Consumer Federation of America

U.S. Public Interest Research Group

Consumers Union
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Center for Responsible Lending

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Members of the Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Representatives:

American consumers need strong protections against abusive credit card and bank overdraft loan practices to safeguard their hard-earned money. Card issuers routinely raise interest rates for illegitimate reasons and apply them retroactively to purchases already made by consumers. Banks are using ATMs to dispense credit by permitting consumers to overdraw their bank accounts without providing any notice, asking for consent or disclosing fees that are charged during the transaction. Consumers are paying at least $10 billion a year for bank overdraft loans as more banks extend this form of credit using a loophole in Truth in Lending rules that the Federal Reserve has permitted.

We are writing to urge you to co-sponsor and support legislation introduced this week by Representatives Carolyn Maloney and Bernie Sanders to stop these abuses. Representative Sanders has introduced the “Consumer Credit Card Protection Act of 2005” with Representative Barney Frank. Representative Maloney has also introduced the “Consumer Overdraft Protection Fair Practices Act” with Representative Frank. These bills are essential to empowering consumers to manage their finances and reduce debt burdens.

The **Consumer Credit Card Protection Act** would protect consumers in the following ways:

- <u>Banning universal default</u>: This is the practice of raising a consumer’s interest rate or negatively changing terms even when the consumer has a payment history in good standing with that specific credit card company. Under universal default, some credit card companies make adverse changes – often raising interest rates from preferred rates of 10 percent APR or less to punitive penalty rates of 25-30 percent APR – on the basis of a consumer’s payment history with other creditors or due to a change in the consumer’s credit score.
- <u>Banning retroactive interest rate changes</u>: Companies should not be able to raise interest rates and apply those changes to current balances, further exacerbating the effects of high-cost credit card debt on working families. No other business in America is allowed to increase the price of a product once it is purchased.
- <u>Requiring disclosure of months to pay</u>: One of the bill’s most important provisions would fix a gaping loophole in the Truth in Lending Act which allows credit card companies to deceive consumers about the true costs of their open-ended credit card plans by prominently disclosing only the minimum payment due. Credit card account statements fail to tell consumers how many months and years it would take to pay off the balance and the total amount of interest that would accrue. For example, if a consumer owed a credit card company $5,000 at an interest

rate of 16 percent APR, and only made the requested 2 percent minimum payment each month, he or she would pay an additional $8,350 in interest and would take 26 years to pay off the card, even if it was never used again.

The **Consumer Overdraft Protection Fair Practices Act** clarifies that bank overdraft loans are covered by the basic consumer protections found in the Truth in Lending Act. The Federal Reserve Board has failed to close a loophole in the rules implementing the Truth in Lending Act that exempts banks from disclosing overdraft loan fees as a finance charge (with the annual percentage rate) as long as there is no contract to pay overdrafts and the overdraft loan fees are the same as the fees for bounced checks. As a result, consumers are paying at least $10 billion a year to their banks as loan fees for overdrawing their bank accounts through checks, at the ATM and point of sale, and through pre-authorized debits.

The bill provides these key protections:

- <u>Requires consumer consent</u> before banks can permit overdraft loans for a fee. Banks will be required to obtain written consent for covering overdrafts for a fee, disclosing to consumers the amount of any fee, the types of transactions that will overdraw the account, and the time period for repayment of the extension of credit.
- <u>Clarifies that overdraft fees are finance charges</u> under the Truth in Lending Act, so consumers can compare the cost of borrowing the bank's funds through an overdraft with other sources of cash advances.
- <u>Prohibits banks from systematically manipulating the order in which</u> checks and other debits are posted in order to cause more overdrafts and maximize fees.
- <u>Requires banks to warn the customer</u> that an ATM withdrawal may trigger an overdraft loan fee and to allow the customer to cancel the transaction after receiving this warning.

The consumers most harmed by the practices targeted by these two bills are having trouble making ends meet. These individuals often struggle to pay credit card bills and to avoid overdrawing their bank accounts. We strongly urge you to support these bills and restore basic fairness for consumers.

Sincerely,

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