

Behind The Financial Industry's Rhetoric That Overdraft Fees "Save Customers Money" Is A Much Costlier Reality For Consumers

SUMMARY: In January 2022, the Consumer Financial Protection Bureau (CFPB) launched an initiative to save consumers billions of dollars in exploitative "[junk fees](#)," including overdraft fees. In 2019 alone, large banks earned approximately **\$15.47 billion** from overdraft and non-sufficient funds fees, with the three largest banks that relied on overdraft fee revenue that year—**Wells Fargo, JPMorgan Chase, and Bank of America**—raking in over **\$6.8 billion**. In December 2021, the CFPB [reported](#) that banks "**continue[d] to rely heavily on overdraft and non-sufficient funds (NSF) revenue**" fees consumers face when overdrawing their accounts.

Overdraft fees, which were first marketed by consultants and banks as "[bounce protection plans](#)," popped-up in the 1990s and early 2000s as a "[courtesy](#)," despite [exorbitant fees as high as \\$36 for each overdraft](#). Today, the fees continue to hurt the most vulnerable consumers, who are often [living paycheck-to-paycheck](#), or those relying on the [timely receipt of benefit payments](#).

Since the popularization of overdraft programs, bank executives and consultants have continued to promote and defend the product. While the finance industry's rhetoric lauded overdraft as a service that "[saves customers money](#)" and incentivizes consumers to "[monitor and manage](#)" their finances, **the reality is that overdraft programs [cost](#) consumers billions each year, heavily [benefit](#) banks and their shareholders, and [cause](#) confusion and embarrassment for consumers.** Behind this institutional rhetoric, **the truth is:**

- **RHETORIC:** The finance industry and its consultants claimed overdraft products would [treat customers fairly](#).
 - **REALITY:** Overdraft fees [disproportionately harm low-income and Black and Latino Americans](#).
- **RHETORIC:** Banks and consultants promoted overdraft as a product that would save consumers from the "[embarrassment](#)" of [bouncing bad checks](#).
 - **REALITY:** Consumers have admitted **overdraft has been** "[a source of stress and embarrassment](#)" and were so harmful some had to rely on [friends to "scramble \\$10"](#) to try and help.
- **RHETORIC:** Consultants and financial institutions have often claimed overdraft protection would save consumers money.
 - **REALITY:** Overdraft programs have continually cost consumers billions, with consumers paying over [\\$11 billion in overdraft fees](#) in 2021 alone.
- **RHETORIC:** Industry groups have argued that overdraft programs served as a form of "[short-term liquidity](#)."
 - **REALITY:** As early as 2010, regulators clarified that overdraft programs were **never supposed to be** "[a regular source of credit](#)" and can cause "[substantial and unnecessary costs](#)" for consumers.
- **RHETORIC:** Industry groups have claimed that restricting or eliminating overdraft would drive consumers to "[predatory payday lenders](#)."
 - **REALITY:** Banks do not communicate to consumers about their [right to opt-out of a transaction](#) and **do not need to incur a fee in the first place**.
- **RHETORIC:** Bank trade groups have claimed the vast majority of consumers find overdraft protection

“valuable.”

- **REALITY:** The majority (52%) of consumers view **overdraft fees** as **“unfair”** and an even greater percentage (71%) said they would have a **more favorable view** of their bank if overdraft fees were waived or suspended.
- **RHETORIC:** Industry groups have claimed ending overdraft fees **“could harm the safety and soundness of the institution, put[ting] consumers at risk.”**
 - **REALITY:** Some banks, such as Ally Bank, that have **eliminated overdraft fees have seen increases** in consumer banking revenue, total retail deposits, and customer numbers.
- **RHETORIC:** Industry groups have argued that overdraft fees are avoidable with changes to consumer behavior and can serve as **“an incentive for consumers to monitor and manage”** their finances.
 - **REALITY:** Regulators say that overdrafts are **“easy revenue”** for shareholders.
- **RHETORIC:** The U.S. Chamber of Commerce has argued that eliminating overdraft would **“make it more difficult for consumers to manage their finances.”**
 - **REALITY:** **Banks do not effectively communicate options** with consumers and even **“rearrange”** consumer purchases to **increase the amount of overdraft revenue** it can collect from consumers.
- **RHETORIC:** The financial industry has warned that removing overdraft fees would result in **“significantly more bounced checks and declined debit card transactions,”** when in
 - **REALITY:** Consumers **already prefer** when banks make the decision to **decline a transaction instead of imposing a fee.**

In January 2022, The Consumer Financial Protection Bureau Launched An Effort To Reduce “Exploitative” Junk Fees, Including Overdraft Fees, And Called Out Banks For Still "Rely[ing] Heavily" On Overdraft And Non-Sufficient Funds (NSF) Revenue, Which Primarily Impacts Consumers With Low Balances And Who Rely On Timely Benefit Payments.

January 2022: The Consumer Financial Protection Bureau (CFPB) Launched An Effort To Save Consumers Billions Of Dollars A Year By Reducing "Exploitative Junk Fees," Such As Overdraft Fees.

In January 2022, The Consumer Financial Protection Bureau (CFPB) Launched An Initiative To "Save Households Billions Of Dollars A Year By Reducing Exploitative Junk Fees." "Today, the Consumer Financial Protection Bureau (CFPB) launched an initiative to save households billions of dollars a year by reducing exploitative junk fees charged by banks and financial companies. Today's request is a chance for the public to share input that will help shape the agency's rulemaking and guidance agenda, as well as its enforcement priorities in the coming months and years." [Consumer Financial Protection Bureau, [01/26/22](#)]

The CFPB Described A New "Fee Economy" In Which Fees Distort The "True Price Of Products" And Greatly Exceed The Cost Of Services. "Companies across the U.S. economy are increasingly charging inflated and back-end fees to households and families. This new 'fee economy' distorts our free market system by concealing the true price of products from the competitive process. For example, hotels and concert venues advertise rates, only to add 'resort fees' and 'service fees' after the fact. And fees purportedly charged to cover individual expenses, like paperwork processing, can often greatly exceed the actual cost of that service." [Consumer Financial Protection Bureau, [01/26/22](#)]

The CFPB Sought Consumers' Experiences With Being Charged For "Fees People Thought Were Covered By Its Baseline Price; Unexpected Fees; Fees That Seemed Too High; And Fees Where It Was Unclear Why They Were Charged." "The Consumer Financial Protection Bureau on Wednesday signaled a broad crackdown on hidden and excessive fees charged by banks, mortgage lenders and other financial entities. The federal agency, created in the wake of the 2008 financial crisis, is seeking consumers' input on so-called junk fees associated with their bank, credit union, prepaid or credit card account, mortgage, loan or payment transfers. Such experiences related to a product or service include: Fees people thought were covered by its baseline price; unexpected fees; fees that seemed too high; and fees where it was unclear why they were charged, according to the agency's announcement Wednesday." [CNBC, [01/26/22](#)]

The CFPB Has Found That Banks Still "Rely Heavily" On Overdraft And Non-Sufficient Funds (NSF) Revenue, And That Just Three Major Banks—JPMorgan Chase, Wells Fargo, And Bank Of America—Brought In 44% Of The Nearly \$15.5 Billion In Overdraft Revenue Big Banks Made In 2019 Alone.

December 2021: The Consumer Financial Protection Bureau (CFPB) Reported That Banks "Rely Heavily On Overdraft And Non-Sufficient Funds (NSF) Revenue, Which Reached An Estimated \$15.47 Billion In 2019." "Banks continue to rely heavily on overdraft and non-sufficient funds (NSF) revenue, which reached an estimated \$15.47 billion in 2019, according to research released today by the Consumer Financial Protection Bureau (CFPB)." [Consumer Financial Protection Bureau, [12/01/21](#)]

- **Headline: CFPB Research Shows Banks' Deep Dependence on Overdraft Fees** [Consumer Financial Protection Bureau, [12/01/21](#)]

The CFPB Found That Overdraft And NSF Fees "Made Up Close To Two-Thirds Of Reported Fee Revenue." "These overdraft and NSF fees made up close to two-thirds of reported fee revenue, emphasizing banks' heavy reliance on such fees." [Consumer Financial Protection Bureau, [12/01/21](#)]

In 2019, Just Three Of The Biggest Banks—JPMorgan Chase, Wells Fargo, And Bank of America—Brought In 44%, Or About \$6.8 Billion, Of The \$15.47 Billion In Overdraft Fee Revenue Reported By Banks With Over \$1 Billion In Assets. "Three banks—JPMorgan Chase, Wells Fargo, and Bank of America—brought in 44% of the total reported that year by banks with assets over \$1 billion. The CFPB also found that while small institutions with overdraft programs charged lower fees on average, consumer outcomes were similar to those found at larger banks. The research also notes that, despite a drop in fees collected, many of the fee harvesting practices persisted during the COVID-19 pandemic." [Consumer Financial Protection Bureau, [12/01/21](#)]

According To The CFPB, Overdraft Fees Primarily Impact Consumers With Low Balances And Who Rely On Timely Delivery Of Benefit Payments.

According To A 2017 Analysis From The CFPB, Frequent Overdrafters Who Overdraft 10 Times Over The Course Of A Year Often "Only Have A Few Hundred Dollars In Their Accounts At The End Of Any Given Day." "Ninety percent of frequent overdrafters (defined as consumers who incurred more than 10 combined overdraft and non-sufficient funds fees in a year) typically had, at the median, no more than a few hundred dollars in their accounts at the end of any given day. Dipping below a zero balance can lead to hundreds of dollars in cascading fees, which the bank will collect from the customer's next deposit." [CFPB, [03/30/22](#)]

- **In Addition, Many People Who Overdraft Live Paycheck-To-Paycheck And Are Often Relying On The Timely Delivery Of Benefit Payments.** "In 2019, banks and credit unions collected an estimated \$15.5 billion from their customers through overdraft and non-sufficient funds fees. These fees are charged when the financial institution determines that a customer's checking account does not have the

funds to cover an expense. They are often assessed for reasons people do not expect or understand, chip away at needed income including public benefits, and take a heavy toll on families living paycheck to paycheck. And, overdraft fees can ultimately drive people out of banking altogether. [...] Some people are saddled with fees when they have several pending transactions and a low balance. Indeed, many overdrafts happen soon before someone receives a paycheck or benefits payment—times when account balances are likely to be low.” [CFPB, [03/30/22](#)]

Early Overdraft Programs—Then Called “Bounce Protection Plans”—Were Heavily Pitched By Consultants Who Encouraged Banks To Capitalize On Consumers Who Wrote Bad Checks, Especially Consumers In “Areas Of High Unemployment” Or Military Post[s], Where Banks Would See “Twice As Much Activity.”

As Early As 2003, Banks Were “Aggressively Marketing A New Form Of High Cost Credit” Based On Overdraft Protection Services After Consultants Pitched “Bounce Protection Plans” As A Way For Banks To Increase Fee Income.

As Early As 2003, Banks Were “Aggressively Marketing A New Form Of High Cost Credit” Based On Overdraft Protection, According To A Report By The National Consumer Law Center. “Banks are aggressively marketing a new form of high cost credit intended to boost their fee income at the expense of the most vulnerable consumers. These products are based on overdraft protection, but are not traditional overdraft lines of credit or the occasional ad hoc practice where a bank will cover a consumer’s bounced check as a courtesy.” [National Consumer Law Center, [2003](#)]

Banks Marketed The Products After Consultants Pitched “Bounce Protection Plans” As A Way To Increase Fee Income. “Banks themselves generally do not develop bounce protection plans on their own. A handful of bank consultants are responsible for the creation of bounce protection plans, marketing them to thousands of banks. A list of these consultants is included at the end of this report.” [National Consumer Law Center, [2003](#)]

One Consultancy—Which Promised To “Turbocharge” Bank Profits— Marketed To Banks That Account Holders Who Write One Bad Check Per Month “Had The Equivalent Earnings Value” Of An Account Holder With A \$12,000 Average Balance.

2003: Consultants For John M. Floyd Associates Advertised That Banks Could Capitalize On Consumers Who Write “Only One NSF Check Per Month” Due To Them Having The “Equivalent Earnings Value Of A[n] Account Holder Who Maintains A \$12,000 Average Collected Demand Balance”:

How is the “wrong” type of account holder actually the “right” type?

Many financial institutions don’t realize that a account holder who writes an average of only one NSF check per month has the equivalent earnings value of a account holder who maintains a \$12,000 average collected demand balance. And because there are so many more account holders who are likely to take advantage of ODP than there are “affluent” account holders, financial institutions should take good care of these account holders.

[John M. Floyd Associates Overdraft Privilege Via Wayback Machine, 02/02/03, accessed [07/28/22](#)]

John M. Floyd’s Website Banner Read, “Turbocharge Your Financial Institution’s Profits” At The Time:

[John M. Floyd Associates Overdraft Privilege Via Wayback Machine, 02/02/03, accessed [08/31/22](#)]

Consultants Also Encouraged Banks To Write “Thank You” Letters To Consumers Who Overdrafted And Told Banks That Overdraft Programs Would “Create Customer Loyalty And “A Financial Safety Net And Extra Spending Power” For Consumers.

Consultants For BSG Encouraged Banks To Write “Thank You” Letters To Consumers Who Overdrafted. “Banking consultant BSG provides additional advice to bankers on how to encourage consumers to overdraft. BSG recommends increasing overdraft income by using reverse order check clearing, encouraging overdrafters to overdraft more frequently and attracting chronic overdrafters. In one of its presentations posted to its website, BSG describes how banks are doubling NSF income by currying relationships with overdraft customers, including sending a 'thank you' letter rather than a dunning letter for overdrafts; making NSF 'OK' by allowing debit card and ATM overdrafts; and being friendly to overdraft customers.” [National Consumer Law Center, [2003](#)]

- **BSG Was A Banking Consultancy That Provided Advice On “How To Encourage Consumers To Overdraft.”** “Banking consultant BSG provides additional advice to bankers on how to encourage consumers to overdraft. BSG recommends increasing overdraft income by using reverse order check clearing, encouraging overdrafters to overdraft more frequently and attracting chronic overdrafters.” [National Consumer Law Center, [2003](#)]

Consultants For Pinnacle Financial Strategies Told Banks That Implementing Overdraft Programs Would "Create Customer Loyalty" And Would "Create A Financial Safety Net And Extra Spending Power" For Consumers:

Overdraft Privilege Program for Banks

Pinnacle's Overdraft Privilege program will create customer loyalty and retention and increase fee income through your customers' expanded use of personal checking account overdrafts.

The overdraft protection they get is a privilege - not a loan. It is not tied to a note, line of credit or savings option. Customers can simply overdraw their checking accounts to your predetermined limits. They retain this privilege by bringing their checking accounts to a positive balance within your designated time limit.

Overdraft privilege should not be viewed as an encouragement to customers to overdraw their account(s). It should be viewed as a safety net for those special circumstances that sometimes arise to help customers avoid the potential embarrassment, merchant fees or potential damage to their credit rating that might occur if the check is returned.

Your customers get the financial safety net and extra spending power they deserve while you meet their need for flexible financial services.

[Pinnacle Financial Strategies Via Wayback Machine, 12/31/03, accessed [07/28/22](#)]

- **Pinnacle Financial Strategies Was A Bank Consultancy That Marketed Bounce Protection Overdraft Services.** “Sample advertisement from Pinnacle Financial Strategies, a bank consultant marketing bounce protection: ‘Take the Headache Out of Checking Account Overdrafts. Bouncing a check can be just down right humiliating! Not to mention those dog gone fees from the merchant. We’ve taken the headache out of overdrafts and the bite out of some of those excess charges you face on the

merchant side. Our overdraft privilege gives you peace of mind you deserve and a lot less headache.”
[National Consumer Law Center, [2003](#)]

Over 1,000 Banks Were Encouraging “Customers With Low Balances To Overdraw” As One Consultancy Pushed Overdraft Products In “Areas Of High Unemployment” And On Military Posts, Which It Said Could See “Twice As Much Activity” From Overdraft As Other Banks.

According To A 2003 New York Times Piece, Over 1,000 Banks Encouraged "Customers With Low Balances To Overdraw Their Checking Accounts," As Consultants For Strunk & Associates Pushed Banks To Prioritize "Low-And Middle-Income Consumers" And Banks On A Military Post." "At least 1,000 banks are encouraging customers with low balances to overdraw their checking accounts, allowing the banks to skirt credit laws and collect billions of dollars in new fees. [...] Dick Gowdy, executive vice president of Strunk & Associates, the leading vendor of overdraft programs [...] Mr. Gowdy and other consultants agree that low- and middle-income consumers with low balances are more likely to use overdraft protection than wealthier people. 'Areas of high unemployment, higher unemployment, you typically have more activity,' he said. 'If you happen to be a bank that's on a military post, you're probably doing twice as much activity as any other bank.'" [The New York Times, [01/22/03](#)]

- **January 2003 Headline: Banks Encourage Overdrafts, Reaping Profit.** [The New York Times, [01/22/03](#)]

Industry And Consultants Claimed Early Overdraft Products Would Treat Customers Fairly, While In Reality, Overdraft Fees “Disproportionately” Harm Low-Income And Black And Latino Americans.

RHETORIC: In Response To Early Criticisms About Overdraft, Consultants And Bank Officials Defended The Practice, Claiming That Overdraft “Treats All Customers Fairly” And That Banks Were “Advancing” Money, Not Lending It.

In An April 2001 Letter To The Editor Of American Banker, Consultants From The Bank Strategy Group Wrote In Response To Early Criticism That “Overdraft Coverage Preys On The Weak” Arguing Instead That “Overdraft Coverage Policies And Software Provide A Well-Defined Program That Treats All Customers Fairly.” “Overdraft coverage programs have generated some highly charged discussions in recent issues of American Banker, like Tom McGrath’s ‘Overdraft Coverage Preys on the Weak’ [Viewpoints, April 6, page 16]. [...] Overdrafts are a fundamental part of banking today, and the process for managing overdrafts in many banks without well-defined overdraft coverage policies and procedures is subjective, inefficient, and unfair to customers. Overdraft coverage policies and software provide a well-defined program that treats all customers fairly.”[American Banker, [04/20/01](#)]

July 2001: In Response To Criticism About The Cost Of Overdraft, Anat Bird, The Chief Executive Of A Bank Holding Company That Initiated Overdraft For Its Customers, Defended The Practice, Saying The Bank Was “Advancing” Money, Not Lending It, Claiming That The Practice Was A Way To “Treat [Consumers] As Special.” “The service is great,’ said Fox. ‘What I’m concerned about is how expensive it is.’ Bird disagreed. ‘We are not lending money,’ she said. ‘We are advancing it. We know you will put the money back.’ Bird added that even good customers sometimes overrun their account balances when deposits are delayed or balances miscalculated. ‘We know our customer,’ she said. ‘And we treat them as special. This is one way to show it.’” [Sacramento Bee, Loretta Kalb, 07/20/01]

- **Anat Bird Was The Chief Executive Of California Community Bancshares Inc.** “However, the plan started July 1 by California Community Bancshares Inc. in Auburn doesn't carry that requirement. The

bank will cover overdrafts, meaning checks won't bounce, but customers will still be charged a \$ 22 fee by the bank. The Consumer Federation of America said that the plan, initiated by holding company Chief Executive Anat Bird, was good overall and could help lure customers from large banking systems. But the federation added that the \$ 22 fee was too high." [Sacramento Bee, Loretta Kalb, 07/20/01]

REALITY: Overdraft Fees “Disproportionately” Harm Low-Income And Black And Latino Americans, While Black And Latino Consumers Are Also “More Likely To Overdraft Than Similarly-Situated White Americans,” Which “Exacerbates The Financial Distress Felt By Many Families.”

According To A Senior Policy Counsel At The Center For Responsible Lending, Overdraft Fees “Disproportionately” Harm Low-Income And Black And Latino Americans. "The evidence is clear that overdraft fees are levied most frequently on families who can least afford it, disproportionately harming low-income and Black and Latino Americans,' Rebecca Borné, senior policy counsel at the Center for Responsible Lending said in a written statement in response to Ally's decision 'Abusive overdraft practices are causing people who are struggling to get by to lose their bank account – something diametrically opposed to the financial industry's claim it wants to bring more Americans into the mainstream banking system,' she said." [CBS News, [06/02/21](#)]

In 2021, “Black Consumers Were 1.8 Times More Likely To Overdraft Than Similarly-Situated White Americans,” While Latino Households Were 1.4 Times More Likely To Overdraft. “These fees tend to fall on those who can least afford them, the FinHealth report found. Among households with bank accounts, Black consumers were 1.8 times more likely to overdraft at least once in 2021 than similarly-situated white Americans. Latinx households were 1.4 times more likely to pay at least one overdraft fee. ‘Racism is embedded into the system,’ Friedline says. ‘All of these kind of discriminatory, oppressive policies and procedures are built into our our financial system.’” [Fortune, [05/16/22](#)]

In 2020, Latino And Black Households Paid \$3.1 Billion And \$1.4 Billion, Respectively, In Overdraft Fees, Which “Exacerbates The Financial Distress Felt By Many Families And Contributes” To The Growing Financial Gap In The U.S. “Hispanic and Black households paid \$3.1 billion and \$1.4 billion, respectively, in overdraft fees last year, according to a recent report from the Financial Health Network, a research and consulting firm. Black Americans forked over \$800 million last year on fees for checking account maintenance, money orders and check-cashing, while Hispanic families spent \$1.1 billion on those services. Paying billions in fees ‘exacerbates the financial distress felt by many families and contributes to a well-documented and growing financial gap in this country,’ Financial Health Network CEO Jennifer Tescher said last month.” [CBS News, [06/02/21](#)]

Banks And Consultants Also Claimed That Overdraft Policies Would Save Consumers From The “Embarrassment” Of Bouncing Bad Checks, When In Reality, Consumers Have Written To The CFPB On Its Negative Impacts With Consumers Saying Overdrafts Were “A Source Of Stress And Embarrassment” And Were So Harmful They Had To Rely On Friends To “Scramble \$10” To Try And Help.

RHETORIC: Banks And Consultants Pushing Early Overdraft Policies Used “Soothing Words” That The Products Were Convenient For Consumers And Spared Them The “Embarrassment” Of Bouncing A Bad Check.

January 2003: Banks Promoted Overdraft Protection To Low-Income Depositors Using “Soothing Words” And Defended The Practice By Claiming It Was A “Popular Service That Spares Customers The Embarrassment Of Bounced Checks.” “Some banks promote ‘overdraft protection’ with soothing words to low-income depositors that if they are short of money between paydays they can ‘just write a check,’ or charge purchases on debit or ATM cards. [...] Bank officials defend ‘overdraft protection’ as a popular service that spares customers the embarrassment of bounced checks.” [SF Gate, [01/31/03](#)]

February 2003: The Commercial Bank Of Texas In Nacogdoches Published An Ad Offering Its “Convenient Overdraft Privilege Service” That Promoted “Bounce Protection’ As Handy For ‘Unanticipated Expenses.’” “Bouncing a check used to be a bad thing. But these days, many banks seem to take a forgiving - even encouraging - approach to check-bouncing. ‘Ever caught a little short?’ reads an ad from the Commercial Bank of Texas in Nacogdoches, which has \$ 290 million in deposits. ‘Our convenient overdraft privilege service can help.’ Texas Bank in Henderson promotes ‘bounce protection’ as handy for ‘unanticipated expenses.’ [The Dallas Morning News, Anuradha Reghunathan, 02/15/03]

April 2004: The Arizona Credit Union Announced It Partnered With Consultants From Floyd & Associates—Whose CEO Said That Consumers With Overdraft Privilege Avoid “The Embarrassment” Of Writing Bad Checks And “Don’t Wind Up On Retailers’ Bad Check Lists”—In Order To Offer Consumers Overdraft Privilege Programs. “Arizonans who bounce checks (share drafts) can avoid embarrassment, inconvenience and onerous costs, if their credit union offers a new overdraft privilege program being extended to affiliates of the Arizona Credit Union League (ACUL). [...] ‘This discreet service avoids the embarrassment of members ‘making good’ on a share draft (check) with a valued retailer or creditor. Neither the account holder nor the merchant loses time or productivity in straightening out an NSF (insufficient funds) mess,’ said Floyd Associates CEO John M. Floyd. Members don’t wind up on retailers’ bad check lists.” [Business Wire, [04/07/04](#)]

REALITY: Consumers Have Described Overdraft Fees As “A Source Of Stress And Embarrassment,” Putting Them “In Debt [For] Years,” And Needing Friends To “Scramble \$10 Of Their Own Money To Try And Help,” As Executives From Banks That Eliminated The Fees Agreed, Saying That It Would “Reduce That Anxiety” And “Bring Humanity To Banking.”

In March 2022, A Retired Nurse—Who Struggled To Pay Her Electric And Healthcare Bills—Found Herself Paying “A Chain” Of \$36 Overdraft Fees—And Was Worried It Would Continue If She Didn’t Receive Timely Disability Benefits. “Letitia O’Brien was down to about \$1.70. It was March and the 62-year-old retired nurse had found herself here before. Months earlier, when she didn’t have enough to cover an electric bill around \$300 and a CT scan of her chest that cost her about \$100, her account with PNC Financial Services Group Inc. overdrafted, triggering a chain of \$36 fees. Now she was worried that an upcoming grocery delivery could put her back in the same dark place. ‘I’m just laying here worrying,’ O’Brien said. ‘If that hits my bank before I get my next disability check, then I’m in big trouble—again.’” [Bloomberg, [07/26/22](#)]

In A February 2022 Comment To The CFPB, A Consumer Said Overdraft Fees “Were A Source Of Stress And Embarrassment As Someone Trying To Manage Money For The First Time”:

I'm so encouraged to see the CFPB regulating excessive fees. As a young student with my first job and the same checking account I still maintain today, I had to ask my family's help avoiding an overdraft fee once, and a couple of other times I could not avoid the fee. These fees are punitive and disproportionate to the amount of overdraft. They were a source of stress and embarrassment to me as someone learning to manage money for the first time. I would prefer gentler lessons with lower stakes for my students and one day my children. Excessive fees have had a similar chilling effect on my engagement with credit cards and mortgages: I avoid these after having seen their predatory effect on my loved ones. For financial institutions to nickel-and-dime honest, hardworking people while people rich enough not to need them get every pass imaginable is simply unconscionable. Regulations like Docket No. CFPB-2022-0003 remind me that someone is in fact looking out for those who need it most. Thank you!

[Consumer Financial Protection Bureau, [02/18/22](#)]

Another February 2022 Commenter Said Overdraft Fees Caused Such Distress That They “Sobbed Over Unexpected Overdraft Fees,” As Well As Other Bank Charges, And That “My Group Of Friends Would All Scramble For \$10 Of Their Own Money To Try To Help”:

There were times in my first college apartment where I sat in my room and sobbed over unexpected overdraft fees — or even account maintenance fees, and transfer fees — and my group of friends would all scramble for \$10 of their own money to try to help. The practice of these bank fees is incredibly unethical, and they are designed so that most of the people that are seriously affected by them stay that way, falling into hundreds of dollars of debt for an overdraft that was originally no more than two or three dollars. It causes significant financial and emotional distress, and the only people that benefit from it are the big money at the banks.

[Consumer Financial Protection Bureau, [02/07/22](#)]

In A March 2022 Comment To The CFPB, Another Consumer Revealed Overdraft Fees Kept Them “In Debt [For] Years And Had Wiped Out Any Savings I Tried To Accrue”:

Overdraft fees have kept me in debt in years and have wiped out any savings I tried to accrue. Between unexpected fees and complex rules about when and how fees would be taken out of bank accounts. This has greatly reduced my autonomy and has kept me at jobs with dangerous practices longer than necessary. Reduction or elimination of predatory fees would make it easier for millions of people to escape poverty.

[Consumer Financial Protection Bureau, [03/14/22](#)]

In November 2021, Ally Bank President Of Consumer And Commercial Banking Diane Morais Wrote That Ally’s Decision To Eliminate Overdraft Fees Was Made To “Reduce That Anxiety” And Provide Customers With “Access And Flexibility With Their Money At The Time When They Needed It Most.” “We recognized that consumers were facing extraordinary pressure, and there had never been a more critical time to deliver on our promise to ‘Do It Right.’ We wanted to do our part to help reduce that anxiety and provide customers access and flexibility with their money at the time when they needed it most.” [American Banker, [11/10/21](#)]

- **Headline: We Ditched Overdraft Fees At Ally Bank, And It's Better This Way.** [American Banker, [11/10/21](#)]

Capital One CEO Richard Fairbank Said That Capital One Eliminated Overdraft Fees In Order To Add “Simplicity And Humanity To Banking.” “Long ago, we set our sights on reimagining banking. Our award-winning checking accounts already feature no monthly fees and no minimum balance requirements. Eliminating overdraft fees is another step in our effort to bring ingenuity, simplicity and humanity to banking.” [Capital One, [12/01/21](#)]

- **Headline: Capital One Eliminates Overdraft Fees For Customers.** [Capital One, [12/01/21](#)]

Historically, Consultants And Bank Executives Claimed That Overdraft Protection Would Save “Customers Money,” When In Reality, As Recently As 2021, Overdraft Fees Cost Consumers \$11 Billion.

RHETORIC: Consultants And Bank Executives Historically Promoted Overdraft As A Service That Saves “Customers Money” And One That Many Customers “Want[ed],” With Banks Claiming Consumers Thanked Them For “Not Returning The Checks They’ve Written.”

February 2003: A Consultant Who Helped Promote Overdraft Fees To Nearly 600 Banks Argued That Customers “Like It” And “Do It Willingly And Knowingly,” Claiming It Saves “Customers Money.” “Several Texas-based consultants promote the programs as a convenience customers want and as a way for bank executives to boost revenue. ‘It saves the customers money,’ said Bill Strunk, founder of Strunk and Associates LP, a Houston-based consultant that has rolled out overdraft privilege programs at nearly 600 banks. ‘This is a value-added service for customers. They like it. They do it willingly and knowingly.’” [The Dallas Morning News, 02/15/03]

June 2003: Former President And CEO Of Greene County Bancorp J. Bruce Whittaker Celebrated Overdraft Products, Claiming Customers Were “Thanking Us For Not Returning The Check They’ve Written.” “Despite the fees and the criticism the overdraft schemes have generated among the same activists who rail about payday lenders, consumers have embraced the programs. ‘You wouldn’t believe the number of phone calls we’ve gotten from customers thanking us for not returning the check they’ve written,’ says J. Bruce Whittaker, president and chief executive of little Greene County Bancorp in Catskill, N.Y., with \$244 million in assets. ‘In the old days, a check was returned and they were in hot water with someone [the merchant or landlord] on the other end.’ Shareholders are happy, too. The bank’s noninterest income jumped 39% in the past nine months to \$1.8 million, mostly from the bank’s ‘Carefree Overdraft Privilege’ program.” [Forbes, [06/23/03](#)]

- **Whittaker Retired As President And CEO In June 2007.** “J. Bruce Whittaker retired as President and Chief Executive Officer of the Company and of The Bank of Greene County in June 2007. Mr. Whittaker has been affiliated with the Bank in various capacities since 1972.” [Greene County Bancorp, accessed [07/28/22](#)]

April 2005: The American Bankers Association Claimed That “Courtesy Overdrafts Started Because Many Customers Want[ed] Them”, And The Group’s Current Senior Vice President And Senior Counsel Of Regulatory Compliance And Policy Argued That Consumers Needed The Service Due To The Unavailability Of Real-Time Balances. “Ms. NESSA FEDDIS (American Bankers Association): People do have a responsibility to keep track of their transactions. They cannot rely on a balance that is provided to them that is not a real-time balance. PINKSTON: The American Bankers Association says courtesy overdrafts started because many customers want them.” [CBS News Transcripts The Early Show, 04/12/05]

- **Nessa Freddis Is The Current Senior Vice President And Counsel Of Regulatory Compliance And Policy At American Bankers Association.** [American Bankers Association, accessed [07/28/22](#)]

REALITY: Overdraft Fees Cost Consumers Around \$11 Billion In 2021, With 80% Of Overdraft Fees Coming From Only 9% Of Account Holders That Pay On Average \$380 In Overdraft Fees A Year.

In 2020 And 2021, Overdraft And Nonsufficient Funds Fees Cost Consumers Around \$11 Billion.

“Overdraft and nonsufficient funds (NSF) fees appear to have plateaued, totaling roughly \$11 billion both in 2020 and 2021. Recent announcements of overdraft reform by several major banks could create positive shifts in this market in 2022.” [Financial Health Network, [04/28/22](#)]

According To A Senior Fellow At The Brookings Institution, If Every Bank And Credit Union Reduced Their Overdraft Revenue By 60%, Consumers Would Save \$17 Billion. “If every bank and credit union made changes that reduced their overdraft revenue by about 60%, savings for consumers would exceed \$17 billion, Klein testified during a recent Senate hearing. ‘However...that is unlikely absent regulatory or legal changes given how dependent some institutions are on overdraft for their business.’” [Fortune, [05/16/22](#)]

- **In May 2022, Aaron Klein, Senior Fellow In Economic Studies At The Brookings Institution Testified On The Impact Of Overdraft Fees On Working Families Before The Senate Banking Committee.** [U.S. Senate Committee On Banking, Housing, and Urban Affairs, [05/04/22](#)]

80% Of Overdraft Fees Come From 9% Of Account Holders, “Paying On Average \$380 A Year,” Meaning A Person Who Earns \$38,000 A Year Is Paying 1% Of Their Annual Income On Overdraft Fees Alone. “The key to understanding overdraft is that a small number of customers account for the vast majority of overdrafts: 80 percent of overdraft fees come from 9 percent of account holders. The same data shows that one out of every twelve banked customers had ten or more overdrafts a year, paying on average \$380 a year in overdraft fees. For a person earning \$38,000 a year, that is 1 percent of their annual income spent in overdraft fees alone!” [U.S. Senate Committee On Banking, Housing, and Urban Affairs, [05/04/22](#)]

Despite The Consumer Bankers Association Arguing That Overdraft Fees Served As A Form Of “Short-Term Liquidity,” The FDIC Has Argued That Overdrafts Were Never Supposed To Serve As A “Regular Source Of Credit” And Can Cause “Substantial And Unnecessary Losses” For Consumers.

RHETORIC: The Consumer Bankers Association Promoted Overdraft As A “Form Of Immediate Short-Term Liquidity” For Consumers.

March 2022: In A Letter To The House Subcommittee On Consumer Protection And Financial Markets, The Consumer Bankers Association Stated Overdraft Was "A Safe And Affordable Form Of Immediate Short-Term Liquidity" For Consumers. "The Consumer Bankers Association (CBA) submits this letter for the record for the hearing entitled 'The End of Overdraft Fees? Examining the Movement to Eliminate the Fees Costing Consumers Billions.' Overdraft is a safe and affordable form of immediate short-term liquidity used by millions of consumers to ensure they can continue to purchase necessary goods and services. As policymakers’ review the overdraft market, it is essential that a better understanding of consumer demand for the product, its use as a form of emergency liquidity and the evolution of the overdraft product by financial institutions is warranted before making any changes that could have unintentional consequences on low to moderate-income Americans." [Consumer Bankers Association, accessed [03/31/22](#)]

- **The Consumer Bankers Association (CBA) Is A Trade Association Representing The Largest Retail Bankers, With 85% Of Members Holding Over \$10 Billion In Assets.** "The Consumer Bankers Association (CBA) is the only member-driven trade association focused exclusively on retail banking. Whether buying a home, financing an education or launching a small business, since 1919, our members have partnered with consumers to help them achieve the American dream. Our Corporate Members include the nation's largest retail banks, with 85% holding over \$10 billion in assets." [Consumer Bankers Association, accessed [08/19/22](#)]

REALITY: As Far Back As 2010, Regulators Said Overdraft Fees Were Not Supposed To Be Used As “A Regular Source Of Credit” And That Relying On Overdraft Can Cause “Substantial And Unnecessary Losses” For Consumers.

In 2010, Regulators From The Federal Deposit Insurance Corporation (FDIC) Announced Proposals To Rein In Overdraft Programs By Requiring “Banks To Obtain Customer Approval Before Providing Overdraft Services For Checks” And Requiring Banks “To Monitor Their Customers Accounts For Chronic Use Of Overdrafts And Suggest Less-Costly Alternatives To Those Customers.” “That's one of the issues that the Federal Deposit Insurance Corp. addressed in a study of banks' overdraft activity. Earlier this month, the FDIC disclosed several proposals for reining in overdraft activity at the banks it regulates. One would require banks to obtain customer approval before providing overdraft services for checks. Another would require banks to monitor their customers' accounts for chronic use of overdrafts and suggest less-costly alternatives to those customers.” [The Virginian Pilot, [08/29/10](#)]

- **Sandra L. Thompson, Director Of the FDIC’s Supervision and Consumer Protection Division At The Time, Said Overdraft Fees Were Not Supposed To Be “A Regular Source Of Credit” And “Relying On Overdrafts Can Lead Consumers To Incur Substantial And Unnecessary Losses.”** “Overdraft programs are not intended to be used as a regular source of credit,” said Sandra L. Thompson, director of the FDIC’s Supervision and Consumer protection when announcing the proposals earlier this month. “There are cheaper alternatives. Relying on overdrafts can lead consumers to incur substantial and unnecessary losses.” [The Virginian Pilot, [08/29/10](#)]
- **Sandra L. Thompson Now Serves As Director Of The Federal Housing Finance Agency.** “Sandra L. Thompson was nominated by President Joseph R. Biden to serve as the Director of the Federal Housing Finance Agency (FHFA) on December 17, 2021, confirmed by the U.S. Senate on May 25, 2022, and sworn in on June 22, 2022.” [Federal Housing Finance Agency, accessed [09/02/22](#)]

The American Bankers Association Claimed 89% Of Consumers Found Overdraft Protection “Valuable,” When In Reality, A Majority Of Consumers Polled Have Said Overdraft Fees Were “Unfair” And Supported Waivers And Suspensions Of The Practice During The Pandemic.

RHETORIC: The American Bankers Association Claimed 89% Of Consumers Found Overdraft Protection "Valuable."

May 4, 2022: In A Statement To The Senate Subcommittee On Financial Institutions And Consumer Protection, The American Bankers Association Defended Overdraft As An "Important Source Of Liquidity," Claiming 89% Of Consumers Found Overdraft Protection "Valuable." "Overdraft protection services are an important source of liquidity for many Americans. With access to overdraft protection, bank customers can have confidence that they can pay their rent or utility bill, thereby avoiding late fees, a utility shut-off, or even eviction. For customers living paycheck to paycheck, access to overdraft provides significant value. The average transaction amount paid into overdraft was \$198 in 2019, according to the research firm

Curinos. Unsurprisingly, 9 in 10 consumers (89%) find their bank's overdraft protection valuable, according to a February 2022 national survey by Morning Consult." [American Bankers Association, [05/04/22](#)]

- **The American Bankers Association (ABA) Supports America's Banks Through "Education, Advocacy, Tools And Insights."** "From delivering the latest industry news to developing mission-critical training offerings, we support America's banks as they perform their vital role in energizing the economy and helping communities thrive. As the banking industry's champion, our members turn to ABA for education, advocacy, tools and insights they need to succeed." [American Bankers Association, accessed [08/19/22](#)]

REALITY: Polls Have Shown That The Majority Of Consumers View Overdraft Fees As "Unfair," With A Vast Majority In Support Of Banks Suspending And Waiving Overdraft Fees During The Pandemic.

June 2021: Morning Consult Found That 52% Of Consumers Found Overdraft Fees As "Unfair."

"Consumers are divided on whether overdraft fees are fair: 48% say they're a fair charge while 52% view them as unfair." [Morning Consult, [06/15/21](#)]

- **Morning Consult Also Found That 7 In 10 Of Consumers Would Have A More Favorable View Of Their Financial Provider If They Waived Overdraft Fees.** "Waiving overdraft fees is a popular move, although it may not foster long-term favorability. At least 7 in 10 consumers say they would feel more favorably towards their primary financial provider if that provider waived all overdraft fees in general, during the pandemic or for those for underprivileged customers." " [Morning Consult, [06/15/21](#)]

June 2020: According To The Center For Responsible Lending, Pauses On Overdraft Fees Early During The Pandemic Were Supported By "84% Of Democrats, 76% Of Republicans, And 68% Of Independents." "Congress, federal regulators, state regulators, and banks themselves should all ensure overdraft fees are suspended during the crisis—an outcome supported by over three-fourths of Americans polled in April 2020, including 84% of Democrats, 76% of Republicans, and 68% of independents." [Center For Responsible Lending, [06/02/20](#)]

Despite The Bank Policy Institute Defending Overdraft Fees By Saying Not Charging Fees "Could Harm The Safety And Soundness Of The Institution, Put[ting] Consumers At Risk," Banks That Have Removed Overdraft Fees Have Seen Increases In Consumer Banking Revenue, Total Retail Deposits, And Customer Base.

RHETORIC: The Bank Policy Institute Defended Overdraft Fees By Saying That Not Charging Fees "Could Harm The Safety And Soundness Of The Institution, Put[ting] Consumers At Risk" And Could Force Banks To Stop Offering Certain Products, Which "Could Be Harmful To Consumers."

March 2022: In A CFPB Comment Letter, The Bank Policy Institute (BPI) Defended Overdraft And Non Sufficient Fund Fees, Arguing That Not Charging A Fee "Could Harm The Safety And Soundness Of The Institution, Put[ting] Consumers At Risk" And That Providing The Service For Free Could Force Banks To Stop Offering Certain Products Or Charge More, Which "Could Be Harmful To Consumers." "Charging a flat fee would impose costs on some customers for products or services that they do not use. For example, charging all customers a flat fee that would include insufficient funds ('NSF') or overdraft fees would impose costs on some consumers that never overdraw, or attempt to overdraw, their account. Therefore, banks generally charge fees for (i) use of a particular product or service – for example, foreign ATM or safety

deposit fees – in order to keep unavoidable charges low, and (ii) behavior that indicates risk – for example, NSF fees – that if provided free of charge could harm the safety and soundness of the institution, put consumers at risk of account closure or entering a debt spiral, or both. Further, if banks were not able to charge for services, or were limited as to the amount they could charge, the result could be harmful to consumers, as banks may simply cease offering certain products or services or charge more to consumers for other services.” [Bank Policy Institute, [03/31/22](#)]

- **According To Its Website, The Bank Policy Institute (BPI) Is A "Research And Advocacy Group, Representing The Nation's Leading Banks," With Members Including Wells Fargo, Bank of America, And JPMorgan Chase, All Of Whom Serve On The Organization's Board Of Directors.** "The Bank Policy Institute (BPI) is a nonpartisan public policy, research and advocacy group, representing the nation's leading banks. Our members include universal banks, regional banks and the major foreign banks doing business in the United States." [Bank Policy Institute, accessed [08/19/22](#)]

REALITY: A Year After Eliminating Overdraft Fees In June 2021, Ally Bank Touted Retail Deposits Increasing By \$1.9 Billion And Its Customer Base Increasing By 6% Year-Over-Year.

June 2021: Ally Bank Eliminated Overdraft Fees. "Ally Bank, the largest digital bank in the U.S. and a division of Ally Financial Inc. (NYSE: ALLY), eliminated overdraft fees on all accounts today. Every Ally Bank customer is eligible, and there are no requirements or restrictions." [Ally Bank, [06/02/21](#)]

July 2022: Since Eliminating Overdraft Fees A Year Prior, Ally Bank's CEO Jeffery Brown Touted "Strong Operational Results Again" In Its Q2 2022. "Ally delivered strong operational results again this quarter, including net financing revenues growing for the eighth consecutive quarter and net interest margin exceeding four percent for the first time in company history. Our teams remain focused on controlling what we can control – primarily taking care of our customers across all our businesses. Our scale and ability to adapt to changing conditions allowed Ally to generate the strongest quarter of retail auto originations in sixteen years while increasing expected risk-adjusted yields. Newer businesses like Ally Credit Card are steadily growing and helping offset more cyclical businesses, like Ally Home," said Ally Chief Executive Officer Jeffrey Brown." [Ally Bank, [07/19/22](#)]

July 2022: Ally Bank Reported That Its Retail Deposits Increased \$1.9 Billion Year-Over-Year. "Retail deposits increased to \$131.2 billion at quarter-end, up \$1.9 billion year over year and down \$4.8 billion quarter over quarter. Total deposits increased \$1.3 billion year over year to \$140.4 billion and Ally maintained industry-leading customer retention at 96%." [Ally Bank, [07/19/22](#)]

July 2022: Ally Bank Reported That Its Retail Customer Base Increased By 6% Year Over Year. "Ally's retail deposit customer base grew 6% year over year, totaling 2.5 million customers at quarter-end. Millennials and younger customers continue to comprise the largest generation segment of new customers, accounting for 69% of new customers in the quarter." [Ally Bank, [07/19/22](#)]

REALITY: Banks That Drastically Cut Or Eliminated Overdraft Fees Found That "They Could Earn Big Profits Without Charging Fees On Their Customers," As Capital One Announced Its "Consumer Banking Revenue Grew 2% From The Prior Year Quarter" Despite Eliminating Overdraft Fees.

Regional Banks Such As PNC And Capital One That Largely Curtailed Or Eliminated Overdrafts Argued That The Pandemic Showed Banks "Could Earn Big Profits Without Charging Fees On Their Customers." "Starting the middle of 2021, regional banks such as PNC and Capital One, as well as the online bank Ally, announced plans to eliminate overdraft fees or find ways to curtail them dramatically. Most of the banks said the fees largely impacted the poor and racial minorities, or that the pandemic had shown the banks

they could earn big profits without charging fees on their customers, in explaining their decision.

[Associated Press, [08/17/22](#)]

April 2022: In Its Q1 2022 Earnings Call, Capital One CEO Richard Fairbank Said Average Deposits Were Up 2% Year-Over-Year And “Consumer Banking Revenue Grew 2% From The Prior Year Quarter, Despite Its Decision To Eliminate Overdraft Fees.” “Rich Fairbank -- Chief Executive Officer [...] First quarter ending deposits in the consumer bank were up \$4.4 billion or 2% year over year. Average deposits were also up 2% year over year. Consumer Banking revenue grew 2% from the prior year quarter, driven by growth in auto loans, partially offset by declining auto loan yields and the early effects of our decision to completely eliminate overdraft fees. The year-over-year decrease in auto loan yields was driven by a mix shift toward prime loans and our focus on booking higher-quality loans within credit segments.” [The Motley Fool, [04/26/22](#)]

The Bank Policy Institute Argued That Overdraft Fees Are Avoidable Through Changes To Consumer Behavior And Are “An Incentive For Consumers To Monitor And Manage” Their Finances, While In Reality, Regulators Say Overdraft Fees Are “Easy Revenue” For Shareholders.

RHETORIC: The Bank Policy Institute Argued That Overdraft Fees Are Avoidable Through Changes To Consumer Behavior, Adding That They "Provide An Incentive For Consumers To Monitor And Manage Their Account Balances And Expenditures."

The Bank Policy Institute Refuted The Claim That Overdraft Fees "Are Not Meaningfully Avoidable," Stating These Fees Are Avoidable Through Changes To Consumer Behavior And Bank Communications. "The RFI's assertion that 'inflated or surprise fees that, however nominally voluntary, are not meaningfully avoidable or negotiable in the moment' is inaccurate with respect to certain fees referenced in the RFI. For example, fees such as late fees, overdraft fees, and NSF fees are only assessed when consumers engage in certain behavior and are thus avoidable by consumers. Further, as described below, many banks provide numerous free services to help consumers avoid incurring these behavior-related fees, such as sending text or other notifications when a customer's balance decreases to a certain level, sending monthly statements, and providing numerous digital tools, such as apps, that consumers can use to access their account balances, payment due dates, and other account-related information instantly." [Bank Policy Institute, [03/31/22](#)]

BPI Added That Overdraft Fees "Provide An Incentive For Consumers To Monitor And Manage Their Account Balances And Expenditures." "These fees serve a deterrence purpose analogous to the deterrence effect of late fees on consumer debt—they provide an incentive for consumers to monitor and manage their account balances and expenditures." [Bank Policy Institute, [03/31/22](#)]

REALITY: CFPB Director Rohit Chopra Has Said That Overdraft Fees Are “Ready, Reliable, Predictable Easy Revenue” For Banks’ Shareholders.

December 2021: CFPB Director Chopra Said That “For Many Big Banks, Overdraft Fees Are Still The Ready, Reliable, Predictable Easy Revenue That Shareholders Love.” “For many big banks, overdraft fees are still the steady, reliable, predictable, easy revenue that shareholders love,’ said Rohit Chopra, director of the Consumer Financial Protection Bureau, in remarks last week where he directed the bureau to more closely examine bank overdraft practices.” [U.S. News, [12/14/21](#)]

The Consumer Bankers Association Has Argued That Restricting “Short-Term Liquidity Options”—Like Overdraft—Would Drive People To “Predatory Payday Lenders,” While In Reality, Many Consumers Have Said That Banks Do Not Communicate Less-Expensive Options To Them And They Were Unaware They Have The Right To Decline A Payment In Order To Avoid An Overdraft Fee.

RHETORIC: The Consumer Bankers Association Has Claimed Restricting Overdraft As a Form Of “Short-Term Liquidity” Would Lead Customers To “Predatory Payday Lenders.”

The Consumer Bankers Association Argued That Restricting "Short-Term Liquidity Options" Like Overdraft Would "Drive Many Families To Predatory Payday Lenders" And Urged Policymakers To "Focus On The Consumer Need." "These finding [sic] underscore the fact that, outside of overdraft, few options remain for consumers to meet their liquidity needs within the well-regulated, well-supervised banking system. CBA has long warned, and bank regulators agree, that further restricting access to short-term liquidity options, such as overdraft services, would drive many families to predatory payday lenders and other expensive venues. Accordingly, we urge policymakers to focus on the consumer need, a complete market analysis, including the many changes already in place, and take into consideration all of the facts as they consider future action." Consumer Bankers Association, accessed [03/31/22](#)

REALITY: According To A 2017 Pew Study, Nearly 3 In 4 Overdrafters Do Not Know They Can Have Debit Transactions Declined Without Accruing A Fee, With A Majority Saying That Banks Already “Do Not Communicate With Them About Less Expensive Options.”

December 2017: According To The Pew Charitable Trusts, “Nearly 3 In 4 Overdrafters Do Not Understand That They Have The Right To Have Transactions Declined Without A Fee.” “Nearly 3 in 4 overdrafters do not understand that they have the right to have transactions declined without a fee if their account does not have sufficient funds to cover a debit card purchase.” [Pew Charitable Trusts, [12/20/17](#)]

Pew Also Found That “Most” Consumers Reported That Their Banks Did Not “Communicate With Them About Less Expensive Options.” “Most, including those who overdraw their accounts frequently, report that their banks do not communicate with them about less expensive options. Even when conversations do happen, they do not typically lead to a better understanding of opt-in rights.” [Pew Charitable Trusts, [12/20/17](#)]

While The U.S. Chamber Of Commerce Argued That Taking Away Overdraft Would “Make It More Difficult For Consumers To Manage Their Finances,” The Reality Is That Banks “Do Not Communicate” With Consumers And Rearrange Purchases To “Get The Overdraft Quicker, Thereby Maximizing Profits”—With Many Consumers Reporting Overdraft Being “One Of The Most Difficult And Challenging Parts” Of Their Lives And A Source Of Confusion—All While Banks Are Capable Of Providing Overdraft Services Without Charging A Fee.

RHETORIC: The U.S. Chamber Of Commerce Argued That Taking Away Overdraft Would “Make It More Difficult For Consumers To Manage Their Finances” And That Many “Consumers Benefit From Overdraft Protection.”

November 2021: The U.S. Chamber Of Commerce Sent A Letter To The House Financial Services Committee In Opposition To The Overdraft Protection Act, Arguing The Bill Would “Make It More Difficult For Consumers To Manage Their Finances” And That “There Are Many Instances In Which Consumers Benefit From Overdraft Protection.” “This bill would make it more difficult for consumers to manage their finances by restricting the type of overdraft protection products that can be offered by financial institutions. [...] There are many circumstances in which consumers benefit from overdraft protection from their bank. For example, it may help them make a payment on a debt obligation so they can avoid a late fee.” [The U.S. Chamber Of Commerce, [11/15/21](#)]

- **The U.S. Chamber Of Commerce Is “The World’s Largest Business Organization” Representing “Industry Associations” And “Global Corporations.”** “The U.S. Chamber of Commerce is the world’s largest business organization. Our members range from the small businesses and chambers of commerce across the country that support their communities, to the leading industry associations and global corporations that innovate and solve for the world’s challenges, to the emerging and fast-growing industries that are shaping the future.” [U.S. Chamber of Commerce, accessed [08/19/22](#)]

REALITY: Banks “Do Not Communicate With [Consumers] About Less Expensive Options” And Rearrange Purchases From Highest To Lowest To “Get The Overdraft Quicker, Thereby Maximizing Profits,” All While Banks Can Still Provide Overdraft Services Without Charging Additional “Restrictions Or Penalties.”

December 2017: The Pew Charitable Trusts Found That Consumers “Do Not Understand Their Rights” When It Comes To Overdraft And Banks “Do Not Communicate With Them About Less Expensive Options.” “Consumers use and view overdraft programs differently depending on their financial circumstances, and the current marketplace is failing to effectively serve a large share of customers. Overdrafters largely do not understand their rights, particularly with respect to opting in to overdraft. Most, including those who overdraw their accounts frequently, report that their banks do not communicate with them about less expensive options. Even when conversations do happen, they do not typically lead to a better understanding of opt-in rights.” [Pew Charitable Trusts, [12/20/17](#)]

Banks Rearrange Purchases From Highest To Lowest, Allowing Them To “Get The Overdraft Quicker, Thereby Maximizing Profits.” “But rather than charge him one overdraft fee, his bank rearranges his purchases from highest to lowest, and charges him three overdraft fees. By clearing the highest purchases first, banks are able to get the overdraft quicker, thereby maximizing profits.” [The Daily Show With Trevor Noah via Youtube, [08/18/22 05:15](#)]

November 2021: In Ally Bank’s Decision To Eliminate Overdraft Fees, The Bank Said It Still Completes Many Overdraft Transactions Without Creating Additional “Restrictions Or Penalties” In The Form Of A Fee. “Another reasonable question is whether eliminating overdraft fees might ultimately harm consumers due to other restrictions or penalties. Again, the answer for us was no; we did not change anything else in the overdraft experience. We still complete many transactions that overdraft our customers’ balances, but we simply don’t charge an additional fee for doing so — we assume that risk.” [American Banker, [11/10/21](#)]

REALITY: Consumers Reported Overdraft Being “One Of The Most Difficult And Challenging Parts Of My Life,” And A Source Of Confusion Over Available Balances, With One Consumer Accusing Their Bank Of Using “Trickery.”

According To A 2019 National Consumer Law Center Report, A Single Mother Reported Overdraft Being “One Of The Most Difficult And Challenging Parts Of My Life,” Which “Worsened My Depression” And Felt “Impossible To Get Ahead.” “I’m a single mother of three, and for as long as I can remember overdraft fees have always been one of the most difficult and challenging parts of my life. Overdraft fees put me in the arena of living paycheck to paycheck, and sometimes without a paycheck. The reason for this is that these exorbitant fees left me, many times, in the negative. [...] As the matriarch of a family, feeling unable to provide for my family due to overdraft fees worsened my depression and sometimes made it hard to get out of bed in the morning. They just made it feel impossible to get ahead.” [National Consumer Law Center, [07/01/19](#)]

The Report Continues That Consumers Expressed Confusion Over Available Balance, In Which Their Balance Included “‘Pending’ Transactions” That Caused Consumers To Believe Funds Were Available At The Time Of The Transaction, With One Consumer Accusing Their Bank Of Using “‘Trickery.’” “Confusion over available balance: These customers conveyed that based on their actual review of their available balance, often including any ‘pending’ transactions, they believed funds were available for transactions they made, but later learned the transactions had triggered overdraft fees. The following example depicts a customer charged \$150 in overdraft fees after believing, based on online balance information, that the account would not become overdrawn: ‘I thought I had positive balance when in actuality I had a negative balance because what was on the website was not the real balance. I attached my last withdrawal, when I thought I had enough in my account to do so. I would have taken out less cash if I had known they took the pending debits off my balance. That 's trickery they used. I ended up being charged overdraft fees and then extended overdraft fees that added up to around {\$150.00}.’ CFPB Consumer Complaint Database, Complaint ID 1419143 (received 6/12/2015).” [National Consumer Law Center, [07/01/19](#)]

Despite The Independent Community Bankers Association Arguing That Removing Overdraft Fees Would Result In “Significantly More Bounced Checks And Declined Debit Card Transactions,” A “Large Majority Of Consumers” Prefer That Banks Decline Debit Card Transactions Than Charge An Overdraft Fee Given That “Every Bank Has The Ability To Decline Any Purchase That Would Cause An Overdraft.”

RHETORIC: The Independent Community Bankers Association Argued That Removing Overdraft Fees Would Result In “Significantly More Bounced Checks And Declined Debit Card Transactions.”

June 8, 2022: In A Letter To The House Financial Services Committee, The Independent Community Bankers Association Urged Congress To Reject The Overdraft Protection Act, Arguing Overdraft Restrictions Would Force Banks To Stop Offering Overdraft Services Which Would Result In “Significantly More Bounced Checks.” “The Overdraft Protection Act (H.R. 4277) [...] H.R. 4277 contains overdraft restrictions that would force many community banks to stop offering overdraft services to their customers. Such restrictions would result in significantly more bounced checks and declined debit card transactions—leading to unnecessary credit rating harm. H.R. 4277 will not address or stop fees and additional consequences for missed or late payments levied by landlords, medical insurance, utility companies, childcare, and other payment stakeholders. ICBA urges the Committee to reject H.R. 4277.” [Independent Community Bankers Of America, [06/08/22](#)]

- **The Independent Community Bankers Of America Represents Community, With A Proclaimed Mission Of “Creat[ing] And Promot[ing] An Environment Where Community Banks Flourish.”** “The Independent Community Bankers of America is the nation’s voice for community banks with its mission to create and promote an environment where community banks flourish. We are dedicated exclusively to representing the interests of the community banking industry and its membership through

effective advocacy, best-in-class education, and innovative products and services.” [Independent Community Bankers of America, accessed [08/19/22](#)]

REALITY: In Addition To Banks Still Providing Overdraft Services Without Additional “Restrictions Or Penalties” For Consumers, A “Large Majority Of Consumers” Prefer That Banks Decline Debit Card Transactions Than Charge An Overdraft Fee, With Consumers Complaining About Being “Taken Advantage Of” With “Egregious” Charges For Transactions That Could Have Simply Been Declined.

Despite These Claims From Industry, In Ally Bank’s Decision To Eliminate Overdraft Fees, The Bank Said It Doesn’t Create Additional “Restrictions Or Penalties” For Customers And The Bank Just Doesn’t Charge A Fee. “Another reasonable question is whether eliminating overdraft fees might ultimately harm consumers due to other restrictions or penalties. Again, the answer for us was no; we did not change anything else in the overdraft experience. We still complete many transactions that overdraft our customers’ balances, but we simply don’t charge an additional fee for doing so — we assume that risk.” [American Banker, [11/10/21](#)]

According To The National Consumer Law Center, A “Large Majority Of Consumers” Prefer That Banks Decline Debit Card Transactions Than Approve Them And Charge An Overdraft Fee, As Several Financial Institutions Can Decline Transactions Without Charging A Fee. “Further, repeatedly, a large majority of consumers have stated that they prefer that banks decline debit card overdrafts rather than approve them in exchange for the typical fee. Some institutions do not charge overdraft fees on debit card purchases (Bank of America, Citibank, HSBC) or ATM transactions (Citibank, HSBC, Chase), showing that it is more than possible to offer only bank accounts that decline such transactions without a fee.” [National Consumer Law Center, [07/01/19](#)]

In An April 2022 Comment To The CFPB On Overdraft Fees, One Consumer Said Overdraft Fees At Their Bank Could Be Avoided If They “Simply Declined Payments On Debits, Automatic Payments, And Checks For Which There Were Insufficient Funds,” Adding That The Bank’s Overdraft “‘Courtesy’ In Order To ‘Prevent The Embarrassment Of A Returned Payment’” Is Really Them “Taking Advantage Of Their Own Customer”:

I contacted the bank as soon as I became aware of the situation and offered to replenish the account if they would withdraw the fees. They declined and so I filed the attached complaint. The bank subsequently resolved the complaint along the lines I originally proposed.

In my view, the whole situation could have been avoided if the bank had simply declined payment on debits, automatic payments, and checks for which there were insufficient funds. That’s essentially what happens with a credit card when the credit limit is reached.

The bank’s view is that it was providing an overdraft as a “courtesy” in order to “prevent the embarrassment of a returned payment.” But in my view what they were really doing was taking advantage of their own customer in a moment of vulnerability.

[Consumer Financial Protection Bureau, [04/01/22](#)]

In A February 2022 Comment To The CFPB, Another Consumer Said It Is “Especially Egregious” Charging Someone Overdraft Fees When “Every Bank Has The Ability To Decline Any Purchase That Would Cause An Overdraft”:

Comment

What sense is there is charging someone money because they don't have enough money? It's especially egregious in our current digital era when every bank has the ability to decline any purchase that would cause an overdraft.

[Consumer Financial Protection Bureau, [02/18/22](#)]