

# The evolving landscape of bank overdraft fee practices

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The overdraft fee practices of financial institutions (FIs) have been in the news a lot recently.<sup>1</sup> Recently, the CFPB called them part of the “junk fee” habit which FIs relied too heavily on upon.<sup>2</sup> The Bureau has labeled these fees as “exploitative income streams.” Just 10% of consumers pay 80% of these overdraft related fees.<sup>3</sup>

The Bureau has not yet specified how it intends to attack overdraft protection programs (ODPs), but action is no doubt coming. The choices are issuing guidance, formal rulemaking, or changing behaviors via enforcement actions. Perhaps all three paths will be followed. Guidance may be the quickest path but would not have the same force and effect as a formal rule. The CFPB’s stated goal is to make ODPs “fair, transparent and competitive.” That tripod of change will involve a lot of resources.

In June 2021, Ally Bank became the first large bank to eliminate all such fees. Over the past eight months, more than a dozen other large banks have also made changes to their ODPs.

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As this regulatory shift plays out, industry watchers say that it is probable that at least five limitations are likely:

- (1) restrictions on the total dollar amount of fees per day regardless of the number of overdrafts or the amount of account shortage;
- (2) allowance of only one fee per overdraft even if the payee re-submits the transaction;
- (3) a ban of return check fees (NSFs) when a separate overdraft fee is charged;
- (4) prohibition of interest charges on overdraft fees that remain unpaid; and
- (5) disallowance of an institution closing an account based solely on repeated overdraft experiences.

In addition to the above, other possible modifications include such things as:

- restrictions on marketing of ODPs and the changes to the prior practices — such as a Pew Trust industry-style-explanatory warning box on monthly account statements;

- regulatory examination of overdrafts as extensions of credit and requiring TILA, ECOA compliance;
- formalized regulatory examination of ODP practices which may include required reporting of fee waivers and refunds in the Call Reports of banks larger than \$1 billion in assets (not a current requirement);
- special protections for customers/communities of color which bear the most impact from such fees. Indeed, a recent Financial Health Network study has estimated that Hispanic households paid \$3.1 billion in fees in 2020 and Black households paid \$1.4 billion;<sup>4</sup> and
- discontinuance of immediate recapture in full of ODP fees upon the first deposit made to the accounts and possible repayment periods of 3 months for these fees.

The Bureau’s comment period for new rules closes March 31, 2022. The identified timetable for action is considered to be mid-2022, and many of the larger financial institutions have decided to get ahead on this issue and to voluntarily make changes.

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So, where are the ODP fee changes trending and what features of this service are identifiable amongst the biggest fee generators? A recent CFPB study published in December 2021 stated that in the sample study of OD/NSF fee revenue trends from 2015-19 there were 36 (unnamed) banks which expanded their reliance upon such fees during the study period and they grew such reliance by about 9% over the five years.<sup>5</sup> These are the ones in the danger zone.

## The CFPB chart

The Bureau has recently conducted a study of the overdraft fee revenues of the biggest earners of such fees in the first nine months of 2021 and ranked the top 20 fee-takers. The Bureau then charted the changes announced by various institutions (see below)<sup>6</sup>. This is helpful data for the industry to understand.

**Overdraft/NSF metrics for Top 20 banks based on overdraft/NSF revenue reported**

Overdraft (OD) and NSF (non-sufficient fund) fee revenue is based on reported values from January 2021 through September 30, 2021.

Blue shading reflects recent changes reported since approximately September 1, 2021 that are either already in effect or are planned to go into effect in the near term. Check with the bank or review your account agreement to confirm the details prior to opening an account. Some banks below also offer accounts with no overdraft or NSF fees, or with other terms that differ from the account terms listed below.

Bank	Overdraft/NSF Revenue for 9 months ended September 2021	No overdraft fees on any transactions <sup>1</sup>	No NSF fees	No overdraft fees on debit card purchases <sup>2</sup>	No overdraft fees on ATM withdrawals	No extended/sustained overdraft fees	Size of overdraft and/or NSF fee <sup>3</sup>	Daily limit on number of overdraft/NSF fees <sup>4</sup>	Cushion before overdraft fee is charged <sup>5</sup>	Extended grace period
Wells Fargo Bank, N.A.	\$1 billion		✓			✓	\$35	3 (\$105)	\$5	next day
J.P. Morgan Chase Bank, N.A.	\$924 million		✓		✓	✓	\$34	3 (\$102)	\$50	next day
Bank of America, N.A.	\$823 million		✓	✓	✓	✓	\$10	4 (\$40)	\$1	--
TD Bank, N.A.	\$347 million					✓	\$35	3 (\$105)	\$50	next day

<sup>1</sup> Overdraft practices reflected in this chart exclude those associated with formal overdraft lines of credit or links to credit cards or savings accounts.

<sup>2</sup> This column describes non-recurring debit card transactions, like point-of-sale transactions. Recurring debit card transactions may still result in overdraft fees if the institution otherwise charges overdraft fees.

<sup>3</sup> If a bank's fee size changes based on the number of overdraft fees charged, the highest overdraft fee is reflected here.

<sup>4</sup> Unless otherwise noted, this limit applies to the total number of overdraft and NSF fees combined. Huntington and Santander appear to apply this limit to overdraft and NSF fees separately. From public information, it is not clear whether Fifth Third applies this limit to overdraft and NSF fees combined, or only to overdraft fees.

<sup>5</sup> Banks reflected here vary as to whether they apply de minimis buffers of up to \$5 based on the size of the transaction, the size of the negative balance, or both. All cushions of \$50 or more reflected here apply to the size of the negative balance.

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Truist Bank	\$301 million		✓			✓	\$36	6 (\$216)	\$5	--
U.S. Bank N.A.	\$242 million		✓				\$36	4 (\$144)	\$50	next day
Regions Bank	\$221 million		✓			✓	\$36	3 (\$108)	--	--
PNC Bank, N.A. <sup>6</sup>	\$210 million		✓			✓	\$35	1 (\$35)	\$5	next day
USAA Federal Savings Bank	\$139 million	✓		✓	✓	✓	\$29	3 (\$87)	--	n/a
Huntington National Bank	\$119 million						\$36	4 each (\$288)	\$50	next day
Citizens Bank, N.A.	\$115 million						\$37	5 (\$185)	\$5	next day
Woodforest National Bank	\$107 million					✓	\$32	3 (\$96)	\$1	--
KeyBank N.A.	\$80 million						\$38.50	--	--	--
Fifth Third Bank, N.A.	\$78 million						\$37	3 (\$111 in overdraft fees)	\$5	next day

<sup>6</sup> Includes overdraft/NSF revenue of BBVA USA, which PNC acquired effective June 1, 2021.

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Citibank, N.A.	\$70 million			✓	✓	✓	\$34	4 (\$136)	--	--
Manufacturers and Traders Trust Company	\$62 million		✓			✓	\$15	1 (\$15)	\$5	--
Capital One, N.A.	\$58 million	✓	✓	✓	✓	✓	n/a	n/a	see note <sup>7</sup>	n/a
Arvest Bank	\$52 million					✓	\$17	8 (\$136)	--	--
Santander Bank, N.A.	\$38 million						\$35	3 each (\$210)	\$100	--
Bank of The West	\$33 million						\$35	5 (\$175)	\$5	--

Note: The chart reflects a snapshot of the CFPB's review of press releases, publicly available account disclosures, and news reports. We will continue to assess bank practices and update the chart periodically. Information on this chart has not been independently verified by the CFPB, and the inclusion of an institution on this list does not reflect a CFPB endorsement, or lack thereof, of the institution by the CFPB.

<sup>7</sup> Capital One announced "No-Fee Overdraft" which provides overdraft coverage of an unspecified amount.

There are at least a dozen take-aways from the charted information which are detailed below:

- (1) Several top fee revenue FIs are not among the largest by asset size — notably, Woodforest National Bank (\$107 million fees vs. #176 in assets); Arvest Bank (\$52 million fees v. #78 assets); and Regions (\$220 million in fees v. #33 assets). Some small banks are big players when it comes to ODP fee revenues. In a 2021 Brookings Institute Study<sup>7</sup> it was reported that three such banks counted on such fees for more than 100% of their reported “profits” — First National Bank of Texas d/b/a First Convenience Bank (Killeen, TX) (281%), Academy Bank (Kansas City) (236%), and Woodforest National Bank (Woodlands, TX) (111%). To a slightly lesser degree, three other small banks earned a majority of their profits from these fees — Armed Forces Bank (Kansas City) (76%), Arvest Bank (Bentonville, AR) (62%), and Gate City Bank (Fargo, ND) (59%). As a percentage of profits, these six banks are highly reliant on ODP fees — compared to a regional bank average of about 9%.
- (2) Among these top 20 fee revenue banks — the most common amendments were to drop NSF fees entirely (9/20 or 45%) and to extend the grace period to include the end of the next day after the transaction deemed short (7/25 or 28%).
- (3) The dollar amount of overdraft fees for banks making recent changes only reduced among 3/20 FIs — Bank of America cut to \$10, M&T to \$15, and CapOne eliminated such fees entirely. But, 17/20 FIs kept the fee “as is” — most of them in the range of \$34–\$38.50. That will draw the attention of the CFPB as perhaps as an indicator of noncompetition.
- (4) Only two of the charted FIs have no OD fees on any transactions — USAA and CapOne. [Ally is not on the chart]
- (5) Several of the FIs added a cushion before OD fees are charged — with JPMC, TD, and USB adding this at \$50 (Huntington was already at \$50). But, the range of the cushion is large — from Citi, Regions, Key and Arvest (at \$0), to Bank of America and Woodforest (\$1), to Wells, Truist, PNC, Citizens, Fifth Third, M&T, and Bank of West (\$5) — compared to Santander (\$100).
- (6) Seven of the top fee revenue FIs have not yet announced any recent changes to their ODPs — these include USAA (done previous to the chart), Huntington, Woodforest, Key, Citi, Arvest and Bank of the West.
- (7) 5/20 or 25% of the top fee revenue FIs reduced the daily limit on the number of ODP fees and also placed a monetary limit on the total of OD plus NSF fees — Regions 3 (\$108), PNC 1 (\$35), Fifth Third 3 (\$111), M&T 1 (\$15), and Santander 3 (\$210).
- (8) NSF fees were dropped entirely by nine large FIs — Wells, JPMC, Bank of America, Truist, USB, Regions, PNC, M&T, and CapOne — but the mid-size regional banks and smaller FIs did not make this change.
- (9) Two of the top 20 large fee FIs recently joined the “club” in not charging an extended/sustained negative balance fee — Truist and M&T — and in addition to those two FIs, there are 11 other FIs with similar program features — Wells, JPMC, Bank of

America, TD, Regions, PNC, USAA, Woodforest, Citi, CapOne, and Arvest — thus, the absence of an additional negative balance fee is the most common feature of all variations of fee programs = 13/20 or 65%.

- (10) For these largest 20 fee FIs, the nine months of 2021 revenues from such fees ranged from \$1 billion (Wells) to \$33 million (Bank of the West). The revenue hit from announced alterations is potentially impactful for some, but not all, of FIs. As a benchmark, these fees make up to 5-10% of many banks profits annually; but compared to all revenues, the range among the big four is noteworthy and relatively low — JPMC (1.2%), Bank of America (.29%), Citi (.03%), and Wells Fargo (.40%). Press releases accompanying ODP changes shed some light on the potential revenue loss. Wells Fargo signaled an annual \$700 million decline in fee revenue from its changes in ODP fees. Truist stated “we expect these changes collectively to result in an approximately \$300 million, or almost 60% reduction in overdraft-related revenue by 2024.” And, Bank of America indicated that its changes will “reduce overdraft fee revenues by 97% from 2009 levels.”
- (11) Clarity in the explanation of program changes is challenging — even the CFPB (Chart at FN 4) says that the daily limit on charges for NSF and OD fees is still “unclear” — Huntington and Santander “appear” to apply the dollar limits separately, while Fifth Third may/may not set its limit for any combination of such fees. This finding underscores the CFPB focus on transparency.
- (12) No OD fees on ATM withdrawals is a recent feature added by Bank of America and CapOne, but this benefit is only allowed by 5/20 or 25% of the FIs (JPMC, USAA, Citi).

### The fintech squeeze

Fintechs, often in collaboration with existing banks, have garnered significant new customers fleeing the burdens of bank ODPs. Such entities have significantly disrupted the terrain — utilizing their lower cost structure, more versatile technology, focused overhead, and trending appeal to younger adults who prefer banking by mobile apps. Such companies have enhanced their appeal by offerings such as AI analysis of customers’ spending and savings patterns, as well as credit building products for the underbanked and the unbanked.

There are multiple new fintech entrants into this competition arena — just to name a few:

- Chime ([www.chime.com](http://www.chime.com))
- Tally ([www.meettally.com](http://www.meettally.com))
- Dave, Inc. ([www.dave.com](http://www.dave.com))
- Money Lion ([www.moneylion.com](http://www.moneylion.com))
- Moven ([www.moven.com](http://www.moven.com))
- Aspiration ([www.aspiration.com](http://www.aspiration.com))
- Quontic ([www.quontic.com](http://www.quontic.com))
- Varo ([www.varomoney.com](http://www.varomoney.com))

- Axos Bank ([www.axosbank.com](http://www.axosbank.com))
- Brigit ([www.hellobrigit.com](http://www.hellobrigit.com))
- Oportun ([www.oportun.com](http://www.oportun.com))

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These neobank and fintech players will continue to alter the competitive environment and prove new ways to make money from deepened customer relationships.

**Credit unions are not (yet) specifically being tracked**

The CFPB has reliable data on ODP fees from banks larger than \$1 billion in assets. But, the NCUA has not historically required credit unions to separately report such fees and the details of the related revenues. By proxy analysis, the Bureau issued a report in 2019 which utilized data gathered from the larger core processor entities handling such fee programs for credit unions, but noted that the data was somewhat stale (2017) and incomplete.<sup>3</sup>

The Bureau does not have examination authority over credit unions until they pass the \$10B asset threshold — and only a half dozen of them today are at that level. The NCUA has been less vocal about its intent to track overdraft fees and to examine institutional reliance on such fee income, but it is certain to be making some policy changes in conjunction with the CFPB, OCC, FDIC, and the Fed.

**Where does all this end up?**

This is a long slog. The existing regime evolved over the last 30 years and banking/technology/politics have all changed.

**About the author**



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Fintech is driving a new environment and government is too. ODP practices might prove the battleground of banking adaptability in the future. Which FIs can forego this revenue stream and potentially benefit from other affiliations and income sources in order to remain safe and strong suppliers of financial services is the question yet to be determined. Change is coming and it could be disruptive.

Perhaps one of the most thoughtful analyses of the overdraft battleground is in a 2020 report published by Oliver Wyman

*Change is coming and it could be disruptive.*

entitled “Beyond Overdraft: A Path to Replacing Unsustainable Revenue.”<sup>9</sup> The authors indict the existing overdraft regime: The “value exchange is unsustainable in a competitive marketplace, and broader industry trends are now in the process of resetting the market.” Be ready or be at risk.

**Notes**

<sup>1</sup> <https://bit.ly/3hthwL9> and <https://bit.ly/35Fetgi>

<sup>2</sup> CFPB request for information to lay groundwork for rule making. Jan. 26, 2022).

<sup>3</sup> CFPB “Data Point: Frequent Overdrafters” August 2017

<sup>4</sup> <https://bit.ly/3K4XLG7>

<sup>5</sup> See “DataPoint: Overdraft/NSF Fee Reliance Since 2015 — Evidence from Bank Call Reports.”

<sup>6</sup> Chart originally published on the CFPB’s website, available at <https://bit.ly/3szvKjY>.

<sup>7</sup> <https://brook.gs/3tjAiKw>

<sup>8</sup> See “Overdraft Core Processors Report.”

<sup>9</sup> <https://owy.mn/35Fvsiy>

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