



# Stop the \$35 cup of coffee with the Overdraft Protection Act

## Summary of the Overdraft Protection Act of 2012

*Prepared by the office of Congresswoman Carolyn Maloney, May, 2012*

The Overdraft Protection Act is necessary to establish fair and transparent practices related to the provision of overdraft coverage programs. The legislation would codify Federal Reserve rules that require depository institutions to provide consumers with the opportunity to opt-in to overdraft coverage for all transactions. In addition, it would provide strong new protections and disclosures for consumers with respect to these transactions.

### Stronger consumer protections:

- Opt-in. Codifies 2010 Federal Reserve Rules that require institutions to provide consumers the opportunity to consent in writing to overdraft coverage for a fees associated with these programs and extends those protections to checks in addition to debits.
- Limits on overdraft coverage fees. Prohibits institutions from charging more than one overdraft coverage fee per month and more than six per year.
- Reasonable and proportional overdraft coverage fees. Requires that all overdraft coverage fees be reasonable and proportional to the amount of the overdraft.
- Posting order. Prohibits institutions from posting transactions in order to maximize overdraft fees.
- Debit holds. Prohibits institutions from charging an overdraft coverage fee on any type of transaction, if the overdraft results solely from a debit hold placed on an account that exceeds the actual dollar amount of the transaction.
- Prepaid Cards. Directs the Consumer Financial Protection Bureau (CFPB) to study the practices of overdraft policies related to prepaid cards and authorizes the CFPB to extend the overdraft provisions to these products if it deems it necessary.

### Clear and conspicuous overdraft coverage disclosures:

- Opt-In Disclosures. Requires institutions to notify consumers when they are deciding to opt into overdraft coverage that if they do not opt in their transactions may (more)

be declined and they will not be charged a fee when those transactions are declined.

- Overdraft coverage fee limit. Requires institutions to clearly disclose to consumers that they will be charged no more than one overdraft coverage fee per month and no more than six overdraft coverage fees per year, and that the institution retains the discretion to pay without charge or reject any other overdrafts incurred.
- Alternative overdraft coverage. Requires institutions to provide information about any alternative overdraft services and products that are available at such institutions, including a clear explanation of how the terms and fees for such alternative services and products differ.
- Disclosure of overdraft coverage fees on periodic statements. As part of a periodic statement, requires institutions to clearly disclose the dollar amount of overdraft coverage fees charged to the consumer for the relevant period and year to date.
- Account balance information. Prohibits institutions from including the amount available under a consumer's overdraft coverage program as part of the consumer's account balance.
- Prompt notification. Requires institutions to promptly notify consumers, through a reasonable means selected by the consumer, when overdraft coverage has been accessed.
- Terminated or suspended overdraft coverage program. Requires institutions to provide prompt notice, through a reasonable means selected by the consumer, if the institution terminates or suspends a consumer's access to an overdraft coverage program, including a clear rationale for the action.
- Notice and opportunity to cancel. Requires institutions to warn the consumer if completing a transaction at an ATM terminal or branch teller may trigger overdraft coverage fees, including the amount of the fees. In addition, requires institutions to provide consumers with the opportunity to cancel the transaction before it is complete.

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