



February 4, 2025

The Hon. French Hill, Chairman
The Hon. Maxine Waters, Ranking Member
U.S. House Committee on Financial Services
Washington, DC 20515

**Re: Statement submitted for the hearing titled “Make Community Banking Great Again,”
scheduled for Feb. 5, 2025**

Dear Chairman Hill, Ranking Member Waters, and Members of the Financial Services Committee:

The National Association of Consumer Advocates (NACA), a national nonprofit organization actively engaged in promoting a fair and open marketplace that forcefully protects the rights of all consumers, particularly those of modest means, writes in response to the committee’s memorandum announcing the hearing titled “Make Community Banking Great Again.” Specifically, we urge the committee to oppose H.J. Res. __, the resolution of disapproval of the Consumer Financial Protection Bureau’s (CFPB) overdraft fee rule¹ referenced in the memorandum.

The committee should consider three important factors as it weighs the CFPB’s overdraft lending rule for very large institutions and the resolution seeking to overturn it. **First**, the rule will save targeted American families \$5 billion/year in overdraft fees, amounting to \$225/year per household that pays overdraft fees.² **Second**, the rule will remedy a known cause of the growing number of unbanked consumers. Unbanked people have cited high fees as a reason and millions are “debanked” when their deposit accounts are closed due to excessive overdraft fees.³ **Third**, the rule only applies to the largest financial institutions with more than \$10 billion in assets, “in light of the different circumstances smaller financial institutions may face in adapting to the...regulatory framework.”⁴ Only the 175 largest financial institutions, who already dominate the deposit and overdraft market, meet this threshold. Community banks, which the committee seeks to strengthen “and ensure regulation is properly tailored” for, would not be impacted by the rule.

The CFPB’s overdraft fee rule for very large financial institutions, closes a paper-check era loophole, which exempted overdraft fees as a finance charge under the Truth in Lending Act. It was a convenience to prevent paper checks from bouncing. In the rule, the CFPB rightly ends the loophole, which had facilitated predatory practices, allowing the largest banks to hike their fees and earn billions in profits off of working families. The straightforward rule gives the largest

¹ Final Rule, *Overdraft Lending: Very Large Financial Institutions*, 89 Fed Reg. 106768, Dec. 30, 2024.

² CFPB Closes Overdraft Loophole to Save Americans Billions in Fees, Dec. 12, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-closes-overdraft-loophole-to-save-americans-billions-in-fees/>

³ Dennis Campbell, et al., *Bouncing out of the banking system: an empirical analysis of involuntary bank account closures*, April 2012, available at <https://www.sciencedirect.com/science/article/abs/pii/S0378426611003256>.

⁴ 89 Fed Reg. at 106778.

banks three options. They can (a) cap their overdraft fee from the typical \$35 to \$5, the estimated level at which most banks would be able to cover their costs associated with overdraft transactions; (b) set their own overdraft fee at an amount that covers actual costs and losses, and not used as a profit tool, or (c) disclose the terms of their overdraft charge, and treat it like other loans with transparent pricing, time to pay, and compliance with other lending requirements.

The rule follows years of market research on overdraft fees conducted by the agency and others.⁵ This research found that many consumers treat overdraft fees as credit, that they do not have a full understanding of overdraft programs, that consumers believed the fees are disproportionate, and that the most financially at-risk people are the most negatively impacted by such fees.⁶ The rule also comes during an ongoing shift away from overdraft fees. Big banks, including Capital One, Citibank, and Ally have eliminated their overdraft fees while Bank of America has reduced its fee from \$35 to \$10.⁷ The overdraft rule will help make the market safer and more competitive.

Excessive overdraft charges also impact servicemembers and veterans. Recently, the CFPB ordered Navy Federal Credit Union, which serves active-duty military members, veterans, and Department of Defense civilian employees, to refund more than \$80 million to consumers charged wrongful overdraft fees.⁸ Navy Federal was found to have charged surprise overdraft fees to consumers whose accounts showed sufficient funds and failed to disclose that certain funds from peer-to-peer payments would not be available to spend until the next business day.

The CFPB also has rightly taken action against Wells Fargo and other entities for conduct that included charging surprise overdraft fees, pressuring consumers into signing up for overdraft protection, charging fees to consumers who had not opted in to overdraft protection, and more.⁹ The overdraft rule will eliminate the incentive for these exploitative practices while allowing banks to offer overdraft credit in a transparent and fair manner.

To help lower costs, spur growth, and increase competition, we urge you to reject any resolution of disapproval that would overturn the CFPB's final rule on overdraft lending and fees. Thank you for considering our views. Please contact me at [christine @ consumeradvocates.org](mailto:christine@consumeradvocates.org) with any questions or concerns.

Sincerely,

Christine Hines
Senior Policy Director

⁵ Pew, *Overdraft, The Need for New Rules*, <https://www.pewtrusts.org/en/research-and-analysis/articles/2015/04/overdraft-the-need-for-new-rules>; Consumer Fin. Protection Bur., *Data Point: Overdraft/NSF Fee Reliance Since 2015 – Evidence From Bank Call Reports*, Dec. 2021, https://files.consumerfinance.gov/f/documents/cfpb_overdraft-call_report_2021-12.pdf.

⁶ See e.g. Consumer Fin. Protection Bur., *Overdraft and Nonsufficient fund fees: Insights from the Making Ends Meet Survey and Consumer Credit Panel*, Dec. 2023, https://files.consumerfinance.gov/f/documents/cfpb_overdraft-nsf-report_2023-12.pdf.

⁷ Aaron Klein, *Getting over overdraft*, Nov. 7, 2022, <https://www.brookings.edu/articles/getting-over-overdraft/>.

⁸ CFPB Orders Navy Federal Credit Union to Pay More Than \$95 Million for Illegal Surprise Overdraft Fees, Nov. 7, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-navy-federal-credit-union-to-pay-more-than-95-million-for-illegal-surprise-overdraft-fees/>.

⁹ Consumer Fin. Protection Bur., *FACT SHEET: The CFPB's Proposed Rule To Curb Excessive Fees On Overdraft Loans By Very Large Banks And Close A Decades-Old Loophole*, Jan. 2024, https://files.consumerfinance.gov/f/documents/cfpb_overdraft-credit-very-large-financial-institutions_fact-sheet_2024-01.pdf.