

## The CFPB Study of Overdraft Programs

While financial institutions continue to be regulated by their primary federal and state bank regulatory agencies, the Consumer Financial Protection Bureau (CFPB) is the primary regulator for federal consumer financial laws and the consumer financial protection functions of federal bank regulatory agencies.

In this role, the CFPB began a study of overdraft programs with the Request for Information (RFI) they issued in February 2012. The RFI resulted in responses from financial institutions, consumers, industry associations, and consumer advocates. Pinnacle Financial Strategies submitted information on how a consumer-focused, transparent, well-disclosed program benefits consumers and financial institutions. Our response to the RFI is available at [pinnaclefinancialstrategies.com/Resources/Regulatory-Updates](http://pinnaclefinancialstrategies.com/Resources/Regulatory-Updates).

### Key Findings

The CFPB released their white paper of initial data findings in their Study of Overdraft Programs on June 11, 2013. CFPB Director Richard Cordray emphasized that the CFPB is committed to being a data-driven agency and is seeking to learn “the facts and figures” about actual consumer experiences and the consequences of different overdraft practices. The CFPB is also concerned with determining how well consumers are able to learn about the costs and risks of overdrafts so they can make well-informed decisions about financial products and services.

In summarizing the findings of the Study, the CFPB recognized that the factors that may impact the number of overdraft or NSF fees a consumer is charged “...vary from institution to institution, are complex and interact in complex ways.” **It’s important for community banks and credit unions to note that the CFPB also stated, “Nothing in this report implies that banks and credit unions should be precluded from offering overdraft coverage.”**

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It's also important to acknowledge that the study notes our industry's progress in protecting consumers from harm in some areas, citing regulatory changes over the past several years.

- Joint Regulatory Guidance in 2005 (OCC, Federal Reserve, FDIC, NCUA)
- Amendments to Truth in Savings (effective July, 2006) that required specific disclosures for "promoted overdraft programs"
- Amendments to Truth in Savings (effective January, 2010) requiring new disclosures about overdraft fees and account balances
- Amendments to Regulation E (effective in July 1, 2010 for new customers; August 15, 2010 for existing customers) requiring that consumers provide affirmative consent for overdraft coverage of ATM withdrawals and non-recurring debit card transactions
- Final FDIC Guidance in 2010, applicable to FDIC supervised institutions
- Proposed OCC Guidance in 2011, which has recently been withdrawn

Pinnacle's overdraft program continues to incorporate the regulatory requirements, guidance and best practices issued by the various regulatory agencies.

## Need to Protect Consumers With Consistent Guidance

However, the CFPB expressed ongoing concerns about the number of consumers who incur heavy overdraft fees or experience involuntary account closures, as well as the wide variation in policies and practices across institutions. The report also noted that the different supervisory expectations of the various prudential regulators present an issue that may impact some financial institutions adversely.

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The CFPB believes that certain practices and procedures also merit further analysis to determine whether they are causing the kind of consumer harm that the federal consumer protections laws are designed to prevent. Some of the practices discussed include:

- [How financial institutions calculate available balances for authorizing transactions](#)
- [The financial institution's Funds Availability Policy](#)
- [Transaction processing and posting order \(nightly batch processing; ordering debits by type vs. transaction size, chronological vs. serial order, etc.\)](#)

## Pinnacle ODP Program in Line With CFPB Philosophy

Clients who follow Pinnacle's best practices in operating their overdraft programs and who take advantage of the tools we offer provide their account holders a genuine service consistent with the CFPB's philosophy. Our **Outreach Guide** helps you identify and work with those consumers incurring heavy overdraft fees. Our **Fresh Start** program enables you to work with consumers struggling to repay an overdraft within the regulatory timeframe to avoid charging off the account. Our **Checking Navigator** provides you a customizable financial education program to help your account holders make informed decisions about financial products and services.

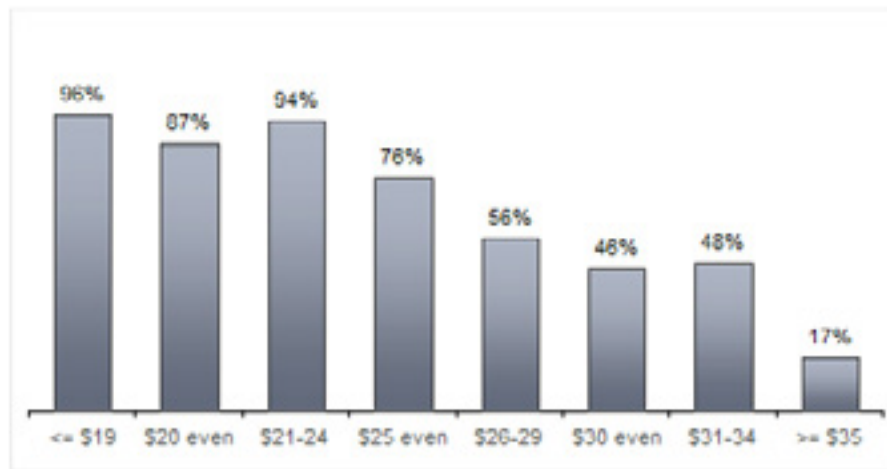
## Higher Fees Do Not Result in Better Revenue

While there is a lot of data included in the CFPB white paper, one statistic we think is particularly important is the median amount of NSF and overdraft fees. Among the 33 largest institutions, the median fee was \$34 in 2012. The 10th percentile NSF/overdraft fee of these same institutions was \$25 in 2012, while the 90th percentile fees were both \$36. The median NSF and overdraft fee across nearly 800 smaller banks and credit unions was \$30 in 2012. However, per-item fees across this sample range from a low of \$10 to a high of \$45.

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Pinnacle has seen a trend among community banks and credit unions to continue to raise the amount of the overdraft/NSF fee. Community bank and credit union account holders are not tolerant of increasing overdraft fees. Hoping to increase revenue by raising fees, these financial institutions are finding that, not only is their income going down, but they are losing accounts. The chart below illustrates the revenue impact of various NSF fee amounts and is based on actual data from Pinnacle clients. If you're thinking about raising your current fees, we encourage you to contact your Pinnacle Client Service Manager first.

Improvement Percentage by NSF Fee



As the CFPB continues its study of overdraft programs, Pinnacle can help you evaluate yours to ensure it is consumer-focused, fair, transparent and compliant.

If you have any questions related to this information, or your program, please contact your Client Services Manager or call 866.737.1235.

Michelle Patana  
Senior Client Service and Compliance Manager