Center for Responsible Lending

Support the "Stop Overdraft Profiteering Act of 2018"

Overview

The "Stop Overdraft Profiteering Act of 2018," introduced by Senators Booker and Brown, would address extremely high-cost overdraft fees financial institutions charge on checking accounts. Banks' overdraft practices exploit the financially vulnerable, leaving them worse off and driving many from the banking system altogether. The bill would establish reasonable safeguards for checking account holders; restore transparency to the checking account market; and ultimately encourage banks to expand responsible small dollar loan offerings rather than perpetuate this harmful practice.

Overdrafts are extremely high-cost loan products that have avoided meaningful regulation.

- Financial institutions charge overdraft fees—averaging $35 each, totaling $14 billion annually—when a customer's checking account lacks sufficient funds for a transaction but the bank chooses to pay it anyway.
- The bank then repays itself the overdrawn amount, plus the high fees, directly from the customer's next incoming deposit, before the customer can pay for any essential expenses.
- Banks charge these fees on overdrafts of all transaction types, including debit card transactions and ATM withdrawals, which historically were declined for no fee when the account lacked sufficient funds.
- Despite explosive growth starting in the early 1990s, overdraft fees have remained largely unregulated. A Federal Reserve "opt-in" rule in 2009 established nominal consent requirements for some overdraft fees, but this rule did address the underlying overdraft practices or—as subsequent research has shown—prevent the harm they cause account holders.

Overdraft fees leave those struggling worse off, driving many out of the banking system altogether.

- Overdraft fees are primarily borne by a small portion of account holders, often least able to shoulder them.
- The Consumer Financial Protection Bureau (CFPB) found that nearly 80% of overdraft/non-sufficient funds fees are paid by only 9% of customers who carry account balances averaging $350.
- For one group of hard hit consumers, the median number of overdraft fees in one year was 37—nearly $1,300 annually—with some pay much more. Overdraft fees leave those already struggling financially worse off, driving many out of the banking system altogether. Once ejected, customers are blacklisted for five years, often unable to get an account at another institution and facing long-term financial setbacks.
- Despite years of research revealing the harms of overdraft fees, CFPB has dropped plans to address them.

Overdraft fees perpetuate a dysfunctional checking account market and stifle more responsible products.

- Overdraft fees are back-end fees that consumers are not likely to shop based on when choosing an account.
- Many institutions market "free checking" accounts but bury consumers later under crushing overdraft fees.
- If overdraft fees were reined in, banks would adjust pricing models, shifting fees away from back-end fees to upfront fees, like modest monthly fees.
- In addition, banks would have far greater incentive to develop reasonable small loan products if no longer collecting outsized revenue through high-cost overdraft fees.

This bill will apply safeguards to overdraft practices, promoting a better checking account and small loan market:

This bill addresses central problems with today's overdraft fees by:

- requiring that overdraft fees be reasonable and proportional to the institution's cost of covering the overdraft;
- requiring that any overdraft charge on debit card purchases and ATM withdrawals be in the form of traditional interest, rather than upfront fees;
- limiting overdraft fees to one per month and six per year; and
- stopping banks from engaging in processing that re-orders transactions to generate more overdraft fees.

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