Mid Atlantic Board Meeting (MA-RUG)

February 18, 2022 at 12 pm EDT

Minutes – Overdraft Discussion

Meeting opened at 12:02 pm, adjourned at 1:09 pm with 60 participants.

**Board Members Present are bolded**

 Christy Allen President

 Veronica Rodgers Vice President

 **Lori Kissinger Secretary**

 Renee Davis Treasurer

 Russ Munroe Past President

 **Lisa Otery Past President**

Meeting organized by Amy Barone, Five Star Bank, her contact information is:

**Amy M. Barone**

First Vice President

Director of Operations

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Amy thanked Lisa Otery for asking the question of the group. Five Star has started conversations about changes that may need to take place with Overdraft fees.

##### Lori Kissinger, formerly Riverview Bank, PSECU has eliminated NSF fees and cut courtesy OD fees by 50%. PSECU has assets of $7.5 billion and cut.

Denny Crouse of Roselle Federal Bank has pdf from CFPB on the subject. Chart will be included with these minutes.

Andrea: Capital One and Ally Bank eliminated OD/NSF fees and changed the parameters around what constitutes an OD. Changes may include how items are covered, waiting period to

Lisa Otery, QNB Research began, some of the banks are on the review list, focusing on customers in addition due to market competition and other organizations, findings include some of the account products carry fees including monthly fees which may be offset with balance requirements. QNB asked if monthly fees are being considered if NSF fees are being eliminated or other options to offset income loss.

Lori, former Riverview Bank

Barbara, S Savings Asked if there are banks on the call that do not participate in extended / courtesy OD / bounce? They charge a per item OD fee. Denny @ rosedale Federal, we do not have an OD privilege program, we are an asset, not fee driven bank, products offered are not to make fee but rather used as a deterrent for undesirable behavior. Considering reducing fee and remembers NSF/OD fee s/b the same.

Joel Schiller, Artisans Bank $600 mutual bank in Wilmington, DE Taken a multi-year/step approach to the subject. Capped 4 per day, eliminated continuous negative balance fee several years ago, deminimus amount set to $5, continued to charge for ATM/POS items if opted in. Investigating to shift from punitive activity to service opportunity, have not taken the step yet but leaning that way. Implemented certified product that does not charge NSF/OD fees using this product for non/under banked and trying to drive current customers into this product. Amy asked when these changes started with the bank and what caused it. The issue came to the bank’s attention about 6 or 7 years ago when the first round of changes was implemented. Wal Mart changes and other banks activities made them look a bit harder. May look to lower fee, increase amount before charging the fee, etc. Notes it is a collective decision at the bank.

Kate Robbins works w/Amy Product Management area, reviewing current policies/programs. Asked for those that have made changes/considering, what is the customer feedback/reaction to the changes that have been made? Joel was unable to provide any concrete information only anecdotal. Customers w/high OD/NSF fees don’t seem to mind paying the fee and weren’t interested in change in behavior.

Denny at Rosedale. Same outreach to customers with high dollar impact of NSF/OD and discovered these customers aren’t interested in changing their habit/use of the NSF/OD process.

Joel, asked if anyone has gone through a Safety/Soundness, Regulatory or other exam. 5 Star Bank is going through both currently. Kelly at Surefine Bank in MD. Similar situation over the last 5 to 6 years, review and changes made to how fees/charges assessed, they do have an OD program and Reg E opt-in, several staff members dedicated to managing that program, providing information to heavy users, some customers do not want to change behavior, had a deminimus amount but were advised in 2015 to eliminate, last year added back to $5.00, 6 OD / day, no limit for consumers, no limit for commercial users. Will be reviewing in the next months to see if any other changes are being made.

Cheryl Hockenberry Meridian Bank Limit of 3 $5, do have OD program use pinnacle for that program. $10 deminimus amount, grace of $10. Question is if anyone charges a lesser fee if opted in? Several banks said fees are the same regardless. Many members use Pinnacle for the service.

Lisa QNB Bank Saw list of CFPB list, many have implemented an extended grace period. Asked if any bank has done anything similar, how is that managed, can Silverlake handle that process?

Tanya 1st Summit Bank Use Pinnacle’s Bank, allow a 30 day payback. Maximum 4 items / day consumer, allow customer to cover until EOB if no bounce.

Lori Described Fresh Start w/Pinnacle

Denny Extended grace period, Reg CC return timelines, the whole process is a machine for these years and work items same day. Will this cause problems on the other end re-working Reg. CC? Getting returns faster, delayed return?

Lisa at QNB She found in reviewing some accounts with extended grace period, many require funds used to cover the OD would be cash or electronic transaction, available balance must be brought to positive to qualify for extended grace period. Check deposits would not qualify for the extended period. This is Lisa’s analysis from her review.

Denny Make customers come in before 11 am to bring account positive to meet Reg CC timelines so work can be done by 1. If Reg CC time is missed, Reg CC holds, next day availability, can’t collect on the RDI.

Lisa suggested banks that may be extending period may have sophisticated programming, deeper products than may be available in the community bank arena.

Denny Question about Pay All/Pay None when converted to JH, memo post environment, NSF income was lost because customers were seeing items and covering OD prior to processing. Memo post pay all environment makes it more consumer friendly. Lisa agrees with Denny’s comment when customer notices the OD with memo posted items but no formal research has been completed at this time.

UNKNOWN participant Do we know how large banks are handling ODs, are they returning or paying all? Lisa advised product drives what is/isn’t charged, generally items are returned more frequently than may have occurred previously if in an OD program. If not in a product/program, NSF/ODs are not allowed - items are returned.

Lois 5 Star Looking at the chart, many FIs are eliminating the NSF fee and consumers are only paying what the merchant may charge. Lisa notes it may be the NSF fee for returned items. Concern with this issue is how is this consumer friendly? If more items are being returned, the customer may get merchant fees, more struggles with check presentment due to other tracking applications, may make check writing more difficult for the consumer.

Merchants may charge less of a fee and customers may (or may not) change habits as a result.

Cheryl Meridian Does anyone have a limit where they do not report customer c/offs to Chex Systems? QNB is $50.00; Shore United same, $50 principal.

Lisa notes every FI is in the same position, struggling to figure out what should be done and suggests not to lose sight of what’s right, suggests that if the group identifies issues that Silverlake should be addressing and reach out to JH to as a group to implement change. MARUG should identify the gaps in Silverlake and send a focused request to get in front of the JH group.

Kelly Shore United Did anyone implement the good funds in release 2021 where a fee is not charged if the fee is not charged. Curtis advised Orrstown Bank did implement good funds. Laura did as well. Both Curtis and Laura advised it works well. Curtis notes there are not of customers hitting that functionality regularly/low use. Laura concurred.

Lisa asked if they were able to do any analysis of the impact and if so can you share what analysis was completed? Curtis did not do any analysis, read release notes, knew Orrstown wanted to implement. Cheryl advised she thought it was a requirement, not optional. Lisa said she didn’t believe it was a requirement but there was regulatory discussion but no compliance requirement to implement. Someone else said it was dependent on disclosure language (Kelly Shore United), manually tracking was being conducted, less than 20% of debit card POS specific NSF fee income doesn’t recall how much it was on OD fees as a whole.

Tanya 1st Summit Bank Does anyone have any reliable reps from Chex Systems and FIS acquisition. Curtis from Orrstown will share contact information in the minutes and shared On Board is now not working to open accounts.

Tioga State Bank Do any banks not have a deminimus amount? No FI noted having NO deminimus, most have $5.00/$10.00.

Lois at 5 Star Has anyone have an OD program in place, is this discussion making you rethink the program? Tanya at 1st Summit, believes it will keep the OD program but other changes may take place depending upon regulatory guidance.

Lisa not decided that they will not keep the OD program but are reviewing the entire process and the automation is working. Kelly Shore agrees w/Lisa but will review but does not believe Bounce will be removed.

Greg 1st Citizens does not have a deminimus amount.

Kathy Dime Bank Does not understand why to keep the OD program if fees can’t be charged because they can’t recover the costs associated with it including keeping non ideal accounts.

Lisa QNB Interesting comment upon review for banks removing NSF most are still offering an OD program advising customers if they are in that program/use the account there may be fees applied, customers not in the program/product items will be returned without charge.

Kathy has business bounce in addition, advised it is misleading to think customers can understand what the difference is between NSF and OD fee.

Greg 1st Citizens Is this conversation mostly about consumers, yes most agreed. The logic of returning everything is not consumer friendly. Essentially, FI will take the approach to return everything, what happens when you are short and the electric bill isn’t paid which doesn’t sound like it’s consumer friendly. Many agreed.

UNKNOWN Started to be more consumer friendly with an ODP fee for first time users, refunded for 1st time use. Does anyone else do that? 1st Summit does reverse for first time use.

UNKNOWN Does anyone have instant issue cards w/Magtek and did you move to another company? Denny uses Magtek at another FI, she liked Magtek. Magtek is getting out of the business of instant issue. Lori advised to reach out to CRM, suggestion to use CPI Card at Once, Orrstown was looking at Harland Clarke. Does anyone think this is a necessity, many said yes. Curtis at Orrstown noted cards may move to wallet from card/new technology, not seeing that change yet. Demographics may drive the option. Someone advised some merchants are not accepting/denying wallet payments. Apple/Google/Samsung pay seem to work better than other options.

Karen F & M Bank for virtual wallet, what is the vendor used? MagTek was going to be wallet vendor, but that business is not going to occur.

Bankers Online seminar on Tuesday about these topics if anyone is interested. Link is <https://www.bollearningconnect.com/courses/overdraft0222>.

# **CFPB Research Shows Banks’ Deep Dependence on Overdraft Fees**

*Overdraft and Non-Sufficient Fund Penalties Made up Two-Third of Reported Fee Revenue*

**DEC 01, 2021**

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**WASHINGTON, D.C.** — Banks continue to rely heavily on overdraft and non-sufficient funds (NSF) revenue, which reached an estimated $15.47 billion in 2019, according to research released today by the Consumer Financial Protection Bureau (CFPB). Three banks—JPMorgan Chase, Wells Fargo, and Bank of America—brought in 44% of the total reported that year by banks with assets over $1 billion. The CFPB also found that while small institutions with overdraft programs charged lower fees on average, consumer outcomes were similar to those found at larger banks. The research also notes that, despite a drop in fees collected, many of the fee harvesting practices persisted during the COVID-19 pandemic.

“Rather than competing on quality service and attractive interest rates, many banks have become hooked on overdraft fees to feed their profit model,” said CFPB Director Rohit Chopra. “We will be taking action to restore meaningful competition to this market.”

Previous CFPB research has shown that overdraft presents serious risks to consumers, with under 9% of consumer accounts paying 10 or more overdrafts per year, accounting for close to 80% of all overdraft revenue. Yesterday, the Federal Deposit Insurance Corporation released data revealing that insured banks earned $69.5 billion in the third quarter of 2021, up 36% from the prior year. Banks are on pace to surpass their pre-pandemic profitability.

The first data point, *Overdraft/NSF Fee Reliance Since 2015 – Evidence from Bank Call Reports*, shows that banks’ revenues from overdraft and NSF fees have been stable, especially before the COVID-19 pandemic. From the beginning of reporting in 2015, aggregate overdraft and NSF fee revenues reported in Call Reports for banks with assets over $1 billion saw a small but steady annual increase of around 1.7% per year to $11.97 billion in 2019. Complementing the Call Report data with data on small institutions, CFPB researchers estimate that the overall market revenue from overdraft and NSF fees was $15.47 billion in 2019. These overdraft and NSF fees made up close to two-thirds of reported fee revenue, emphasizing banks’ heavy reliance on such fees. Reliance on such fees varied considerably among institutions in the Call Reports, but was generally stable over time for any given institution. While aggregate overdraft and NSF fee revenues declined by 26.2% in 2020, increased checking account balances resulting from federal stimulus payments likely contributed to this decline.

The second data point, *Checking Account Overdraft at Financial Institutions Served by Core Processors*, provides the most detailed and wide-ranging quantitative data the Bureau or others have collected on overdraft policies, practices, and outcomes at small financial institutions. The data point looks at institution-level data from several core processors on the way credit unions and smaller banks set up their overdraft programs, and reviews data on consumer overdraft use and fee revenue for a 12-month time period predominantly covering 2014. CFPB researchers report that 92.9% of smaller banks and 60.9% of credit unions had an overdraft program, making such programs less common at these institutions than among large banks. The smaller institutions were also less likely to offer the option to opt in to debit card overdraft, with two thirds of institutions with overdraft offering this option. And, while overdraft and NSF fees were 13 to 19% lower at small banks and credit unions than at large banks, credit unions and small banks with an overdraft program earned $42.33 and $40.37 in annual overdraft revenue per account, respectively, which was just 6% and 11% less than large banks, respectively.

The CFPB will be enhancing its supervisory and enforcement scrutiny of banks that are heavily dependent on overdraft fees. In recent years, the [CFPB ordered TD Bank to pay $122 million](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fprotect-us.mimecast.com%2Fs%2FVZilCkRlKVt7EKyF2EGSB%3Fdomain%3Dconsumerfinance.gov%2F&data=04%7C01%7C%7Cc51f881deedc4de2e9bf08d9f3018d75%7C167b2a7acc8f4714a007da2bf8f6496b%7C0%7C0%7C637808010270102944%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=BWvRTwyA9QY5%2BfNcsiqKCfJV1bziLtBpnSexYFDJxyg%3D&reserved=0) in penalties and customer restitution, and [ordered TCF Bank to pay $30 million](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fprotect-us.mimecast.com%2Fs%2FQhbpClYmLVTyrVwc9GKxD%3Fdomain%3Dconsumerfinance.gov%2F&data=04%7C01%7C%7Cc51f881deedc4de2e9bf08d9f3018d75%7C167b2a7acc8f4714a007da2bf8f6496b%7C0%7C0%7C637808010270102944%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=tIsprCy%2FlvQkg664Syncyn%2BpnOEW%2ByPO4OBGhGUDF3s%3D&reserved=0) in penalties and restitution.

Consumers seeking help dealing with overdraft and NSF fees can [submit a complaint](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fprotect-us.mimecast.com%2Fs%2FH7nHCmZn6VHZxgoFBrKtf%3Fdomain%3Dconsumerfinance.gov%2F&data=04%7C01%7C%7Cc51f881deedc4de2e9bf08d9f3018d75%7C167b2a7acc8f4714a007da2bf8f6496b%7C0%7C0%7C637808010270102944%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=AGnS7MYV98AWVlFs4T8r6dLJV8BguhKdh0GV6WXAfPk%3D&reserved=0) to the CFPB. Advice on managing bank accounts and avoiding fees is available on the [CFPB’s website](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fprotect-us.mimecast.com%2Fs%2FIFu-Cn5oXVuzEPZhZ6eGG%3Fdomain%3Dconsumerfinance.gov%2F&data=04%7C01%7C%7Cc51f881deedc4de2e9bf08d9f3018d75%7C167b2a7acc8f4714a007da2bf8f6496b%7C0%7C0%7C637808010270102944%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=z2Trk1%2BTutarM2t8a%2BEL9AA43rd7ECmvOeegP0%2FMbcM%3D&reserved=0).

[Read the CFPB data point, *Overdraft/NSF Fee Reliance Since 2015 – Evidence from Bank Call Reports*](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fprotect-us.mimecast.com%2Fs%2Fcd52Co20K9fMngVuOK7IB%3Fdomain%3Dconsumerfinance.gov&data=04%7C01%7C%7Cc51f881deedc4de2e9bf08d9f3018d75%7C167b2a7acc8f4714a007da2bf8f6496b%7C0%7C0%7C637808010270102944%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=tROf%2FfyS2OmLFNqGyl%2BPaPFnqEL%2FUR2ZsiwpkZeCde0%3D&reserved=0)*.*

[Read the CFPB data point, *Checking Account Overdraft at Financial Institutions Served by Core Processors*](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fprotect-us.mimecast.com%2Fs%2FH8JKCpYqK6TG2V0s2qlLk%3Fdomain%3Dconsumerfinance.gov&data=04%7C01%7C%7Cc51f881deedc4de2e9bf08d9f3018d75%7C167b2a7acc8f4714a007da2bf8f6496b%7C0%7C0%7C637808010270259187%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=XS%2BhNteScJaXjrcYSl%2Fr9DRY5OxZycn95U8eFhauquU%3D&reserved=0)*.*

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*The Consumer Financial Protection Bureau is a 21st century agency that implements and enforces Federal consumer financial law and ensures that markets for consumer financial products are fair, transparent, and competitive. For more information, visit* [*consumerfinance.gov*](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fprotect-us.mimecast.com%2Fs%2FDj9lCqxr5XCDQEysqlFlF%3Fdomain%3Dconsumerfinance.gov%2F&data=04%7C01%7C%7Cc51f881deedc4de2e9bf08d9f3018d75%7C167b2a7acc8f4714a007da2bf8f6496b%7C0%7C0%7C637808010270259187%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=sxmBvBkS2FjMaJj%2F881Di%2B1BbtZvzlOEM4P517B62vE%3D&reserved=0)*.*