

OPENING STATEMENT OF CHAIRMAN CHRISTOPHER J. DODD
PROTECTING CONSUMERS FROM ABUSIVE OVERDRAFT FEES: THE FAIRNESS AND ACCOUNTABILITY
IN RECEIVING OVERDRAFT COVERAGE ACT
TUESDAY, NOVEMBER 17, 2009

Thank you all for being here this afternoon.

Our job on the Banking Committee is to make sure that regular folks get a fair deal from their banks.

For too long, credit card companies made profits by charging consumers outrageous fees, or raising rates whenever they felt like it.

Our committee approved legislation to stop those abusive practices, legislation that passed the Senate with overwhelming bipartisan support and was signed into law by President Obama earlier this year.

Today, we meet to discuss another abusive practice -- misleading overdraft programs that encourage consumers to overdraw their accounts then slam them with a high fee.

Now, let's be clear. People have a responsibility to spend within their means. And banks have a right to charge a fair fee for legitimate services.

But banks often add overdraft coverage to consumer accounts without informing them or giving them a choice.

The overdraft charge is usually a high fee - a consumer can pay a \$35 fee for overdrawing on a \$2 transaction.

In some cases, a consumer can rack up multiple overdraft fees in a single day without being notified until days later. Many institutions also charge additional fees for each day an account is overdrawn – the longer it takes for you to realize there’s a problem, the more fees they can charge you.

Sometimes, banks will even re-arrange the order in which they process your purchases, charging you for a later, larger purchase first so that they can charge you repeated overdraft fees for earlier, smaller purchases.

So the truth is that the “service” of overdraft protection often serves as nothing more than a way for banks to profit by taking advantage of customers.

Last year, American consumers paid \$24 billion in overdraft fees, and the Financial Times recently reported that banks stand to collect a record \$38.5 billion in overdraft fees this year.

According to the Center for Responsible Lending, nearly \$1 billion of those fees will come from young adults. Another \$4.5 billion will come from senior citizens like Mario Livieri, one of our witnesses today and a resident of Branford, Connecticut.

I'll let Mario tell his own story about how an initial \$2 overdraft ended up in \$140 in overdraft coverage fees. The methods his bank used will sound familiar to many Americans.

Families in my state of Connecticut and across the country are already struggling to make ends meet – and these unfair and excessive charges are making it even harder.

Last week, the Federal Reserve announced that they will require banks to get a customer's consent before enrolling them in an overdraft coverage program. It was a welcome but long-overdue announcement for American consumers.

And, we need to do far more to protect them from these abusive bank products.

That's why I introduced - The Fairness and Accountability in Receiving Overdraft Coverage Act. Senators Schumer, Reed, Brown, Merkley, Menendez, Levin, Reid and Franken have joined me as cosponsors.

Like the Federal Reserve's rule, my bill would establish an opt-in rule for overdraft coverage for ATM and debit transactions.

Customers would now have to consent before overdraft coverage is applied to their account.

My legislation would go further and limit the number of overdraft fees banks can charge to one per month, and no more than six per year. And that fee would have to be reasonable and proportional to the cost of processing the overdraft.

My legislation would also put a stop to the practice of manipulating the order in which transactions are posted, and require banks to warn customers if they are about to overdraw their account, giving them a chance to cancel the transaction.

Finally, it would require banks to notify customers promptly when they've overdrawn an account – through whatever means the customer chooses, from email to text message – so that they can quickly restore their balances and avoid unnecessary fees.

Abusive overdraft policies are blatantly unfair. And the banks know it. After it came out in the press that I was working on this legislation, a few of the big ones took steps towards responsible reform – I assume out of the kindness of their hearts.

We will see whether they are truly committed to reform. But folks like Mario deserve better.

Last week, the Federal Reserve released a new rule that will require banks to get a customer's consent before enrolling them in an overdraft coverage program. That's a good start. But my legislation goes further, and I remain committed to ensuring that American consumers are protected.

And let's remember, regulators did little while consumers were taken advantage of by these misleading and unfair overdraft programs. This is exactly why we need an independent consumer financial protection agency that would be focused on preventing these abuses and addressing them quickly.

Folks like Mario deserve better. I remain committed to ensuring that American consumers are protected – and I look forward to our discussion today.

Senator Shelby?