

**Center for Responsible Lending • Consumer Federation of America • Consumers Union •
National Community Reinvestment Coalition •
U.S. Public Interest Research Group**

March 8, 2008

Dear Representative:

A new report by the Government Accountability Office underscores the urgent need for bank overdraft reform. We urge you to support H.R. 946, the Consumer Overdraft Protection Fair Practices Act, introduced by Representative Maloney, which helps end involuntary enrollment in the costly and abusive overdraft loan systems of our nation's largest financial institutions.

Far more than in the past, financial institutions now routinely approve overdrafts and charge high fees for the service. The GAO found that overdraft loan fees may be as high as \$34 per incident and are among the highest fees charged by financial institutions. Unlike some overdraft protection services that consumers sign up for, which are generally linked to savings accounts or lines of credit, GAO noted that financial institutions are offering "ad hoc" overdraft loan programs and neither publicize these automated systems nor seek consumers' consent before providing the costly loans. Between 2000 and 2006, the size of these fees rose 11% *after* inflation. A 2007 study by the Center for Responsible Lending found that financial institutions collected \$17.5 billion annually in overdraft fees, which can translate into interest rates over 1000 percent.

The GAO report, *Bank Fees: Federal Banking Regulations Could Better Ensure that Consumers Have Required Disclosure Documents Prior to Opening Checking or Savings Accounts*, also strongly suggests that many financial institutions aren't complying with federal requirements that fees—including overdraft loan fees—be clearly disclosed prior to account opening or receipt of the service for which the fee is charged. Equally troubling, GAO found that financial regulators enforcing the law evaluate only the substance of the disclosures, not whether customers actually receive them. GAO's findings suggest that even informed and aggressive consumers are unable to obtain required disclosures upon request. When GAO investigators posing as consumers visited depository institutions to specifically request checking and savings account fee information and account terms and conditions, financial institutions failed to provide a comprehensive list of fees 20% of the time, and failed to provide terms and conditions 33% of the time. Although GAO did not visit enough branches to generalize across the industry, its findings are consistent with a similar 2001 on-site investigation conducted by the U.S. Public Interest Research Group, referenced by the GAO report, and a 2005 Consumer Federation of America survey of the largest banks.

H.R. 946 mitigates the high risk of overdraft loan abuse created by inadequate disclosures, weak enforcement and strong financial incentives to maximize overdraft loan fee income. It requires financial institutions to obtain written customer consent to the program if the institution charges the customer more than three overdraft loan fees annually. It requires clear disclosure of when the institution will and will not honor the overdraft and of the effective interest rate for the loan. Finally, the bill prohibits banks from manipulating deposits in order to maximize overdraft loan fees.

We strongly urge your support of H.R. 946. Consumers should not be asked to pay exorbitant fees for a hidden service they never agreed to and which may never have been disclosed.

Sincerely,

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