FEB 3 2016

Prepared Remarks of CFPB Director Richard Cordray at a Field Hearing on Checking Account Access

BY RICHARD CORDRAY

Thank you for joining us today in Louisville to talk about individual checking and savings accounts. When I think about these deposit accounts, I am reminded of my Dad, now 97 years old, who lost all his paper route money in a bank failure during the Depression. Of course, banking today has little in common with the banking of my Dad's boyhood. In his day, consumer finances were transacted primarily in cash, and financial panics frequently caused liquidity crises that did severe damage to the economy. Today, people can rely on the security of federally insured accounts. And how we use deposit accounts has changed profoundly – with much greater access to our money and more convenient ways of paying without cash.

At the time my parents helped me open my first passbook account as a child, the deposit account experience was pretty simple and straightforward. Banks accepted people's money with the promise of holding on to it safely. When consumers went (in person) to withdraw funds, they either had the money in their account or they did not, and the bank would only provide as much money as was available in the account. But a few decades ago, all of this changed dramatically when people began to be able to overdraw their accounts as a more routine matter.

Today, for a wide variety of reasons, there are nearly 10 million unbanked households that have no checking or savings account. Some consumers may have been rejected when they tried to open an account before, or they might have lost an account after it became overdrawn and they were unable to recover. Others might simply choose not to participate in the banking system, perhaps because they are uncomfortable with the costs or risks they believe it poses for them.

At the Consumer Bureau, we believe that people who want the benefits and convenience of some kind of deposit account deserve a fair opportunity to have one. We are concerned that some people are being inappropriately sidelined by two things. The first is the lack of account options that fit their financial needs and situations. The second is inaccurate information used to screen some potential customers.

Today the Bureau is taking three steps to address these concerns. First, we are encouraging banks and credit unions to make lower-risk accounts more accessible to more consumers. Second, we are pressing the banks and credit unions, as well as the consumer reporting companies, to improve the accuracy of the checking account reporting system. Third, we are providing new resources to help consumers better understand how to navigate their options. If we can make it a point to do all of these things, consumers will benefit by having more choices and more predictable costs.

***

On the first point, today we are urging banks and credit unions to make more product choices available to consumers; after all, a healthy market thrives when people have multiple options that can better fit their needs.

In the 1980s, as automated teller machines and electronic payment channels emerged, banking changed in important ways. Many banks and credit unions began to authorize overdraft transactions on a more regular basis both for electronic transactions and for checks. This willingness to advance funds helped people avoid bouncing checks or having debits returned unpaid, but it also allowed the institutions to collect more fees.

Over the years, overdraft programs have become a significant source of industry revenues, and a significant reason why many consumers incur negative balances. Too many problems with overdrafts can cause people to give up on the banking system or force them out of it altogether.

To ensure that people have account options that meet their needs, the Consumer Bureau is encouraging banks and credit unions to offer the choice of enrolling in deposit accounts that are designed to help consumers manage their spending and avoid overdrafts and fees. Although a majority of customers seem to be well served by the deposit accounts now offered at virtually all financial institutions, others struggle to deal with certain riskier aspects of those accounts. Rather than ending up stuck outside the banking system or incurring costs they can ill afford, these consumers can better manage their money and avoid financial distress by signing up for accounts designed to prevent overdrafts and overdraft fees. By simply offering consumers a bit more choice, banks and credit unions could help more people enjoy the many benefits of a banking relationship.

In particular, we support the FDIC's efforts to encourage financial providers to offer lower-risk account options on a broader basis. We also applaud the work being done nationally by the Bank On movement, and specifically by Bank On Louisville, which is a coalition that includes Louisville Metro, a number of banks and credit unions, and nonprofit partners. The "national account standards" established by Bank On exemplify the kind of lower-risk products that could be offered as an option for consumers. Thus far, too few of our financial institutions have developed such products or marketed them as much as they do their other products.

Who is the audience for these products? One substantial group of potential customers gets screened out right now when their past history shows they may have trouble handling the risks posed by traditional deposit accounts. Yet if these customers are matched with accounts that have more fitting terms, then they need not be excluded from the banking system. Instead, they can become depository customers with the potential to develop healthier financial lives as they find success and grow into other banking products and services.

A second potential audience is consumers who have chosen to drop out of the banking system because they found themselves paying high fees they did not anticipate or, in hindsight, wanted to avoid. In the FDIC's latest survey of unbanked households, almost one-third identified the unpredictability of fees as a reason for not having a bank account. Lower-risk accounts could minimize or eliminate their exposure to such fees.

A third potential audience is consumers who are new to checking accounts, including young adults just entering the banking system, some of whom experience more risk of losing control of their spending and hence their accounts. Some banks that have added lower-risk accounts to their offerings have expressed surprise at the strong uptake they have seen from millennials in particular with these accounts.

Finally, many other consumers who have shown themselves to be perfectly capable of managing their accounts successfully might prefer to have a choice between a traditional deposit account and a lower-risk account that helps them avoid overspending, stay on a budget, and not be subject to unforeseen fees.

The existence of these several audiences seems to offer a powerful response to the financial institutions that have implicitly or explicitly rejected these safe banking products as idealism or mere charity. By unnecessarily limiting their product choices, these institutions have missed a substantial segment of the population rather than finding a way to include them and help develop their economic potential. Among young people just entering the financial system, banks and credit unions may be missing an opportunity to build loyalty and dispel prevailing mistrust of the banking system. That is not charity at all; instead, it is a hard-headed business judgment that takes the longer view and seizes opportunities to build sustainable customer relationships.

To this end, I sent letters today to the CEOs of the top financial institutions in this country urging them to consider how to address these issues more effectively. We recently reviewed the websites of the top 25 retail banks, and we found that only eight of them marketed a “no-overdraft” product option on the same page as their traditional checking account options. We also found that seven others offered a product with no authorized overdrafts but did not feature it on their main menu of checking account offerings. And 10 institutions did not appear to offer any options at all to allow consumers to open a lower-risk account designed to prevent overdrafts.

We encourage institutions to offer such products and, if they already do so, to feature them more prominently in their online and in-store checking account menus, and as part of their sales consultations. What is clear enough is that if consumers do not know about a product, even one that is well fitted to their needs, they cannot be expected to sign up for it.

These safer products do not even have to be checking accounts as we typically know them. Many general purpose reloadable prepaid cards are specifically designed to help consumers manage their spending while limiting their transactional costs and risks. While prepaid cards were developed by entrepreneurs as an alternative to banking, the funds in these accounts are almost always held by a bank or credit union and enjoy federal deposit insurance. Moreover, some prepaid cards are made available right now by banks and credit unions to their existing customer base. The Bureau will finalize a rule this spring to ensure, among other things, that prepaid card consumers have error correction and dispute resolution rights comparable to those for checking accounts. Prepaid cards may not be the first choice for every consumer, but everyone deserves the opportunity to choose what is best for him or her.

Let me also take a moment to acknowledge another positive development, which is the decision some banks and credit unions have made to provide consumers with real-time information about the funds in their accounts available to be spent. They are doing this through various means, including online banking and text and e-mail alerts, which can reduce the risks that consumers inadvertently overspend their accounts. Still, we encourage the banks and credit unions to press harder as they think about how they can tailor their products more effectively for a larger base of potential customers, which includes making funds available as early as they can. All these steps will help ensure consumers have more ways to take control of their financial lives. Wider use of safer account features will also enable financial providers to relax their screening criteria without increasing their risk. By expanding access, they can create more successful and sustainable customers.

***

The second step we are taking today to improve checking account access is to remind banks and credit unions of their obligations with respect to the accuracy of the information they report about consumer use of checking accounts. In addition, the consumer reporting companies also have an obligation to ensure accuracy when they sell this information to others.

Banks and credit unions have obligations to foster accuracy when they submit information to the specialty consumer reporting companies about accounts that were closed for fraud or unpaid balances. Those companies, in turn, assemble or evaluate all of the information provided, then sell it to third parties. All of this information is clearly related to preventing fraud and screening for credit risk. But because many banks and credit unions use this information to make decisions about whether to offer account products to consumers and on what terms, the accuracy of the information is crucial. If it is not accurate, then consumers will be inappropriately shut out of the banking system, with little or no effective recourse.

Indeed, accuracy is expressly required by the Fair Credit Reporting Act. So we are concerned about the levels of accuracy in the information furnished to the consumer reporting companies that serve the deposit account market. Through our supervisory work, we have found that some of the largest banks lack the appropriate systems and procedures to furnish accurate information on millions of accounts.

Today we are issuing a bulletin warning banks and credit unions that they must meet their legal obligation to have appropriate systems in place with respect to accuracy when they report information, such as negative account histories, to the consumer reporting companies. More effort and rigor are needed to make sure that the risks consumers actually pose to potential financial providers can be evaluated correctly.

Of course, the specialty consumer reporting companies that track deposit accounts also merit our scrutiny as we work on these issues. They have important legal obligations with respect to the accuracy of the information they sell, as specified in the Fair Credit Reporting Act. Ensuring that they are adopting and implementing reasonable procedures to assure maximum possible accuracy of the credit reporting information they provide, as the law requires, is an important area for regulatory oversight.

The Consumer Bureau will continue to insist, through its oversight authority, that banks and credit unions furnishing information, as well as the consumer reporting companies collecting information and selling reports, must comply with their respective duties under the law. When we see this is not being done, we will take appropriate supervisory and enforcement actions.

***

Living outside the banking system can be costly and time-consuming, especially for those who are the most financially vulnerable. They often come to rely on expensive nonbank money services that can take a big bite out of their earnings. So the third step we are taking today is to help pull back the curtain on the checking account options available to consumers and to point out the rights they have if they are denied access to a checking account or if misinformation is reported about them. We are issuing a consumer advisory and additional resources on choosing, managing, and re-opening an account. All are available on our website at consumerfinance.gov.

We are releasing a consumer advisory to alert people that lower-risk accounts do exist in the marketplace and can help them take more control of their spending. These accounts may serve as the gateway for more consumers to enter the banking system, even those who have struggled to maintain an account in the past, because the accounts pose less risk and hence less reason to screen those consumers out.

Many consumers who had an account closed and later seek to open a new one do not understand how their application will be judged. The qualification process can be confusing and opaque. Until they are rejected for a bank account, people often do not know that their prior account usage has been recorded and shared with other institutions. Some consumers find that the information being attributed to them and preventing them from getting a new account is inaccurate. Others are entirely unaware that they would be likely to qualify for a lower-risk account where such accounts are offered.

Today's advisory also helps people know what to do if they have been denied a deposit account or have had one closed involuntarily. In most cases, the denial would be based on information supplied by a checking account reporting company. Our advisory explains how to get a copy of your checking account history from the company if you are blocked from opening an account. In addition, you also have a right to dispute any inaccurate information contained in these reports, and the consumer reporting company is required to investigate it and correct any inaccuracies.

To help consumers pursue any such disputes, the Bureau is issuing two sample letters – one to dispute the accuracy of the information with the consumer reporting company and the other to dispute it with the financial institution that furnished the information in the first place.

Under federal law, negative information can remain in a credit report for seven years or more, so it is clear that inaccurate information can damage a consumer's reporting profile for a long time and cause enormous harm. Consumers need to understand how they can participate more actively in this system so they can take more control of their financial lives.

***

The bottom line is that we are working steadily to ensure that the banking system is open to all consumers who want a banking relationship and will not engage in fraudulent conduct. This requires that the information banks use to screen customers is reliable and that the information is used to match consumers with deposit account products that fit their needs and promote their successful use of the banking system.

The Consumer Financial Protection Bureau is in a unique position to make a difference in improving how the checking account reporting system actually works. We are the only federal financial regulator with the authority to supervise both the larger depository institutions and the larger consumer reporting agencies for compliance with federal consumer financial law. Thus we can consider and address these issues comprehensively, engaging directly with both sets of industry participants. We have already released several groundbreaking reports on the credit reporting system. We have also worked with consumers to expand their knowledge and awareness of the importance of credit reporting to their lives, through consumer advisories and by championing the Open Credit Score initiative. But as we can see from the discussion today, we need to devote more attention to improving the checking account reporting system as well. And we are committed to doing just that.

One key point we need to grasp is how hard it is to live in this country without somewhere to store your money safely and access it promptly and easily. Those who would like to have a traditional checking account but are unable to get one should be given a fair opportunity to manage their day-to-day finances effectively and affordably by other means, such as a lower-risk checking account or prepaid card. And so we envision a system that recognizes and responds to consumer needs by providing checking accounts and prepaid accounts that better fit their personal financial circumstances. This is good for consumers. It is good for responsible businesses. And it is good for the economy as a whole. Thank you.