

**Testimony of Paul Kundert, President & CEO,
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**Before the House Financial Services Committee,
Subcommittee on Consumer Protection and Financial Institutions**

**Hearing: “The End of Overdraft Fees?
Examining the Movement to Eliminate the Fees Costing Consumers Billions”**

March 31, 2022

Chairman Perlmutter, Ranking Member Luetkemeyer, and honorable members of this Subcommittee, thank you for this opportunity to present testimony on behalf of my organization, the UW Credit Union, at this hearing on the vital topic of the movement to reduce or eliminate overdraft fees.

About UW Credit Union

UW Credit Union is a Madison, Wisconsin based credit union serving approximately 310,000 member consumers primarily located in the Madison and Milwaukee areas. As of June 30, 2021 UW Credit Union ranked 10th among federally insured depositories reporting Wisconsin branch deposits. With assets of approximately \$4.8 billion, we have made it a focus to provide our members with affordable checking account services, supporting approximately 244,000 checking accounts. In number of checking accounts reported, we rank 39th among all federally insured credit unions in the U.S. as of September 30, 2021.¹ As a consumer-focused financial institution, we advanced more than \$1 billion in consumer credit and approximately \$2 billion in residential mortgage credit in 2021.

Small Dollar Loan Options

In addition to auto loans, credit cards, student loans, and home equity loans, we also provide members with small-dollar credit products. These include our Reserve Lines of Credit, which are obtained with an application and can be linked for overdraft protection, and Paycheck Advance, which is a revolving line of credit up to \$500 that acts as a short-term, emergency loan without the usual credit check or loan application process. Even with these types of small-dollar credit loan options, we believe an appropriately structured and priced overdraft program provides a valuable source of small-dollar credit to our members.

As a not-for-profit credit union, we believe our mission is to improve the financial well-being of our members. This mission led us to introduce account overdraft services more than 20 years ago to provide a means for paying member withdrawal requests rather than rejecting them. It has also led us to revise our practices as consumer use and our understanding have evolved. This included significant changes in our overdraft practices in 2010 and again in 2021.

Introduction of Overdraft Program

In 2001 we implemented a program in which the credit union would pay account overdrafts for members within the parameters of the program rather than return items for non-sufficient funds. The

¹ Call report data published by the National Credit Union Administration (NCUA), September 30, 2021.

program provides between \$200 and \$600 of discretionary overdraft advances based on the type of checking account.

We viewed the program positively for our members as it advanced funds in the form of a negative checking account balance and helped the member avoid downstream costs they would incur from a bounced check or returned ACH debit. While internet-based online banking access had been introduced by 2001, most consumers at that time still relied on their own check register and monthly paper statements and account notices sent via U.S. mail to track their account balances. We initially conceptualized the program from the standpoint of preventing a member from inadvertently bouncing a check as a result of an inaccurate account balance in the member's check register. From the inception of the program, we intentionally did not approve one-time debit card transactions that would result in the creation of overdrafts. We reasoned that these potential overdrafts were preventable, and therefore didn't save the member the time and expense of dealing with a returned check.

Over the years we observed an increase in the use of the overdraft program even as the expansion of online tools made it easier for our members to keep track of their account balances. In hindsight, we believe members began to utilize the program to meet short-term financial needs. Today we understand the growing income disparity that was developing in the early 2000s, followed by the Great Recession in 2008 and 2009. In summary, we observed growing utilization of the program by our members.

Program Reform in 2010

When the Federal Reserve published an update to Regulation E in 2009, it led us to re-examine our overdraft program. By that time, we had nine years of experience with the program and how it was being used by our members. About that time, too, a number of consumer groups were questioning the value of some overdraft programs and reinforcing the notion that overdraft fees most often fall on those least able to pay them. As a result, we again reviewed our overdraft program and made changes consistent with our mission to improve the financial well-being of our members.

We set our systems not to charge a fee if the account is overdrawn by only a de minimis amount (up to \$10). Then we set a limit of one fee per day, so if four checks bounced in a single day, for example, we would charge only one fee, not four. We also affirmed to our membership that we would not ask them to opt-in to pay overdraft fees related to one-time debit card transactions. We do not authorize debit card transactions when the account does not have the funds available. Finally, we do not add any additional daily fee for an account lapsing into a negative status (fee stacking). Prior to the revised Regulation E taking effect in 2010, many financial institutions were asking their customers to opt-in to pay debit card overdraft fees. Our approach stood apart as noted in a February 2010 *New York Times* story, "Banks Apply Pressure to Keep Fees Rolling In."² We also began to publish on our website a plain language summary of all of our account overdraft practices.

We thought these changes were in the best interest of our members, and in fact, we saw a significant decline in overdraft fee income after these changes were made. Following these changes, we averaged about \$12.50 per checking account per year in overdraft and nonsufficient funds (NSF) fees when we understood the industry average was about \$80 per account per year.

² Andrew Martin and Ron Lieber, "Banks Apply Pressure to Keep Fees Rolling In," *New York Times*, February 22, 2010, <https://www.nytimes.com/2010/02/23/your-money/credit-and-debit-cards/23fee.html>.

Account Technology Tools to Avoid Overdrafts

In 2010 we also introduced tools in our online banking app which permitted members to set up low balance or overdraft text and email alerts and a feature which allows the member to view their overdraft preferences online. In 2011, we added a feature called “pending balance,” which permitted the member to view a projection of their future account balance based on recurring transactions and pending items. Using scheduled bills and payments and recurring transactions, the app projects the future account balance showing a forecasted daily balance. Members can increase the accuracy of this projected balance by adding additional pending items, such as recurring income or expenses. This tool made it easier to anticipate days when the account balance might be low and had the potential to become negative.

Introduction of Safe Account in 2018

In 2018, we introduced our Clear Account, which includes no fees for overdrafts or nonsufficient funds (NSF), no minimum balance requirements, surcharge-free ATMs, and federal deposit insurance. It provides a simple, paperless experience to pay bills and make purchases through free debit cards. There is no monthly fee for a Clear Account when members use direct deposit or mobile deposit. Otherwise, there is a \$5 fee per month. After we submitted an application in 2021, UW Credit Union’s Clear Account was officially certified by the national Cities for Financial Empowerment Fund (CFE Fund) as meeting the Bank On National Account Standards (2021-2022).³

Also in 2018, we introduced our Encore Account, which is an account option for those who may have had their checking account closed by another financial institution. Unpaid excessive overdraft fees can be a difficult financial hardship to overcome, and when consumers’ accounts are closed by financial institutions, it can be difficult for them to obtain a traditional checking account in the banking system. This specialized account is available to those who need a second chance and are looking to rebuild their finances. Encore is a low-fee option designed to give a fresh start. There is a \$5 monthly fee with direct deposit or mobile deposit (otherwise, \$10 monthly). There are no other fees. After one year of successfully managing an Encore Account, the member has the option to upgrade to our other full feature checking accounts which offer increased flexibility and features.

Reduction of Fee to \$5 in 2021

On July 13, 2021, we reduced our remaining overdraft and NSF fee from \$30 to \$5. Due to potential leadership changes at the CFPB, overdraft fees were again frequently the subject of financial industry news throughout 2020 and 2021. Also during this time we witnessed social unrest that prompted organizations like ours to think more deeply about racial equity and to review business practices from an equity point of view. These discussions led us to seek out research such as the Financial Health Network’s U.S. Financial Health Pulse: 2020 Trends Report⁴ and The FinHealth Spend Report 2021⁵ which showed that lower income households, and particularly Black and Latinx households, with accounts were also far more likely to report having over drafted than White households (1.9 times more

³ Cities for Financial Empowerment Fund, Bank On National Account Standards (2021-2022), <https://cfefund.org/bank-on-national-account-standards-2021-2022/>.

⁴ Financial Health Network, “U.S. Financial Health Pulse: 2020 Trends Report,” <https://finhealthnetwork.org/research/u-s-financial-health-pulse-2020-trends-report/>.

⁵ The FinHealth Spend Report 2021, “What Financially Coping and Vulnerable Americans Pay for Everyday Financial Services,” <https://finhealthnetwork.org/research/finhealth-spend-report-2021/>.

likely and 1.4 times more likely, respectively), contributing to the disproportionate financial costs borne by people of color. We didn't have any reason to believe that our own account data would represent a different pattern. We also had conducted a review of our institution's costs in providing overdraft services. These costs included the opportunity cost of advancing funds, the write-off of balances never collected, and the costs associated with communication and collection efforts. We found for our institution that a \$5 overdraft fee was more approximate to the cost of providing the services. In short, our review led us to believe that a \$5 fee per overdraft, limited to one fee per day, would be a sustainable structure for us. We now project our overdraft fee income per checking account will be about \$2.50 per account annually. This represents a significant cumulative savings in would-be fees compared to a recently reported industry average of \$61.15.⁶ Given the size of our checking account portfolio, this represents a total of about \$14 million in 2022 alone.

Competition in Financial Services Overdraft Practices

We have tremendous satisfaction knowing that we are doing the right thing but have been surprised that over the years other financial institutions in our markets have not felt enough competitive pressure to match our approach in overdrafts. The banking business is usually highly competitive in most every way, with each financial institution hustling to win consumer approval through perks, special services, rates, and catchy advertisements. Part of this might be explained by the fact that the most economically disadvantaged people in our communities, often people of color, may not have the spare time to shop around for alternatives nor the clout to move the financial industry.

With less overdraft income than similarly sized financial institutions, we've had to adapt by developing increased operating efficiency, as borne out in benchmark comparisons. We also enjoy very high rates of account retention and very high member satisfaction ratings. In this way, there has been a business reward for our commitment to equity in overdraft practices.

One challenge in evaluating the competitiveness of overdraft programs continues to be the lack of information available. It's difficult for industry experts to evaluate the reasonableness of overdraft programs or compare between institutions, and even more difficult for consumers to evaluate the components of overdraft programs in their financial decisions.

There is an emerging standard of value in the Bank On initiative, but for traditional accounts with check writing functionality, there is no established standard consumer disclosure, like the maximum amount you could be charged per day in overdraft charges. The Pew Model Disclosure Box for Checking Accounts⁷ is the only one I'm aware of, and it hasn't been widely adopted. At UW Credit Union, we adopted it voluntarily in 2012.

For industry observers comparing overdraft revenue between institutions, it is difficult because it's not clear to what extent the institution's revenue is driven by the scale of its service to moderate- and low-

⁶ Consumer Financial Protection Bureau, "Data Point: Checking Account Overdraft at Financial Institutions Served by Core Processors," Data Point No. 2021-11, https://files.consumerfinance.gov/f/documents/cfpb_overdraft-core-processors_report_2021-12.pdf. (Noted on page 6 are credit union averages of \$42.33 annual overdraft revenue per account, \$17.05 annual NSF income per account, and \$1.77 annual sustained negative balance fee per account for a total average of \$61.15.)

⁷ Pew's Model Disclosure Box for Checking Accounts, <https://www.pewtrusts.org/en/research-and-analysis/data-visualizations/2015/who-reads-40-pages-of-disclosures>.

income consumers or is a product of its overdraft practices and the fees it charges. Comparisons based on overdraft fees as a percent of non-interest income often reveal more about the diversity of revenue than fairness in overdraft practices.⁸

Next Steps

We are encouraged in the past several months to observe more institutions making positive changes in overdraft services for consumers. Some appear to represent true reform while others seem to be designed to give the appearance of reform. Whether it is driven by regulatory concern or competitive market forces isn't yet clear, but it is an encouraging trend.

Greater transparency in institution-level regulatory reporting of overdraft programs as well as more standardized consumer disclosures could potentially drive more equity in overdraft programs. The Pew Model Disclosure Box for Checking Accounts⁹ is an example of such a standardized disclosure. Similar to the challenges consumers face in evaluating overdraft programs were the challenges consumers historically faced evaluating credit card offerings prior to the Card Act of 2009.¹⁰ With the implementation of this act and the reduction of the number of pricing variables credit cards could offer, consumers were better able to focus on a more limited set of pricing variables and compare offers, thereby stimulating competition in the market.

When prices are fair, consumers benefit from access to the credit provided by overdraft programs. Care should be taken in considering regulatory or legislative approaches that would reduce the availability of short-term consumer liquidity.

⁸ Consumer Financial Protection Bureau, "Data Point: Overdraft/NSF Fee Reliance Since 2015 – Evidence from Bank Call Reports," Data Point No. 2021-12, [cfpb overdraft-call report 2021-12.pdf \(consumerfinance.gov\)](https://www.consumerfinance.gov/data-point/2021-12/overdraft-nsf-fee-reliance-since-2015-evidence-from-bank-call-reports).

⁹ Pew's Model Disclosure Box for Checking Accounts, <https://www.pewtrusts.org/en/research-and-analysis/data-visualizations/2015/who-reads-40-pages-of-disclosures>.

¹⁰ H.R. 627 (111th): Credit Card Accountability Responsibility and Disclosure Act of 2009, <https://www.govtrack.us/congress/bills/111/hr627/text>.