

[Banking and Finance Law Daily Wrap Up, TOP STORY—CFPB unveils new ‘Know Before You Owe’ overdraft disclosure forms, \(Aug. 4, 2017\)](#)

Banking and Finance Law Daily Wrap Up

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In a new *Know Before You Owe* disclosure, the Consumer Financial Protection Bureau unveiled new overdraft disclosure prototypes to improve the model form that financial institutions provide to consumers weighing overdraft coverage. Aimed at making the costs and risks of overdraft protection easier to understand, the CFPB is testing four prototypes that each contains a simple, one-page design to help consumers understand the costs of opting in and evaluate the risks and benefits.

"Whether to opt in to overdraft is an important decision for consumers," said CFPB Director Richard Cordray in [prepared remarks](#) at a press call. "They need their bank or credit union to describe the service fully and accurately while giving them a reasonable chance to consent. They need to know before they owe. We are working to develop disclosures that can help make this process easier for consumers and industry alike. If debit card and ATM overdraft is indeed a service that consumers want and value, then they will make an informed choice and opt to have it."

Prototype disclosures. According to the [press release](#), the decision of whether to opt into debit card and ATM overdraft services is especially important for consumers, considering the possibility of racking up fees and overall financial stability. Therefore, federal regulations already require financial institutions to give consumers information, provided in a model form. Developed following interviews with consumers, the new [prototypes](#) are designed to give consumers more clarity about a key financial decision.

If adopted, the CFPB believes that the prototypes could also make the disclosure forms more accessible for consumers by providing the forms on their website. Institutions would then be able to plug their specific program information into the online form and then download it for free, making it seamless for banks and credit unions to use a new form within their existing compliance systems.

Frequent overdrafters. A new CFPB [study](#) has shown that consumers who frequently attempt to overdraw their checking accounts often pay almost \$450 more in fees than those consumers who do not opt into debit card and ATM overdraft coverage. In addition, these consumers often have lower daily balances, lower credit scores, and use their debit card more frequently, making them more financially vulnerable.

According to the CFPB, it is important for consumers to understand overdraft because those who opt into overdraft typically pay substantially more in fees. The study spotlights frequent overdrafters—consumers who attempted to overdraw their accounts more than 10 times in a 12-month period. The study found that 9 percent of accounts are frequent overdrafters and they incurred 79 percent of overdraft fees.

"Our study shows that financially vulnerable consumers who opt in to overdraft risk incurring a rash of fees when using their debit card or an ATM," said Cordray. "Our new *Know Before You Owe* overdraft disclosure prototypes are designed to help consumers better understand the consequences of the opt-in decision."

Blog post. In a related [blog post](#), the CFPB is seeking comments on the new prototypes. Specifically, the Bureau is asking consumers to answer the following questions:

- Do these form designs do a better job of giving you the information you need before making your decision about overdraft service?
- Do you understand the fees for each option and what transactions might cause an overdraft fee?
- How do you think the updated forms compare to the current form? Do you think they are easier to use and understand?

- Which of the layouts do you prefer?

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