



## Consumer Federation of America

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

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Contact: Jean Ann Fox  
928-772-0674

### **Consumers Still At Risk from Bank Overdraft Loans**

#### ***Big Bank "Reforms" Fail to Protect Customers, Consumer Financial Protection Agency (CFPA) Needed***

Washington, DC --- Announced changes to overdraft programs at the nation's largest banks will not protect American consumers from exorbitantly expensive short-term loans or extend federal consumer protections to the most expensive loans banks make.

"None of the largest banks reduced their overdraft fees, which average \$35 per overdraft, or dropped sustained overdraft fees tacked on if consumers cannot repay in just days," noted Jean Ann Fox, Director of Financial Services for the Consumer Federation of America. "For a \$100 overdraft repaid in one week at that \$35 fee, consumers are paying 1,820 percent APR if computed in the same way as a short-term loan. A single \$10 overdraft loan can still cost up to \$70 if not repaid in just five days."

Banks extend credit when they cover overdrafts for a fee. However, the Federal Reserve has failed to require banks to comply with the credit laws that apply to other short-term cash loans. As a result, consumers are permitted to overspend their checking accounts without affirmative consent, do not get comparable cost-to-borrow information, and are not warned when a transaction will trigger an overdraft. Banks do not provide affordable installment repayment terms for these loans, but take payment in full out of the next deposit into an account, making the bank first in line for a consumer's next paycheck or Social Security payment.

"Overdraft loans are one of the most expensive and exploitative credit products on the market," remarked Chi Chi Wu, National Consumer Law Center Staff Attorney. "A few limited reforms by a half dozen banks aren't going to stop the abuses. These reforms are too little and too late, coming after years in which banks made billions off of overdraft abuses."

Recently announced changes in overdraft programs by some large banks are unlikely to significantly reduce costs to customers. Some banks have changed the threshold that triggers overdraft fees and have lowered the total number of overdraft fees a consumer can be charged in one day. But none of the banks are lowering the fees charged for initial or sustained overdrafts.

Chase Bank plans to permit its existing and new customers to affirmatively sign up to use overdraft loans, while other large banks have announced that they will permit existing customers to opt out of using the banks' most expensive form of credit. In some cases, banks will permit only new customers to opt in to some forms of overdrafts in the future. Citibank does not permit

its customers to incur overdrafts when using debit cards or at ATMs, although Citibank customers can incur four overdraft fees per day for checks.

“The Consumer Financial Protection Agency, under consideration this month by the House Financial Services Committee, is needed to restore consumer protections to bank overdraft lending,” said Travis Plunkett, CFA’s Legislative Director. “The Consumer Financial Protection Agency will monitor these types of transactions and provide a floor of protections for consumers so that Americans are not left to the mercy of the banks to decide on fundamental protections and fair transactions going forward.”

### **Summary of Bank Overdraft Practices and Prices**

According to recent announced changes in bank overdraft practices:

Bank of America will not charge overdraft fees if the total amount overdrawn in a day is less than \$10. The bank is reducing the total number of overdraft fees it can impose in a single day from the current ten to four. As recently as February of this year, however, Bank of America had limited the number of overdrafts to five per day.

When the changes take effect October 19<sup>th</sup>, a Bank of America customer who overdraws on four transactions that total \$10 or more will be charged \$35 for each overdraft for a total of \$140. If that customer is unable to repay in five days, she will be charged another \$35 sustained overdraft fee for each unpaid overdraft up to \$140 for a total of \$280 in fees for as little as \$10 in overdrafts for less than a week of credit.

Next June, Bank of America will make it easier for customers to opt out of using overdraft loans and will permit only new customers to opt in for overdraft loans. Bank of America did not announce a change to its current practice of manipulating transaction order by paying largest transactions first, a practice that can increase the number of overdraft fees consumers pay.

BB&T is changing its overdraft practices for debit cards and ATM withdrawals starting the first quarter of 2010 and will not charge fees for overdrafts totaling \$5 or less in a day. The bank, which currently has no limit on the number of fees it charges per day, will limit overdraft fees to four per day. The bank will start alerting ATM users when a withdrawal will overdraw the account. The bank currently permits customers to opt out of overdraft coverage.

BB&T charges \$35 per overdraft and adds a \$30 sustained overdraft fee if not repaid in seven days. When the changes take effect, the bank will be able to charge up to \$140 per day for four overdrafts that total \$5.01. If customers are not able to repay four overdrafts plus \$140 in one week, the bank will charge another \$120 in sustained fees for a total cost of \$260 for as little as \$5.01 in credit. BB&T is not providing its customers the right to affirmatively opt in to overdraft loans, but only permits customers to opt out.

Chase announced that it will give its 25 million current and new accountholders the right to opt in to overdrafts triggered by a debit card, but not for checks and other transfers. Debit card transactions and ATM withdrawals will be posted as they occur, which the bank expects will result in fewer fees. Chase will not charge its overdraft fee for overdrafts of \$5 or less in a

day and is reducing the maximum number of overdraft fees from six to three per day. Chase says that it denies ATM transactions that exceed the available funds in the account.

Chase has a tiered overdraft fee schedule, with the first overdraft in a year costing \$25, the next three overdrafts at \$32 each, and five or more overdrafts in a year at \$35 each. Chase also adds a sustained overdraft fee if an overdraft is not fully repaid in five days. This second fee varies across the country, with a maximum of \$25. As a result of the announced changes, a consumer who has three overdrafts in a day totaling \$5.01 will owe the bank \$89 if these are the first overdrafts in a year. If the customer has overdrawn at least four times in the past year, three overdrafts cost \$105 with sustained fees adding another \$75 for a total \$180 for as little as \$5.01 borrowed for less than a week.

Regions Bank is also setting a \$5 total overdraft trigger for charging overdraft fees and limiting the number of overdraft fees per day to four, effective the first quarter of 2010. The bank permits customers to opt out of overdrafts and alerts ATM users that a withdrawal could create an overdraft. Regions Bank waives the first overdraft fee a customer triggers, then charges tiered fees for any subsequent overdrafts. The first fee in a year is \$25, the next two overdrafts cost \$33, and four or more overdrafts in a year's period cost \$35 each. As a result of the announced changes, after the first overdraft in the customer's history with the bank, the bank will be able to charge a total of \$126 for four overdrafts of \$5.01 or more total in one day.

US Bank's changes as of the first quarter 2010 include a \$10 threshold of total overdrafts per day to trigger an overdraft fee and a three overdraft fees per day limit. Currently, US Bank permits up to six overdraft fees to be charged in one day. US Bank charges tiered overdraft fees, starting at \$19 for the first one, \$35 for two to four, and \$37.50 for five or more in a year, the highest fee charged by the sixteen largest banks surveyed by CFA in July. A customer with three overdrafts in a day will owe \$89 for the first incident. If the customer has overdrawn four times in the past year, total fees for three overdrafts will be \$112.50 for as little as \$10.01 borrowed.

US Bank announced it would permit current customers to opt out of using overdraft loans and new customers the ability to opt in having overdrafts paid for a fee. The bank will set an annual unspecified cap on the total amount of overdraft fees that can be assessed on a single account and will evaluate its order of posting payments to accounts. Currently, the bank pays the largest transactions per day first, which can trigger more fees.

Wells Fargo and Wachovia customers will not be charged overdraft fees if the total amount overdrawn per day is \$5 or less and will limit the total number of overdraft fees per day to four. Wells Fargo currently permits ten overdrafts per day and Wachovia has no maximum. Wells Fargo and Wachovia customers will get to opt out of having overdrafts paid for a fee, but do not get the right to opt in. Wells Fargo charges \$35 per overdraft as does Wachovia as of July. As a result of the announced changes, bank customers can be charged \$140 in overdraft fees for as little as \$5.01 in four overdrawn transactions.

Please see the attached charts for additional information.

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

**\*\* Attachment Below \*\***

**Update to CFA Survey of Overdraft Fees**

CFA issued a survey of overdraft fees as of late July. This survey is updated to show banks' announced changes to these terms in **bold**.

<b>Bank</b>	<b>OD Fee</b>	<b>Sustained OD Fee</b>	<b>Maximum Daily Fees</b>
<b>Bank of America</b>	\$35	\$35 after 5 days	<b>4 per day</b>
<b>BB&amp;T</b>	\$35	\$30 after 7 days	<b>4 per day</b>
<b>Chase</b>	\$25 first OD \$32 2 to 4 OD \$35 5 or more	0 to \$25 per OD after 5 days	<b>3 per day</b>
<b>Citibank</b> (Does not permit overdrafts by debit card)	\$34	None	4 per day
<b>Citizens Bank</b>	\$25 first OD \$37 2 <sup>nd</sup> OD day \$39 3 or more	\$35 after 6 days \$35 2 <sup>nd</sup> fee/ 10 days	No Max
<b>Fifth Third Bank</b>	\$25 first OD \$33 2 to 4 OD \$37 5 or more	\$8/day after 3 days	No Max
<b>HSBC</b>	\$35	None	No Max
<b>National City Bank</b>	\$30 to \$36	None	No Max
<b>PNC Bank</b>	\$31 1 to 3 OD \$34 4 to 6 OD \$36 7 or more	\$7/day after 4 days Max \$35 sustained	No Max
<b>Regions Bank</b>	\$25 first OD	None	<b>4 per day</b>
<b>SunTrust</b>	\$36	\$36 on 7 <sup>th</sup> day	No Max
<b>TD Bank</b>	\$35	\$20 on 10 <sup>th</sup> day	6 OD and 6 NSF
<b>US Bank</b>	\$19 first OD \$35 2 to 4 \$37.50 5 or more	\$8/day after 3 days	<b>3 per day</b>
<b>WAMU</b>	1 free OD \$34	None	7 OD
<b>Wells Fargo/ Wachovia</b>	\$35	None	<b>4 per day</b>

## Bank Overdrafts are Payday Loans

Credit extended to consumers when banks pay transactions that overdraw accounts is very similar to payday loans. Payday loans are small cash loans based on the lender holding the borrower's check for future deposit on the next payday. Parallels for these two forms of high-cost lending:

- Both require borrowers to have a bank account. Banks permit accountholders that meet threshold qualifications to use overdrafts. Payday lenders require borrowers to have a checking account and to show a recent bank statement in order to obtain a loan.
- Both are based on borrowers writing a check or authorizing a debit for more than the borrower has in the bank. Overdrafts are triggered when a consumer uses a debit card at a retailer, withdraws cash at an ATM, or has a check covered by the bank despite insufficient funds. Payday lenders hold the borrower's personal check or debit authorization as both security for the loan and the means of collecting payment.
- Both are due and payable within a few days. Payday loans are due in full on the borrower's next payday, generally 14 days. Overdraft loans are due and payable immediately. If not repaid within days, some banks add additional fees.
- Both require balloon payments of the full amount of the loan and the fees. If payday loan borrowers do not pay with cash on payday, the lender sends the check to the bank for collection. Banks demand immediate repayment and use set-off to withdraw payment for the overdraft and fees from the next funds deposited into the consumer's account.
- Both loans cost triple or quadruple-digit interest rates. The annual percentage rate for a one-week \$200 payday loan at \$17.50 per hundred is 910 percent, while a \$200 overdraft loan repaid in one week for a \$35 fee costs the same. The FDIC reported that a typical \$20 debit overdraft, costing \$27 fee, repaid in two weeks costs 3,520 percent APR.
- Both put borrowers in a debt trap. The typical payday loan borrower has 9 loans per year and ninety percent of the business is generated by borrowers with five or more loans per year. The FDIC reports that 84% of all insufficient funds and overdraft fees were paid by 8.9 percent of account holders who had ten or more overdrawn transactions in a year.
- Failure to immediately repay loans sets off a cascade of other fees. Payday lenders charge insufficient funds fees when checks are returned by the bank, plus the consumer's bank charges NSF fees each time. Bank collection through set-off may trigger more overdrafts when other payments are presented to the bank. Banks with sustained overdraft fees drive up the cost of the initial overdraft.
- Both products put consumers at risk for losing their bank accounts. Banks typically do not permit overdrawn customers to close accounts until the overdraft and fees are paid. Too many unpaid overdrafts or NSF fees can result in account closure. If the bank account is closed due to repeat overdrafts, this will be listed on credit reports which may

prohibit consumers from opening a new bank account. A Harvard Business School study found that use of payday loans increases involuntary bank account closures.

**Chart: The High Cost of Bank Overdraft “Payday” Loans**

This chart illustrates what a \$100 overdraft would cost when the overdraft remains unpaid for seven days, using the bank’s maximum fee and the sustained overdraft fees that would be imposed over a seven-day time period. The APR is computed as if this were a closed-end one-week payday loan.

<b>Bank</b>	<b>Max OD Fee</b>	<b>Sustained OD Fee</b>	<b>Total</b>	<b>APR/7 days</b>
		<b>Times # of Days</b>		
<b>Bank of America</b>	\$35	\$35	\$70	3,640%
<b>BB&amp;T</b>	\$35	\$30	\$65	3,380%
<b>Chase</b>	\$35	\$12.50 (AZ)	\$47.50	2,470%
<b>Citibank</b>	\$34	0	\$34	1,768%
<b>Citizens</b>	\$39	\$35	\$74	3,848%
<b>Fifth Third</b>	\$37	4x\$8 = \$32	\$69	3,588%
<b>HSBC</b>	\$35	0	\$35	1,820%
<b>National City</b>	\$36	4x\$8 = \$32	\$68	3,536%
<b>PNC</b>	\$36	3x\$7 = \$21	\$57	2,964%
<b>Regions</b>	\$35	0	\$35	1,820%
<b>SunTrust</b>	\$36	\$36	\$72	3,744%
<b>TD Bank</b>	\$35	\$20	\$55	2,860%
<b>U.S. Bank</b>	\$37.50	4x\$8 = \$32	\$69.50	3,614%
<b>Wachovia</b>	\$35	0	\$35	1,820%
<b>WaMu</b>	\$34	0	\$34	1,768%
<b>Wells Fargo</b>	\$35	0	\$35	1,820%