

Banking and Finance Law Daily Wrap Up, CHECKS AND ELECTRONIC TRANSFERS—House Financial Services Committee passes CRA resolution on CFPB’s overdraft rule, (Mar. 6, 2025)

Banking and Finance Law Daily Wrap Up

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The CFPB’s rule, scheduled to go into effect on Oct. 1, 2025, would require banks and credit unions with over \$10 billion in assets to limit overdraft fees to a maximum of \$5 per transaction.

The House Financial Services Committee has [voted](#) to repeal limits adopted by the Consumer Financial Protection Bureau (CFPB) on overdraft fees charged by large banks and credit unions. The CFPB’s rule, which was proposed in January 2024, finalized on Dec. 12, 2024, and is scheduled to go into effect Oct. 1, 2025, would limit banks and credit unions with over \$10 billion in assets to charging a maximum \$5 overdraft fee. If adopted by the House and Senate, the Congressional Review Act (CRA) resolution—[H.J. Res. 59](#), “Disapproving the rule submitted by the Bureau of Consumer Financial Protection relating to ‘Overdraft Lending: Very Large Financial Institutions’”—would eliminate what the CFPB estimates is an annual savings of \$5 billion for those incurring the fees.

Resolutions introduced on Feb. 13, 2025, by House Financial Service Committee Chair French Hill (R-Ark.) and Senate Banking Committee Chair Tim Scott (R-S.C.) sought to overturn the CFPB final rule (see [Banking and Finance Law Daily](#), Feb. 14, 2025). In his Opening Statement for the Financial Service Committee’s [first markup](#) of the 119th Congress, Hill [called](#) the new rule “harmful,” stating, “The CFPB’s misguided overdraft rule imposes a government mandated price cap that would reduce consumer choice, deny this needed service to our citizens, and stifle innovation.” He also noted that the overdraft rule exceeded the authority granted to the CFPB by Congress under the Truth in Lending Act.

Pro repeal. Both the American Bankers Association (ABA) and the Consumer Bankers Association (CBA) put out press releases lauding the Financial Service Committee’s vote. Rob Nichols, President and CEO of the ABA, noted in his [remarks](#), “The Bureau’s rule was flawed and unlawful from the start, and went against the wishes of a strong majority of Americans who have repeatedly indicated that they value and appreciate overdraft protection. By demonizing these highly regulated and transparent bank fees and attempting to implement government price controls, the rule would make it significantly harder for banks to provide this valuable service.”

In his statement, CBA President and CEO Lindsey Johnson [remarked](#), “This effort to invalidate the CFPB’s overdraft rule underscores the serious concerns lawmakers have about how this rule will negatively impact Americans and the long-term damage that government-imposed price controls have on this highly-competitive financial services market.”

A press release put out by the Republicans on the House Financial Services Committee [highlights](#) the support for the effort to roll back the overdraft rule. The press release includes quotes from the ABA and 52 state bankers’ associations, Americans for Tax Reform, America’s Credit Unions, CBA President and CEO Lindsey Johnson, Defense Credit Union Council Chief Advocacy Officer Jason Stverak, Independent Community Bankers of America President and CEO Rebecca Romero Rainey, National Taxpayers Union, and the U.S. Chamber of Commerce and Mississippi Economic Council. The press release also mentions a study from the Federal Reserve Bank of New York that suggests policies promoting increased competition and transparency may be more effective to keep overdraft fees in line with costs and risks.

Anti repeal. In his opening statement delivered at the House Financial Services Committee’s full committee markup, Vice Ranking Member Sean Casten (D-Ill.) [noted](#) that “Republicans would like to overturn a rule that

limits bank overdraft fees to \$5 – down from \$35 or more – and is right now saving American consumers \$5 billion a year.... Not surprisingly, more than 80 percent of Americans, including Republicans, want to see those overdraft fees capped. And yet, the majority will vote to raise those fees today and say that higher fees are good for America.”

In a Consumer Reports press release, advocacy program director Chuck Bell [remarked](#), “Repealing the CFPB’s overdraft fee limits will hurt working families who are already struggling with high prices and making ends meet. For too long, banks have gouged economically vulnerable consumers with costly overdraft fees that make it harder for them to stay on track financially. The CFPB’s new rule imposes reasonable limits on overdraft fees so they are in line with a bank’s actual costs instead of a way for banks to pad their profits at the expense of those least able to afford it.”

In an article from the Pew Charitable Trusts, Rachel Siegel, Gabriel Kravitz, and Travis Plunkett [note](#) that 7 in 10 Americans find overdraft fees to be unfair. In addition, 84 percent of Americans want the government to encourage banks to cut overdraft fees. They also note that while the typical debit transaction resulting in an overdraft is \$24 or less, the fee itself can be as high as \$35. According to the article, Pew Charitable Trust research also found that overdraft programs are not meeting the needs of most consumers and that high or unpredictable overdraft fees are the primary reason consumers leave the banking system or seek credit from payday lenders. According to their research, 68 percent of overdrafters would prefer to have their ATM and debit overdrafts declined than incur a \$35 fee; in addition, less than 30 percent of overdrafters say their bank had discussed other options with them. They end their article by noting that while there is movement toward affordable small-dollar loans, the banks still charging large overdraft penalty fees create an uneven playing field and disincentivize more banks from offering affordable small-dollar loans. “If more major banks continue to shift away from harmful overdraft fees and toward safe, affordable small-dollar loans, consumers stand to save billions of dollars each year,” they conclude.

Companies: American Bankers Association; Americans Tax Reform, America’s Credit Unions; Consumer Bankers Association; Defense Credit Union Council; Independent Community Bankers of America; Mississippi Economic Council; National Taxpayers Union; Pew Charitable Trusts; U.S. Chamber of Commerce

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