

House Financial Services Committee | Subcommittee on Consumer Protection and Financial Institutions

Hearing titled, "The End of Overdraft Fees? Examining the Movement to Eliminate the Fees Costing Consumers Billions"

March 31, 2022 – 10:00am

Opening Statement of Rep. Blaine Luetkemeyer (R-MO):

"Thank you, Mr. Chairman. Thank you for having this hearing today on this important topic. On December 1st, 2021, the CFPB issued a [press release](#) on overdraft fees titled, CFPB Research Shows Banks' Deep Dependence on Overdraft Fees. This press release alludes to exploitative fees being charged by financial institutions for overdraft products and went so far as to specifically name and shame three financial institutions. To back up this claim, the CFPB put together two data sets on overdraft and non-sufficient funds fees. One data set is from 2014, or 8 years ago, and fails to consider new innovations, and the other data set shows that revenue from overdraft and NSF fees only represented 2% of bank revenue in 2019. The CFPB own data would suggest that financial institutions in fact are not deeply dependent on overdraft fees. The truth is overdraft is a legitimate short-term liquidity product that provides a vital service for consumers. According to a study by a global intelligence firm, consumers make highly informed choices about when to use overdraft services based on account information and clear disclosure fees and procedures. Even President Biden's Acting Comptroller Michael Hsu acknowledges the importance of overdraft products when he said, 'Limiting overdrafts may limit the financial capacities of those who need it most.' These actions for the CFPB continues a dangerous trend for my colleagues on this side of the aisle. At a time when 50% of Americans have difficulty paying a \$4 emergency expense, the actions of this Committee and of financial regulators aim to reduce consumers' ability to access short-term liquidity financial products. Congressional Democrats and the Administration have regulated banks out of small dollar loans, are opposed to overdraft, payday lenders, and have made disparaging comments on innovating products, such as 'Buy Now, Pay Later' and 'Earned Wage Access'. So, I asked my colleague, 'Where are the 40%% of American consumers supposed to go when they need \$4 for any kind of emergency?' I would be happy to answer that question.

The CFPB did not stop with overdraft fees. On February 2nd, 2022, the CFPB released a request for information on fees related to other consumer financial products and services; or what CFPB is calling 'Junk Fees'. First, let's acknowledge there is no legal authority for the CFPB to define the term 'Junk Fee,' or any term for that matter, and there is even less authority to act as a price setter in the consumer financial market. The Bureau wants information on any fees associated with consumer financial products that seemed too high or unexpectant. These are intentionally vague terms and are for the Bureau to create a subjective measurement that has no bearing or the legality of any consumer financial product or service. Suggesting otherwise would be to insinuate private markets should not be able to set process for products or services, which is a core principle of our economy. We do not need governments setting prices for everything.

The CFPB has also failed to take into account the lengthy disclosure requirements that consumer financial products already comply with under the Truth in Lending Act and fee disclosures promulgated by the CFPB itself. For example, the RFI specifically lists prepaid cards as a financial product they want information on, but what the Bureau and Mr. Chopra failed to mention was that CFPB issued a rule-

making that was finalized by Director Cordray in 2016, which requires multiple significant disclosures for the prepaid card industry. The CFPB is quite literally manufacturing a crisis about hidden fees for financial products when they are the very people who made up the disclosure regime. This shows the RFI is not about the fees facing consumers, it is another attempt by the CFPB to denigrate legally operating businesses by any means possible and exert as much control as possible over industries, and thus the economy. It is simply a power grab. Ranking Member McHenry and I signed a letter directly to Mr. Chopra asking him to clarify many aspects of the overdraft and 'Junk Fee' proposals and I look forward to asking this panel about what the role of CFPB should have in the pricing of consumer financial products."