

From: Anonymous
Subject: Electronic Fund Transfers

Comments:

While banks have been raking in fee income at all time highs, their greediness has without a doubt caused many families who are in the lowest two income brackets(the ones that pay most of the OD and NSF fees) to be unable to keep up with their mortgage and credit card payments. And the worst part is that a lot of bank employees are not properly educated on when they must return funds that were wrongfully taken out of customers accounts(whether it be due to bank error, or improper setoff in violation of the Truth in Lending Act). In fact, it has been my experience that front line customer service reps at some institutions are instructed to deny all requests for fee refunds regardless of whether the customer has a legitimate claim or not. The customer must then speak to several other people higher up the food chain, or file a complaint with the OCC in hopes of recovering their funds.

Given that banks have the ability to deduct money from customers accounts at their whim, it's disturbing how laid back government regulators are in making sure that banks are not taking money which they are not entitled to it. For example, a few months ago my bank deducted all of the funds from my checking and savings account to pay a past due balance owed for a personal card issued by the same bank that held my deposit accounts. The bank's employees, recovery department and legal department all told me they were entitled to offset and retain this money despite the fact that they were in clear violation of the Truth in Lending Act and breaching their own contract which explicitly stated that they could not offset funds to pay accounts of this nature.

I filed a complaint with the OCC and expected that, due to the urgency of the matter(ie. my being left without a dime in my accounts), my complaint would be reviewed and expedited, that someone from the OCC would email my complaint to their contact at my bank, review it with that individual within a day or two so that I wouldn't be left without money for too long if my complaint had merit, and after discussing the matter either close my complaint or order the bank to immediately return my money to my account if they were violating federal laws and Regulations. Instead, my complaint was forwarded to the bank, and the bank was told to respond to me directly and copy the OCC on their reply. 45 days after the funds were taken from my account, they were eventually returned. This was after 4 lengthy arguments with the person who contacted me from my bank, and the OCC provided no input at all. Once the bank returned my funds, the OCC sent me a letter stating that it appeared that the bank had appropriately disposed of the issues in my complaint. Do I get to charge a fee for the bank taking my money for over a month without a right? No. The Fed should level the playing field and make banks liable for some sort of penalty for doing this- that way, they clearly would spend more time educating their employees about when they can and not legitimately charge customers OD fees. And since the OCC does not want attorney general's stepping in to help consumers in need, its astonishing that they don't act upon clear violations of the law and let the bank hopefully resolve the matter appropriately.

Customers should not have to jump through hoops and wait unreasonable amounts of time for money that was wrongfully taken from them. If the government is going to allow banks to even offer a services like Bounce Protection, they need to ensure that bank employees are properly educated so that they both protect the institutions rightfully earned funds, and return funds which they are not entitled to.

Another perfect example of some banks complete and total disregard of their customer's rights- A customer notices on online banking that there are several duplicate charges pending on their account. Due to these duplicate charges existing, other debits that come in put the account negative. However, when the system realizes that some charges were duplicates, the extra duplicate charges are removed, and the account balance is now positive. While the system did delete the duplicate charges, it did not delete the overdraft fees that were charged while the account was temporarily negative as a result of a bank error. I had this exact situation happen to me. After all this happened, my revised online account detail showed no charges that put my account negative, and there were OD fees charged that one would expect a customer service rep to instantly remove since the balance was never below 0. After 3 unsuccessful calls to the banks customer service department, I visited a branch to demand they return my money. The branch customer service rep said she could not refund the fee without calling her "research department" to see if the charges were "legit." It's really quite simple- if the account balance never reached or went below 0, then the account is not overdrawn. After 20 more minutes, the charges were finally removed. Many banks make it a very long and tedious process to get your money back. And sometimes they make you wait 1-2 days for it to be refunded. Banks have the ability to refund the wrongfully taken money instantly, but choose not to. If you call a banks executive relations office and they refund your money, it's back instantly... as it should be.

With regards to customer choices- Banks should be required to have customers opt-in to this service. The companies who offer OD privilege programs to banks advertise that they will work with the bank to evaluate how they can maximize their fee income. Lots of people don't want to be able to spend any money except their own. Since there are a percentage of customers that do not want the bank's money unless they apply for a loan, then the other percentage of customers who are interested in the service should sign up for it. Unilaterally subjecting people to be enrolled in services that cost them money they don't want to spend is ridiculous. As it stands now, people can't just deposit their money, pay the monthly service fee, and feel confident that they can spend their money without having to worry about paying for services they don't want. If other companies had this mentality, we would have situations such as cell phone companies requiring customers who have purchased pre paid minutes to also provide a credit card "just in case" they accidentally go over those minutes. The customer should keep track of their usage, and if they happen to go over then the phone company could claim it was providing an extra feature by giving them minutes "on the fly" and then charging a penalty fee for doing so. Obviously that wouldn't happen, but it begs the question- "Why are banks allowed to set up these situations to the detriment of their

customers?"

Next up- if a customer deposits a check at an atm, and withdraws money after the funds become available, and then the deposit is returned unpaid and the account goes negative- the bank should only be allowed to charge 120fee per returned deposit. They should not be allowed to charge fees for each transaction that occurred while the funds were made available prior to the check being returned. Allowing the latter would certainly affect the safety and soundness of the general public. Bank employees have testified in federal cases that banks incur almost no extra expenses in administrating Bounce Protection Programs(see, for example JOHN M. FLOYD AND ASSOCIATES, INC., v RELIANT FEDERAL CREDIT UNION.) Regardless of this, customers shouldn't be unfairly subjected to repeated charges for one transaction that essentially is the cause of the account going negative (since the customer assumed that the check would clear).

Since outside companies are sharing a percentage of the fee income, those companies should also have compliance reviews since it is obviously to their benefit to create as many possible ways for customers to overdraw their accounts.

The rest of the situations where OD should and should not be charged are common sense and the Board should enact regulations that make sense for the general population and prevent banks from charging customers in situations that are at all questionable and seem unfair, manipulative, and flat out wrong. The board should require these changes within 6 months- there is no need for this nonsense to be allowed for another year. Banks certainly can use all this generated fee income to bring themselves into compliance in an expedient manner for the sake of the entire country who is affected by these unfair practices.