

Federal Reserve Bank of San Francisco
101 Market Street, San Francisco, California 94105

March 1, 2012

To State Member Banks, Bank
Holding Companies, Financial Holding
Companies, and Foreign Bank Offices
in the Twelfth Federal Reserve District

Consumer Financial Protection Bureau (CFPB) Launches Inquiry into Overdraft Practices

On February 22, 2012, the CFPB launched an inquiry into checking account overdraft programs, which is being conducted through two channels – a data request that is being sent to a number of banks and a Notice and Request for Information from the public. The comment period for the Notice and Request for Information ends April 30, 2012. As indicated in the [CFPB's press release](#), the inquiry focuses on four main areas:

- **Transaction Re-ordering that Increases Consumer Costs:** The CFPB expressed concern that overdraft practices employed by some financial institutions increase consumer costs. One such practice is commingling of all checks, bill payments, debit card transactions, and ATM withdrawals each day and processing the largest transactions first. The CFPB will examine how prevalent this practice is and how it impacts consumers.
- **Missing or Confusing information:** The CFPB will examine how clearly overdraft terms are being disclosed and the extent to which consumers are made aware of, qualify for, and take advantage of, alternative means of covering overdraft transactions.
- **Misleading Marketing Materials:** The CFPB is looking into reports that consumers are receiving misleading marketing materials about overdrafts. Initial data suggests opt-in rates differ widely among institutions. The CFPB seeks to understand how differences in the way institutions explain and promote overdraft programs may affect opt-in rates.
- **Disproportionate Impact on Low-Income and Young Consumers:** The CFPB is revisiting the 2008 FDIC study that found that 9 percent of checking account customers bear about 84 percent of overdraft fees. According to this study, 46.4 percent of young adult accountholders incurred overdraft fees, and of those, 15 percent recorded more than ten overdrafts in one year.

The CFPB indicated it will use the input collected through the inquiry to assist with policymaking on overdraft practices and prioritize its regulatory and education work. In addition, the CFPB is working on making it easier for consumers to understand the costs and risks of overdraft programs and is seeking feedback on a prototype [“penalty fee box”](#) that would appear on checking account statements of consumers who overdraw their accounts. As the CFPB’s ongoing activities may result in new or changes to existing regulations, we encourage bankers to monitor the Bureau’s proposals and requests for information and to fully utilize comment periods as an opportunity to influence the final rules and help prevent unintended consequences resulting from any new rules.

Resources

For those wishing to submit comments, the notice, along with information on how to submit comments electronically, is located on the CFPB’s website at: http://www.consumerfinance.gov/wp-content/uploads/2012/02/FR-Notice_Overdraft.pdf

The Federal Reserve Bank of St. Louis has also established a regulatory reform rules website that tracks the progress of more than 200 proposals and rules that will be written by the various Federal agencies to implement the Dodd-Frank Act. The site is located at: <http://www.stlouisfed.org/regreformrules/>.

Additional Information

All circulars and documents are available on the Internet through the Federal Reserve Bank of San Francisco's website, at <http://www.frbsf.org/banking/letters>.

For additional information regarding supervisory expectations, please contact:

Federal Reserve Bank of San Francisco
Banking Supervision and Regulation
(801) 322-7853