalty fees for insufficient funds checks and overdrafts are a huge and growing burden for accountholders. Consumers pay at least $10 billion per year and as much as $22.7 billion just for overdraft loans, according to estimates by the Center for Responsible Lending. These estimates are based on reports by industry analysts and publicly disclosed checking account service fee revenue.

"These days, consumers are having a much harder time managing their bank accounts to avoid unwanted overdraft fees," said Ms. Fox.

Increasing overdraft fees are the result of changes in the marketplace and in federal law and the broader use of overdraft fees for transactions other than those involving paper checks, including ATM withdrawals and debt card purchases. Money moves out of consumers' bank accounts faster than ever due to electronic processing allowed under the Federal "Check 21" act, while deposits can be held up for days before consumers are allowed access to their funds. Big banks permit consumers to overdraw their accounts without warning them on more types of transactions. Many larger banks are also increasing the chances that consumers will overdraw their accounts by processing the largest checks ahead of smaller checks, whether or not they bank received the larger checks first. This can cause a larger number of smaller transactions to bounce for consumers with low account balances and increase fee revenue for banks.

The new generation of overdraft loans are more expensive than traditional overdraft protection, which requires that consumers agree ahead of time to pay for an overdraft from a linked savings accounts, credit card or revolving line of credit. CFA's study found that most of the largest banks offered these contractual overdraft protection policies and these options would be cheaper for consumers than "courtesy" overdraft.

"Big banks should encourage consumers to use lower cost services that are already available. Responsible overdraft protection involves a guarantee that overdrafts will be paid, reasonable fees that are clearly disclosed and affordable repayment terms," Ms. Fox stated.

Key findings of the report:

- **The Vast majority of Large Banks' Checking Account Agreements Contain Discretionary Overdraft Provisions for Paper Checks, ATM and Point of Service Transactions.** At least 27 of the 33 institutions surveyed (81.8 percent) have courtesy overdraft provisions written into the fine print of their account agreements that say that the bank may or may not, at its discretion, cover debits to checking accounts that would overdraw the account. All of these banks allowed depositors to overdraw their accounts at the ATM, 26 (78.8 percent) allow overdrafts at point-of-sale debit transactions at merchants, and 17 (51.5 percent) allow overdrafts from automated or scheduled electronic payments.

- **Fees for Overdrafts are Rising.** Current fees for overdrafts and bounced checks at the surveyed banks are higher than the fees charged for these services at larger banks in 2002. Current average overdraft fees of $28.57 are $1.73 (6.4 percent) higher than the $26.84 the Federal Reserve reported larger banks were charging in 2002.

- **Overdraft Fees at Big Banks are Higher than Average Bank Fees.** Overdraft fees at the largest banks are 5.3 percent higher than they are at average banks. The average overdraft fee at the banks CFA surveyed was $28.57, compared to the $27.13 that *bankrate.com* found in a May 2005 study of more than 200 checking accounts.

- **Nearly Half of Banks Charge Sustained Overdraft Fees.** Twelve of the banks (36.4 percent) charge additional fees for not repaying the overdraft within a certain period. These sustained overdraft charges begin on average after the fifth day the account is deficient. Seven banks charge an average $5.57 per-day sustained overdraft fee and five banks charge an average $27.50 single sustained overdraft fee.

- **Contractual Overdraft Protection is Cheaper that Discretionary "Courtesy" Overdraft.** Fees for overdraft transfers from savings accounts averaged $7.38 per transfer, about one-fourth the average overdraft loan fee of $28.57, although four of the banks with this service (14.1 percent) have an average annual fee for this service of $23.75. The average credit card overdraft transfer fee of $10.00 is less than half (35.0 percent) the average "courtesy" overdraft fee. (Interest charges in this case would be extra if the consumer did not pay the card's full balance.) Fees for transfers from lines of credit were also cheaper — an average of $5.20 per transfer, although some banks also charged an annual fee.

- **Many Banks do not Adequately Disclose a Key Factor: Check Processing Order. Others Inform Consumers that they Process Checks in a Manner that will Maximize Fee Income.** As cited above, the order in which checks are processed has a major impact on how many checks a consumer might bounce or overdraw and what they might be charged**.** Depository institutions do not generally disclose the order they process debits (paper checks, ATM withdrawals, POS purchases or electronic transfers) and many state they could change their processing order without notice to depositors. CFA found that nearly one fourth of banks (24.2 percent) refuse to disclose any debit processing order beyond "any order;" one seventh (15.2%) of banks reserve the right to process debits in any order but disclose they generally process debits from largest to smallest; and one third (33.3%) disclose they process debits largest to smallest.

About the study: CFA surveyed 33 of the nation's largest financial institutions with checking accounts. These institutions have 35,151 branches and $2.8 trillion in deposits (or 51.7 percent of all U.S. deposits). These institutions are listed as among the 50 largest depository institutions by the Federal Deposit Insurance Corporation in its Summary of Deposits database. The list of 50 depository institutions was reduced to 33 by consolidating affiliates, taking mergers and acquisitions into account, eliminating three institutions that did not offer checking accounts, and not surveying an institution in the midst of a merger for which CFA could obtain no fee information.

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CFA is a nonprofit association of some 300 pro-consumer groups, with a combined membership of 50 million people. CFA was founded in 1968 to advance consumers' interests through advocacy and education.

The CFA report is available at www.consumerfed.org/CFAOverdraftStudyJune2005.pdf