

March 3, 2023

The Honorable Michael Hsu, Acting Comptroller  
Office of the Comptroller of the Currency  
400 7th Street, SW  
Washington, DC 20219

RE: Overdraft Practices

Dear Acting Comptroller Hsu:

We, the undersigned consumer and civil rights groups, urge you to act and ensure that OCC-supervised banks make necessary reforms to their inequitable overdraft programs. The practice of charging high-frequency, high-cost overdraft fees that do not reflect actual bank expenses is not just unfair - it also preys upon the financial vulnerability of lower-wealth households, and even drives many of them out of the banking system and towards other financial services with fewer protections. Reforming these practices is key, and should be required before any OCC-supervised bank is allowed to expand using mergers or asset-increase approvals.

Overdraft practices typically started as courtesy programs designed to help bank customers avoid bouncing checks, with the intent that they would be used infrequently when their accounts had negative balances. At the time, the programs were largely manual, and the fees charged aligned with the costs of manual operations. Yet technological innovation and industry practices have morphed what was once a simple, courtesy program into an automated, high-revenue business line. Bank policies incentivize overdrafts by lower income customers who also demonstrate a higher propensity to overdraft their accounts. The volume of overdrafts generates penalty fees that are multiple times their average costs, at great expense to the most financially vulnerable customers. Most of this return comes from customers with lower account balances, who incur more of these fees. Customers of color are overrepresented in this group.

Over the last two years, increased attention to the dysfunction of the overdraft system has led to some changes by banks in their programs. The elimination of NSF fees, where banks charge \$30 or more for an action that cost them pennies, is particularly helpful to the lower-balance accounts that incurred most of these fees. Yet other reforms, such as account balance cushions without fees and cure periods, provide more options for some customers, but they do not address the core problem and harmful impact of overdraft fees.

First, overdraft fees are still penalty-level fees unrelated to a bank's actual costs. Second, the vast bulk of these fees are still paid by low-balance accounts. In our work with banks on their overdraft programs, we have been told that cushions, cure periods, and balance alert programs have reduced the percentage of accounts that incur overdraft fees, and have somewhat reduced the overall level of fees, but they have far less impact on high-frequency accounts.

Indeed, with a reduced number of customers incurring the occasional overdraft, the continuing overdraft fees are even more concentrated in the remaining high-frequency accounts.

Therefore, we specifically request that banks seeking to expand their activities through asset growth approvals or mergers be required to first adopt overdraft reforms that meaningfully reduce the imposition of these fees on working families with lower balance accounts. Simply put, banks must set limits on the number of overdraft fees that they charge, and also bring the amount of those fees closer in line with their actual bank costs. This is especially important if a bank has, for many years, benefited greatly from operating one of the most abusive overdraft programs. To the extent that they seek to expand in size and scope, it is reasonable to expect that they undertake the most effective and comprehensive reforms as a way of demonstrating their commitment to meeting the convenience and needs of the communities they intend to serve by expansion.

The past few years have produced long-overdue progress in reducing the harm of abusive overdraft programs. We thank you for your work in lifting up this issue and for pressing banks to reform their practices. We ask that you continue these efforts by ensuring that the most vulnerable households do not bear the large burden of these unjustified fees. By asking expanding institutions to self-impose limitations on both the number of overdrafts and costs of overdraft fees, your agency would be advancing inclusive banking, complying with the President's orders for greater equity, and ensuring that banks satisfy their duty to treat all customers fairly.

Respectfully,

Accountable.US

Americans for Financial Reform Education Fund

California Reinvestment Coalition

Center for Responsible Lending

Consumer Action

Consumer Federation of America

Consumer Reports

The Leadership Conference on Civil and Human Rights

NAACP

National Consumer Law Center (on behalf of its low-income clients)

Revolving Door Project

UnidosUS

20/20 Vision DC