

Factsheet: Congress must Pass the Overdraft Protection Act

Overdraft fees are, in essence, a penalty for being financially insecure. Many banks allow customers to pay funds to vendors in excess of what is in their bank account. When that happens, the bank charges overdraft fees. Overdraft fees often begin a chain of events that keep customers from getting their accounts current and they can lead to numerous banking and credit issues down road.

Overdraft fees bear no relationship to a bank's costs for covering overdrafts. A typical debit card overdraft fee, the most common overdraft source, comes from a transaction of less than \$24, repaid within three days.¹ Put in lending terms, a \$34 overdraft fee for a \$24 loan of three days equals a 17,000% APR.² Nearly 80 percent of overdraft fee revenue comes from only 9 percent of accounts, and most of these frequent overdrafters usually have a median account end of day balance of less than \$450.³ Despite overdraft fees coming from low balance accounts and being seemingly infrequent, these types of bank fees amount to nearly \$12 billion a year, a burden for consumers and a source of predatory revenue for banks.⁴

Banks greedily play an active role in exacerbating the frequency and impact of overdraft fees. In some cases, a bank might re-order customers' withdrawals to maximize overdraft fees. For example, consider a customer with a \$100 balance at the beginning of the month who then, in succession writes five checks of \$6 each, and then one check of \$90. The bank might post the \$90 check first, and then begin charging overdraft fees for four of the \$6 checks, even though the consumer might think only the final \$90 check would be assessed a fee.

Under-resourced communities are disproportionately impacted by overdraft fees. Perhaps unsurprisingly, it's low- and moderate-income households that are more likely to overdraft. In fact, these families are nearly twice as frequently hit with overdraft fees than higher income households and Black and Latino Americans are more likely than white Americans to incur these fees.⁵ The

¹ CFPB Finds Small Debit Purchases Lead to Expensive Overdraft Charges, CONSUMER FINANCIAL PROTECTION BUREAU, (July 2014) <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finds-small-debit-purchases-lead-to-expensive-overdraft-charges/>

² CFPB Finds Small Debit Purchases Lead to Expensive Overdraft Charges, CONSUMER FINANCIAL PROTECTION BUREAU, (July 2014) <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finds-small-debit-purchases-lead-to-expensive-overdraft-charges/>

³ D. Low, et al., *Frequent Overdrafters*, CONSUMER FINANCIAL PROTECTION BUREAU, (August 2017) https://files.consumerfinance.gov/f/documents/201708_cfpb_data-point_frequent-overdrafters.pdf

⁴ Eva Nagypal, *Overdraft/NSF Fee Reliance Since 2015 –Evidence from Bank Call Reports*, CONSUMER FINANCIAL PROTECTION BUREAU, (December 2021) https://files.consumerfinance.gov/f/documents/cfpb_overdraft-call_report_2021-12.pdf

⁵ Stephen Arves and Meghan Green, *Amid Resurgence of Interest in Overdraft, New Data Reveal How Inequitable It Can Be*, FINANCIAL HEALTH NETWORK, (September 2021) <https://finhealthnetwork.org/amid-resurgence-of-interest-in-overdraft-new-data-reveal-how-inequitable-it-can-be/>

disproportionate impact of these high fees must also be viewed through the lens that fees are often cited as a reason formerly banked people no longer have bank accounts.⁶

Some consumers cannot recover from a negative account balance from repeated overdraft fees, which will result in the bank closing the account. In 2010, the CFPB amended a regulation that required consumers to opt into overdraft coverage before banks could charge fees for such coverage.⁷ While the purpose of the regulation was to alert consumers to possible charges they could incur; the impact exacerbated the issues overdraft fees were already creating. A combination of needing access to overdraft coverage and targeted marketing from banks resulted in the consumers who opted into the overdraft protection programs being those that had previous overdrafts and incurred fees on their accounts.⁸ Those consumers who opted into overdraft programs were 2.5 times as likely to have an involuntary account closure as opposed to those who did not.⁹ While opt in regulations were supposed to give consumers notice of the possible harmful side effects of overdraft fees, the reality is that many consumers who opted in either did not realize what they were opting into or had to choose between not risking overdraft fees and not being able to cover essential necessities in the future.

Various banks have changed their overdraft programs. Some institutions are nixing all overdraft fees, others are getting rid of non-sufficient fund or “bounced check” fees that banks charge when payments are declined, saving consumers roughly \$1 billion annually, and others are making more modest changes like 24-hour grace periods.¹⁰ While these are encouraged steps in the right direction that have provided a measure of relief to some consumers, they are insufficient. Many institutions still charge a single customer more than three overdraft fees of \$34 or more per day, costing those consumers more than \$100 in a day.¹¹ While we support these voluntary efforts and believe all banks should adopt measures to end overdraft abuse so that consumers can continue to make needed purchases without being preyed upon, it is up to our nation’s leaders to assure that all consumers are protected from these harmful fees that are holding back those who are financially vulnerable.

Members of Congress can pass the [Overdraft Protection Act \(H.R. 4277\)](#) to improve protections and disclosures under the Truth In Lending Act (TILA) for consumers regarding overdraft fees they may be assessed. In July 2022, the bill was passed out of the U.S. House Financial Services Committee in a 27-22 vote. This bill would:

- Limit the number of overdraft fees a bank may charge on a monthly and annual basis;
- Prevent financial institutions from re-ordering transactions to increase overdraft fees;
- Limit each fee to an amount that is “reasonable and proportional” to financial institutions’ costs in the overdraft coverage; and

⁶ P. Smith, S. Babar, R. Borne, *Banks Must Stop Gouging Consumers During the COVID-19 Crisis*, CENTER FOR RESPONSIBLE LENDING, (June 2020) <https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-overdraft-covid19-jun2019.pdf#page=5>

⁷ *CFPB Study of Overdraft Programs*, CONSUMER FINANCIAL PROTECTION BUREAU, (June 2013) https://files.consumerfinance.gov/f/201306_cfpb_whitepaper_overdraft-practices.pdf

⁸ *Id.*

⁹ *Id.*

¹⁰ R. Borne and A. Vasan, *Consumers on course to save \$1 billion in NSF fees annually, but some banks continue to charge these fees*, CONSUMER FINANCIAL PROTECTION BUREAU, (April 2022) <https://www.consumerfinance.gov/about-us/blog/consumers-on-course-to-save-one-billion-in-nsf-fees-annually-but-some-banks-continue-to-charge-them/>

¹¹ *Id.*

- Require financial institutions to provide consumers with the opportunity to opt-in to overdraft coverage for all transactions.

The measures in this bill will protect consumers through scaling back overdraft fees and creating guidelines to how and when these sorts of fees can be assessed. These boundaries keep consumers from being blindsided and they prevent banks from using predatory tactics for profit. Moreover, this bill will create relief for Black and Brown communities that are navigating the crippling effects of overdraft fees and increase these families' access to banking.

Passing the Overdraft Protection Act is critical to ensuring that all consumers are safeguarded from destructive fees and predatory banking practices.