Testimony
Before the Subcommittee on Financial Institutions and Monetary Policy
Hearing on "Politicized Financial Regulation and its Impact on
Consumer Credit and Community Development"

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Chair Barr, Ranking Member Foster, and members of the Subcommittee, thank you for the opportunity to testify at today's hearing. My name is Nicholas Anthony and I am a policy analyst at the Cato Institute's Center for Monetary and Financial Alternatives. The views I express in this testimony are my own and should not be construed as representing any official position of the Cato Institute.

Whether it's when we are turning in a library book that fell behind the couch or paying off a credit card balance after hitting a rough patch, paying fees is never fun. But that alone is not enough to justify the government implementing price controls throughout the economy.

Credit Card Late Fees, Overdraft Fees, and NSF Fees

Over the last 13 months, the Consumer Financial Protection Bureau (CFPB) has proposed price controls for credit card late fees, overdraft fees, and nonsufficient fund (NSF) fees.[1] These proposals have been central to President Joe Biden's reelection campaign as part of his "war on junk fees"—or, more accurately, his war on prices.[2] That is why today's conversation centers on

[1] Consumer Financial Protection Bureau, "CFPB Proposes Rule to Rein in Excessive Credit Card Late Fees," February 1, 2023, https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-rule-to-rein-in-excessive-credit-card-late-fees/; Consumer Financial Protection Bureau, "CFPB Proposes Rule to Close Bank Overdraft Loophole that Costs Americans Billions Each Year in Junk Fees," January 17, 2024, https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-rule-to-close-bank-overdraft-loophole-that-costs-americans-billions-each-year-in-junk-fees/; Consumer Financial Protection Bureau, "Nonsufficient Funds (NSF) Fees for Instantaneously Declined Transactions," January 24, 2024, https://www.consumerfinance.gov/rules-policy/rules-under-development/nonsufficient-funds-nsf-fees/.
[2] "Statement from President Joe Biden on the CFPB's Proposed Rule to Curb Overdraft Fees" *White House*, January 17, 2024, https://www.whitehouse.gov/briefing-room/statements-releases/2024/01/17/statement-from-president-joe-biden-on-the-cfpbs-proposed-rule-to-curb-overdraft-fees/; "Readout of White House State Legislative Convening on Combatting Junk Fees," *White House*, March 8, 2023, https://www.whitehouse.gov/briefing-room/statements-releases/2023/03/08/readout-of-white-house-state-legislative-convening-on-combatting-junk-fees/.

how using financial regulation for political gains can negatively impact consumer credit and community development.

Yet, today's conversation is not a novel one. It has long been understood that price controls lead to negative, albeit unintended, consequences. For example, Paul A. Samuelson—the first American to win the Nobel Prize in Economics—warned Congress in 1969 that setting price controls on interest rates (e.g., interest rate caps) would "result in drying up legitimate funds to the poor who need it most and will send them into the hands of the illegal loan sharks."[3] Thanks to Samuelson and many others, it is now commonly understood that price controls are a bad policy tool. And its because of that understanding that the CFPB's proposals have been met with a chorus of objections from economists, industry groups, the private sector, members of Congress, and others.[4]

Still, the CFPB remains committed to restricting these services in what will likely secure short term political gains at the long-term expense of both the financially vulnerable and well-off.

[3] United States Congress, House, Committee on Banking and Currency, Subcommittee on Consumer Affairs, *Hearings Before the Subcommittee on Consumer Affairs of the Committee on Banking and Currency*, (Washington: GPO, 1969), https://books.google.com/books?id=0kg2AQAAIAAJ&pg=RA1-PA163&lpg=RA1-PA163#v=onepage&q&f=false.

[4] Nicholas Anthony, "CFPB Going after Fees Would Restrict Credit Access," *Cato Institute*, March 27, 2023, https://www.cato.org/blog/cfpb-going-after-fees-would-restrict-credit-access; Nicholas Anthony, "What Is a Fee to the CFPB? And Should Prices Change?" *Cato Institute*, April 17, 2023, https://www.cato.org/blog/what-fee-cfpb-should-prices-change; Nicholas Anthony, "Public Comment Re: Credit Card Penalty Fees (Regulation Z)," *Cato Institute*, May 1, 2023, https://www.cato.org/public-comments/public-comment-re-credit-card-penalty-fees-regulation-z; Nicholas Anthony, "CFPB Targets Overdraft Fees in Biden's War on Prices," *Cato institute*, January 23, 2024, https://www.cato.org/blog/cfpb-targets-overdraft-fees-bidens-war-prices; Norbert Michel, "The CFPB Has a Dim View of Other Federal Regulators," *Cato Institute*, April 5, 2022, https://www.cato.org/blog/cfpb-has-dim-view-other-federal-regulators; Ryan Bourne and Sophia Bagley, "Junk Fees or Junk Economics?," *Cato Institute*, May 23, 2023, https://www.cato.org/briefing-paper/junk-fees-or-junk-economics; Veronique de Rugy, "Bureaucrats are Moving to Cap Bank Overdraft Fees, Which Will Hurt People It's Meant to Help," *Reason,* February 8, 2024, https://reason.com/2024/02/08/bureaucrats-are-moving-to-cap-bank-overdraft-fees-which-will-hurt-the-people-its-meant-to-help/; John Berlau, "CFPB Overdraft Proposal Would Harm Consumers," *Competitive Enterprise Institute*, January 17, 2024, https://cei.org/news_releases/cfpb-overdraft-proposal-would-harm-consumers/; Bryan Bashur, "Biden Administration Ignores Stakeholder Feedback While Targeting Bank Fees," *Americans for Tax Reform,* November 1, 2022, https://www.atr.org/biden-administration-ignores-stakeholder-feedback-while-targeting-bank-fees/; Consumer Bankers Association, "CBA Statement on CFPB's Notice of Proposed Rulemaking on Overdraft," January 17, 2024, https://www.consumerbankers.com/cba-media-center/media-releases/cba-statement-cfpb%E2%80%99s-notice-proposed-rulemaking-overdraft; Thomas P. Vartanian and William M. Isaac, "Biden Plays the Junk Card," *Wall Street Journal*, February 10, 2023, https://www.wsj.com/articles/biden-plays-the-junk-card-banks-credit-card-financial-regulation-fees-loans-interest-rates-borrowing-congress-consumer-financial-protection-bureau-e704f16; Editorial Board, "The Junk Economics of 'Junk-Fee' Politics," *Wall Street Journal,* February 13, 2023, https://www.wsj.com/articles/the-junk-economics-of-junk-fee-politics-state-of-the-union-biden-overdraft-charge-credit-cards-credit-banks-31c6543b?mod=opinion_lead_pos1; Megan McArdle, "Capping Overdraft Fees Could Actually Hurt Poor Families," *Washington Post*, January 24, 2024, https://www.washingtonpost.com/opinions/2024/01/24/cap-overdraft-fees-hurt-poor-families/; Patrick McHenry, "McHenry Slams CFPB Proposal to Increase Costs on Credit Card Issuers," February 2, 2023, https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=408515; Andy Barr, "Barr, McHenry, FSC Republicans Fire Shot at CFPB over Credit Card Late Fee Proposal," March 2, 2023, https://barr.house.gov/press-releases?ID=23E23410-2A21-4094-AA2F-C94E6F010A0A.

Principles Matter

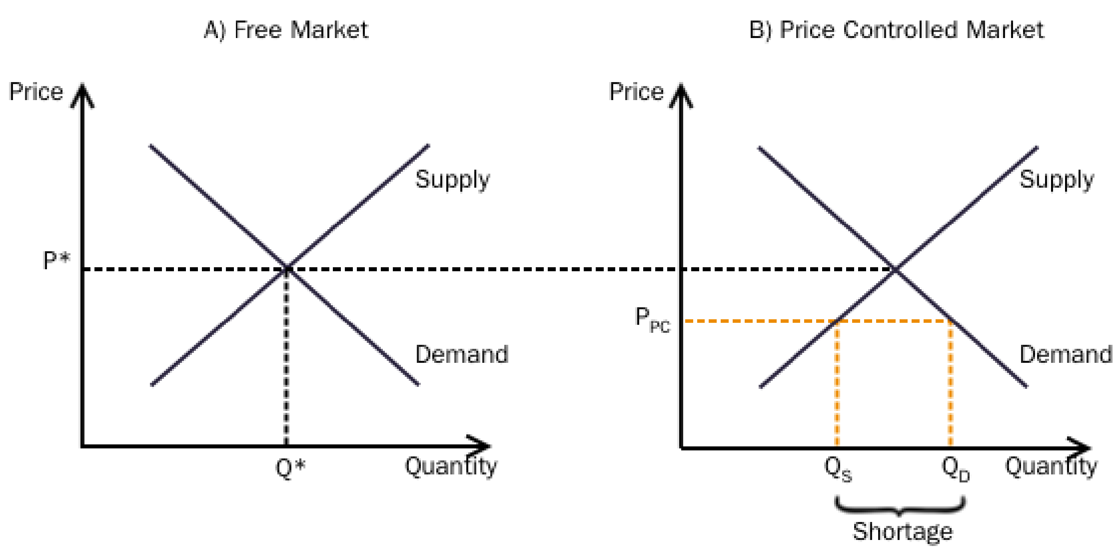
Whether its restricting credit card late fees, overdraft fees, or nonsufficient fund (NSF) fees, the principles remain the same. First, price controls set below the market clearing price will result in shortages. In other words, price controls reduce access to services because they reduce the incentive to supply those services. Second, statements that prices should equal costs are detached from economic reality. I will explain each consideration in turn.

The Economics of Price Controls

If the CFPB's price controls are enacted, there is no denying that they will initially result in lower fees for consumers. The problem lies in what happens next as the price controls result in either shortages or higher costs elsewhere.

Consider a simple illustration of supply and demand (Figure 1). In a free market (Option A), the appropriate price (P*) can be determined at the intersection of the two lines. Introducing a binding price control (P_{PC}) to this scenario would be to set the maximum price below what would clear the market (Option B). The lower price results in a greater quantity demanded (Q_D) from consumers, but it also results in a lower quantity supplied (Q_S) from businesses. In other words, the price control results in a shortage ($Q_D > Q_S$).

Figure 1
Comparing a free market and a restricted market



In practice, that means people will lose access to the service entirely as it becomes no longer economically viable for businesses to offer them. Yet, that's not the only consequence. Price controls could also result in businesses increasing fees for *other* services as they attempt to recoup losses. So, options like free or low-cost checking accounts, travel rewards, and the like could become a thing of the past.

Many providers have already warned the CFPB of this reality. In a comment letter responding to the CFPB's proposal to restrict credit card late fees, Securityplus Federal Credit Union wrote:

> As a small credit union, *this proposal will* impose a disproportionate burden and *require us to raise other fees for all members, reduce dividends, consider eliminating our credit card products altogether*, or even explore a merger with a larger institution that is better able to forgo fee revenue and shoulder compliance costs.[5] (Emphasis added)

In another letter to the CFPB, MC Federal Credit Union wrote:

> Scale is another element the CFPB needs to understand. We offer a credit card program to 2,654 members. The costs to provide this product are not leveraged by the numbers. So understand that *your proposed action will have consequences* you may not have intended but will become reality. What would those consequences look like? We could *suspend [or] terminate* the privilege to use the card forcing them to go to a higher cost (interest rate) option. We could *tighten our approvals and force low income or underserved communities to other costly and unregulated options.* We could decide to get out of the card business altogether. Who will win then?[6] (Emphasis Added)

Who will win if consumers only have limited access to financial services? Who will win if consumers are fully priced out of the market? Who will win if consumers are denied accounts because financial service providers do not have the tools to mitigate risks? It won't be consumers.

The Nature of Costs

The second factor to consider is the idea that fees should equal costs. This idea is fundamentally misplaced. Proponents of price controls have referred to various fees as "disproportionate," "excessive," or "exploitative" as reasons for restricting prices.[7] Yet prices exceeding costs in a competitive market are a sign that businesses have created value for society. In contrast, prices at or below cost in a competitive market are a sign that a business is wasting resources that could be used elsewhere.

Unfortunately, however, this misunderstanding is embedded deeply within existing policies. For example, the CFPB has based its proposal to restrict credit card late fees on the requirements

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[5] Toby Green, "Comments Regarding Docket No CFPB-2023-0010 RIN 3170-AB15," Securityplus Federal Credit Union, April 14, 2023, https://www.regulations.gov/comment/CFPB-2023-0010-0037.
[6] Jim Barbarich, "Comments Regarding Docket No CFPB-2023-0010 RIN 3170-AB15," MC Federal Credit Union, April 10, 2023, https://www.regulations.gov/comment/CFPB-2023-0010-0035.
[7] "Statement from President Joe Biden on the CFPB's Proposed Rule to Curb Overdraft Fees" *White House*, January 17, 2024, https://www.whitehouse.gov/briefing-room/statements-releases/2024/01/17/statement-from-president-joe-biden-on-the-cfpbs-proposed-rule-to-curb-overdraft-fees/; United States Senate Committee on Banking, Housing, and Urban Affairs, "Examining Overdraft Fees and Their Effects on Working Families," Subcommittee Hearing, May 4, 2022, https://www.banking.senate.gov/hearings/examining-overdraft-fees-and-their-effects-on-working-families.

in Regulation Z.[8] In short, the regulation states that credit card fees must only be used to recoup costs:

> A card issuer may impose a fee for violating the terms or other requirements of an account if the card issuer has determined that the dollar amount of *the fee represents a reasonable proportion of the total costs incurred by the card issuer as a result of that type of violation*. A card issuer must reevaluate this determination at least once every twelve months.[9] (Emphasis Added)

This language overlooks that fees are fundamentally a price of a service and that prices do not serve to solely recoup costs.[10] Rather, costs only set the minimum level for whether a product is economically viable to offer. Prices, however, can reflect much more. For example, the language in Regulation Z seems to overlook that fees can include a punitive element to deter bad actions. Prohibiting credit card issuers from deterring bad behavior exposes them to greater risk and strips them of the tools to mitigate that risk—seemingly running counter to other regulators attempting to promote stability in financial services.[11]

Yet, making matters worse, it seems the CFPB's proposal to restrict credit card late fees does not even seek to allow providers to recoup costs. In addition to restricting prices at a fraction of their current level, the CFPB also called for eliminating the inflation adjustments to these thresholds. How the CFPB squares this issue is far from clear. It's almost as if the CFPB is denying that inflation increases the cost of doing business. Furthermore, from a more general perspective, if inflation is defined as an increase in the general level of prices and fees are prices, then it stands to reason that fees should be able to increase just the same.

Instead, it seems that the CFPB is attempting to use the absence of an inflation adjustment to effectively ban fees over the long term. At a rate of 5 percent (i.e., the rate when the proposal was made), the $8.00 price ceiling proposed by the CFPB will be nearly cut in half in real terms in just ten years (Figure 2). Even a more modest rate of inflation at 2% would lead to around a quarter reduction during that time.

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[8] Code of Federal Regulations, Title 12, Chapter X, Part 1026, Subpart G, Section 1026.52, https://www.ecfr.gov/current/title-12/chapter-X/part-1026/subpart-G/section-1026.52.

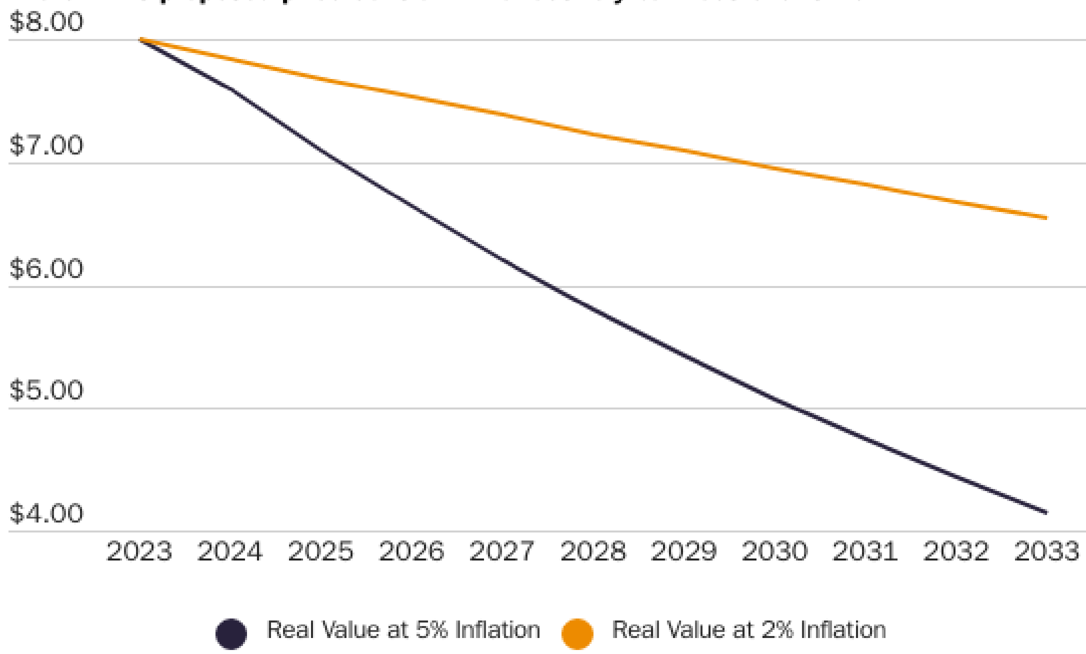
[9] Code of Federal Regulations, Title 12, Chapter X, Part 1026, Subpart G, Section 1026.52, https://www.ecfr.gov/current/title-12/chapter-X/part-1026/subpart-G/section-1026.52.

[10] In addition to the language in Regulation Z, the language in the Durbin Amendment includes similar requirements that fees be "proportional to the cost incurred by the issuer with respect to the transaction." See 15 U.S.C. Section 1693o-2, https://www.law.cornell.edu/uscode/text/15/1693o-2. However, the language introduced in the CARD Act is slightly different. Rather than base the fee on the cost incurred, it said that fees "shall be reasonable and proportional to such omission or violation." See 15 U.S.C. Section 1655d, https://www.law.cornell.edu/uscode/text/15/1665d.

[11] Granted, regulators' efforts to promote safety, soundness, and stability are not without their own problems.

Figure 2

The CFPB's proposed price control will effectively ban fees over time.



Note: Author's calculations

Fees in Context

In addition to understanding some of the fundamental problems with this "War on Prices," it is also important to understand what a fee is in context and what these services provide.

When explaining why the CFPB was going after credit card late fees, CFPB Director Rohit Chopra said, "Markets work best when companies compete on price and service, rather than relying on back-end fees that obscure the true cost."[12] Director Chopra is partly correct, but this statement is ultimately misleading insofar as it suggests fees are not a price for a service.

Financial institutions are providing a service when they allow customers to overdraft accounts or go without paying their bills on time. Furthermore, these fees allow financial institutions and customers to settle differences without having to end relationships or involve the police. For example, to go without paying a credit card bill is to break a previous agreement to pay on time. A late fee effectively is a way to pay for the service of extending the billing without notice and make amends for violating the contract.

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[12] Chelsey Cox, "Consumer Financial Protection Bureau Targets Excessive Credit Card Fees in New Rule Proposal," *CNBC*, February 1, 2023, https://www.cnbc.com/2023/02/01/consumer-financial-protection-bureau-proposes-credit-card-fee-rule.html.

This concept should not be shocking. From the Internal Revenue Service (IRS) to the United States Postal Service (USPS), the government regularly charges people late fees for similar purposes (Table 1).

Table 1
Late fees from the government

Government Agency	Fee	Purpose
Internal Revenue Service (IRS)	0.5% of taxes owed, or ~$228 on average, per month	Penalty fee for late taxes
Federal Communications Commission	25% penalty fee as well as interest charges	Penalty fee for late payment of regulatory fees
DC Department of Motor Vehicles (DMV)	Fines double (e.g., $150 for running a red light becomes $300)	Penalty fee for late payments for traffic and parking tickets
Town of Southampton	$50	Penalty fee for late notice of event
Ohio Department of Taxation	5% of the tax due or $50 for each month the return is late (capped at 50% of tax due or $500)	Penalty fee for late filing of Ohio income taxes
Blue Ash Fire Department	$35	Penalty fee for late fire inspection
United States Postal Service (USPS)	$25 plus a handling fee	Penalty fee for late payments for PO boxes
Fairfax County Government	$25	Penalty fee for late payment of parking ticket in Fairfax, VA
California Department of Motor Vehicles (DMV)	$20 plus 10% of the vehicle license fee due for that year and 10% of the weight fee due for that year (if applicable)	Penalty fee for late vehicle registration. After 10 days, rates increase further
County of San Diego Animal Services	$20	Penalty fee for late payment of dog license renewal
Wisconsin Department of Transportation	$10	Penalty fee for late renewal of license plate
Lincoln Parks and Recreation	$5 per child per 15 minutes	Penalty fee for late pickup of children

Note: Information compiled by author with assistance from Mariana F. Trujillo and Nicholas Thielman

Still, some proponents of price controls object that fees are an unfair source of revenue. It is important to consider this question from both a historical perspective and consumer perspective.

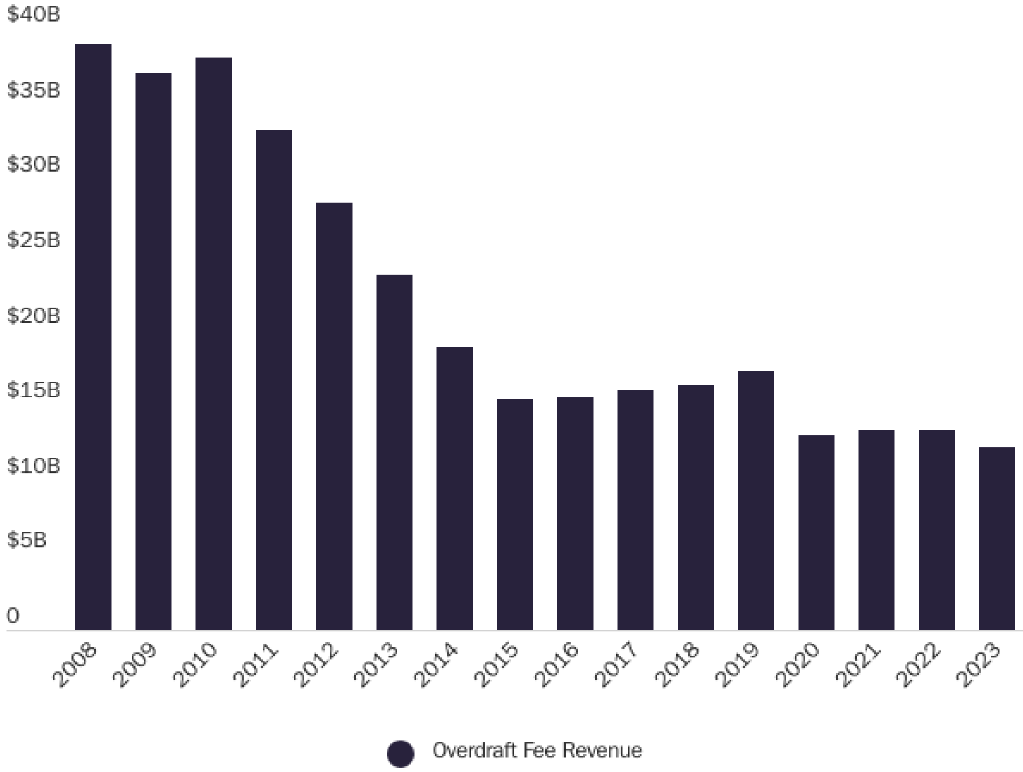
First, consider the historical perspective. Now is a strange time to target overdraft fee revenue given that it has been steadily dropping for years. For example, researchers at Curinos found that overdraft fee revenue fell by 68 percent between 2008 and 2023 (Figure 3).[13] Likewise, researchers at Bankrate found that overdraft fees fell by 11 percent between 2022 and 2023.[14] In fact, even the CFPB has recognized this trend. In a May 2023 report, the CFPB found that revenue from overdraft

[13] "An Update: Competition Drives Overdraft Disruption," *Curinos*, September 6, 2022, https://curinos.com/our-insights/update-competition-drives-overdraft-disruption/.
[14] Karen Bennett and Mathew Goldberg, "Survey: ATM Fees Hit Record High While Overdraft and NSF Fees Fell Sharply," *Bankrate*, August 30, 2023, https://www.bankrate.com/banking/checking/checking-account-survey/.

and nonsufficient fund fees “for the fourth quarter of 2022 alone was approximately $1.5 billion lower than in the fourth quarter of 2019.”[15]

Figure 3

Overdraft fee revenue has steadily fallen over the years



Source: Curinos, "An Update: Competition Drives Overdraft Disruption," September 6, 2022. The data points for 2022 and 2023 are estimates based on previous trends and publicly announced changes.

Reflecting on these trends, Michelle Clark Neely of the Federal Reserve Bank of St. Louis wrote, “Competition—from other banks and nonbank providers such as fintech firms—arguably has affected overdraft practices more than anything else.”[16] For example, many banks have changed their overdraft practices extensively to either eliminate or reduce fees (Table 2). Furthermore, the increasing availability of mobile banking has made these cheaper options more accessible than ever. So these proposed restrictions seem to be unwarranted, to say the least.

[15] “Overdraft/NSF Revenue Down Nearly 50% Versus Pre-Pandemic Levels,” *Consumer Financial Protection Bureau*, May 24, 2023, https://www.consumerfinance.gov/data-research/research-reports/data-spotlight-overdraft-nsf-revenue-in-q4-2022-down-nearly-50-versus-pre-pandemic-levels/full-report/.

[16] Michelle Clark Neely, “Is the Era of Overdraft Fees Over?,” *Regional Economist*, March 8, 2023, https://www.stlouisfed.org/publications/regional-economist/2023/mar/is-era-overdraft-fees-over.

Table 2

Banks have continued to update and improve overdraft policies

Bank	Solution
Bank of America	Eliminated overdraft for consumers when using debit cards at the point of sale and ATM, eliminated overdraft protection transfer fees, eliminated courtesy overdraft and non-sufficient fund fees, and reduced all other overdraft fees to $10.
Capital One	Completely eliminated all overdraft fees and non-sufficient fund fees for its consumer banking customers, while continuing to provide free overdraft protection.
M&T Bank	Cut overdraft fees in half while also eliminating non-sufficient fund fees, and any charges customers pay when they transfer money from a linked deposit account to avoid an overdraft.
Truist	Introduced new personal checking accounts with no overdraft fees and an innovative deposit-based line of credit. Discontinued returned item, negative account balance, and overdraft protection transfer fees for all existing personal accounts.

Note: This table is not exhaustive. For additional innovations and improvements, see OverdraftFacts.com

Second, there is the consumer perspective to be considered. The issue can be distilled by focusing on who is affected and why they use these services.

Past surveys have found that it is generally uncommon for households to incur overdraft or nonsufficient fund fees. For example, the Financial Health Network reported that only 17 percent of households incurred overdraft or nonsufficient fund fees in 2022.[17] However, the Financial Health Network also found that it is more common for households earning $30,000 or less to incur overdrafts than more financially secure households.[18] This finding should make sense intuitively given that an overdraft results from spending beyond one's means. In other words, it occurs when someone runs out of money.

Core consumers of overdrafts appear to be even more uncommon. In 2017, the CFPB reported that only 9 percent of people had more than 10 overdrafts in a year.[19] In 2023, the Financial Health Network reported that only 1.53 percent of people had more than 10 overdrafts in a year.[20] So for most people, overdrafts appear to be a rare occurrence.

With this insight into who incurs these fees, we can now look deeper into why they do so.

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[17] "Overdraft Trends Amid Historic Policy Shifts," *Financial Health Network*, June 1, 2023, https://finhealthnetwork.org/research/overdraft-trends-amid-historic-policy-shifts/.

[18] The report initially refers to this group as "financially vulnerable" but later defines them to be people with household incomes of $30,000 or less. "Overdraft Trends Amid Historic Policy Shifts," *Financial Health Network*, June 1, 2023, https://finhealthnetwork.org/research/overdraft-trends-amid-historic-policy-shifts/.

[19] "Data Point: Frequent Overdrafters," *Consumer Financial Protection Bureau*, August 2017, https://files.consumerfinance.gov/f/documents/201708_cfpb_data-point_frequent-overdrafters.pdf.

[20] To be clear, the Financial Health Network does not appear to report this number outright. Rather, it reports that "For most of the 17% of households that reported having paid an overdraft fee in 2022, overdrafting was a relatively infrequent occurrence, with a quarter of those households reporting only a single occurrence. Yet 9% of households that overdrafted did so frequently–more than 10 times–in 2022, suggesting these households faced chronic challenges in meeting expenses." Therefore, the number of households with over 10 overdrafts in 2022 was 9 percent of 17 percent, or 1.53 percent. "Overdraft Trends Amid Historic Policy Shifts," *Financial Health Network*, June 1, 2023 https://finhealthnetwork.org/research/overdraft-trends-amid-historic-policy-shifts/.

When asked how these fees came up, respondents often told the Financial Health Network that they incurred the fees by mistake (i.e., due to a miscalculation or lack of attention).[21] However, of those that overdraft frequently, 35 percent said they did so intentionally.[22] A survey by Curinos adds additional insight where 81 percent of "frequent overdraft users indicated that they would have preferred to incur a fee on their most recent overdraft transaction rather than have the purchase or payment declined."[23]

Taken together, these results suggest that very few people are incurring these fees. Those that do are primarily concentrated in lower-income households and many of which recognize the fees, but value the service that incurring them provides. Coupled with an ever-improving marketplace, it is unclear what justifies having the government come in to restrict the market.

Recommendations

It's a free and open marketplace that makes products and services more affordable, not ever-tightening restrictions. To that end, here are three steps Congress should take to create a free market that benefits everyone.[24]

1. Reform the Bank Secrecy Act to lower costs for consumers and barriers for competition.
2. Investigate and remove broader barriers to competition in financial services.
3. Have the CFPB explain how its proposals will help consumers who are priced-out of the market.

First, the Bank Secrecy Act should be reformed. While it may sound outside the present conversation, the Bank Secrecy Act adds additional costs every time a financial account is opened and every time a customer makes a transaction. In 2022, it was estimated that U.S. financial institutions spent $46 billion in compliance.[25] Those are costs that get passed on to consumers and raise the barrier to entry for competitors. An immediate starting point would be to adjust the currency transaction report (CTR) threshold for inflation.[26] Originally set at $10,000 in 1972, the threshold should now be over $75,000. Every year this threshold is not adjusted, the number of reports and the associated compliance costs increase.

[21] "Overdraft Trends Amid Historic Policy Shifts," *Financial Health Network*, June 1, 2023 https://finhealthnetwork.org/research/overdraft-trends-amid-historic-policy-shifts/.
[22] "Overdraft Trends Amid Historic Policy Shifts," *Financial Health Network*, June 1, 2023 https://finhealthnetwork.org/research/overdraft-trends-amid-historic-policy-shifts/.
[23] "ICYMI: New Report Reaffirms Consumer Demands for Overdraft, Impact of Bank-Led Innovation," *Consumer Bankers Association*, June 5, 2023, https://www.consumerbankers.com/cba-media-center/media-releases/icymi-new-report-reaffirms-consumer-demand-overdraft-impact-bank-led.
[24] For additional recommendations, see "Sound Financial Policy: Principled Recommendations for the 118th Congress," *Cato Institute*, October 2022, https://www.cato.org/sound-financial-policy.
[25] "True Cost of Financial Crime Compliance Study," *LexisNexis*, https://risk.lexisnexis.com/insightsresources/research/true-cost-of-financial-crime-compliance-study-for-the-united-states-and-canada.
[26] For additional reforms to the Bank Secrecy Act, see Norbert Michel and Jennifer J. Schulp, "Revising the Bank Secrecy Act to Protect Privacy and Deter Criminals," *Cato Institute,* July 26, 2022, https://www.cato.org/policy-analysis/revising-bank-secrecy-act-protect-privacy-deter-criminals.

Second, barriers to competition within financial services should be removed, not erected. Restricting the prices providers may charge makes it harder for new competition to enter the market and for smaller competitors to stay in the market. To that end, Congress should review the barriers financial institutions must contend with to do business. In addition to the Bank Secrecy Act mentioned above, financial institutions must contend with the maze of money transmitter licenses, the opaque process for obtaining a master account at the Federal Reserve, the challenges of serving industries that hold different state and federal statuses (e.g., the cannabis industry), and much more.

Third, the CFPB should be required to explain how it squares its goal of creating a more inclusive financial services environment with its own admission that its proposals would price consumers out of the market. For example, Rodgin Cohen, Stephen Meyer, and Jennifer Sutton pointed out the issue when stating, "The CFPB's conclusion that subprime consumers are not harmed when they are effectively priced out of the credit market seems inconsistent with the CFPB's efforts to expand access to credit to underserved segments of the population."[27] At a minimum, the CFPB should be required to explain its seemingly conflicting stance before pushing forward with its proposals.

Conclusion

The idea of bringing down prices when inflation is still on everyone's mind is likely to play well in headlines for President Biden's re-election campaign. However, this initiative will do nothing to help people if these services are regulated out of existence.

Whether it's restricting credit card late fees, overdraft fees, NSF fees, or any other fee, the CFPB's price controls are likely to succeed in only one thing: limiting the supply of financial services. If these proposals are enacted, the sudden price change may score political points in the short term, but consumers will suffer from the absence of services in the long term.

Thank you for the opportunity to provide this information, and I welcome any questions that you may have.

[27] Rodgin Cohen, Stephen Meyer, and Jennifer Sutton, "CFPB Proposal Could Revolutionize Credit Card Late Fees," Law360, March 31, 2023, https://www.law360.com/articles/1586987