

# Overdraft fee regulation will impact banking options

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Proposed legislation and recently announced regulations from the Federal Reserve changing overdraft fee rules charge consumers with making decisions regarding their overdraft fee protection.

In November the Federal Reserve Board announced rules – which will go into effect on July 1 – prohibiting financial institutions from charging overdraft fees on one-time debit card and ATM transactions, unless a consumer chooses to opt into overdraft services. And, House Resolution 1456 filed in early 2009, which was sidelined in a House subcommittee as health care reform debates picked up, would expand overdraft limiting efforts by also regulating the way financial institutions can post checks and debits.

Fort Worth bankers say chances are consumers will still opt into the programs in order to protect their finances and keep their accounts flowing. But, should consumers opt out of the programs more than expected, banks may look to create other fees to make up lost profits.

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Jimmy Campbell, president and CEO of Community Bank in Fort Worth, said that while some customers may choose to opt out of overdraft programs, he believes customers who want the protection the programs provide will continue to be enrolled in the programs.

He added that the Federal Reserve's plan will require a number of banks to update their technology.

"There are a lot, or a significant number, of technology issues that need to be addressed," he said. "And I don't know how long it will take the business market to get ready for that, and I wonder if the July 1st date is realistic or not."

Keith Cargill, president, chief operating officer and chief lending officer for Texas Capital Bank, said while retail banks offering overdraft programs will be affected by the regulation, Texas Capital will not.

"We never implemented those programs," Cargill said. "We just chose never to implement that product, we didn't want to be in this position to have customers upset and surprised when they bought a \$3 cup of coffee at Starbucks and tripped

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– Ben S. Bernanke, Federal Reserve Chairman

The new Federal Reserve rules state that before a consumer can opt into an overdraft protection program, a financial institution must provide a notice to the consumer explaining the institution's services, fees associated with the service and the choices consumers have.

"The final overdraft rules represent an important step forward in consumer protection," said Federal Reserve Chairman Ben S. Bernanke, in a statement. "Both new and existing account holders will be able to make informed decisions about whether to sign up for an overdraft service."

According to a Federal Reserve release, consumers are more interested in overdraft fee protection for bills, such as checks paid for rent and utilities, than for ATM withdrawals and point-of-sale debit card transactions.

A Federal Deposit Insurance Corporation study released in late 2008 found that the majority of the 1,171 FDIC-supervised banks involved in the study, or 86 percent, operated at least one formal overdraft program, and 75.1 percent of those banks automatically enrolled customers into overdraft programs while allowing customers to opt out after enrollment.

Automated overdraft fees ranged from \$10 to \$38, according to the study, with the median fee at \$27. In 2006, the surveyed banks earned about \$1.97 billion in non-sufficient funds related fees, accounting for about 6 percent of the total net op-

erating revenues earned by the banks.

Cargill also said while overdraft fees do contribute to a bank's overall profits, in the long term markets will dictate if banks can charge other fees to make up those profits should consumers opt out of the programs more than expected.

"The market ultimately is going to determine what retail banks can charge for other services in the past they have given away," he said. "I do think some will try to change their fee structure. Most will that are retail oriented because just to allow this sort of fee income on auto overdrafts to go away... a bank is in business to make a profit, and they're going to find ways to make a profit."

Cargill said he expects banks will try out different fee structures and programs for about a year after the regulation goes into effect before the impact of the regulation and changes from it are fully understood.

House Resolution 1456, filed by House Representative Carolyn Maloney, D-NY, is currently stalled in the House Subcommittee on Financial Institutions and Consumer Credit. The bill reiterates the Federal Reserve regulation announcement, but also aims to expand overdraft fee protection by regulating systems used to post checks in certain sequences – such as posting checks chronologically, largest first or smallest first – to lower the amount of fees a customer is charged. ■

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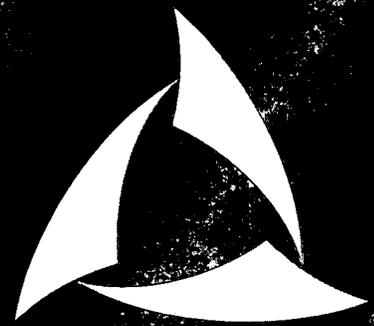
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