

Statement of Ranking Member Spencer Bachus at the Hearing on "Overdraft Protection: Fair Practices for Consumers"

July 11, 2007

Thank you, Chairman Maloney, for convening this hearing on overdraft protection programs. This is an important and complex issue, and I am hopeful that today's hearing will assist the Committee in better understanding how these services operate and what can be done in the future to provide more useful information to the consumer.

Historically, most banks on a case-by-case basis have covered checks that would bounce for their "good" customers. Covering these checks results in an overdraft. More recently, banks automated these discretionary programs into so-called "overdraft protection programs." Automation has formalized these programs and made overdrafts available on a more objective basis rather than ad hoc.

When used appropriately, overdraft protection services provide a valuable function to the consumer. For example, when a consumer has insufficient funds in his or her account to make a mortgage payment, a bank's overdraft protection program may cover the check rather than the check being returned to the mortgage company and triggering at least two fees - one charged by the bank and the other by the mortgage company. With overdraft protection, the consumer is responsible for just the overdraft protection fee and does not have to deal with an aggrieved third party who received a "bad" check.

Nonetheless, as overdraft protection programs have become more widespread, some consumers have gotten into trouble by repeatedly writing checks and withdrawing money without sufficient funds in their accounts. These consumers soon find themselves deeper in debt through the imposition of overdraft charges -- which can be substantial -- creating a situation that is both harmful to the consumer and inconsistent with safe and sound banking practices.

The federal banking agencies have sought to curb certain marketing practices that may have misled consumers as to the nature and extent of the overdraft protection provided by depository institutions, and have required banks to clarify their policies and fees regarding such services. The guidance and regulations are intended to make overdraft protection programs more understandable to the consumer and discourage banks from marketing overdraft protection as a short-term money management tool. Most notably, the interagency guidance encourages institutions to give consumers the right to opt out of overdraft protection programs.

One issue that greatly concerns me in this area is the manipulation of the order in which checks and debits are posted against an account to increase the account holder's overdraft fees. This is an unacceptable practice and something that I hear about frequently from my constituents. The Office of Thrift Supervision (OTS) should be commended for attempting to address this issue in guidance, and I strongly urge the other Federal regulators to follow the OTS' lead.

Let me close by thanking Chairwoman Maloney and Ranking Member Gillmor for their attention to this issue, and welcoming our witnesses to today's hearing.

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