

In June 2012, the Pew Safe Checking in the Electronic Age Project released *Still Risky: An Update on the Safety and Transparency of Checking Accounts*. This report examined the terms and conditions of 274 distinct checking accounts offered online by the 12 largest banks and 12 largest credit unions in the United States as of October 2011. Pew released *Overdraft America*, a national survey of consumers who had overdrafted using their debit or ATM card in the past year, in April 2012.

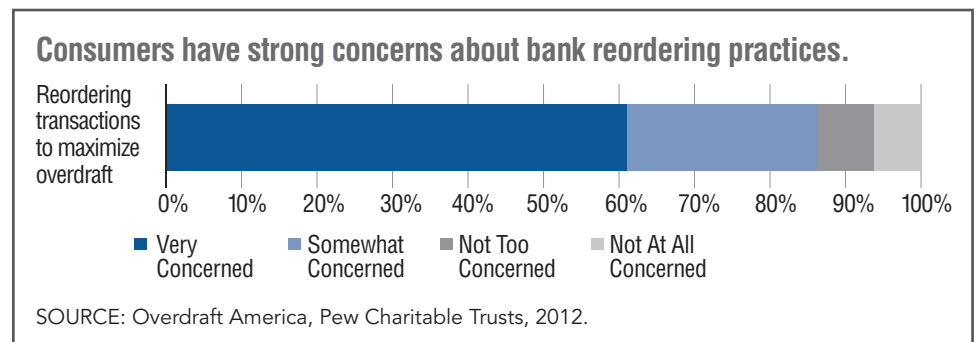
The Need for Transparent and Fair Bank Deposit and Withdrawal Processing

Pew's Finding

Banks can maximize the number of times an account “goes negative” by substituting the actual chronological order of deposits and withdrawals with a reordered sequence that reduces the account balance as quickly as possible, thus maximizing overdraft fees. All 12 of the nation’s largest banks either already reorder withdrawals from highest to lowest dollar amount or reserve the right to do so.

Pew's Policy Recommendation

The Consumer Financial Protection Bureau should require depository institutions to post deposits and withdrawals in a fully disclosed, objective, and neutral manner that does not maximize overdraft fees. To allow accountholders to track their balances and manage their spending, transactions should be processed in a predictable manner, such as in chronological order, that a responsible customer can follow.



From Gutierrez v. Wells Fargo: The Effect of High-to-Low Posting Order

High-to-Low Posting: How the bank ordered transactions

DATE	TRANSACTION DESCRIPTION	\$ +/-	BALANCE
10/5	Starting Balance		\$316.90
10/5 – 5	Return of Autozone purchase	\$17.23	
			\$334.13
10/10 – 1	Online transfer of funds to another account	-\$80.00	
			\$254.13
10/6 – 3	ATM withdrawal at a Non-Wells Fargo ATM	-\$22.00	
			\$232.13
10/6 – 4	Non-Wells Fargo ATM fee	-\$2.00	
			\$230.13
10/7 – 1	Debit card purchase at Albertsons Supermarket	-\$74.39	
			\$155.74
10/10 – 2	Check #1103	-\$65.00	
			\$91.74
10/5 – 2	Debit card purchase at Autozone	-\$47.99	
			\$42.75
10/6 – 1	Debit card purchase at IHOP Restaurant	-\$26.51	
			\$16.24
10/5 – 3	Debit card purchase at Autozone	-\$17.23	
			-\$0.99
	Overdraft Penalty Fee	-\$22.00	
			-\$22.99
10/5 – 1	Debit card purchase at Subway Restaurant	-\$11.27	
			-\$34.26
	Overdraft Penalty Fee	-\$22.00	
			-\$56.26
10/6 – 2	Debit card purchase at Farmer Boys Restaurant	-\$8.10	
			-\$64.36
	Overdraft Penalty Fee	-\$22.00	
			-\$86.36
10/5 – 4	Debit card purchase at Autozone	-\$3.23	
			-\$89.59
	Overdraft Penalty Fee	-\$22.00	
10/10	Final Balance		-\$111.59
Total Cost of Overdraft Fees			-\$88.00

SOURCE: Still Risky, Pew Charitable Trusts, 2012.

Chronological Posting: How the transactions actually occurred

DATE	TRANSACTION DESCRIPTION	\$ +/-	BALANCE
10/5	Starting Balance		\$316.90
10/5 – 1	Debit card purchase at Subway Restaurant	-\$11.27	
			\$305.63
10/5 – 2	Debit card purchase at Autozone	-\$47.99	
			\$257.64
10/5 – 3	Debit card purchase at Autozone	-\$17.23	
			\$240.41
10/5 – 4	Debit card purchase at Autozone	-\$3.23	
			\$237.18
10/5 – 5	Return of Autozone purchase	\$17.23	
			\$254.41
10/6 – 1	Debit card purchase at IHOP Restaurant	-\$26.51	
			\$227.90
10/6 – 2	Debit card purchase at Farmer Boys Restaurant	-\$8.10	
			\$219.80
10/6 – 3	ATM withdrawal at a Non-Wells Fargo ATM	-\$22.00	
			\$197.80
10/6 – 4	Non-Wells Fargo ATM fee	-\$2.00	
			\$195.80
10/7 – 1	Debit card purchase at Albertsons Supermarket	-\$74.39	
			\$121.41
10/10 – 1	Online transfer of funds to another account	-\$80.00	
			\$41.41
10/10 – 2	Check #1103	-\$65.00	
			-\$23.59
	Overdraft Penalty Fee	-\$22.00	
10/10	Final Balance		-\$45.59
Total Cost of Overdraft Fees			-\$22.00

NOTE: Data in this chart were taken directly from the opinion in *Gutierrez v. Wells Fargo Bank*. The left column illustrates how Wells Fargo was able to charge Ms. Gutierrez four overdraft penalty fees (a total of \$88) through manipulating the posting order to deplete her balance more quickly. The right column shows what the balance would have been had the transactions been posted chronologically. In the second scenario, Ms. Gutierrez would have been charged only a single \$22 overdraft penalty fee.⁴⁶