



2005 Market Street, Suite 2800 215.575.9050 Phone  
Philadelphia, PA 19103-7077

901 E Street NW 202.552.2000 Phone  
Washington, DC 20004

[www.pewtrusts.org](http://www.pewtrusts.org)

November 3, 2015

Linda F. Powell  
Chief Data Officer  
Consumer Financial Protection Bureau  
1275 First Street, NE  
Washington, DC 20002

**Re: Web-Based Quantitative Testing of Point of Sale/ATM (POS/ATM) Overdraft Disclosure Forms; Docket No: CFPB-2015-0037; OMB Number: 3170-XXXX**

Dear Mr. Kuiper:

The [Pew Charitable Trust's consumer banking project](#) studies the transaction accounts that Americans rely on to manage their finances and develops research-based policy recommendations that promote safe and transparent products. We have published a series of reports examining several aspects of checking and prepaid accounts, including overdraft service, and have begun research into if and how new mobile banking and payment features could help the unbanked and underbanked. We appreciate the opportunity to comment on the Consumer Financial Protection Bureau's plans to conduct a nationally representative survey of checking account holders to examine consumer comprehension and decision-making in response to revised overdraft disclosure forms.

**1. Current overdraft disclosures are poor; therefore research to improve them is worthwhile.**

In response to the first specific request for comment, Pew emphatically supports the survey proposed by the Consumer Financial Protection Bureau (CFPB) and believes these efforts are well within the bureau's mission and responsibilities as set forth in the Dodd-Frank Wall Street Reform and Consumer Protection Act. The survey is important for the following reasons:

**a. Pew research indicates that overdraft is harmful to consumers.**

Ample research, including from the CFPB itself, has demonstrated that overdraft fees are harmful to consumers. Pew's research has found that, regardless of the size of the bank, overdraft penalty fees are typically charged on a per-item basis, and the fee is usually more than \$30 per transaction.<sup>1</sup> In addition, when accounting for multiple overdraft fees and extended overdraft fees that are charged if not quickly repaid and a positive balance isn't

quickly restored, the typical overdraft episode costs approximately \$69.<sup>2</sup> The CFPB itself has found that overdrafts cost consumers billions of dollars per year, yet for debit card transactions, the median amount that leads to an overdraft fee is \$24.<sup>3</sup> In fact, only eight percent of customers incur nearly 75 percent of all overdraft fees.<sup>4</sup> These fees can also cause consumers to leave the traditional banking system, either voluntarily or involuntarily, forcing them to rely on nontraditional, costly service providers such as check cashers. The most recent data reveal that about 8 percent of U.S. households do not have a bank account.<sup>5</sup> However, almost half of these respondents have had bank accounts in the past.<sup>6</sup>

**b. Consumers largely do not want overdraft; even those that sign up for it.**

Pew research shows that consumers view overdraft negatively. Among consumers who have overdrawn their accounts, a majority are concerned about many aspects of overdraft service, including the cost, transaction reordering that maximizes overdraft fees, and extended overdraft fees, incurred when a consumer does not pay back the overdraft loan and fee within a set number of days, typically four.<sup>7</sup> Further, 68 percent of overdrafters said they'd rather have the transaction declined than pay a \$35 fee.<sup>8</sup> An overwhelming 80 percent believe overdrafts should be more closely regulated.<sup>9</sup>

**c. Current overdraft disclosures are poor.**

Over half of consumers who incurred a debit card overdraft within the last year did not recall opting in to this service.<sup>10</sup> One factor that may contribute to this discrepancy is problems with the overdraft opt-in form developed by the Federal Reserve for financial institutions to provide to their customers.

First, the form is misleading in that it leaves out several important items that could influence a customer's decision in choosing or rejecting an overdraft option. It describes the most expensive form of overdraft, penalty service, as "standard," which may suggest to account holders that this is the default option or the choice designed for most customers. The form also does not provide information about alternatives to penalty service, including the option not to opt in, which costs nothing, or signing up for an overdraft transfer service which links a checking account to a savings account, line of credit, or credit card and is generally much less expensive. The form merely states that these options may be available.

The lack of disclosure regarding the comparative cost of the fees might lead customers to select a more expensive overdraft plan than they would have if all the details and options were clearly presented. If a consumer does not opt in to an overdraft penalty plan, transactions that would overdraw the account are declined and no fees are charged. This fact can be obscured by the current disclosures that do not make this clear. Additionally, the format and wording of the form is confusing because it gives the impression that customers need to take some action in order to not opt in, by encouraging them to fill out, tear off, and return the bottom of the form to the bank.

Since 2010, Pew has been working to develop, distribute, and promote effective overdraft disclosures. Over [30 financial institutions](#), including the 12 largest banks and the three largest credit unions have adopted a summary disclosure box similar to the one Pew developed. The Pew standardized disclosure form includes a list of all overdraft options and the cost of each, including the default option of having transactions declined. A copy is attached to this letter.

Pew research has shown that uniform checking account disclosures are easier to compare and give consumers more confidence, which could lead to more use of these documents.<sup>11</sup> In fact, in an experiment comparing ease of understanding checking account disclosures, Pew found that uniformity:

- Made it easier for participants to compare account terms and conditions.
- Increased participants' confidence in their understanding of practices and fees.
- Decreased the time users needed to identify account information.
- Increased participants' understanding of account fees and practices.<sup>12</sup>

## **2. The Survey construction is good, but the sample population should be broadened.**

In response to the third specific request for comment, Pew is generally supportive of the construction of the survey. However, we do have one specific recommendation to improve its quality.

### **a. Overall the survey is solidly constructed.**

We appreciate the care taken to ensure that the survey will be weighted appropriately and will be a nationally representative sample. Giving computer and internet access to those who do not have it is especially important as those who overdraft their checking accounts tend to be lower income and minorities, and these populations also have lower rates of access to the internet.<sup>13</sup>

### **b. The survey should include some consumers who are unbanked.**

The survey should not exclude unbanked individuals who have either closed their checking accounts or had accounts closed by their financial institutions. Currently, the notice states that the survey will be a "nationally representative sample of the U.S. checking account-holding population." However, Pew's research on prepaid cards found that a major reason why unbanked prepaid cardholders overwhelmingly choose to use prepaid cards to avoid bank overdraft fees, even more so than banked prepaid card users.<sup>14</sup> While this research only looked at prepaid users, it is likely that other consumers who have recently lost checking accounts have similar fears of overdraft fees.

The inclusion of unbanked respondents would also bolster survey findings related to the experience of consumers who are more likely to have incurred overdraft fees, who would be oversampled in the proposed survey. Pew's study found that 13 percent of consumers who had

overdrafted in the previous year no longer had a checking account.<sup>15</sup> This is a substantial number of important consumers to consider when contemplating policy changes regarding overdrafts in general and disclosures specifically.

**c. The survey should determine why consumers do not read or understand disclosures.**

Our previous research has also shown that many consumers do not read or do not understand their bank disclosures.<sup>16</sup> One aspect of disclosure research that has not been fully investigated is what would nudge a person to view mandated disclosures as a valuable decision-making tool. We advocate adding questions to identify which participants did and did not read their bank disclosures. In addition, questions should be added that explore why disclosures are not read and what changes could be made so that a consumer would be more likely to use them. This information would be valuable both for regulatory action as well as to add guidance to banks and other stakeholders on improvements that would benefit consumers.

**Conclusion**

We fully support the CFPB's decision to proceed with a survey to help in the development of effective disclosures so consumers know what the overdraft features of their checking accounts actually are. While disclosure itself is not enough to protect consumers against bad practices, it is necessary and helpful to allow consumers to choose the account that best meets their needs.

To fully protect consumers, Pew calls on the CFPB to require all financial institutions to:

- Provide account holders with clear, comprehensive, and uniform pricing information for all available overdraft options.
- Make overdraft penalty fees reasonable and proportional to the bank's costs in covering the overdraft.
- Prohibit the practice of reordering transactions to maximize fees, and post deposits and withdrawals in a fully disclosed, objective, and neutral manner.

We thank the CFPB for this opportunity to comment on the overdraft disclosure internet survey. We look forward to the release of the survey's findings and continuing to share our work with the CFPB. As always, we are available to discuss these comments or any other aspect of our work at any time.

Sincerely,



Thaddeus King  
Officer



Rachel Siegel  
Senior Associate

## Attachment: Copy of Overdraft Disclosure Developed by Pew

- 
- <sup>1</sup> The Pew Charitable Trusts, "Checks and Balances: 2015 Update," (May 2015), 9, [http://www.pewtrusts.org/~media/assets/2015/05/checks\\_and\\_balances\\_report\\_final.pdf](http://www.pewtrusts.org/~media/assets/2015/05/checks_and_balances_report_final.pdf); Future Pew report.
- <sup>2</sup> The Pew Charitable Trusts, "Overdrawn: Persistent Confusion and Concern About Bank Overdraft Practices," (June 2014), 1, [http://www.pewtrusts.org/~media/assets/2014/06/26/safe\\_checking\\_overdraft\\_survey\\_report.pdf](http://www.pewtrusts.org/~media/assets/2014/06/26/safe_checking_overdraft_survey_report.pdf)
- <sup>3</sup> Consumer Financial Protection Bureau, "Data Point: Checking Account Overdraft," (July 2014), 5, [http://files.consumerfinance.gov/f/201407\\_cfpb\\_report\\_data-point\\_overdrafts.pdf](http://files.consumerfinance.gov/f/201407_cfpb_report_data-point_overdrafts.pdf).
- <sup>4</sup> Ibid, 5.
- <sup>5</sup> Federal Deposit Insurance Corp., "National Survey of Unbanked and Underbanked Households," (Oct. 2014), 4, <https://www.fdic.gov/householdsurvey/2013report.pdf>.
- <sup>6</sup> Ibid, 18.
- <sup>7</sup> Ibid, 11.
- <sup>8</sup> The Pew Charitable Trusts, "Overdrawn: Persistent Confusion and Concern About Bank Overdraft Practices," (June 2014), 10, [http://www.pewtrusts.org/~media/assets/2014/06/26/safe\\_checking\\_overdraft\\_survey\\_report.pdf](http://www.pewtrusts.org/~media/assets/2014/06/26/safe_checking_overdraft_survey_report.pdf).
- <sup>9</sup> Ibid.
- <sup>10</sup> Ibid, 5.
- <sup>11</sup> Future Pew report.
- <sup>12</sup> Future Pew report.
- <sup>13</sup> The Pew Charitable Trusts, "Overdrawn: Persistent Confusion and Concern About Bank Overdraft Practices," (June 2014), 3, [http://www.pewtrusts.org/~media/assets/2014/06/26/safe\\_checking\\_overdraft\\_survey\\_report.pdf](http://www.pewtrusts.org/~media/assets/2014/06/26/safe_checking_overdraft_survey_report.pdf); Pew Research Center, "Americans' Internet Access: 2000-2015," (June 26, 2015), 2, 3, [http://www.pewinternet.org/files/2015/06/2015-06-26\\_internet-usage-across-demographics-discover\\_FINAL.pdf](http://www.pewinternet.org/files/2015/06/2015-06-26_internet-usage-across-demographics-discover_FINAL.pdf).
- <sup>14</sup> The Pew Charitable Trusts, "Banking on Prepaid," (June 2015), 6, <http://www.pewtrusts.org/~media/assets/2015/06/bankingonprepaidreport.pdf>.
- <sup>15</sup> The Pew Charitable Trusts, "Overdrawn: Persistent Confusion and Concern About Bank Overdraft Practices," (June 2014), 1, [http://www.pewtrusts.org/~media/assets/2014/06/26/safe\\_checking\\_overdraft\\_survey\\_report.pdf](http://www.pewtrusts.org/~media/assets/2014/06/26/safe_checking_overdraft_survey_report.pdf).
- <sup>16</sup> Ibid, 5.