



Checks and Balances, Stars and Stripes

Banking practices at financial institutions serving the military

The Pew Charitable Trusts

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The original version of this report, published on October 28, included several incorrect or incomplete statements and data points regarding transaction ordering. We take accuracy very seriously. This revised version of the report was published on November 7, as was the accompanying [press release](#). The specific changes are presented [here](#).

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Overview

Safe financial products are important to all consumers but especially to Americans serving in the military. All military personnel are required to receive their paychecks via direct deposit, which in turn requires them to open and maintain a checking account. For some young service members, this means selecting a checking account, and learning about the fees and features, for the first time.

The lack of familiarity with the terms and conditions of checking accounts, particularly overdraft programs, can cause significant financial hardship to the uninitiated. Account holders can quickly accumulate substantial debt, sometimes over the course of several days, before even realizing they have incurred a single overdraft fee. The situation can be compounded by additional fees that begin accruing if the debt is not repaid within a few days.

Relief organizations working directly with service members have highlighted this issue, as have consumer advocates, regulators researching the financial circumstances of military personnel, and the Department of Defense. According to *The Wall Street Journal*, “the Pentagon considers debts incurred by military members to be a significant morale and readiness issue.”¹ Appearing before the Senate Committee on Banking, Housing, and Urban Affairs in 2011, Steve Abbot, a retired admiral and president of the Navy-Marine Corps Relief Society, testified, “Banks and credit unions on and near military bases continue to charge exorbitant and multiple fees associated with overdraft protection.”² A 2012 survey by the Financial Industry Regulatory Authority Investor Education Foundation found that a quarter of service members occasionally overdraw their checking accounts.³ Because service members face unique circumstances, such as being deployed abroad and moving frequently between bases, policies that promote transparency and protect account holders from unsafe or hidden practices and costs are especially important.

In addition to the wide array of banking options available to civilian consumers, service members and their families often have access to a bank or credit union located on a military installation and to specialty accounts made available only to military personnel. Per federal regulations, only one bank and one credit union are permitted to operate on a Department of Defense installation at any time. These financial institutions must be approved by the secretary of the branch of the military that operates the installation, the base commander, and the appropriate regulatory agency, and deposited funds must be insured by the Federal Deposit Insurance Corporation or National Credit Union Administration.

Previous research from The Pew Charitable Trusts examined key checking account terms and conditions offered by the nation’s largest depository financial institutions. In this report, Pew has extended the analysis to banking options available exclusively to service members. Pew studied the checking accounts offered by Association of Military Banks of America (AMBA) on-installation member banks and the Defense Credit Union Council (DCUC) on-installation member credit unions—which, because they are located on Department of Defense bases, primarily cater to service members and their families.⁴ For a complete list of all AMBA- and DCUC-member institutions studied, see Appendix B.

To analyze these accounts, Pew attempted to collect the account agreements from each of these financial institutions through their websites and was able to do so for banks and credit unions operating on nearly three-quarters (71 percent) of all domestic Department of Defense installations.⁵ Thirteen of 31 banks (42 percent) and 23 of 134 credit unions (17 percent) do not provide any disclosure information online, making it difficult for deployed service members to access critical information about the terms and conditions governing their accounts.

Similar to Pew's market review of national banks, each institution is weighted equally, regardless of the number of on-installation branches it has or its wider off-installation presence. Pew found some areas where banks and credit unions with an on-installation presence excel but also found areas that need improvement. For example, the DCUC-member credit unions are more likely to provide at least some of their disclosures online, while the AMBA-member banks provide clearer and more thorough disclosures overall. Additionally, the banks have more complex overdraft programs than the credit unions, often charging customers more for an overdraft but also disclosing additional ways to avoid those charges. Finally, credit unions are significantly less likely than banks to limit access to legal recourse by requiring their customers to undergo arbitration in the event of a dispute.

Institutions were evaluated on how well their disclosure, overdraft, and dispute resolution practices align with Pew's policy recommendations, which follow (see the methodological appendix on Page 14 for details):

- Summarize key information about terms and fees in a concise, uniform format.
- Provide account holders with clear, comprehensive terms and pricing information for all available overdraft options.
- Make overdraft penalty fees reasonable and proportional to the financial institution's costs in providing the overdraft loan.
- Post deposits and withdrawals in a fully disclosed, objective, and neutral manner that does not maximize overdraft fees.
- Prohibit pre-dispute mandatory binding arbitration clauses in checking account agreements, which prevent account holders from accessing courts to challenge unfair and deceptive practices or other legal violations.

The Department of Defense has explicit authority to regulate all aspects of military installations that relate to service members' morale and welfare, including checking account overdraft and other products offered by on-base financial institutions, and should act to protect service members.⁶ However, it is the Consumer Financial Protection Bureau that has broad oversight of banks and credit unions nationwide and the authority to improve checking accounts for both military and civilian customers. Pew urges the bureau to write rules addressing the issues noted in this report to create a more transparent and competitive marketplace for such an essential financial product.

Disclosure

Clear disclosure of key account terms and conditions is of fundamental importance to both customers and the establishment of a transparent marketplace. Providing easy and remote access to documents outlining terms and conditions is particularly important for service members who may be deployed overseas or stationed at a base without an on-installation branch operated by their bank or credit union.

However, many checking account agreements are long and confusing or omit information on important practices or charges. The median length of the account agreements, account addenda, and fee schedules Pew collected from banks is 34 pages, ranging from a relatively short five pages to an overwhelming 149 pages. The median length of these documents among credit unions is 16 pages, ranging from three to 61 pages.

Summary of Available Disclosures

Fee schedule online availability:

- 18 of the 31 AMBA-member banks (58 percent)
- 107 of the 134 DCUC-member credit unions (80 percent)

Account agreement online availability:

- 17 of the 31 AMBA-member banks (55 percent)
- 80 of the 134 DCUC-member credit unions (60 percent)

Fee schedule and account agreement online availability:

- 17 of the 31 AMBA-member banks (55 percent)
 - 76 of the 134 DCUC-member credit unions (57 percent)
-

Summary disclosure box

To promote transparency and provide consistency across institutions, Pew developed a summary disclosure box, which clearly and concisely highlights the important fees and features of a checking account, including:

- That ATM and point-of-sale overdrafts are not permitted and that transactions that exceed an account's balance will be declined at no cost to the account holder unless the consumer affirmatively agrees to allow overdrafts in exchange for a disclosed fee.
- Available alternatives to overdraft penalty service, such as an overdraft transfer service and not electing overdraft service.
- Extended overdraft fee amounts and terms, even if a particular institution does not charge that fee, to help consumers easily compare accounts.
- The order in which the institution posts debits and credits to an account, which can increase overdraft fees.
- That at least the first \$200 of any deposit will be made available to the consumer by the second business day, if a deposit is held for longer.

To achieve a rating of "clear disclosure" for the fees and practices discussed in this section, Pew requires that institutions list the information on their websites, in a disclosure box, or in a fee schedule. Nine of the 18 AMBA-member banks (50 percent) and two of the 107 DCUC-member credit unions (2 percent) have a summary disclosure box that meets all of the above requirements. Of the nine other AMBA-member banks, an additional four (44 percent) provide a box that was lacking one or more of the features identified above. (See Table 1.)

Table 1

Only 2 Percent of Credit Unions and Half of Banks Operating on Domestic Military Installations Have Adopted a Disclosure Box Meeting Pew's Standards

Usage of Pew's recommended disclosure box, by type of financial institution

| | Adoption of a complete summary disclosure box | Adoption of an incomplete summary disclosure box | Adoption of a summary disclosure box, either complete or incomplete |
|------------------------------------|---|--|---|
| Number of banks | 9 (of 18) | 4 (of remaining 9) | 13 (of 18) |
| Percentage of banks | 50% | 44% | 72% |
| Number of credit unions | 2 (of 107) | 0 (of remaining 105) | 2 (of 107) |
| Percentage of credit unions | 2% | 0% | 2% |

Source: The Pew Charitable Trusts

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Overdraft policy and fee disclosure

A key component of the summary box is the clear disclosure of consumer overdraft options. Regulation E, the rule that implements the Electronic Fund Transfer Act, requires that financial institutions obtain affirmative consent from consumers before allowing them to overdraft at ATMs or the point-of-sale with their debit cards.⁷ By default, if a customer does not "opt in" to this service, transactions that would overdraw the account are declined at no cost.

However, a 2014 Pew survey, detailed in the report *Overdrawn: Persistent Confusion and Concern About Bank Overdraft Practices*, found that consumers are confused about these rules: 52 percent of those who had overdrawn their accounts within the previous 12 months were unaware they had opted in.⁸ Ten banks (56 percent) and 15 credit unions (14 percent) make the overdraft default option explicit to account holders in a stand-alone disclosure box or fee schedule. Pew did not consider supplementary overdraft opt-in documents that institutions may provide to customers during the opt-in process as clear disclosure of either a default option or overdraft fees because this document is not universally available to a customer who may be comparison shopping before opening an account.

The cost of an overdraft penalty fee is an essential piece of information for a service member to have when deciding whether to opt in to an overdraft plan or choosing among accounts. All 18 banks and 90 credit unions (84 percent) clearly disclose the cost of an overdraft penalty fee in a disclosure box or fee schedule. Several banks offer customers the option of transferring funds from another account to a checking account to avoid overdrafts. The cost of this transfer is often much less than the penalty fee, so clear disclosure of this option is also critical. Seventeen banks (94 percent) and 84 credit unions (79 percent) disclose information about a transfer service in a disclosure box or fee schedule.

ATM fees

Another piece of fee information that is particularly important to service members is the cost of ATM transactions. For military personnel and their families, frequent moves and repeated deployments can mean that ATMs are the only option for withdrawing cash from checking accounts. Of the 18 banks and 111 credit unions that provide fee schedules and/or account agreements online:

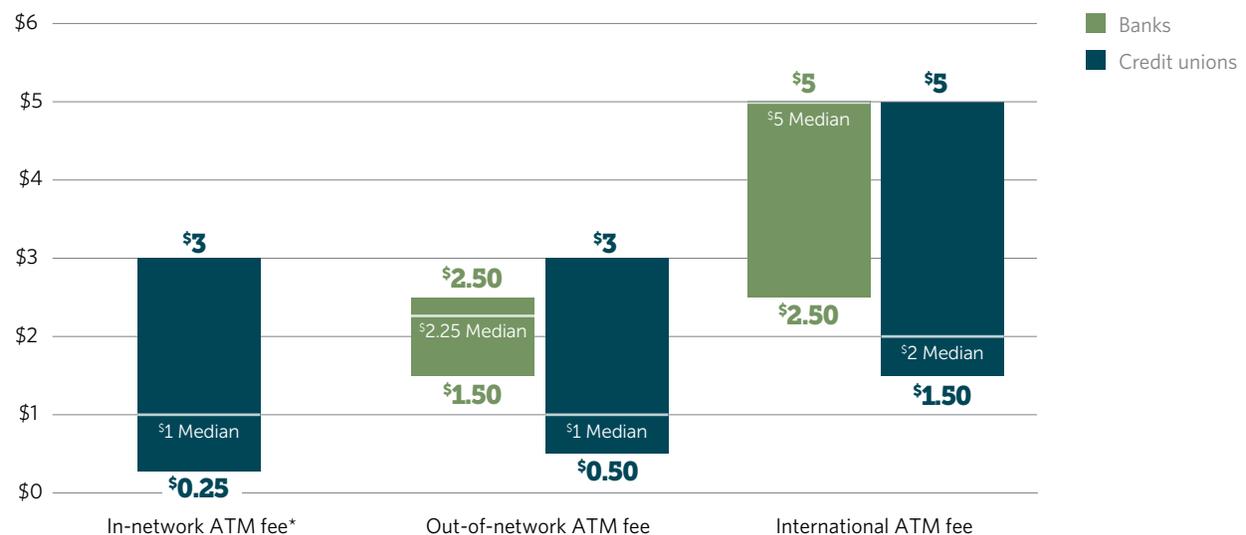
- Seventeen (94 percent) and 85 credit unions (77 percent) disclose that in-network ATM transactions are free.
- Fifteen credit unions (14 percent) disclose a fee for in-network ATM transactions.
- One bank (6 percent) and 11 credit unions (10 percent) do not disclose the cost of in-network ATM fees.
- Three banks (17 percent) and three credit unions (3 percent) disclose that out-of-network ATM transactions are free.
- Fourteen banks (78 percent) and 88 credit unions (79 percent) disclose a fee for out-of-network ATM transactions.
- One bank (6 percent) and 20 credit unions (18 percent) do not disclose the cost of out-of-network ATM fees.
- Only 12 banks (67 percent) and 58 credit unions (52 percent) disclose the cost of an international ATM transaction.

For a summary of fees charged, see Figure 1.

Figure 1

Most Banks and Credit Unions Operating on Domestic Military Installations Charge Consumers a Fee for Using Out-of-Network ATMs

Fee ranges, by type of financial institution and transaction type



* None of the banks disclose charging a fee for in-network ATM transactions.

Source: The Pew Charitable Trusts

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Table 2

Most Banks and Credit Unions Operating on Domestic Military Installations Disclose Some Overdraft and ATM Fees, but Few Disclose All Fees

Fee and overdraft options and disclosures, by type of financial institution

| | Fee schedule and/or account agreement available online | Adoption of a complete summary disclosure box | Adoption of a summary disclosure box, either complete or incomplete | Identifies the overdraft default option | Overdraft penalty fee disclosed | Overdraft transfer fee amount disclosed | Domestic ATM fees disclosed | International ATM fees disclosed |
|------------------------------------|--|---|---|---|---------------------------------|---|-----------------------------|----------------------------------|
| Number of banks | 18 (of 31) | 9 (of 18) | 13 (of 18) | 10 (of 18) | 18 (of 18) | 17 (of 18) | 17 (of 18) | 12 (of 18) |
| Percentage of banks | 58% | 50% | 72% | 56% | 100% | 94% | 94% | 67% |
| Number of credit unions | 111 (of 134) | 2 (of 107) | 2 (of 107) | 15 (of 107) | 90 (of 107) | 84 (of 107) | 91 (of 107) | 57 (of 107) |
| Percentage of credit unions | 83% | 2% | 2% | 14% | 84% | 79% | 85% | 53% |

Source: The Pew Charitable Trusts

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Although credit unions are more likely to provide at least some disclosures online, banks are more likely to attempt a summary disclosure and generally provide more detailed information overall, including information on overdraft and ATM fees.

Overdraft

Overdraft terms and practices, as well as transaction posting and reordering policies, have a significant effect on the amount and number of fees paid by service members. By their nature, overdraft fees are hidden or unexpected, and most consumers incur them only unknowingly.⁹

In practice, overdrafts are a disproportionately expensive form of short-term credit for account holders. The Consumer Financial Protection Bureau reports that “the majority of debit card overdraft fees are incurred on transactions of \$24 or less and that the majority of overdrafts are repaid within three days. Put in lending terms, if a consumer borrowed \$24 for three days and paid the median overdraft fee of \$34, such a loan would carry a 17,000 percent annual percentage rate (APR).”¹⁰ For comparison, the 2007 Military Lending Act caps the APR for “consumer credit”—defined by the Department of Defense to mean payday loans, car title loans, and refund anticipation loans—at 36 percent. Because of the excessive cost of an overdraft, Pew pays special attention to financial institutions’ overdraft policies.

Overdraft penalty and transfer fees

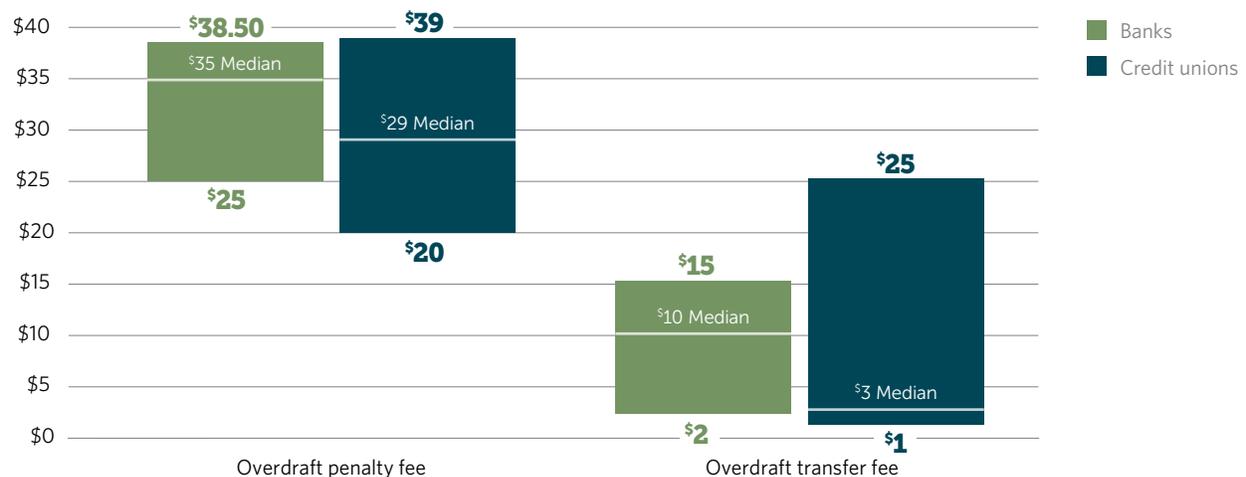
According to prior Pew research, those who opted in to ATM and point-of-sale debit card overdraft, on average, incurred 6.5 overdrafts per year. Among the AMBA-member banks, one discloses that it does not charge a fee for either of these transactions. The other 17 banks disclose penalty fees ranging from \$25 to \$38.50 per overdraft, with a median fee of \$35. For the DCUC-member credit unions, one discloses that it does not charge for ATM or point-of-sale overdrafts. Twelve others (11 percent) do not disclose any information about overdraft fees in their fee schedules or on their websites. The remaining 94 credit unions disclose their fees, which range from \$20 to \$39 with a median of \$29. (See Figure 2.)

The overdraft transfer fee is often a significantly less costly alternative to the standard penalty program. Three banks and 14 credit unions do not charge any fee for this service; one bank and 41 credit unions do not disclose any information about overdraft transfer programs. Among the institutions that disclose a fee, the banks charge between \$2 and \$15 per transfer with a median of \$10, and the credit unions charge a median fee of \$3, with specific amounts ranging from \$1 to \$25. (See Figure 2.)

Figure 2

Among Overdraft Fees, Transfers Are Typically Less Expensive Than Penalties at Financial Institutions Operating on Domestic Military Installations

Fee ranges, by type of financial institution and fee type



Source: The Pew Charitable Trusts

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ATM and point-of-sale overdraft

The best way to protect consumers from overdrawing at ATMs or points-of-sale is to simply not allow them to do so. However, only two banks (11 percent) and four credit unions (4 percent) decline all ATM transactions that would result in a negative balance. Similarly, two banks (11 percent) and three credit unions (3 percent) decline any debit point-of-sale transactions that would generate a negative balance.

Transaction reordering

Banks influence the number of overdraft fees an account holder can incur in a number of ways. Most banks and credit unions sort transactions made throughout the day, grouping the same transaction types together and processing them in batches at the end of the day, rather than in the order in which they occurred. There are several ways banks do this, but one process known as high-to-low transaction reordering—in which transactions are processed by dollar amount starting with largest—will deplete an account more quickly than other methods and can result in more overdrafts. For example, if a large transaction made at the end of the day overdraws an account and four smaller transactions were made earlier the same day, this type of reordering can result in five overdraft fees rather than the one that would be charged if the transactions were processed chronologically.

Eight of the banks studied (44 percent) and 26 of the credit unions (24 percent) disclose in their account agreements that they do not reorder any transactions from high to low. Six banks (33 percent of the total) engage in limited high-to-low reordering, such as posting checks by high-to-low dollar amount, but not reordering point-of-sale and ATM transactions. One bank (6 percent) and 42 credit unions (39 percent) do not disclose any information on transaction ordering, while one bank (6 percent) and 38 credit unions (36 percent) do not clearly disclose the specific process they use to post transactions, stating that they may process transactions in any order they choose. Both practices—non-disclosure and unclear disclosure—do not preclude the use of high-to-low reordering. Additionally, two banks (11 percent) and one credit union (1 percent) disclose that they reorder ATM and debit point-of-sale transactions from high to low. (See Table 3.)

Table 3

Most Banks but Only About One-Quarter of Credit Unions Operating on Domestic Military Installations Do Not Reorder ATM or Point-of-Sale Transactions by Dollar Amount

Transaction ordering practices, by type of financial institution

| | No high-to-low dollar amount transaction reordering | Limited high-to-low dollar amount transaction reordering | No or limited high-to-low dollar amount transaction reordering |
|------------------------------------|---|--|--|
| Number of banks | 8 (of 18) | 6 (of remaining 10) | 14 (of 18) |
| Percentage of banks | 44% | 60% | 78% |
| Number of credit unions | 26 (of 107) | 0 (of remaining (81)) | 26 (of 107) |
| Percentage of credit unions | 24% | 0% | 24% |

Source: The Pew Charitable Trusts

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Negative balance threshold

Generally, overdraft penalty fees are flat and do not scale with the size of a negative balance. A transaction that overdraws an account by only a few dollars is subject to the same fee as one that drops the account far below zero. Twelve of the banks (67 percent) and six of the credit unions studied (6 percent) make clear that they have

de minimis or negative balance thresholds, which create a small cushion so customers are not charged a penalty fee for small overdrafts. Eleven banks have an overdraft threshold of \$5, and one has a threshold of \$2. Four credit unions have a threshold of \$20; one has a threshold of \$15, and one has a threshold of \$5.

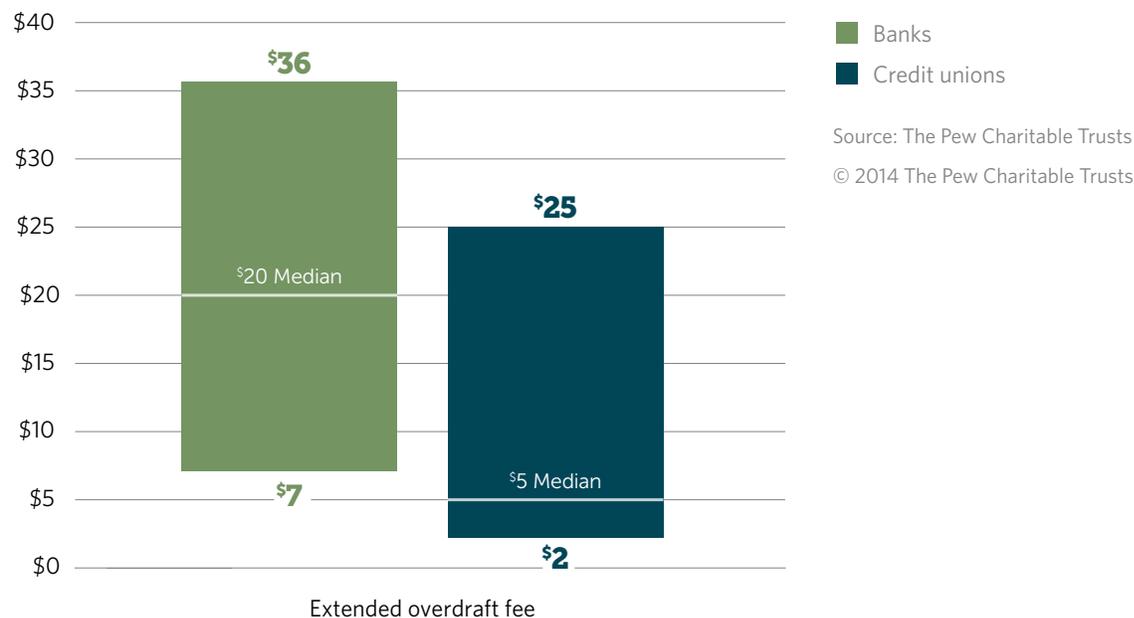
Extended overdraft fees

It falls to a customer to repay an overdraft and cover the fee as quickly as possible. An account that stays overdrawn for several days can be subject to an additional, extended overdraft fee, increasing the full amount owed. Ten banks (56 percent) and 98 credit unions (92 percent) either do not disclose an extended overdraft fee or disclose that they do not charge one. Among the banks charging extended overdraft fees, the median is \$20, with a range of \$7 to \$36. The median duration of an overdraft for which such a fee is charged is six days. Of the credit unions that charge extended overdraft fees, the median is \$5, with a range of \$2 to \$25; the fees are charged after the account is overdrawn for a median of five days. (See Figure 3.)

Figure 3

Extended Overdraft Fees Can Compound the Cost of an Overdraft at Financial Institutions Operating on Domestic Military Installations

Fee range, by type of financial institution



Daily overdraft fee limits

There is no federally regulated maximum number of overdraft fees that customers can incur per day. However, many banks and credit unions voluntarily impose a cap. Of the 18 banks, 16 (89 percent) disclose that they limit the number of overdrafts service members can be charged per day. The median cap is 4.5 fees per day, with a range of three to six fees per day. Among the credit unions, only seven (7 percent) disclose that they limit the maximum number of daily overdrafts. The caps range from three to six with a median of four. Seventy-three credit unions (68 percent) do not disclose any information on limiting the number of overdraft fees in their account agreements, fee schedules, or websites.

Table 4

Most Banks and Credit Unions Operating on Domestic Military Installations Disclose Some Overdraft and Transaction Processing Practices, but Few Offer Complete Information

Overdraft and transaction ordering practices and disclosures, by type of financial institution

| | No ATM overdrafts disclosed | No point-of-sale overdrafts disclosed | No high-to-low dollar amount transaction reordering | No or limited high-to-low dollar amount transaction reordering | Threshold amount to trigger an overdraft disclosed | No extended overdraft fee | Limits on number of overdraft fees charged per day |
|------------------------------------|-----------------------------|---------------------------------------|---|--|--|---------------------------|--|
| Number of banks | 2 (of 18) | 2 (of 18) | 8 (of 18) | 14 (of 18) | 12 (of 18) | 10 (of 18) | 16 (of 18) |
| Percentage of banks | 11% | 11% | 44% | 78% | 67% | 56% | 89% |
| Number of credit unions | 4 (of 107) | 3 (of 107) | 26 (of 107) | 26 (of 107) | 6 (of 107) | 98 (of 107) | 7 (of 107) |
| Percentage of credit unions | 4% | 3% | 24% | 24% | 6% | 92% | 7% |

Source: The Pew Charitable Trusts

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Generally, the banks' overdraft programs are more complicated than those of the credit unions. Banks are more likely to offer overdraft transfer programs, have *de minimis* policies, and limit the number of overdrafts a customer can incur per day, but they are also more likely to charge extended overdraft fees and charge more per overdraft.

Dispute resolution

The account agreement outlines the rights and obligations of both the financial institution and the customer regarding various aspects of the account, including allowable procedures in the event of a dispute. Many account agreements contain clauses that restrict an account holder's options for legal recourse. These clauses are meant to limit an institution's liability and control costs, but they typically do so by preventing a customer from challenging in court unfair and deceptive practices or other violations. Pew highlights practices that ensure consumers' access to transparent and fair legal remedies that do not give an advantage to, or impose unreasonable costs on, either party.

Mandatory binding arbitration

Arbitration is a private dispute resolution process in which a third-party decision-maker resolves disputes between opposing parties. These clauses are often included in checking account disclosures and require customers to waive their right to a jury or bench trial when they sign up for the account. A decision reached through the process is binding, with limited opportunity for appeal. Pew's 2012 study, *Banking on Arbitration: Big Banks, Consumers and Checking Account Dispute Resolution*, found that a majority of customers liked the goals of

arbitration—speedy decisions and reduced costs—but objected to making the process mandatory, preferring it to be an option that is made available in the event of a dispute.¹¹

These clauses are sometimes written as an option that either party can choose in the event of a dispute, effectively giving the other party no alternative and allowing an institution to mandate the use of arbitration to resolve any problem. In practice, this creates de facto predispute mandatory binding arbitration. Financial institutions are far more likely to select arbitration, which is limited, private, and less costly, over a public and potentially precedent-setting jury trial. In December 2013 the Consumer Financial Protection Bureau released preliminary results from an ongoing arbitration study, which estimated that tens of millions of households are subject to arbitration on one or more checking accounts.¹² Fortunately for consumers of the on-installation banks and credit unions that Pew studied for this report, six of the bank account agreements (35 percent) and 75 credit union account agreements (94 percent) do not contain an arbitration clause. (See Table 5.)

Arbitration opt-out

Some banks and credit unions offer customers the opportunity to opt out of arbitration before a dispute, but it must be done in writing and within a specific time period after opening an account. Among the institutions that have arbitration clauses, four of 11 banks (36 percent) offer this option. None of five credit unions with an arbitration clause offer this option. Bank customers who wish to opt out must do so within a median of 52.5 days of opening the account.

Table 5

Most Banks but Few Credit Unions Operating on Domestic Military Installations Require Binding Arbitration

Arbitration practices and disclosures, by type of financial institution

| | No mandatory binding arbitration | Arbitration opt-out option disclosed | No mandatory binding arbitration, or an opt-out option is disclosed |
|------------------------------------|----------------------------------|--------------------------------------|---|
| Number of banks* | 6 (of 17) | 4 (of remaining 11) | 10 (of 17) |
| Percentage of banks | 35% | 36% | 59% |
| Number of credit unions* | 75 (of 80) | 0 (of remaining 5) | 75 (of 80) |
| Percentage of credit unions | 94% | 0% | 94% |

* Seventeen banks and 80 credit unions made their account agreements, including their dispute resolution provisions, available.

Source: The Pew Charitable Trusts

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Small claims court arbitration exemption

Several banks and credit unions also allow exemptions from their arbitration clauses in the event that a dispute involves a small amount and can be heard in small claims court. Each state's small claims court has its own dollar-amount cap, and most limit disputes to between \$5,000 and \$10,000.¹³ Eight of the 11 banks with arbitration clauses (73 percent) and one credit union (20 percent) offer these exemptions.

Class action and jury trial waivers

Additionally, some banks and credit unions limit account holders' options for legal recourse through the use of class action litigation waivers. These clauses prevent customers from joining a lawsuit with other plaintiffs to seek compensation for damages that may be small individually but amount to significant harm in the aggregate. The threat of class action suits can be a strong deterrent for an institution to engage in harmful or questionable practices. Five bank account agreements (29 percent) and 74 credit union account agreements (93 percent) do not contain waivers preventing service members from joining class action suits. Additionally, banks and credit unions can require jury trial waivers, which prevent a customer from bringing a dispute before a jury, requiring arbitration or a trial decided by a judge instead. Four banks (24 percent) and 74 credit unions (93 percent) do not require jury trial waivers.

'Loss, costs, and expenses' clauses

Some financial institutions hold customers liable for the institutions' costs should an account holder pursue a dispute, no matter the outcome of the case, through the use of "loss, costs, and expenses" clauses. Such clauses may be deemed unconscionable by the court or arbiter and thus be unenforceable, but they can still have a chilling effect on customers considering bringing a suit.¹⁴ Eleven of the banks (65 percent) and 26 of the credit unions (33 percent) examined do not contain these clauses.

Table 6

Most Credit Unions Operating on Domestic Military Installations Do Not Limit Customers' Dispute Resolution Options, but Most Banks Do

Dispute resolution practices and disclosures, by type of financial institution

| | No mandatory binding arbitration | No arbitration, or an arbitration opt-out option disclosed | Small-claims arbitration exemption | No class action bans | No jury trial waiver | No "loss, costs, and expenses" clauses |
|------------------------------------|----------------------------------|--|------------------------------------|----------------------|----------------------|--|
| Number of banks | 6 (of 17) | 10 (of 17) | 8 (of remaining 11) | 5 (of 17) | 4 (of 17) | 11 (of 17) |
| Percentage of banks | 35% | 59% | 73% | 29% | 24% | 65% |
| Number of credit unions | 75 (of 80) | 75 (of 80) | 1 (of remaining 5) | 74 (of 80) | 74 (of 80) | 26 (of 80) |
| Percentage of credit unions | 94% | 94% | 20% | 93% | 93% | 33% |

Source: The Pew Charitable Trusts

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Generally credit unions are less likely than banks to use arbitration clauses, class action bans, or jury trial waivers to limit service members' access to the legal system.

Conclusion

Service members, like all consumers, need access to concise, easy-to-understand documents that lay out the terms, conditions, and fees associated with their checking accounts. The current state of affairs means that members of the military with accounts at institutions on military installations are not receiving the level of information and protection that they, and all consumers, deserve. While some institutions have adopted individual practices that provide transparency, protect consumers from hidden fees, and offer full legal recourse in the event of a dispute, no bank or credit union is doing everything it can. Only one of the practices analyzed above—disclosure of the overdraft penalty fee—was adopted by all of the Association of Military Banks of America member studied, and no practices were adopted by the Defense Credit Union Council member credit unions.

This report highlights the account practices that Pew has identified as having a significant impact on account holders and documents their prevalence among banks and credit unions serving members of the U.S. military. Pew found significant variation in both the practices offered from one bank or credit union to another and between banks and credit unions broadly. Generally, the AMBA banks provide clearer summary disclosures than the DCUC credit unions. The banks also often charge customers more for an overdraft but disclose additional ways to avoid those charges. Finally, credit unions are significantly less likely than banks to require their customers to undergo arbitration in the event of a dispute.

The Consumer Financial Protection Bureau (CFPB) has a mandate to ensure “consumer financial products and services ... are fair, transparent, and competitive” for all Americans.¹⁵ While Pew commends those institutions that meet our recommendations for safe and transparent practices, the CFPB and other regulators, including the Department of Defense, should act to protect service members and all consumers to prevent financial institutions from engaging in unfair, deceptive, or abusive overdraft practices. New rules should require the following:

- Key information about terms and fees should be summarized in a concise, uniform format available online and in branches.
- All overdraft programs, including less costly transfer options, should be clearly disclosed.
- Customer transactions should be processed in a neutral manner that does not increase overdrafts.
- Overdraft fees should be proportional to the institution’s cost of providing the overdraft.
- Account holders should not be limited in their options for legal recourse in the event of a dispute.

Appendix A: Methodology

Service members have access to a wide array of financial service providers, but this study is limited to Association of Military Banks of America (AMBA) and the Defense Credit Union Council (DCUC) member institutions, which have a military installation presence. The physical proximity of these institutions to those living and working on a military installation, as well as their often specific missions to serve military personnel, means they provide checking accounts to millions of service members.

To analyze these accounts, in May 2014 Pew attempted to collect the following disclosure documents from each financial institution's website:

- Disclosure box
- Fee schedule
- Account agreement and addenda
- Screen shots of the checking home page and individual account Web pages

Eighteen of the 31 AMBA-member institutions (58 percent) and 111 of the 134 DCUC-member institutions (83 percent) made their fee schedule available online, while 17 AMBA-member banks (55 percent) and 80 DCUC-member credit unions (60 percent) made their complete account agreements available online.¹⁶ Thirteen banks and 23 credit unions do not provide any disclosure information online and were omitted from the study.

At each bank or credit union, the account marketed to military personnel was chosen. If there was not a specific account marketed toward the military, the most basic checking account was chosen for analysis. The basic account was defined as the cheapest account that was available to all customers (not a specialty account for students or seniors). The complete list of AMBA- and DCUC-member banks and credit unions that provided disclosures online is summarized in Tables B.1 and B.2 of the appendix.

Pew based its review on published account agreements rather than in-person or phone interviews because banks and credit unions are legally required to provide clear and understandable disclosures in writing.¹⁷ These agreements are the basis for the contract customers have with their bank or credit union. This approach increases the likelihood that correct and complete information will be collected and helps reduce the possibility of confusion or the collection of incorrect information.

Furthermore, these are the documents that service members rely on when choosing financial institutions. Disclosures that are long, confusing, poorly written, unavailable before opening an account, or filled with onerous terms and conditions are not helpful to service members, who may incur unexpected fees or have limited options for legal recourse in the event of a dispute.

Institutions were rated using the same system as our 2013 study, *Checks and Balances*, and the follow-up report, *Checks and Balances: 2014 Update*, in the areas of disclosure, overdraft, and dispute resolution policy.¹⁸ In the category of disclosure, institutions were recognized for clearly disclosing the policies included in Pew's model disclosure box without consideration of the underlying bank policies or practices. Banks were judged to have clearly disclosed a fee or policy if the information was available from one of the following:

- The bank's checking home page.
- The Web page specific to the account.

- The schedule of fees.
- A disclosure box.

If this information was available only in the account agreement, it was not considered to be clearly disclosed. In the category of overdraft and dispute resolution, banks were recognized for adhering to Pew's policy recommendations for checking accounts. For these sections, information from the fee schedule, account agreement, and the other supplemental documents described above was used to determine institutions' policies. To be included in the dispute resolution section, an account agreement must have been available to Pew researchers.

Finally, to determine whether the AMBA and DCUC on-installation member banks represented a significant sample of all on-installation banks, Pew conducted a spot-check by geocoding branch location data for all banks and credit unions provided by the Federal Deposit Insurance Corporation's Summary of Deposits and the National Credit Union Administration's quarterly Call Reports. AMBA and DCUC on-installation member banks and credit unions represented the only on-base institutions during this spot-check.

Appendix B: Banks and credit unions studied

Table B.1

Association of Military Banks of America Member Banks

| Bank | Disclosure provided online | Number of DOD installations with branches |
|--------------------------------|----------------------------|---|
| Armed Forces Bank | Yes | 35 |
| Bank of America Military Bank | Yes | 12 |
| Bank of Hawaii | Yes | 2 |
| Broadway Bank | Yes | 5 |
| First Citizens Bank | Yes | 4 |
| First Hawaiian Bank | Yes | 2 |
| Fort Hood National Bank | Yes | 1 |
| FNB Community Bank | Yes | 1 |
| KeyBank | Yes | 1 |
| JPMorgan Chase | Yes | 1 |
| PNC Bank | Yes | 1 |
| Regions Bank | Yes | 2 |
| Sabine State Bank | Yes | 1 |
| SunTrust Bank | Yes | 4 |
| U.S. Bank | Yes | 1 |
| USAA Federal Savings Bank | Yes | 1* |
| UMB Bank | Yes | 1 |
| Wells Fargo Bank | Yes | 9 |
| 5Star Bank | No | 1 |
| Bank of Guam | No | 2 |
| Synovus Coastal Bank and Trust | No | 1 |
| Synovus Columbus Bank & Trust | No | 1 |
| First Arkansas Bank & Trust | No | 1 |
| First National Bank Alaska | No | 1 |
| FNBT.com | No | 1 |
| First Navy Bank† | No | 1 |
| Fort Sill National Bank | No | 7 |
| Great Western Bank | No | 1 |
| Heritage Bank | No | 1 |
| NBCBank | No | 1 |
| Old Point National Bank | No | 1 |

* The Department of the Army has selected USAA to be the on-installation bank for the U.S. Army Garrison-West Point, and it has a significant online military customer base.

† At the time Pew collected bank documentation, First Navy Bank was an AMBA-member bank with an on-installation location, but it is not listed as a member at the time of this publication.

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Table B.2

The Defense Credit Union Council Member Credit Unions

| Credit union | Disclosure provided online | Number of DOD installations with branches |
|--------------------------------------|----------------------------|---|
| 1st Advantage FCU | Yes | 2 |
| 1st Community FCU | Yes | 1 |
| 1st Liberty FCU | Yes | 2 |
| ABNB FCU | Yes | 1 |
| Aerospace FCU | Yes | 1 |
| Air Academy FCU | Yes | 1 |
| Air Force FCU | Yes | 1 |
| Alaska USA FCU | Yes | 2 |
| AllSouth FCU | Yes | 1 |
| AltaOne FCU | Yes | 1 |
| America First CU | Yes | 1 |
| America's CU | Yes | 1 |
| AmeriCU CU | Yes | 2 |
| Andrews FCU | Yes | 2 |
| Arkansas FCU | Yes | 1 |
| Army Aviation Center FCU | Yes | 1 |
| Belvoir FCU | Yes | 1 |
| CBC FCU | Yes | 1 |
| Cedar Point FCU | Yes | 1 |
| Chartway FCU | Yes | 1 |
| Communities of Abilene FCU | Yes | 1 |
| Credit Union West | Yes | 1 |
| Dover FCU | Yes | 1 |
| First Flight FCU | Yes | 1 |
| Firstlight FCU | Yes | 1 |
| Fitzsimons FCU | Yes | 1 |
| Fort Bragg FCU | Yes | 1 |
| Freedom of Maryland FCU ^s | Yes | 1 |
| Frontier Community CU | Yes | 1 |
| GeoVista CU | Yes | 1 |
| Global CU | Yes | 1 |
| Grow Financial FCU | Yes | 1 |
| Hanscom FCU | Yes | 1 |

Continued on the next page

| Credit union | Disclosure provided online | Number of DOD installations with branches |
|----------------------------------|----------------------------|---|
| Harborstone CU | Yes | 1 |
| Heritage Trust FCU | Yes | 1 |
| Keesler FCU | Yes | 1 |
| Keys FCU | Yes | 1 |
| La Capitol FCU | Yes | 1 |
| Marine FCU | Yes | 3 |
| Max CU ^s | Yes | 1 |
| Members 1st FCU | Yes | 1 |
| Miramar FCU | Yes | 1 |
| Navy Army Community Credit Union | Yes | 2 |
| Navy FCU | Yes | 17 |
| North Carolina Community FCU | Yes | 1 |
| North Island CU | Yes | 1 |
| Northeast CU | Yes | 1 |
| Northern Star CU | Yes | 1 |
| NSWC FCU | Yes | 1 |
| Nymeo FCU | Yes | 1 |
| Otero FCU | Yes | 1 |
| Pacific Marine CU | Yes | 4 |
| Pearl Harbor FCU | Yes | 1 |
| Pentagon FCU | Yes | 7 |
| Picatunny FCU | Yes | 1 |
| Pioneer FCU | Yes | 1 |
| Randolph Brooks FCU | Yes | 1 |
| Red River FCU | Yes | 1 |
| Redstone FCU | Yes | 1 |
| SAC FCU | Yes | 1 |
| SAFE FCU | Yes | 1 |
| San Antonio FCU | Yes | 1 |
| Sandia Laboratory FCU | Yes | 2 |
| Scott CU | Yes | 1 |
| Security Service FCU | Yes | 2 |
| Sentinel FCU | Yes | 1 |
| Space Coast CU | Yes | 1 |
| State Department FCU | Yes | 1 |
| Travis CU | Yes | 1 |

Continued on the next page

| Credit union | Disclosure provided online | Number of DOD installations with branches |
|--|----------------------------|---|
| Tyndall FCU | Yes | 1 |
| Vantage West CU | Yes | 1 |
| VyStar CU | Yes | 1 |
| Warren FCU | Yes | 1 |
| White Sands FCU ^s | Yes | 1 |
| Windward Community FCU | Yes | 1 |
| Wright-Patt CU, Inc. | Yes | 1 |
| Aberdeen Proving Ground FCU | Yes* | 1 |
| Barksdale FCU | Yes* | 2 |
| CoastHills FCU ^s | Yes* | 1 |
| Community First of Guam FCU ^s | Yes* | 1 |
| Edwards FCU | Yes* | 1 |
| Eglin FCU | Yes* | 1 |
| Fort Gordon FCU Community Credit Union | Yes* | 1 |
| Fort Lee FCU | Yes* | 1 |
| Kinetic CU | Yes* | 1 |
| Kirtland FCU | Yes* | 1 |
| Lakehurst Naval FCU | Yes* | 1 |
| MAC FCU | Yes* | 1 |
| MCAS Beaufort FCU (a Division of CPM CU) | Yes* | 1 |
| Mid Missouri CU | Yes* | 1 |
| N.A.S. JRB CU | Yes* | 1 |
| NMA FCU | Yes* | 1 |
| Northern Tier FCU | Yes* | 1 |
| Pen Air FCU | Yes* | 2 |
| Peoples Trust CU | Yes* | 1 |
| Quest CU | Yes* | 1 |
| RAFE FCU | Yes* | 1 |
| R-G FCU | Yes* | 1 |
| Schofield FCU | Yes* | 1 |
| Sierra Central CU | Yes* | 1 |
| South Carolina FCU | Yes* | 1 |
| Southeastern FCU | Yes* | 1 |
| Space Age FCU | Yes* | 1 |
| Texas Partners FCU | Yes* | 1 |

Continued on the next page

| Credit union | Disclosure provided online | Number of DOD installations with branches |
|-----------------------------|----------------------------|---|
| Tinker FCU | Yes* | 1 |
| Tobyhanna Army Depot CU | Yes* | 1 |
| Union Square FCU | Yes* | 1 |
| Bragg Mutual FCU | Yes† | 1 |
| Fort Knox FCU | Yes† | 1 |
| Pioneer Valley FCU | Yes† | 1 |
| Sandia Area FCU | Yes† | 2 |
| Alaska Dist Engineers FCU | No | 1 |
| American Southwest CU | No | 1 |
| Ascend FCU | No | 1 |
| Border FCU | No | 1 |
| Cannon FCU | No | 1 |
| Central Macomb Community CU | No | 1 |
| Defense Logistics FCU | No | 1 |
| Dugway FCU | No | 1 |
| Fort Campbell FCU | No | 1 |
| Fort Dix FCU | No | 1 |
| Fort Meade Community CU | No | 1 |
| Fort Sill FCU | No | 1 |
| Freedom 1st FCU | No | 1 |
| Heart O' Texas FCU | No | 1 |
| Hickam FCU | No | 1 |
| Langley FCU | No | 1 |
| McAlester AAP FCU | No | 1 |
| NAVFAC FCU | No | 1 |
| PBA FCU | No | 1 |
| RIA FCU | No | 1 |
| RID FCU | No | 1 |
| Sun Community | No | 1 |
| Triangle FCU | No | 1 |

* Only the fee schedule was provided online.

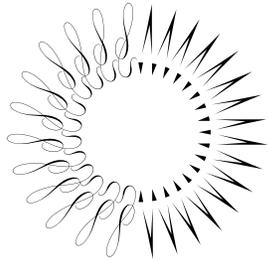
† Only the account agreement was provided online.

§ At the time Pew collected credit union documentation, Freedom of Maryland FCU, Max CU, White Sands FCU, CoastHills FCU, and Community First of Guam FCU were DCUC-member credit unions with an on-installation locations, but they are not listed as members at the time of this publication.

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Endnotes

- 1 Mark Maremont and Tom McGinty, "Hefty Bank Fees Waylay Soldiers," *The Wall Street Journal*, Jan. 15, 2014, <http://online.wsj.com/news/articles/SB10001424052702304887104579306770984874320>.
- 2 Empowering and Protecting Service Members, Veterans and Their Families in the Consumer Financial Marketplace: Before the Senate Comm. on Banking, Housing, and Urban Affairs, 112th Cong. (2011) (testimony of Admiral Steve Abbot, USN, Ret., president, Navy-Marine Corps Relief Society).
- 3 The Financial Industry Regulatory Authority Investor Education Foundation, *Financial Capability in the United States: 2012 Report of Military Findings* (Dec. 2013), http://www.usfinancialcapability.org/downloads/NFCS_2012_Report_Military_Findings.pdf.
- 4 In addition to on-installation banks and credit unions, AMBA and DCUC membership includes affiliated off-installation banks and credit unions as well. For subsequent references, AMBA on-installation banks and DCUC on-installation credit unions will be referred to as: AMBA-member institutions, AMBA-member banks, AMBA-members, DCUC-member institutions, DCUC-member credit unions, or DCUC-members. This shorthand should not be confused with the wider AMBA or DCUC member list.
- 5 Pew used the Department of Defense's military installation list to identify unique domestic military installations. The Department of Defense list breaks out some smaller installations as separate from the larger installation with which they are associated. For example, Army Soldier and Family Assistance Centers, which exist at many large bases, are listed as unique installations. For Pew's analysis, when there was one or more Department of Defense installations associated with one another, they were treated as a single installation.
- 6 Procedures Governing Banks, Credit Unions and Other Financial Institutions on DoD Installations, 32 C.F.R. § 231.10 (2013).
- 7 Requirements for Overdraft Services (Regulation E), 12 C.F.R. § 1005.17(b) (2012).
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- 13 Nolo, "50-State Chart of Small Claims Court Dollar Limits," accessed April 28, 2014, <http://www.nolo.com/legal-encyclopedia/small-claims-suits-how-much-30031.html>.
- 14 *Black's Law Dictionary*. 9th ed. St. Paul, MN: West, 2009, s.v. "unconscionability." "The principle that a court may refuse to enforce a contract that is unfair or oppressive because of procedural abuses during contract formation or because of overreaching contractual terms, esp. terms that are unreasonably favorable to one party while precluding meaningful choice for the other party."
- 15 General Powers of the Bureau, 12 U.S.C. § 5511(a) (2012).
- 16 USAA is an AMBA associate (off-base) member. However the Department of the Army has selected USAA to be the on-installation bank for the U.S. Army Garrison-West Point. Furthermore, USAA has 10.3 million military affiliated members, making it the largest military-only bank in the United States. For these reasons, USAA is included in Pew's analysis of AMBA on-base member banks. Read USAA's West Point on-installation branch opening press release here, <https://communities.usaa.com/t5/Press-Releases/Army-Selects-USAA-Bank-as-Bank-For-West-Point/ba-p/10929>.
- 17 General Disclosure Requirements, 12 C.F.R. § 1030.3 (2012).
- 18 The Pew Charitable Trusts, *Checks and Balances: Measuring Checking Accounts' Safety and Transparency* (May 2013), http://www.pewtrusts.org/-/media/legacy/uploadedfiles/pes_assets/2013/ChecksBalancesnewpdf.pdf; The Pew Charitable Trusts, *Checks and Balances: 2014 Update* (April 2014), <http://www.pewtrusts.org/-/media/Assets/2014/04/09/ChecksandBalancesReport2014.pdf>.



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