

Banks Collect Overdraft Opt-ins Through Misleading Marketing

Survey finds low opt-in rate, high number of misperceptions

When it came to convincing customers to opt in to high-cost overdraft coverage, it was as if the banks rigged the election but still lost the vote.

A Center for Responsible Lending survey indicates that most consumers do not want high-cost overdraft coverage for their checking accounts, and that opt-ins are largely based on aggressive and misleading marketing, rather than clear and accurate information from banks.

Many banks routinely cover any transaction that overdraws a customer's account, including checks, ATM withdrawals, and point-of-sale debit transactions. They charge a fee of about \$34 and call it "overdraft protection."

Scare Tactics and Threats of Bounced Checks

When the Federal Reserve Board issued a rule requiring that banks and credit unions obtain customer consent before approving debit card transactions for a fee, many banks conducted aggressive campaigns aimed at getting customers to opt-in. Marketing materials often created the false impression that emergency action was needed on the account. For example:¹

We Need to Hear From You . . . To keep your account operating smoothly . . . To avoid any interruptions in how we service your account, we need to hear from you.

Your Debit Card May Not Work the Same Way Anymore Even If You Just Made a Deposit.

Please keep in mind that this option [not opting in] may prevent you from completing everyday transactions including Any store and gas station purchase, Emergency home and car repair...Purchases when traveling, Medical or health emergencies.

Banks also conflated the treatment of checks and debit cards, implying that opting in would protect them from bounced check fees:

Save money by avoiding retailers' returned check fees

Relax and protect yourself from the inconvenience of an overdrawn account and retailer fees

*The Bounce Overdraft Program was designed to protect you from the **cost** and embarrassment of having your transactions denied. (emphasis added).*

*You can protect yourself from the inconvenience of declined transactions **and additional fees normally charged to you by merchants for returned items.** (emphasis added)*

Survey Shows Low Opt-ins, Misperceptions

Even given misleading marketing, only 33 percent of accountholders opted-in to overdraft coverage, and most who did based their decision on information that was deceptive. The survey found:

- Sixty percent (60%) of consumers who opted in stated that an important reason they did so was to avoid a fee if their debit card was declined. In fact, a declined debit card costs consumers nothing.
- Sixty-four percent (64%) of consumers who opted in stated that an important reason they did so was to avoid bouncing paper checks. The truth is that the opt-in rules cover only debit card and ATM transactions.
- For almost half of those who opted in, simply stopping the bank from bombarding them with opt-in messages by mail, phone, email, in person, and online banking was a factor in their decision.

These findings strongly suggest that an opt-in rate of 33 percent exaggerates interest in high-cost overdraft coverage for debit card transactions. Rather, the banks succeeded in confusing and wearing down some of their customers to the point that they accepted a product that would ultimately cost them unnecessary, exorbitant fees.

The True Cost of Overdraft “Protection”

When the opt-in rule was implemented in August 2010,² the banks had recently been taken to task for nuisance fees on credit cards, and they scrambled to maintain a \$24 billion revenue stream from overdraft fees.³ Their marketing campaigns inappropriately targeted their most financially vulnerable customers—the most frequent overdrafters.⁴

Many consumers are not aware of this feature unless they incur an overdraft fee.⁵ Many banks increase the number of \$34 fees charged in a day by subtracting larger transactions first, which empties the account faster. As a result, consumers can be charged multiple overdraft fees per day, quickly amounting to hundreds of dollars.⁶

Debit card transactions (point-of-sale purchases and ATM withdrawals) that could be declined at no cost are the most common trigger of overdrafts; paper checks account for fewer overdrafts, approximately one quarter.⁷ Many banks offer low-cost lines of credit or can tap a customers' savings account to cover overdrafts—but customers are often not informed of these cheaper options.

The Survey

CRL commissioned the survey of checking account holders in early April 2011. This CARAVAN telephone survey was conducted by Macro International, Inc. and consisted of

approximately 1,000 randomly-dialed adults in the continental U.S., who were screened down to 916 adults who regularly use their checking accounts. Completed interviews are weighted by four variables: age, sex, geographic region, and race, to ensure reliable and accurate representation of the total population, 18 years of age and older. The chances are 95 in 100 that a CARAVAN survey result does not vary, plus or minus, by more than 2%.

The finding that only about 33 percent of survey respondents opted in⁸ contradicts banking industry public statements which have been repeated in media reports.

Of checking account holders who did opt-in, CRL’s survey found that the majority based their decisions on key misunderstandings about how overdraft coverage would work. Notably, two key misconceptions were a factor in the decision to opt in for about three out of four consumers.⁹ They ranked among the three most important reasons that consumers chose to opt in.

Sixty percent of survey respondents believed a fee would be charged whether their debit card transaction was approved or declined, and opted in to at least have that debit card purchase covered. However, whether or not consumers opt into overdraft coverage, they are *not* charged a fee if their debit card is declined at the point-of-sale.¹⁰

Of respondents who consented to overdraft coverage, sixty-four percent said that ensuring that paper checks would not bounce was an important reason they opted in. However, the new regulations have no impact on overdraft fees on checks; they deal exclusively with debit cards.

Figure 1: Consumers opt-in due to misunderstandings and aggressive marketing

	Very Important	Important	Somewhat Important	Low Importance	Not a Factor at All	Don't Know
You wanted to keep your PAPER CHECKS from bouncing	39%	25%	9%	7%	18%	1%
Without overdraft coverage, you still would have been charged a fee if your DEBIT card transactions were declined, so at least by opting-in, they'd be covered	38%	22%	15%	6%	17%	3%
You wanted to stop the bank from repeatedly soliciting you to accept overdraft coverage	20%	16%	10%	13%	41%	1%

These findings are not surprising considering the aggressive and misleading nature of bank overdraft marketing campaigns.¹¹

Some banks have bombarded consumers with opt-in alerts via multiple channels—including ATMs, internet banking, tellers, phone, and mail—that don’t end until the consumer says yes. Once customers do say yes, they typically are not prompted again to consider a different decision.¹² For almost half of survey respondents who opted in (45%), simply stopping the

ongoing harassment from repeated opt-in marketing was a factor in their decision, with 36 percent calling it an important or very important factor.¹³

Recommendations

Our survey shows evidence that most consumers do not want overdraft coverage even when cajoled with misleading messages. Furthermore, those who do opt in to overdraft “protection” are largely doing so based on overly aggressive and misleading bank marketing, rather than an informed desire for high-cost overdraft coverage. Given the banks’ ability to manipulate current disclosure requirements, the survey suggests it is likely that disclosure requirements are insufficient to overcome intense industry marketing, misleading information, and the inherent complexity of overdraft coverage. CRL recommends strong action by our nation’s bank regulators to end overdraft abuse. Specifically, regulators should do the following:

- Prohibit overdraft fees on debit cards: two of the major banks already use this treatment both because it is fairer and because they have data showing that customers do not want the service. According to a Bank of America executive, “What our customers kept telling me is ‘just don’t let me spend money that I don’t have.’”¹⁴ Bank of America found that after eliminating these overdraft fees, customer complaints dropped sharply, and satisfaction levels rose.¹⁵ Citibank also does not approve debit card transactions for a fee when the customer is overdrawn.
- If any fees are charged, require the cost to be reasonable and limit the number of charges.
- Prohibit the re-ordering of transactions to artificially generate more fees. Just like the mechanics of credit card payment allocation manipulation, which Federal Reserve consumer testing showed could not be remedied through disclosure, the mechanics of transaction re-ordering are complex and misleading and run counter to customer assumptions. The harm this practice causes cannot be remedied through disclosure either.¹⁶
- Prohibit steering by requiring banks to provide customers who want overdraft coverage the lowest-cost coverage for which they qualify.

Appendix: Survey Technical Details

This report presents the findings of a telephone survey conducted among a national probability sample of 1,008 adults comprising 504 men and 504 women 18 years of age and older, living in private households in the continental United States. Interviewing for this CARAVAN® Survey was conducted by ORC International during the period April 8-11, 2011.

The survey utilizes an unrestricted random sampling procedure that controls the amount of serial bias found in systematic sampling to generate its random-digit-dial sample. The sample is fully replicated and stratified by region. Only one interview is conducted per household. All sample numbers selected are subject to up to four attempts to complete an interview. Completed interviews are weighted by five variables: age, sex, geographic region, race, and education to ensure reliable and accurate representation of the total population, 18 years of age and older. The raw data are weighted by a custom designed program which automatically develops a weighting factor for each respondent.

After eliminating respondents who did not regularly use a checking account, the 1,008 adult sample was reduced to 916 respondents (457 males and 459 females). The exact wording of the question regarding whether respondents chose to opt-in was:

“Since the start of 2010, have you given your bank permission to automatically cover overdrafts on your debit card and ATM transactions? This is sometimes called 'opting in' to overdraft coverage.”

Only respondents who said yes to the above question were asked their reasons. The exact question addressing customers’ reasons for opting in was:

*How important was each of the following factors in your decision to ‘opt-in’ to overdraft coverage? Please keep in mind that some of these statements may not be true for your bank. Was each very important, important, somewhat important, of low importance or not a factor at all?
[RANDOMIZE ITEMS]*

Response Options

- 5 Very important
- 4 Important
- 3 Somewhat important
- 2 Low importance
- 1 Not a factor at all
- 99 DON’T KNOW

Reasons

- A. You wanted to keep your PAPER CHECKS from bouncing
- B. You weren’t aware of any other programs to cover overdrafts
- C. You didn’t want your debit card declined at the checkout counter
- D. The bank representative assured you overdraft coverage was a good idea
- E. You wanted to stop the bank from repeatedly soliciting you to accept overdraft coverage
- F. You wanted to opt-in just for your paper checks and/or automatic electronic withdrawals, but the only choice you had was to opt-in or opt-out for everything

- G. The bank told you it was free
- H. The fee was reasonable for making sure your transactions are covered
- I. Without overdraft coverage, you still would have been charged a fee if your DEBIT card transactions were declined, so at least by opting-in, they'd be covered

A more in-depth analysis of the full survey results, including other reasons for opting-in and an analysis of a number of other questions about overdraft, is forthcoming. When the full report is released, the full survey instrument used will also be provided.

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- 1 These quotes are from the marketing materials of a representative sample of banks on file with CRL.
 - 2 The Federal Reserve ruled in November 2009 that overdraft fees cannot be charged on most debit card transactions—including those at an ATM—unless the consumer explicitly opts in to overdraft coverage of debit cards. The change to Regulation E became effective on July 1, 2010 for new customers opening accounts, and August 15, 2010 for existing account holders. *74 Federal Register 59033-59056*
 - 3 Leslie Parrish, *Overdraft Explosion: Bank fees for overdraft increase 35% in two years*, Center for Responsible Lending, (October 6, 2009), available at <http://www.responsiblelending.org/overdraft-loans/research-analysis/crloverdraftexplosion.pdf>.
 - 4 Leslie Parrish, *Banks Target, Mislead Consumers As Overdraft Deadline Nears*, Center for Responsible Lending, (August 5, 2010), available at <http://www.responsiblelending.org/overdraft-loans/research-analysis/Banks-Target-And-Mislead-Consumers-As-Overdraft-Dateline-Nears.pdf>.
 - 5 Based on a 2005-2006 survey. Lisa James and Peter Smith, *Overdraft Loans: Survey Finds Growing Problem for Consumers*, Center for Responsible Lending, (April 24, 2006), available at http://www.responsiblelending.org/overdraft-loans/research-analysis/ip013-Overdraft_Survey-0406.pdf.
 - 6 On average, consumers will pay \$1.94 for every \$1 borrowed on a debit card overdraft. See Eric Halperin, Lisa James, & Peter Smith, *Debit Card Danger: Banks offer little warning and few choices as customers pay a high price for debit card overdrafts*, Center for Responsible Lending, (January 25, 2007), available at <http://www.responsiblelending.org/overdraft-loans/research-analysis/Debit-Card-Danger-report.pdf>
 - 7 Eric Halperin, Lisa James and Peter Smith, *Debit Card Danger: Banks offer little warning and few choices as customers pay a high price for debit card overdrafts*, Center for Responsible Lending, (January 25, 2007), available at <http://www.responsiblelending.org/overdraft-loans/research-analysis/Debit-Card-Danger-report.pdf>.
 - 8 Twelve percent of respondents either stated that they did not know whether they opted in or refused to answer the question. When we take out those who did not know or would not answer, respondents who opted in remain in the minority, rising only to 38 percent of those who gave a definitive yes or no answer. While a minority of banks do not offer or market overdraft coverage, it appears that for the vast majority of customers who did not opt-in, it was a conscious choice. When asked why, only 20% of those who did not opt-in indicated that their bank not offering them coverage was one of the reasons.
 - 9 Respondents were given a five point scale ranging from “Very important (5)” to “Not a factor at all (1)”. Statements regarding how many consumers consider a reason “important” is based on how many rated that factor “Very important (5)” or “Important (4)”. Statements regarding how many people considered a reason to be a factor in their decision are based on how many rated it “Very important (5)”, “Important (4)”, or “Somewhat Important (3)”.
 - 10 To avoid biasing the responses, respondents were specifically told that some of the reasons provided may not be true for their bank. See appendix for the exact wording of the question.
 - 11 The survey results offer additional evidence that consumers who opted in based their decision on an incomplete understanding or on misleading bank representations regarding overdraft. A more in-depth analysis of the full survey results including this information is forthcoming.
 - 12 A one-time disclosure requesting no action on the consumer’s part is required after opt-in, but this is different from an active prompt requesting that a choice be made.
 - 13 The exact wording of this reason for opting in was: “You wanted to stop the bank from repeatedly soliciting you to accept overdraft coverage”.
 - 14 Andrew Martin, *Bank of America to End Debit Overdraft Fees*, New York Times, (March 9, 2010).
 - 15 Brian Moynihan, *Bank of America Q3 2010 earnings call transcript* (October 19, 2010).

16 Regarding credit card payment allocation, see Macro International, Inc., *Design and Testing of Effective Truth in Lending Disclosures Findings from Experimental Study*, submitted to Board of Governors of the Federal Reserve System, (December 15, 2008), available at <http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20081218a8.pdf> .