

Prepared Remarks of CFPB Director Richard Cordray on the Overdraft Press Call

Washington, D.C.

By [Richard Cordray](#) - AUG 04, 2017

Thank you for joining us. In our fast-moving modern economy, it is increasingly common for consumers to use debit cards the way they used to use cash. They also write checks and arrange for money to be taken out of their account. This makes it harder to keep track of their checking account balances from day to day, even if they are diligent about checking their balances online or by phone. Consumers living on the edge can find themselves racking up numerous overdraft charges.

When every penny counts, people need to understand how overdraft works, and whether they want to take the risk of paying overdraft fees on debit card transactions and ATM withdrawals. Today, the Consumer Financial Protection Bureau is releasing a study which finds that frequent overdrafters who have opted in to debit card and ATM overdraft typically pay almost \$450 more in overdraft fees per year compared to frequent overdrafters who have not opted in. We are also releasing updated model disclosure prototypes for consumers who are considering whether to opt in to debit card and ATM overdraft services. These disclosure prototypes, if adopted, would be intended to help people make more informed choices as to whether they wish to be subject to debit card and ATM overdraft fees.

An overdraft occurs when consumers lack the funds in their account to cover a transaction, but the bank or credit union pays it anyway. This practice gives consumers access to funds, but at a cost. Financial institutions may charge a fee per transaction for this service, typically around \$34, and they require repayment with subsequent deposits. Consumers who opt in to debit card and ATM overdraft are at risk of incurring a rash of fees when they use their debit card or an ATM. Despite recent regulatory and industry changes, consumers with low account balances and little margin for error continue to pay significant overdraft fees.

In 2010, new federal regulations began requiring financial institutions to obtain a consumer's consent in advance before charging overdraft fees on debit card purchases and ATM withdrawals. Consumers who do not opt in to overdraft will generally have debit card purchases and ATM withdrawals declined with no charge if the account is short of funds when they attempt the transaction. This does not apply to checks or online bill payments. Here, the bank or credit union can reject the check or electronic payment and charge a non-sufficient funds (NSF) fee if the account lacks enough money. Or, if the financial institution chooses to cover the transaction, it can charge the consumer an overdraft fee - regardless of whether that consumer has opted in.

Given the potential to rack up hundreds of dollars in fees, choosing whether to opt in to overdraft coverage is an important decision for many consumers. So the Consumer Bureau is unveiling model disclosure prototypes that, if adopted, would replace the existing model form that financial institutions can use for consumers who are evaluating this choice. We believe these prototype forms, like our *Know Before You Owe* disclosures for mortgages and prepaid accounts, would help consumers better understand an important financial decision.

The prototype forms are designed to show more clearly the cost of the fees and when they can be charged. They describe key elements of the institution's overdraft policies in plain language. They explain that the opt-in decision applies only to one-time debit card and ATM transactions and does not affect overdraft on checks and online bill payments. They also are designed to make clear that debit card and ATM overdraft is entirely optional, and consumers do not need to opt in to use their accounts. We developed the prototype forms

through interviews with consumers, and we will now test them more widely. You can check out the prototype forms on our website at www.consumerfinance.gov.

At the same time, the Consumer Bureau is also considering ways to make it easier and more efficient for banks and credit unions to provide these improved disclosures to their customers. For instance, the *Know Before You Owe* overdraft form, if finalized, would be readily available on our website. Institutions could plug in their specific information online and then download their customized form for free. This way, banks and credit unions could use the form within their existing compliance systems, and more easily update disclosures in response to any overdraft program changes or other innovations.

The form designs that the Consumer Bureau is sharing today are prototypes that, if adopted, would replace an existing model disclosure document. While we plan to do more testing of these designs, we think it is beneficial for the public to see the progress we are making in improving consumer disclosure. We are not proposing any regulatory amendments at this time, though we are considering new overdraft regulations, and currently we are in the "pre-rule stage" with no timing stated for when a rule may be proposed. As we test these prototypes further and consider potential regulatory amendments, financial institutions should continue to follow the existing regulations, which include the existing model form.

Consumers need to understand their options before making an affirmative decision whether to opt in to debit card and ATM overdraft. The report we are releasing today underscores what is at stake. It shows that opting in to overdraft coverage can be a very expensive way to manage a checking account. And it shows that the vast majority of those who pay the most in overdraft fees are those who can least afford it. In contrast to those who rarely or never overdraw their accounts, consumers who do so frequently tend to hold lower account balances, have lower credit scores, and have less access to traditional credit.

Today's study is based on data from several large banks that together comprise well over 40 million consumer accounts. We found that frequent overdrafters – those with more than 10 overdraft and NSF transactions in a year – make up only 9 percent of all accounts at the banks we studied but paid a whopping 79 percent of all overdraft and NSF fees. Through this study, we now know more about who these consumers are and how overdraft affects their financial lives.

Again, a key finding of our study is that opting in may lead to higher costs for frequent overdrafters. Those who have opted in typically incur 22 overdrafts per year, compared to 18 for those not opted in – not a very large gap. But the difference in costs can be huge: frequent overdrafters who have opted in are typically charged 18 fees a year, compared to only 5 for those not opted in. With a fee of \$34 per event, this amounts to almost \$450 more in overdraft fees each year.

Our study shows that most consumers who frequently overdraft are financially vulnerable. We found that many of them carry significantly lower daily balances. We also found that for frequent overdrafters who have a credit score, the median score is under 600 – well below the threshold of what is considered subprime. In our data, about one out of five has no credit score at all. Consumers with low scores or no scores generally find it harder to get new credit.

Finally, we found that frequent overdrafters use their debit cards six times more often than those who do not overdraft. Our prior studies have shown that the widespread use of debit cards can lead to more fees for those who opt in for overdraft.

This study is the latest phase of an initiative we have been pursuing to learn more about overdraft practices and outcomes at financial institutions. In 2013, we identified consumer protection concerns about the ways consumers opt in to overdraft coverage for ATM and everyday debit card transactions. Our 2014 report found that nearly one-in-five opted-in consumers overdraft more than 10 times per year. The debit card transactions that trigger overdraft fees are often for quite small amounts, with the median amount just \$24. In other words, consumers often are paying \$34 to have the bank spot them \$24 or less for no more than a few days. This makes debit card and ATM overdraft a very expensive way to cover a small cash shortfall.

Whether to opt in to overdraft is an important decision for consumers. 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. In the meantime, we will continue to study this issue to find the best ways to address these concerns and protect consumers. Thank you.

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The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit consumerfinance.gov.

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