



March 25, 2025

US Senate
Washington, DC 20510

Re: Letter in Opposition to S.J. Res 18 – Overturns CFPB Rule Capping Overdraft Fees for Largest Banks and Credit Unions

Dear Senator and Legislative Director:

Consumer Reports urges you to oppose S.J. Res. 18 to overturn the Consumer Financial Protection Bureau’s overdraft fee rule, which will reduce most overdraft fees from \$35 to \$5, stop manipulative practices by big banks, improve transparency, and put \$5 billion back into the pockets of everyday people and their families.

The public widely views current overdraft fee practices as unfair. The overdraft fee rule closes a paper-check era loophole that has allowed big banks to trick people into paying excessive overdraft fees and earn billions in profits from some of their most vulnerable customers. The rule lowers most so-called “courtesy” overdraft fees from \$35 to \$5, saving households that pay overdraft fees an average of \$225 a year. The rule gives big banks a variety of options to cover overdrafts, including safer, more transparent overdraft lines of credit with no price limit and the same disclosure requirements as credit cards. The rule only applies to very large institutions with over \$10 billion in assets, many of which have already adopted similar protections. Smaller banks and credit unions are completely exempt.

Overdraft fees have increased steadily over time, morphing from an occasional, ad hoc courtesy provided to consumers to a line of business. The CFPB estimates that consumers paid roughly \$5.8 billion in overdraft fees in 2023 alone.^[1] Many overdraft services are effectively short-term lending programs with extremely high interest rates as banks provide short-term liquidity for overdrawn transactions in exchange for a fee.

As noted by the CFPB, large banks typically charge \$35 for an overdraft loan today, even though the majority of consumers’ debit card overdrafts are for less than \$26 and are repaid in three days, which translates into an annual percentage rate (APR) of over 16,000 percent.

Overdraft fees disproportionately impact low- and moderate-income consumers with excessive charges, often for small overdrafts on their accounts, and can trap consumers in debt. The CFPB estimates that the new limits could save consumers up to \$5 billion annually, critical savings that could benefit vulnerable consumers in particular.

The CFPB’s rule limits overdraft fees to a reasonable amount of \$5 or an amount in line with the bank’s actual costs of processing the transaction. The rule only applies to large financial

institutions with more than \$10 billion in assets. These large banks have done very well in this economy, in contrast to low and moderate-income consumers, who are struggling to keep up.

In addition, many large financial institutions have already taken steps to limit high overdraft fees, showing that from a marketplace perspective, it is highly feasible and possible to do so. (For example, Ally Bank, Capitol One and Citibank have eliminated their overdraft fees, and Bank of America cut its fee to \$10.)^[2]

A big problem with overdraft fees and NSF fees is that even careful consumers are frequently surprised by them. That's because it can be nearly impossible for customers to know whether a particular transaction will overdraw their account. Most notorious are what the industry calls “[authorize positive, settle negative](#)” transactions, where an account has enough money when the transaction is initiated and the bank approves it, but not enough when the bank processes it—often because another transaction was processed first. Consumers can even be hit with multiple such fees in a single day, adding up to hundreds of dollars.

Many overdrafts are for small amounts and occur in the short period of time before a deposit is processed that covers the amount of the check or withdrawal. The rule wisely recognizes that overdraft fees are often highly excessive in relation to the actual costs that banks experience in covering the overdrafts.

As documented by the Financial Health Network, there are deep income and racial disparities in the cost and burden of overdraft fees.

- Black and Latino households reported having overdrafted more often than White households (amongst households with checking accounts, 26% of Black and 23% of Latino households reported having incurred an overdraft fee, versus 14% of White households).
- Younger respondents were three times as likely to have overdrafted than older respondents (amongst those with accounts, 24% of respondents aged 18-25 had overdrafted, compared with 8% of those 65 and older).
- Households with incomes under \$30,000 were twice as likely to report at least one overdraft than those with incomes of \$100,000 or more (22% vs. 11%, among households with accounts).^[3]

Finally, excessive overdraft fees can lead to account closures and negative information being reported to credit reporting agencies such as ChexSystems, which can keep a customer from being able to open an account at another bank. The FDIC estimates there are roughly 3.5 households in the U.S. where people once had a bank account, but no longer do. For some, overdraft fees were clearly a motivator.

Consumers have also expressed strong support for the CFPB's proposed rule, as indicated by the 28,708 signatures Consumer Reports collected and submitted in support of the CFPB rule in April 2024. A sampling of the stories we received from consumers is attached as Appendix A to this letter.

For all these reasons, Consumer Reports urge you to please vote NO on S.J. Res.18 to overturn the CFPB rule to limit the costs of excessive, back-end overdraft junk fees. The CFPB overdraft fee rule is extremely important for consumers, especially for low- and moderate-income consumers and people living paycheck to paycheck. Congress should protect the CFPB Overdraft Fee rule, which will directly benefit 23 million households who regularly pay overdraft fees.

Thank you very much for considering our views.

Sincerely,



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- [1] CFPB, Data Spotlight: Overdraft-NSF Revenue in 2023, 04/24/24, available at: <https://www.consumerfinance.gov/dataresearch/research-reports/data-spotlight-overdraft-nsf-revenue-in-2023-downmore-than-50-versus-pre-pandemiclevels-saving-consumers-over-6-billion-annually/>
- [2] Bankrate.com, Banks That Have Cut or Eliminated Overdraft Fees, 10/5/24, available at: <https://www.bankrate.com/banking/checking/banks-eliminated-overdraft-fees/>
- [3] Financial Health Network, Overdraft Trends Amid Historic Policy Shifts, 6/1/23, available at: <https://finhealthnetwork.org/research/overdraft-trends-amid-historic-policy-shifts>

Appendix A. Consumer Overdraft Fee Stories

To learn more about the impact of overdraft fees on consumers, Consumer Reports asked its members about their experiences with overdraft fees in early 2024. In general, consumers expressed concern about the high costs of overdraft fees in general and how they seemed too expensive and excessive.

Overdraft Fees are Often Excessive

Margaret from Nevada said “exorbitant overdraft fees are not fair”:

I was hit with an overdraft fee, which is \$37.50 each time at my credit union. I primarily use this account to pay bills, so of course, this was a huge hit on my account. I know that some banks offer no overdraft fees like Capital One. It's unfortunate that banks are greedy.

John from North Carolina said:

Banks are charging outrageous fees mostly to those who can least afford them. They're even worse with customer and employee investments. Let's give them some of their own medicine.

David from California pointed out that overdraft fees have crept up drastically over the decades:

When I got my checking account in 1970 the Overdraft Fee was 50 CENTS, I hit the roof! Back then Computer-time was very EXPENSIVE, computers were humongous monstrosities and took up large rooms, and they needed to be kept in very cool "Climate Controlled" rooms. Computers were very expensive and very SLOW. Computer Programming was very primitive and still the programs did not do all the work. Yet, the banks only charged half a buck for an overdraft. The banks made money at 50 cents per overdraft. Nowadays, computers for business purposes cost under \$2000, and are extremely FAST! Modern Computer Programs do all the real work! Yet, the Greedy Banks want \$35 for an overdraft!

Cynthia from Ohio complained that she incurred a steep penalty fee for someone else's mistake:

I have been charged an overdraft fee of \$30 because I deposited a check someone else wrote that did not clear. Totally not my fault.

Cynthia from New York had a similar experience:

I have a tiny business and when a client accidentally gives me a check that bounces, why am I charged \$35 by my bank? Why is that fee not taken from their bank, if it's about

detering mistakes? Am I charged because I'm supposed to psychically know their bank account?

Luckily, it's a rare experience, but it also seems excessive for them. (I was stuck with the overdraft fee once, but most have reimbursed me.)

David from Colorado was frustrated that his bank didn't help him avoid overdraft fees:

We had just moved from IL to CO and set up bank accounts with money in checking and savings. With house closings and fees, we didn't have enough in checking when a number of charges hit all at once. The bank didn't tell us that they had a feature to automatically move money from savings to checking to cover overages. We were charged \$35 dollars for the shortage in checking even though there was plenty in savings to cover it. When we found out about the automatic coverage, we signed up for it but they wouldn't refund the fee previously charged.

Consumers Are Sometimes Hit By Multiple Overdraft Fees That Quickly Add Up

Jonathan from California said he incurred over \$400 in overdraft fees when he was dining out:

In a time before smart phones and apps, I once was hanging out with my friends and family. I had deposited my paycheck a couple of days prior and verified my deposit on my computer earlier that day. Well it turns out that Washington Mutual, my bank at the time, had an issue with my paycheck and no longer wanted to authorize it. They never sent me an email regarding this and later told me they were sending a letter that I wouldn't get until a day or two after the fact. So my friends and family ordered our food and we split the bill (first overdraft), then some of us move to the restaurant bar and order and pay separately, each time, for appetizers and drinks. Meaning that each appetizer and each drink is being charged independently. So I buy myself a drink, then I buy a friend a drink, I bought an appetizer, I bought my mom a glass of wine, etc. etc. This goes on throughout the evening and my Debit card was never declined, but each and every charge was an overdraft fee.

The next day I log in to my bank account to not only find out that my paycheck was removed from my account, but they had charged me over \$400 in overdraft fees. I called Washington Mutual immediately to find out what happened. I spoke to a couple of supervisors only for them to conclude that they would not cash my paycheck and they would not remove a single fee. In the end I closed my account, the bank black-listed me and I was not able to open another bank account for a long while. Was it my fault they had an issue with my paycheck? No. How was I supposed to know of the situation they had with my paycheck? Why was I allowed to continue paying for items while my account was in the negative? Why were they allowed to charge multiple overdraft fees in one day? The whole situation seemed predatory after my check was retracted.

C. from Florida told us:

I had a recent experience of an overdraft situation at my credit union. They charged \$10 for the first "cash advance", \$30 each for any additional advance with a max of \$500. Then if the overdraft was not paid within a 7 or 10 day?? window, they tacked on \$5 per day until it was paid off. Needless to say, this ballooned into \$100 and growing, and it started with a large withdrawal that should never have been made when it was withdrawn. I was able to get all the fees reduced to 1 \$30 fee, but this was outrageous!! This is an abuse of the banking system, especially for those of us that rarely need it.

Julie from Utah said:

I forgot to change my address with my bank when I moved to a new town 10 years ago. One day soon after I moved, I checked my bank account and found multiple \$25 fees from my bank. Unknowingly, I had overdrawn with an automatic payment, and then several other charges went through short afterwards. The bank had sent me letters to my old address, but I didn't receive them. Of course, this wasn't the bank's fault, but the fees racked up to several hundred dollars in a very short time. It was pretty frustrating.

Stephanie from Washington said her household finances were "ruined for months" because of mortgage company billing mistake, compounded by multiple overdraft fees:

We had a mortgage company withdraw double payments on our home. As a young, broke, married couple, this meant that every other bill that month incurred an overdraft charge. The mortgage company never refunded us and just used it as the payment for the following month, but we ended up having several hundred dollars in overdraft fees at our credit union and it took months for us to get back into a positive budget. Those fees occurred at a time when we could least afford it and punished us for months through no fault of our own.

Overdraft and NSF Fees Are Imposed For Minor Lags in Timing, and/or Intentional Reordering of Transactions

Many consumers said they had incurred overdrafts for minor lags in timing for payroll or other deposits.

Mark from California complained about the imposition of overdraft fees because his deposit was "off by half a day":

I was expecting my credit union to transfer funds from my savings account to my checking account at my bank. That's how I fund my monthly bill payments, by sending from my savings to my checking. But one month, the transfer from savings arrived a half day late. And therefore, I was charged an overdraft fee from my bank. But a \$30 penalty for a half-day late arrival? I've been the bank's customer for 30 years. And I think that was an excessive penalty.

Byron from Illinois said:

After Inland Bank was purchased by Byline, they seem to arrange for checks to clear, in such a manner to generate the most overdraft fees. Even on days where deposits were made, before checks cleared, the bank failed to include the deposits the day they were electronically deposited. In 30 plus years with inlandbank.com, we had 1 overdraft, with byline we had 6 or more, each resulting in 39 costs. Strangely enough most transactions went through cleanly the next day.

Edward from New York told us:

We use a local bank, and their fee is 35.00 for an overdraft. Trouble is, they deduct that charge BEFORE their totals, causing even more overdraft fees. It's just crazy. and they will overdraft you for the overdraft fee. As an elderly couple this really weighs down because we are fixed income. and with food prices being what they are it is easy to overdraft :(.

Robert from California said:

I made a deposit (government check that did not have a hold put on it). A check I had written hit the bank about an hour later and I was charged an overdraft fee because the deposit had not cleared even though the deposit time showed prior to the check.

C. Larry from Ohio said:

I had a regular mid week deposit from a part-time job. My bank would routinely post all charges against my account, early Wednesday morning, before posting the deposit. By doing so my account would often be overdrawn, notwithstanding the fact that the bank had the deposit in hand, which if posted first would have prevented an overdraft(s) and the corresponding overdraft fee(s).

Sam from Rhode Island pointed out that deposits are not always credited in time to avoid timing issues with bill payments:

These days, with so many regular household bills--electricity, water, heating fuel, waste collection, internet, phone service, insurance--many of us have automated payments (or been required to automate payments for better rates). Many people, like me, get paid twice a month; occasionally, so many of those automated regular service bills are withdrawn in the same day or two and before a paycheck clears, briefly overdrawing my checking account (when they hold plenty of my money in the savings account). Suddenly I owe at least \$35 (for a potentially smaller overdraft) before I even have time to recognize the discrepancy.

Overdraft Charges Can Be Triggered By Very Small Transaction Amounts

Richard from North Carolina said:

My daughter was working full time at minimum wage but could not keep money in her account. She unwittingly just clicked "ok" every time she'd take out a small amount of cash from atm and simply clicked thru a warning that it was costing her another \$35 to do a withdrawal which was many times less than \$35! She'd also get zapped for automatic payments hitting the same account. At one point I counted over \$450 in fees for just one statement. You would think someone would reach out to offer other solutions. No one ever contacted her.

Aleasha from Georgia said she was charged multiple overdraft fees for a 29 cent overdraft:

I ended up owing \$346 for a \$.29 overdraft. And on the way inside the bank, I found a quarter and four pennies on the ground. It was at EXCEL FEDERAL CREDIT UNION.

Joseph from New York said he was charged an overdraft for a tiny amount, and got the runaround when he tried to dispute it:

I decided to close out a checking account at Truist bank, and upon their advice, I wrote a check to cover the balance. I deposited this check via my Bank of America Mobile App, and indicated the correct amount. However, Bank of America later made a separate credit to my account for six cents, and overdraw my Truist Account. Truist bank then charged me a \$36.00 overdraft fee, and a \$10.00 Maintenance fee. I called Bank of America Customer Service, only to be told the agent could not make any adjustments to my account! There were no other contact numbers for either bank, no Address where I could send a Letter, no fax numbers - No way to contact either bank outside of the Customer service phone number. I now live in New York, and Truist has no branches anywhere near me. I finally wrote letters to both banks, picking a Branch office for each. They finally both resolved the issue...Finally!

Troy from Wisconsin said:

Royal Credit Union in Wisconsin gave my account a \$30 fee over a two cent overdraft. I contacted their attorney and told them that another account had 5 dollars with a few cents interest. So, he reversed the no funds fee. But they have made mistakes on assigning fees and if I was not checking on them they would walk away with illicit fines.

“Pending Charges” May Trigger Expensive Overdraft Fees

A few consumers said they had been negatively impacted by debit card “holds” when making purchases, triggering an overdraft fee.

Sherrie from Washington said:

Many companies are creating "pending charges" that are \$100 (unknown amount but news stories have warned the public against \$100 for each time your account is accessed by some companies) in excess of the correct debit charge. I had a \$29 overdraft charged

against my account when I had a debit plus an unknown excess charge levied against my account. I called my credit union and complained and the man that I spoke with refused to tell me what the excess amount charged was but did reverse and credit my account for the overdraft. I consider removing money from my account that is not the correct amount to be theft. Some of the companies that I do business with pend their charges for several days. How much money are these companies taking from consumers and then processing the correct charge days later? Please make pending charges illegal and ban this practice.

Diana from Pennsylvania told us:

I was at a local gas station and went in to prepay for the gas with my Debit card so that the pump stops directly at the amount that I paid for. Well, either the attendant didn't set the pump amount correctly or he just never set it up to stop at my prepaid amount.

I start to pump the gas and I would look up occasionally to see how close I was to being completed. I was close to being completed and was preparing to put the gas cap on when the amount ran over 34 cents. I immediately stopped the pump and called my Bank right away to explain to the Bank what had just happened. I was basically told that since I didn't have overdraft protection that I was responsible for the ODFee! \$ 30.00 dollars that I didn't have. I have a job but due to physical health problems I can only work part-time so my income is limited. Those overdraft fees added up to almost \$ 700.00, yes, \$ 700.00 dollars which in turn got my account sent to a collection agency. So now what was a good credit score went down to a fair credit score.

I don't have the funds to pay back those Overdraft fees and I took a 40 point credit score loss! All of these financial problems are all because of 34 cents!!!! And I wasn't even the one at fault. For that incredibly small amount I should have had that fee waived!

Negative Impacts on Consumers with Low and Moderate Incomes

High overdraft fees can be especially harmful to people with low-incomes, seniors, people with disabilities and others living on fixed incomes. For these groups, the high fees can cause a cascade of problems in keeping up with bills and create significant economic hardship.

Judy from Texas told us:

Just because I happen to miss a deposit by a day and my EFT comes before the deposit, I can be stuck with an overdraft fee of \$35! and more depending on your bank! Unless my bank will refund it and sometimes they won't. Sometimes an overdraft may be unavoidable, but we should not be penalized as if we robbed the bank! Being a senior citizen depending on social security, funds can be tight most of the time. A \$35 fee can sometimes multiply when this happens at the wrong time of month and no other funds are available to deposit into your account! A memory and embarrassment I choose not to share; except, in this case.

Andrea from California said:

I raised my 2 kids as a working single mom, working long retail hours and always stressed about money. One of the main reasons for this was because of overdraft fees charged by my bank. If I got one, they would charge be \$35, and \$5 each day following, until the balance was brought to over \$0 (next paycheck). It was often so hard to catch up! Although the service sometimes saved me, it put me back more times than I care to remember. It caused stress in my household and our lives very negatively. I'm sure my story is common, and want to bring attention to, and for deeper consideration of this demographic.

Dean from Indiana said:

As a young father, we were barely getting by. My wife accidentally over-drew our checking account by 20 cents resulting in overdraft fees that created a domino effect that bounced all our monthly checks. It ruined our fledgling creditworthiness which took years to correct.

Victoria from Virginia described the hardship of receiving overdraft fees on a fixed income:

My only bank account is checking with Atlantic Union bank. When I signed up for the account checking the choice to deny debit cards transactions that would over draw my account. Maybe the rule changed recently because in February the bank let 3 under \$10 tv subscription payments through when I had a \$4.00 balance. When my Social Security funds (my only income) were directly deposited my \$1542.00 funds were reduced almost \$120.00. This was my food & medication money. I am a disabled widow trying to live with a little dignity. The banks have other plans.

Andree from Louisiana told us:

Due to a severe chronic health crisis in my family, I only do odd jobs in order to have the flexibility I need to meet my family's health needs. One such time within the last nine months, when things were extremely difficult, I was paid late for a job and as a result, I overdrafted my account by ~ \$19. So, on top of everything else going on, I had to shell out another \$35 I didn't (& still don't) have during this time when I literally barely meet my bill responsibilities every month.

It makes absolutely NO SENSE to kick someone harder when they're already struggling financially - especially in this country's current economic situation, & also when banks make money hand over fist every day!

Barbara from Virginia said:

This year has been very difficult for my husband and me. We are living on Social Security mainly and have had a difficult time balancing paying bills, buying groceries and buying fuel. We live frugally and try to make sure we have everything covered that automatically

comes out of our credit union account before spending money on food. Because our Social Security comes into the Credit Union account on different days each month, some automatic debits are taken out before the Social Security is deposited even though the account shows it is pending.

A couple months ago Social Security was deposited at the latest date in that month and there were 3 small debits that were paid a couple days before the Social Security was deposited. We were charged \$105.00! That left absolutely nothing for food for the next 2 weeks! Fortunately, the person at the Credit Union was nice and understood our situation and refunded the money. However it continues to happen in months where the deposit date is late in the month and items like our cell phone monthly fees are taken out on different dates each month or something unexpected is withdrawn. I do call the Credit Union and they will often refund some of the money but I thought the law prevented them from taking money from Social Security for overdrafts.

Angue from Missouri described her experiences with “the \$36 Highway Robbery fee”:

Hello, I'm a single mom, of four grown children. Back in the day when they were younger and I had to support them without help from one of the fathers. I was charged over \$1000 in bounced check fees, in just one year. I knew the fee was going to be there, but when you have to buy food for four kids and you don't make very much money, there is no choice. My only option was to write a check for the food and pay the bank fee. I eventually had to move out of that home. I could no longer afford the rent, the food, the utilities, everything that went along with living a life.

Since then I still have an occasional \$36 fee added to my bank account but just this month alone. I was charged five \$36 fees that's \$180 that would've bought me two weeks worth of food. The frustration is real. The highway robbery is real what these banks are doing, should be illegal. I'm aware I can opt out of that overdraft protection, but what happens when I'm three dollars short on my rent? The check bounces and the rent doesn't get paid. I paid my electric bill it was \$2.03 that was because I had overpaid the previous month. And it ended up bouncing in my bank so my \$2.03 electric bill cost me \$38.03 I live in an apartment with my son he is 35 and has schizophrenia. I'm in my 50s and I can't even begin to tell you how much money I've lost to the 36 Dollar Highway Robbery fee.

Kimberly from Tennessee described the pain of dealing with the “late fees struggle”:

I was hit several times with late fees when I was younger as a single mother. I was living on my one income and sometimes I would forget to mail the bill or sometimes I didn't have all the money yet I would call the credit card or car payment bank to let them know. Sometimes they would accommodate ie waive the fee or skip the car payment (add another month to my end date). I was grateful for their understanding and support. It didn't last long as when it occurred within the year again, they wanted me to at least pay the interest and the credit card refused to remove the hefty late fee. I understand they want

their \$ but when you're adding ridiculously high late fees onto already struggling people, it's disheartening.

I once called Wells Fargo (I'll never do business with this company based on this one experience) for my mother who didn't have all the money to pay her car payment but had majority of it and within the week would have the rest yet it would be past the payment date. She was rarely ever late but when you're living paycheck to paycheck and an unexpected life event happens, it can set you back a month or two trying to catch up. So I called Wells Fargo to inform them of her situation and was willing to pay them the amount she currently had and would get them the remainder the following week and asked to not put a late fee on it. The man was extremely rude and told me to send it once I had all of it and he wasn't going to waive the late fee.

Heartless people who work for companies and companies who hire heartless employees who cause harm to those trying to do the right thing. It's the lack of compassion and empathy for people. Me as a single mother in the military trying to make ends while my exhusband was avoiding paying child support, and my mother who was rarely late couldn't get one exception when she needed it (it was her first late payment and we called before the due date to make arrangements). A lot of heartless greedy companies with no compassion or empathy for those struggling. I'm not talking about those who avoid or take no accountability or responsibility to pay their bills. Our humanity is all we have and instead of supporting it, we'd rather rape them into living a destitute life.