119TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
119–26

DISAPPROVING THE RULE SUBMITTED BY THE BUREAU OF CONSUMER FINANCIAL PROTECTION RELATING TO OVERDRAFT LENDING: "VERY LARGE FINANCIAL INSTITUTIONS"

MARCH 21, 2025.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HILL of Arkansas, from the Committee on Financial Services, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.J. Res. 59]

The Committee on Financial Services, to whom was referred the joint resolution (H.J. Res. 59) disapproving the rule submitted by the Bureau of Consumer Financial Protection relating to "Overdraft Lending: Very Large Financial Institutions", having considered the same, reports favorably thereon without amendment and recommends that the joint resolution do pass.

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59–008

PURPOSE AND SUMMARY

Introduced on February 13, 2025, by Representative French Hill, H.J. Res. 59, *a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Bureau of Consumer Financial Protection relating to "Overdraft Lending: Very Large Financial Institutions"*, would nullify the final rule submitted by the Bureau of Consumer Financial Protection that implements significant changes to federal regulations governing overdraft fees for financial institutions with more than $10 billion in assets.

BACKGROUND AND NEED FOR LEGISLATION

Title X of the *Dodd-Frank Act* established the Consumer Financial Protection Bureau (CFPB) for the purpose of implementing and enforcing federal consumer financial law while ensuring that consumers have access to consumer financial services and products and that the markets that provide them are "fair, transparent, and competitive." Under the *Dodd-Frank Act*, the CFPB can issue rules, examine certain financial institutions, and enforce federal consumer protection laws and regulations. Prior to *Dodd-Frank*, consumer protection laws were enforced by an array of federal and state entities, including the federal banking agencies.

Under Director Rohit Chopra, the CFPB repeatedly exceeded its statutory authority, ignored decades of precedent, circumvented the *Administrative Procedure Act* (APA), and pushed the boundaries of its jurisdiction. This was made especially clear when former Director Chopra finalized several rules following the November 2024 presidential election. The CFPB's overdraft rule is one of Chopra's midnight rulemakings aimed at forcing financial institutions to be public utilities by instituting a government price cap on a popular consumer financial product.

The CFPB's overdraft rule, which applies to financial institutions with more than $10 billion in assets, introduces new requirements for offering overdraft products. Banks and credit unions have two options: they (1) can provide overdraft as a courtesy service or (2) treat it as a loan. If offering overdraft as a courtesy service, institutions must choose between (1) adhering to a $5 price cap set by the CFPB, which is deemed sufficient to cover the costs associated with the service, or (2) setting their own fee that only covers the service's costs and losses, without factoring in risk, deterrence, or profit. If overdraft is treated as a loan, the service will be subject to the *Truth in Lending Act* (TILA) and its Regulation Z, requiring more stringent disclosures and compliance with loan-specific regulations.

The CFPB's overdraft rule is another form of government price control that leads to fewer options for consumers. The rule disregards the complexity of consumer behavior and financial institutions' existing practices. By classifying overdraft services as "overdraft credit" under Regulation Z, the rule imposes burdensome disclosure requirements that may confuse consumers rather than inform them. Financial institutions have long relied on established guidelines to manage overdraft services, which are designed to offer a safety net for customers in financial distress. The reality is that overdraft products allow millions of Americans each year to meet their short-term financial needs rather than being denied a purchase at the register.

The rule's one-size-fits-all approach fails to consider the variety of overdraft practices across institutions and could lead to unintended consequences, such as increasing the cost of or eliminating overdraft protection programs altogether. This may ultimately harm the very consumers the rule aims to protect by limiting their access to financial flexibility and emergency liquidity, especially for those who rely on overdraft services as a temporary solution to cash flow issues. Emphasized in the Federal Reserve Bank of New York report, "Who Pays the Price? Overdraft Fee Ceilings and the Unbanked," "overdraft fee caps hinder financial inclusion. When constrained by fee caps, banks reduce overdraft coverage and deposit supply, causing more returned checks and a decline in account ownership among low-income households." [1]

The CFPB's reinterpretation of credit in the overdraft rule clearly disregards how Congress defined credit in TILA—as the "right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment." [2] When the Federal Reserve implemented Regulation Z in 1969, it determined that overdraft fees do not constitute credit. If financial institutions are now required to treat overdraft fees as credit, they will be forced to evaluate consumers' ability to repay in a manner similar to how loans are underwritten, which could impose additional burdens on both consumers and financial institutions. This shift could complicate the management of overdraft services and limit their accessibility for consumers who rely on them as a temporary financial cushion.

When financial institutions are forced to provide overdraft services without the ability to generate profit or under the strict requirements of Regulation Z, they will be unable to offer these services effectively. This could be detrimental to consumers who rely on overdraft protection for everyday or emergency purchases. Many of these households are financially vulnerable, with low incomes and little to no savings, and may lose access to their bank accounts—or the banking system altogether. Such an outcome is counterproductive to the CFPB's purpose and the broader goals of financial regulators to promote fairness and financial access.

Moreover, the proposal overlooks the significant changes in the banking sector regarding overdraft fees since 2020. Many financial institutions have already reduced overdraft fees, and several large banks have completely stopped charging overdraft fees. These reductions have been accompanied by innovations in banking, such as low balance alerts, mandatory back-up accounts, and overdraft "grace periods," which help consumers avoid fees and better manage their finances. The proposed rule fails to recognize these positive developments and the efforts already being made to improve consumer outcomes.

Shortly after the rule was adopted, a preliminary injunction was filed jointly by the Mississippi Bankers Association, Consumer Bankers Association, American Bankers Association, America's Credit Unions, Arvest Bank, Bank of Franklin, and the Commercial Bank to prevent the CFPB from implementing the rule. The

[1] FED. RESERVE BANK OF NEW YORK, WHO PAYS THE PRICE? OVERDRAFT FEE CEILINGS AND THE UNBANKED (No. 973), (June 2021, *revised* July 2023).
[2] 15 USC § 1602(f).

lawsuit claims that the CFPB violated the *Administrative Procedure Act* (APA) by exceeding its statutory authority on three counts. Additionally, the suit argues that the CFPB acted arbitrarily and capriciously by failing to conduct a valid, statutorily required cost-benefit analysis before implementing the rule.

COMMITTEE CONSIDERATION

119TH CONGRESS

On February 13, 2025, Representative French Hill (R–AR) introduced H.J. Res. 59, *Disapproving the rule submitted by the Bureau of Consumer Financial Protection relating to "Overdraft Lending: Very Large Financial Institutions*," with Representatives Daniel Meuser (R–PA), Andrew Ogles (R–TN), Ann Wagner (R–MO), Bill Huizenga (R–MI), William Timmons (R–SC), Tim Moore (R–NC), Mike Haridopolos (R–FL), Andy Barr (R–KY), Roger Williams (R–TX), Byron Donalds (R–FL), Maria Salazar (R–FL), Troy Downing (R–MT), Ralph Norman (R–SC), and Glenn Grothman (R–WI) as original cosponsors. Representatives Mike Ezell (R–MS), Barry Loudermilk (R–GA), and Dusty Johnson (R–SD) were subsequently added as cosponsors. The joint resolution was referred solely to the Committee on Financial Services.

RELATED HEARINGS

Pursuant to clause 3(c)(6) of rule XIII of the Rules of the House of Representatives, the following hearing was used to develop H.J. Res. 59:

The Full Committee held a hearing on February 5, 2025, entitled "Make Community Banking Great Again." A draft version of H.J. Res. 59 was attached to the hearing. The following witnesses testified: Mr. Pat Kennedy, Jr., founding partner of the law firm Kennedy Sutherland, San Antonio, TX; Ms. Susannah Marshall, Bank Commissioner of the Arkansas State Bank Department; Ms. Cathy Owen, Executive Chairman of Eagle Bank and Trust, Little Rock, AR; Ms. Rebeca Romero Rainey, President and CEO of the Independent Community Bankers of America; and Ms. Mitria Spotser, Vice President of Federal Policy for the Center for Responsible Lending. In the course of the witness testimony regarding overdraft fees, Ms. Romero Rainey testified that the point of the concern about the rule is that it limits options.

The Committee on Financial Services met in open session on March 5, 2025, to consider H.J. Res. 59.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any amendments offered to the measure or matter the total number of votes for and against and the names of the Members voting for and against.

On March 5, 2025, the Committee on Financial Services ordered H.J. Res. 59 to be reported favorably to the House by a recorded vote of 30 yeas to 19 nays, a quorum being present. (Record Vote No. FC–019).

Committee on Financial Services

Markup 1
March 5, 2025

Bill **H.J. Res. 59**
Motion **To report favorably**
Amendment **H.J. Res. 59 (as introduced)**

Record Vote No.
FC-019

Disposition **Adopted (30-19)**

Member	Yea	Nay	Not Voting	Member	Yea	Nay	Not Voting
Chairman Hill	X			Ranking Members Waters		X	
Mr. Lucas	X			Ms. Velázquez			X
Mr. Sessions	X			Mr. Sherman		X	
Mr. Huizenga	X			Mr. Meeks			X
Mrs. Wagner	X			Mr. Scott		X	
Mr. Barr	X			Mr. Lynch		X	
Mr. Williams (TX)	X			Mr. Green (TX)			X
Mr. Emmer	X			Mr. Cleaver		X	
Mr. Loudermilk	X			Mr. Himes		X	
Mr. Davidson	X			Mr. Foster		X	
Mr. Rose	X			Mrs. Beatty		X	
Mr. Steil	X			Mr. Vargas		X	
Mr. Timmons	X			Mr. Gottheimer		X	
Mr. Stutzman	X			Mr. Gonzalez		X	
Mr. Norman	X			Mr. Casten		X	
Mr. Meuser	X			Ms. Pressley			X
Mrs. Kim	X			Ms. Tlaib		X	
Mr. Donalds	X			Mr. Torres (NY)		X	
Mr. Garbarino	X			Ms. Garcia (TX)		X	
Mr. Fitzgerald	X			Ms. Williams of GA		X	
Mr. Flood	X			Ms. Pettersen			X
Mr. Lawler	X			Mr. Fields		X	
Ms. De La Cruz	X			Ms. Bynum		X	
Mr. Ogles	X			Mr. Liccardo		X	
Mr. Nunn	X						
Mrs. McClain	X						
Ms. Salazar	X						
Mr. Downing	X						
Mr. Haridopolos	X						
Mr. Moore (NC)	X						
	30	**0**	**0**		**0**	**19**	**5**

	Yeas	Nays	Not Voting
Committee Totals:	**30**	**19**	**5**

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the goal of H.J. Res. 59 is to rescind the CFPB's rule relating to "Overdraft Lending: Very Large Financial Institutions."

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.J. Res. 59.

The Committee has requested but not received a cost estimate from the Director of the Congressional Budget Office. However, pursuant to clause 3(d)(1) of rule XIII of the House of Representatives, the Committee will adopt as its own the cost estimate by the Director of the Congressional Budget Office once it has been prepared.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974*, and with respect to the requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, a cost estimate was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

UNFUNDED MANDATES STATEMENT

The Committee has requested but not received from the Director of the Congressional Budget Office an estimate of the Federal mandates pursuant to section 423 of the *Unfunded Mandates Reform Act*. The Committee will adopt the estimate once it has been prepared by the Director.

EARMARK STATEMENT

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the resolution and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

FEDERAL ADVISORY COMMITTEE ACT STATEMENT

No advisory committees within the meaning of section 5(b) of the *Federal Advisory Committee Act* were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the *Congressional Accountability Act*.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of the Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

The Joint Resolution disapproves of the rule submitted by the Bureau of Consumer Financial Protection relating to "*Overdraft Lending: Very Large Financial Institutions*" and asserts that such rules shall have no force or effect.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.J. Res. 59 does not repeal or amend any section of a statute. Therefore, the Office of Legislative Counsel did not prepare the report required under clause 3(e) of rule XIII of the House of Representatives.

MINORITY VIEWS

H.J. Res. 59 is a Congressional Review Act (CRA) resolution that would rescind the Consumer Financial Protection Bureau (CFPB) rule to reduce excessive overdraft fees charged by large depository institutions with more than $10 billion in assets. The rule requires banks to generally reduce overdraft fees to $5 per transaction, though a bank could charge more if their costs were higher, or they could disclose the product's applicable interest rate to the consumer. The rule only applies to the largest institutions with more than $10 billion in total assets, leaving 97% of banks and nearly all credit unions completely exempt. Moreover, this CRA resolution would not only rescind the rule, but also prevent the CFPB from issuing any similar rule on overdraft without a new law being enacted.

Overdraft is a service provided by a financial institution when the money in a consumer account cannot cover a given transaction, but a financial institution pays the transaction. While some financial institutions do not offer overdraft coverage on their checking accounts, banks that do typically charge a fee for covering each overdraft, typically around $35.[1] Approximately 23 million households pay overdraft fees every year, and CFPB's rule is estimated to save one-in-five households a total of $5 billion each year. Surveys have shown that more than 80 percent of Americans, including Republicans, want to see these costly overdraft fees capped.[2]

In 1969, the Federal Reserve implemented a rule exempting overdraft fees from being disclosed as finance charges to a consumer pursuant to the Truth In Lending Act (TILA). This exemption came at a time when banks charged overdraft fees on rare occasions as a service to help prevent customers from bouncing paper checks. As transactions became more automated and electronic, consumer advocates argue the industry exploited this TILA loophole to increase these fees and boost their profits. Moreover, some banks sequenced how transactions were applied to an account to maximize the number of overdraft fees that could be charged.[3]

In response, Democrats introduced the Overdraft Protection Act in 2009 to strengthen consumer protections and curb these excessive practices.[4] Among other things, the bill would have prohibited the sequencing of transactions to maximize overdraft fees and would have limited what banks could charge to an amount that was reasonable and proportional to providing the service. The bill

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[1] Congressional Research Service, *CFPB Finalizes Overdraft Rule, Related Legislation* (Feb. 24, 2025).

[2] *See* Americans for Financial Reform (AFR), *New Poll Shows Voters Across Party Lines Want CFPB Action to Curb Junk Fees, Tame Wall Street* (Sep. 9, 2024).

[3] For example, see New York Times, *Customers Can Lose When Banks Shuffle Payments* (Apr. 11, 2014).

[4] Former Rep. Carolyn Maloney (D–NY), *Maloney, Frank introduce Overdraft Protection Act in House* (Oct. 22, 2009).

was reintroduced in subsequent Congresses, and the House Financial Services Committee later marked up and approved the Overdraft Protection Act in 2022.[5] Furthermore, in recent years the House Financial Services Committee as well as former CFPB Director Chopra highlighted the excessive overdraft fees banks were charging, and the industry started to voluntarily reduce some of these fees. CFPB estimated that these voluntary reductions saved consumers roughly $6 billion annually.[6] Later, the CFPB proposed and finalized the overdraft rule that H.J. Res. 59 would rescind that would save consumers an additional $5 billion every year.

H.J. Res. 59 will effectively increase bank junk fees for millions of consumers, including servicemembers and veterans. CFPB's overdraft fee rule would benefit military families that live paycheck to paycheck. Nearly 80% of military families used checking accounts, and the CFPB's overdraft fees rule would save roughly one-in-five households that pay overdraft fees amounting to around $225 each year. These excessive overdraft fees are harmful for junior enlisted service members who are younger, less financially savvy, and struggling to make ends meet. Servicemembers have filed CFPB complaints over unfair or deceptive overdraft practices that have imposed unaffordable fees. The CFPB previously took an enforcement action against Navy Federal Credit Union for inappropriate overdraft fees, requiring the credit union to repay $80 million to harmed customers, largely servicemembers and veterans.[7] Repealing CFPB's rule will only expose servicemembers to excessive overdraft fees when they can least afford them.

Furthermore, H.J. Res. 59 will allow big banks to charge excessive fees and encourage related exploitative practices. Most debit card overdrafts are repaid within three days and are used to cover transaction amounts that are less than $26, which is less than the average overdraft fee that is charged.[8] Banks have been found to have manipulated the order of transactions to maximize fees or charged consumers overdraft fees even when their account had sufficient funds.[9] Curbing excessive overdraft fees would discourage banks from engaging in these manipulative practices, while allowing them to charge a reasonable fee to provide this service to their customers.

Moreover, this bill will undermine efforts to combat junk fees that raise the cost of living. This overdraft rule was part of an effort by the Biden Administration to combat junk fees. In 2022, the CFPB launched an initiative to eliminate and reduce junk fees, which are inflated, hidden, or back-end fees that cut into consumers savings.[10] For example, the CFPB finalized a rule to limit certain late fees that credit card companies could charge to $8 after it found that late fee income exceeds associated collection costs by

[5] House Financial Services Committee, *Markup of Various Measures* (Jul. 27, 2022).

[6] CFPB, *Overdraft/NSF Revenue in 2023 down more than 50% versus pre-pandemic levels, saving consumers over $6 billion annually* (Apr. 24, 2024).

[7] AFR, *Fact Sheet: AFREF Factsheet on CFPB Overdraft Rule Benefitting Servicemembers and Military Families* (Feb. 19, 2025).

[8] National Consumer Law Center (NCLC), *Fact Sheet: AFREF Coalition Fact Sheet on CFPB Overdraft Rule* (Jan. 21, 2025).

[9] *Id.*

[10] *See* CFPB, *Junk Fees* (Accessed Nov. 21, 2023).

a factor of five.[11] The CFPB estimates that this rule would save consumers up to $10 billion annually. The industry has sued the agency to try to block that rule.[12] Additionally, the CFPB issued guidance in October 2023 to implement Section 1034(c) of Dodd-Frank, which generally prohibits large banks and credit unions from charging fees to provide basic account information to a consumer when they request it.[13] In late May 2024, the CFPB initiated a public inquiry into the mortgage closing costs related junk fees, reporting that median total loan costs for a home mortgage increased by more than 36% from 2021 to 2023.[14] The agency was searching for methods to reduce anticompetitive fees that harm homebuyers and lenders.[15] Unfortunately, the industry and Congressional Republicans have fought back against many of these efforts to enrich megabanks that already are making record profits.[16]

At a time when working-class families are already struggling with rising grocery prices, the cost of housing, and the consequences of the disastrous economic policies of the Trump Administration, H.J. Res. 59 would make life even harder for the American people by giving big banks permission to increase costs for consumers with excessively high overdraft fees.

More than 200 consumer, civil rights, labor, legal services, community organizations, and academics from across the country oppose H.J. Res. 59, including: 20/20 Vision, Accountable.US, American Association of People with Disabilities, American Friends Service Committee, Americans for Financial Reform (AFR), Blue Future, CAARMA, CAMEO Network, Center for Economic Justice, Center for Justice & Democracy, Center for LGBTQ Economic Advancement & Research (CLEAR), Center for Responsible Lending (CRL), Center for Survivor Agency and Justice, Coalition on Human Needs, Consumer Action, Consumer Federation of America, Consumer Reports, Demand Progress Education Fund, Disability Belongs, Disability Rights Advocates, Equal Rights Advocates, Faith in Action National Network, Family Values @ Work, HEAL (Health, Environment, Agriculture, Labor) Food Alliance, Impact Fund, Interfaith Center on Corporate Responsibility, Justice in Aging, National Association for Latino Community Asset Builders (NALCAB), National Association of Consumer Advocates, National Black Justice Coalition, National Center for Law and Economic Justice, National Coalition for Asian Pacific American Community Development (National CAPACD), National Coalition for the Homeless, National Community Reinvestment Coalition (NCRC), National Consumer Law Center (on behalf of its low-income clients), National Consumers League, National Disability Institute, National Employment Law Project, National Partnership for Women & Families, National Women's Law Center, P Street, Peo-

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[11] CFPB, *CFPB Bans Excessive Credit Card Late Fees, Lowers Typical Fee from $32 to $8* (Mar. 5, 2024).

[12] *See* Ballard Spahr Consumer Finance Monitor, *CFPB and plaintiffs fully brief motion for preliminary injunction in trade group lawsuit regarding final credit card late fee rule* (Mar. 15, 2024).

[13] CFPB, *CFPB Issues Guidance to Halt Large Banks from Charging Illegal Junk Fees for Basic Customer Service* (Oct. 11, 2023).

[14] CFPB, *CFPB Launches Inquiry into Junk Fees in Mortgage Closing Costs* (May 30, 2024).

[15] *Id.*

[16] Bloomberg, *JPMorgan Breaks Its Own Record for Best Year Ever With 18% Jump* (Jan. 15, 2025).

ple Power United, Public Citizen, Public Good Law Center, U.S. PIRG, and Woodstock Institute.[17]

For these reasons, we strongly oppose H.J. Res. 59.

Sincerely,

MAXINE WATERS,
Ranking Member.
AL GREEN,
EMANUEL CLEAVER, II,
BILL FOSTER,
JOYCE BEATTY,
RASHIDA TLAIB,
SYLVIA R. GARCIA,
NIKEMA WILLIAMS,
CLEO FIELDS,
Members of Congress.

[17] NCLC, *201 Groups Oppose Repealing CFPB Overdraft Fee Rule* (Feb. 5, 2025).