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Written Testimony
House Financial Services Subcommittee Hearing on Overdraft Fees

Thank you and good morning Chair Perlmutter, Ranking Member Luetkemeyer and the members of the subcommittee. As a proud former military spouse of a Spc. in the United States Army, I know first-hand that running a household on military pay can be quite difficult for lower enlisted personnel. Every month, my husband, who had opted into overdraft protection at one of the top 20 big banks, watched his pay be eaten up by \$35 overdraft fees. A cycle that continued paycheck after paycheck until I, a DC licensed attorney who was stationed in California, was able to find employment after jumping through strenuous licensing requirements for the state.

My husband and I are not alone. Overdraft fees are paid the most by the people who can least afford them. These are high fees that, (1) bear no relationship to the costs banks incur in covering overdrafts, (2) have the potential to explode into hundreds of dollars in fees; and, (3) can be near-impossible to avoid for people living paycheck to paycheck.

According to research from the CFPB, overdraft fees have become a **cash cow for financial institutions**. In 2019 banks and credit unions charged more than \$15 billion in overdraft and non-sufficient fund (“bounced check”) fees, with these fees making up a particularly large portion of smaller banks’ net profits.¹ This money is mostly made off the backs of some of America’s most financially vulnerable families, disproportionately affecting communities of color.

Overdraft fees are a **penalty for being poor or financially insecure**. Nearly 80 percent of overdraft fee revenue to banks comes from 9 percent of accounts. The median account balance of this group is less than \$350.²

It can be extremely challenging for people with low balances to avoid being hit with an overdraft fee. The timing of when debits and credits are posted to a checking account is opaque, complicated, and out of the consumers’ control, and in the past some banks have changed the order of certain transactions so they debit from largest to smallest to increase the number of overdraft fees triggered.

Overdraft fees should not be used as a high-cost form of credit and should be eliminated or returned to an occasional courtesy for covering a check or preauthorized electronic payment. Banks should be allowed to impose no more than six overdraft fees a year. Beyond that, they should cover overdrafts through overdraft lines of credit with a reasonable interest rate instead of a huge overdraft fee.

¹ *CFPB research shows Banks' deep dependence on overdraft fees*. Consumer Financial Protection Bureau. (2021, December 1). Retrieved March 29, 2022, from <https://www.consumerfinance.gov/about-us/newsroom/cfpb-research-shows-banks-deep-dependence-on-overdraft-fees/>

² *CFPB research shows Banks' deep dependence on overdraft fees*. Consumer Financial Protection Bureau. (2021, December 1). Retrieved March 29, 2022, from <https://www.consumerfinance.gov/about-us/newsroom/cfpb-research-shows-banks-deep-dependence-on-overdraft-fees/>

Unexpected and high fees like overdraft fees are often cited as a reason for a formerly-banked person to no longer have a bank account; when a bank hits a negative balance with repeated overdraft fees, it can make it impossible for the consumer to recover, so the bank will close the account. When the account is closed, the financial institution submits the customer's name to a database that acts like a blacklist, which can prevent the customer from opening a new account elsewhere for several years.

Among people with checking accounts, **Black and Latino Americans are more likely than white Americans** to incur overdraft fees.³ It is wrong that a person who is struggling to get by get exploited with a surprise \$35 fee just because they inadvertently overdraw their account while buying milk. (\$35 is a typical fee).

Some banks have made significant changes to their overdraft programs, with a small number eliminating all overdraft fees, others getting rid of their non-sufficient fees, and some making more modest changes like 24-hour grace periods. **While this is positive for these banks' customers, these measures are insufficient by themselves.** We need financial regulators to take decisive action to stop abusive overdraft fees at all financial institutions and to prevent them from coming back.

Harmful overdraft practices remain a systemic problem that policymakers should address. Unless fair, legally binding rules for overdraft are established, abusive fees will remain. We also need to look out for new “fintech” forms of overdraft fees, like fees hidden as purportedly voluntary “tips.”

Solutions

We urge representatives to co-sponsor and support Representative Maloney's [Overdraft Protection Act \(H.R. 4277\)](#) and Senators to support Senator Booker's [Stop Overdraft Profiteering Act \(S. 2677\)](#). These bills would cap the number of overdraft fees at one per month and six per year, while allowing additional overdrafts to be covered through overdraft lines of credit or transfers from linked accounts; limit each overdraft and NSF fee to an amount that is “reasonable and proportional” to financial institutions' costs in the overdraft coverage; require consumers to opt in to any overdraft coverage; and prohibit banks from reordering of transactions to maximize overdraft fees. S. 2677 also prohibits overdraft fees on debit card and ATM transactions. Might add something about the sign on letter

We urge the CFPB to use its rulemaking authority to end abusive overdraft fee practices and to ensure that consumers are safe at every bank and credit union. We also urge the other federal financial regulators – OCC, Federal Reserve, NCUA, and FDIC – to use their supervision and

³ Greene Director, W. by M., Greene Director, M., & Arves Manager, S. (2021, September 3). *Amid resurgence of interest in overdraft, new data reveal how inequitable it can be*. Financial Health Network. Retrieved March 29, 2022, from <https://finhealthnetwork.org/amid-resurgence-of-interest-in-overdraft-new-data-reveal-how-inequitable-it-can-be/>

other authorities to address this problem. And we urge members of Congress to highlight the importance of action by these regulators. All regulators must also pay attention to emerging forms of evasion and abusive overdraft practices.

Thank you for inviting me to testify. I would be happy to answer your questions.