



Michigan Bankers Association

March 27, 2024

The Honorable Rohit Chopra  
Director  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, DC 20552

**Our Mission:**  
*Advocating for and supporting banking.*

**Our Purpose:**  
*Empowering the voice of banking through connections, growth, dreams and innovations for communities to thrive.*

Re: Overdraft Lending; Very Large Financial Institutions, 89 Fed. Reg. 13,852 (Feb. 23, 2024), Docket No. CFPB-2024-0002; RN 3170 AA 42

Dear Director Chopra:

The Michigan Bankers Association (MBA) and our member banks welcome the opportunity to provide a comment letter on the CFPB proposed rule on overdraft services. There has been much rhetoric in the past year to align the phrase “junk fee” with this very utilized and much-appreciated service that 67% of the American public finds valuable. A point of beauty is that the other 33% of consumers are not required to utilize this service and may opt for an account that does not offer this, decline the product on their existing account, or keep the account they have and balance their funds to ensure they have a sufficient balance to accommodate their personal budgets.

To be clear, the scope of impact to include the “very large” institutions at which this rule is specifically directed, and very small institutions, at which this rule is not directly inclusive of but in practice and in the marketplace will be significantly impacted. This rule comes at a time when the industry, is not only sustaining headwinds as a result of historic swings in monetary policy over the past 18 months but also amidst what is likely the most prolific period of rulemaking from all agencies touching the industry in the history of banking. Further, as the lead financial consumer protection agency, it is shocking that there is a proposal to threaten the existence of a consumer’s ability to manage their depository accounts and to then bifurcate the application of this important consumer tool, either in ignorance of the consequences or via political motivation for expediency.

Interestingly, depository accounts make up only around 2% of all agency consumer complaints and overdraft is arguably only a portion of those. Overdraft is notably one of the most transparent and competitive products available in depository banking.

The CFPB has explicitly stated that competitive and consumer protection/awareness innovations have grown. Innovations such as low-balance alerts, linking to other accounts, offering de minimis thresholds and caps on fees per day, and grace periods allowing customers to make a deposit and cover the expense to avoid an overdraft fee.

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Additionally, these innovations and the competitive marketplace have reduced the average cost of overdraft and NSF fees.

A Federal Reserve Bank of New York study concluded that capping overdraft fees hinders financial inclusion. This proposal would likely reduce the availability of low-cost depository accounts and increase minimum balance requirements. At a time when we share a common goal to ensure financial inclusion, financial literacy, and awareness as well as financial accountability- this proposal appears to be more foe than friend.

In addition to the myriad of technical arguments on the wrongful assumptions in the rule categorizing overdraft as a “credit” and the application of the Truth in Lending Act and Regulation Z to overdraft protection, the above demonstrates our strong opposition to the proposed rule. We specifically request that the Bureau withdraw the Proposal.

Sincerely,

A handwritten signature in black ink that reads 'T. Rann Paynter'.

T. Rann Paynter  
President & CEO

A handwritten signature in blue ink that reads 'Patricia Herndon'.

Patricia Herndon  
Chief Policy Officer