

United States Senate

WASHINGTON, DC 20510

April 1, 2024

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

Re: Consumer Financial Protection Bureau Notice of Proposed Rulemaking, “*Overdraft Lending: Very Large Financial Institutions*,” Docket No. CFPB–2024–0002

Dear Director Chopra:

I write today in support of the Consumer Financial Protection Bureau’s (CFPB) proposed rule entitled, *Overdraft Lending: Very Large Financial Institutions*,¹ which was issued on February 23, 2024.¹ For decades, corporate banks have been allowed to profit off their customers by hitting account holders with hidden and bogus junk fees, like overdraft fees. Across the Nation, Americans are struggling to make ends meet, in part due to the proliferation of junk fees across the marketplace. If finalized, CFPB’s proposed rule would protect Americans from overdraft charges by closing an outdated loophole and capping the fees that can be charged, allowing consumers to bank without excessive penalties. I encourage CFPB to finalize this rule as soon as possible.

On January 24, 2024, I released a report entitled, “*Additional Charges May Apply: How Big Corporations Use Hidden Fees to Nickel, Dime, and Deceive American Families*.”² My report details how corporations use hidden fees to deceive consumers and increase corporate profits, which leaves families paying more than they expect for everyday purchases. My report tracks the variety of junk fees, including overdraft fees, that families trying to pay their bills face. My findings estimate that an average Pennsylvania family may pay nearly \$1,000 in junk fees alone over a single month.³

Overdraft fees, loans, or credit can be issued by banks when a customer’s spending exceeds the balance of their account.⁴ Overdraft services were first developed as a courtesy service for banking customers who may have accidentally overdrawn on accounts using paper checks. However, as CFPB identified, the practice of charging customer overdraft fees has expanded

¹ <https://www.regulations.gov/document/CFPB-2024-0002-0001>

² https://www.casey.senate.gov/imo/media/doc/greedflation_junk_fees3.pdf

³ https://www.casey.senate.gov/imo/media/doc/greedflation_junk_fees3.pdf

⁴ <https://www.nerdwallet.com/article/banking/overdraft-fees>

despite electronic banking and automation⁵—today, large banks charge roughly \$35 for an overdraft fee, even though most overdrafts are for a small amount, are repaid quickly, and do not generally cost banks \$35 to process.⁶ Roughly 23 million households pay overdraft fees each year,⁷ and estimates indicate that 26 percent of Americans reside in a household that faced an overdraft fee or non-sufficient fund fee in the last year.⁸

Notably, overdraft fees are often unexpected. Among households that incurred an overdraft fee, 43 percent did not expect the fee.⁹ Because the majority of overdraft fees are exempt from the Truth in Lending Act, banks are currently able to establish complicated processes that mislead consumers, leaving them unaware when they will be charged an overdraft fee and for what amount.¹⁰ For some customers, this can be devastating, ultimately resulting in them losing their checking accounts.

Overdraft fees generate substantial profit for corporate banks. According to CFPB's estimates, consumers have paid roughly \$280 billion in overdraft fees over the last 20 years and paid \$9 billion in just 2022 alone.¹¹ Big banks have taken notice, using overdraft fees to generate substantial revenue and deceive vulnerable consumers. For instance, in 2022 Wells Fargo was ordered by CFPB to repay over \$200 million to consumers who had been charged surprise overdraft fees that were assessed despite the consumers having available funds in their accounts.¹²

As I discussed in my January 2024 report, junk fees are eating into families' budgets. In this report, I laid out my priorities when it comes to combatting junk fees: (1) fighting deceptive practices that allow corporations to hide the fees they charge consumers; (2) preventing corporations from deceptively passing along their expenses to working families through bogus fees; and (3) protecting businesses that are honest about their pricing structures. CFPB's efforts in this proposed rule to require banks to provide their customers with proper loan and credit disclosures and to cap overdraft fees at a realistic level meet these goals—and should be applauded.

Large corporate banks should be expected to provide their customers with transparent information about the services they offer and to charge fees that are in proportion to the actual costs the fees are covering. I believe that this proposed rule will be a positive step forward, and

⁵ https://files.consumerfinance.gov/f/documents/cfpb_overdraft-credit-very-large-financial-institutions_fact-sheet_2024-01.pdf

⁶ https://files.consumerfinance.gov/f/documents/cfpb_overdraft-credit-very-large-financial-institutions_fact-sheet_2024-01.pdf

⁷ https://files.consumerfinance.gov/f/documents/cfpb_overdraft-credit-very-large-financial-institutions_fact-sheet_2024-01.pdf

⁸ https://files.consumerfinance.gov/f/documents/cfpb_overdraft-nsf-report_2023-12.pdf (page 5)

⁹ https://files.consumerfinance.gov/f/documents/cfpb_overdraft-nsf-report_2023-12.pdf (page 6)

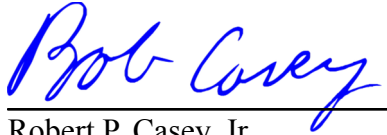
¹⁰ https://files.consumerfinance.gov/f/documents/cfpb_overdraft-credit-very-large-financial-institutions_fact-sheet_2024-01.pdf

¹¹ https://files.consumerfinance.gov/f/documents/cfpb_overdraft-credit-very-large-financial-institutions_fact-sheet_2024-01.pdf

¹² https://files.consumerfinance.gov/f/documents/cfpb_overdraft-credit-very-large-financial-institutions_fact-sheet_2024-01.pdf

on behalf of Pennsylvania consumers, I strongly encourage CFPB to finalize the proposal as soon as possible.

Sincerely,



Robert P. Casey, Jr.
United States Senator
Chairman, Subcommittee on
Children and Families