



CORNERSTONE LEAGUE

*Uniting & Inspiring Credit Unions
to Advance the Greater Good*

April 1, 2024

Comment Intake—2024 NPRM Overdraft,
c/o Legal Division Docket Manager
Bureau of Consumer Financial Protection
1700 G Street NW
Washington, DC 20552

RE: Overdraft Lending: Very Large Financial Institutions (Docket No. CFPB–2024–0002)

Dear Sir or Madam:

On behalf of Cornerstone Credit Union League [Cornerstone League], I am writing in response to the notice of proposed rulemaking [proposal] issued by the Consumer Financial Protection Bureau [CFPB] regarding its proposed rule to amend Regulations E and Z to update regulatory exceptions for overdraft credit provided by very large financial institutions.

Cornerstone League is a regional trade association that represents just shy of 600 state and federally chartered credit unions in Arkansas, Kansas, Missouri, Oklahoma, and Texas. Those 600 credit unions in turn represent nearly 12 million member/owners. Credit unions are not-for-profit member owned financial cooperatives committed to the financial success of the individuals, families, and communities they serve.

Credit unions strongly support the financial well-being of their member/owners. However, despite the good intentions of the CFPB to protect consumers with this and similar proposals, we oppose the proposal due to the unintended consequences it will bring for consumers and for credit unions.

Rather than benefiting consumers, the proposed rule would instead drastically reduce the ability of community-based credit unions to help their members in times of financial uncertainty and would have widespread impacts on supposedly exempt institutions and their members.

The CFPB should rescind the proposed rule and focus its efforts not on setting market prices, an authority we believe the CFPB does not have, but rather on educating consumers and empowering community financial institutions to provide valued financial products and services.

General Comments

Please note, overdraft fees are not “surprise junk fees” as CFPB likes to call virtually all fees these days. To the contrary, overdraft fees are tied to a service that benefits the consumer, they are properly disclosed by the financial institution, and they are avoidable by the consumer.

Overdraft fees are not punitive; rather they are associated with a direct service being sought by members. The reality is that in today’s world, many consumers live paycheck to paycheck, and those paychecks do not always cover all the necessities until the next paycheck arrives. As a result, many consumers want, and need, the assistance overdraft services provide.

Overdraft is Needed and Wanted by Consumers

Overdraft protection programs serve as a critical financial safety net for many Americans, and they are immensely valued by consumers for their ability to help them manage their finances and obligations. These programs are designed to help individuals avoid the inconvenience or catastrophe of declined transactions, ensuring that payments for essential services and unexpected expenses can be covered even when account balances fall short.

Consumers need and want overdraft protection programs because sometimes they need and want immediate access to funds for unexpected situations, such as emergency repairs, medical bills, or other pressing needs. The convenience of being able to complete transactions without the worry of declined payments adds a layer of security to financial management (and frankly life) that is difficult to quantify. Furthermore, overdraft protection shields consumers from potential fees and penalties linked to declined transactions. When a credit union covers the shortfall through overdraft services, individuals are spared from NSF fees imposed by merchants and the adverse effects on credit scores due to late or missed payments.

Overdraft Fees Are Adequately Disclosed

Credit unions and other financial institutions are subject to Regulation E, Regulation Z, and Regulation DD (NCUA part 707 for credit unions) which require disclosure of fees such as overdraft fees. As a result, these fees are not a surprise to consumers.

To ensure transparency and understanding, credit unions maintain regular communication with members who use overdraft services, providing detailed information about limits, fees, and how the service operates. Many credit unions provide a “heads up” to their members as funds run low, in order to help them to avoid overdraft fees if at all possible.

Overdraft Fees are Avoidable

Keep in mind, consumers have the ability to avoid overdraft fees by properly managing their accounts. We acknowledge that financial responsibility can be a challenge for many consumers,

which is why credit unions focus on providing financial education to their members in order to assist them in establishing savings so that overdrafts may be avoided in the future. Many credit unions offer low balance alerts to notify members when they are approaching a zero balance and allow them to make informed decisions about whether or not to utilize overdraft protection.

Alternatives to Overdraft Are Worse for Consumers

If consumers run out of options for overdraft services at their credit union, the alternative options leave them worse off.

First, consumers may consider using credit cards if a financial institution discontinues overdraft services. Keep in mind, consumers with limited funds may have poor credit history and “if” they do qualify for a credit card, it will likely be at a very high interest rate. (For the record, credit unions are capped at 18% for loans, which is significantly lower than the credit card rates most banks offer). Additionally, when consumers use credit cards, they may be tempted to charge more than they need without thinking about the long-term impact on their finances. This is why some consumers prefer to avoid credit cards.

If credit cards don’t work as an alternative, the next option for consumers is to turn to payday lenders. As you are well aware, this is the worst-case scenario for consumers. As you know, payday lenders are notorious for their abusive practices.

Credit Unions of All Sizes WILL Be Impacted By The Proposal

Although CFPB claims that the proposal will apply only to the very largest financial institutions, we strongly disagree. The implications of the proposed rule extend far beyond its direct scope, likely resulting in significant repercussions for smaller credit unions that are integral to our nation's financial ecosystem. The capacity of larger institutions to offer overdraft protection programs at cost, facilitated by their broader revenue bases and economies of scale, starkly contrasts with the operational realities of smaller financial institutions.

As the marketplace reacts to the constraints placed on larger entities, smaller credit unions may face intense pressure to lower their overdraft fees in order to stay competitive. This scenario is not merely hypothetical but a likely outcome of the natural market dynamics that drive pricing strategies across the financial services sector. Smaller institutions, many of which operate on thinner margins than their larger counterparts, rely in part on fee income, including overdraft fees, to sustain their operations and fund essential services for their members. The forced reduction of these fees, in a bid to remain competitive, could severely impact their financial viability, undermining their ability to provide affordable, accessible financial services to underserved communities. Additionally, for those institutions that are unable to reduce their

fees, the wholesale discontinuation of overdraft protection programs may be the only reasonable business decision.

Conclusion

Cornerstone League appreciates the opportunity to comment on this proposal. We oppose the proposal and urge the CFPB to withdraw it. We suggest the CFPB focus on continuing to educate consumers and empowering community financial institutions to provide valued financial products and services.

Please feel free to reach out should you have any questions.

Sincerely,

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