



# REGULATION DD Overdraft Accounts

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# EXECUTIVE SUMMARY

## FEDERAL RESERVE PROPOSES REGULATION DD CHANGES FOR OVERDRAFT ACCOUNTS

The Federal Reserve has proposed an amendment to Regulation DD to specifically address “bounced-check protection” and/or “courtesy overdraft protection” products offered by financial institutions. Generally, bounced-check protection products are an automated service that debits a deposit/savings account and credits a checking account whenever there are insufficient monies to cover a check in the consumer's checking account. Presently, the Federal Reserve has not established an effective date for the following new rule changes:

### Periodic Statements:

Periodic statements will be required to include the total amount of fees imposed for overdrafts and the total amount of fees for returned items for the statement period and for the calendar year to date. The total dollar amount for overdraft fees shall include all overdrafts on the account, whether created by check, by ATM withdrawal or other electronic transfer. Generally, when fees of the same type are imposed more than once in a statement period, the statement may itemize each fee separately or group the fees together and disclose a total dollar amount for all fees of that type. Notwithstanding, overdraft and returned-item fees each must be separately totaled for the statement period and cumulatively for the calendar year and when fees of the same type are grouped together the description must make clear that the dollar figure represents more than a single fee, for example, “total fees for checks written this period.”

Example Fees that may not be grouped together are:

1. Monthly maintenance and excess-activity fees.
2. “Transfer” fees, if different dollar amounts are imposed— such as \$.50 for deposits and \$1.00 for withdrawals.

3. Fees for electronic fund transfers and fees for other services, such as balance inquiry or maintenance fees.

4. Fees for transactions that overdraw an account and fees for returning checks or other items unpaid.

### Account-opening Disclosures:

Before an account can be opened, banks must provide new account-opening disclosures outlining overdraft protection fees that may be imposed in connection with checks, automated teller machine (ATM) withdrawals, or other electronic fund transfers. For example, disclosing a fee for covering an overdraft “created by check, or by ATM withdrawal or other electronic transfer” would typically satisfy the new requirements; disclosing a fee “for overdraft items” would not meet the new standard. When terms required to be disclosed in the schedule change and adversely affect accountholders, notice of the change must be provided 30 days in advance. BSI will need to address the aforementioned language in their current disclosures in order to comply with the new standards.

### Advertising Disclosures:

Under the new rules, banks’ advertisements shall not refer to or describe an account as “free” or “no cost” (or contain a similar term) if any maintenance or activity fee may be imposed on the account. Additionally, the word “profit” shall not be used in referring to interest paid on an account.

### REGULATORS & INDUSTRY BEST PRACTICES

Financial institutions with overdraft protection products should establish clear disclosures and explanations of the costs and limitations of overdraft protection products:

#### 1. Account Management:

Banks should not market their products in a manner that encourages routine or intentional overdrafts; rather present the product as a customer service that may cover inadvertent consumer overdrafts.

## EXECUTIVE SUMMARY

### 2. Fairly Represent:

Banks should inform consumers about an overdraft protection programs and explain the costs and advantages of various alternatives to an overdraft protection product and identify the risks and problems in relying on the product and the consequences of abuse.

### 3. Training:

Banks should train customer service or consumer complaint processing staff to explain their overdraft protection program's features, costs, and terms, including how to opt out of the service.

### 4. Discretionary Payments:

If the overdraft payment is discretionary, banks should describe the circumstances in which the bank would refuse to pay an overdraft or otherwise suspend the overdraft protection program.

### 5. Distinguish from "free" Accounts:

Banks should avoid promoting "free" accounts and overdraft protection services in the same advertisement that suggests the overdraft protection product is free of charges.

### 6. Disclosure of Fee Amounts:

Banks marketing materials provided to consumers that mention overdraft protection programs should clearly disclose the dollar amount of the overdraft protection fees for each overdraft and any interest rate or other fees that may apply. For example, rather than merely stating that the banks' standard NSF fee will apply, banks should restate the dollar amount of any applicable fees in the overdraft protection program literature or other communication that discloses the program's availability. Consumers should be alerted that the fees charged for covering overdrafts, as well as the amount of the overdraft item, will be subtracted from any overdraft protection limit disclosed, if applicable.

### 7. Opt-out:

Where overdraft protection is automatically provided, banks should permit consumers to "opt out" of the overdraft program and provide a clear disclosure of this option.

### 8. Non-check Transaction Fee:

When consumers attempt to use means other than checks to withdraw or transfer funds made available through an overdraft protection program, provide a specific consumer notice, where feasible, that completing the withdrawal will trigger the overdraft protection fees. This notice should be presented in a manner that permits consumers to cancel the attempted withdrawal or transfer after receiving the notice.

### 9. Credit Reporting:

Banks should not report negative information to consumer reporting agencies when the overdrafts are paid under the terms of overdraft protections programs that have been promoted by the bank.