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**Comments:**

Overdraft Fees on Debit Card Transactions I. Processing Fees Based Upon Date of Transaction vs Date of Presentation-Historical Analysis  
It has always been the normal business practice of banks going as far back as the 1913's, that a bank charged a fee when the check CLEARED, not based upon the date the check was dated. Overdraft fees are assessed based upon the date of presentation. For instance, I write a check to you on Monday, dated for that date. That is the date of the transaction. You deposit it on Tuesday. On Wednesday, I go to the bank and deposit more money into my bank to assure that the check will clear. It clears my bank on Thursday. The bank would never have charged my account an overdraft fee based upon the date the check was written, the transaction date. It did not use the date that I put on my check as the date to verify if the funds were available, the bank used the date it was presented to the bank for payment. This is basic banking principles that have been in effect in this country for decades. Why is a debit card transaction any different? All that has occurred is that there is a more technologically advanced method for making payments rather than writing a physical check. It is still a debit transaction that is being processed; it is only the type of debit

transaction that is different. Why is the principle of overdraft not the same for both transactions? I find this practice of charging overdraft fees based upon the date of transaction rather than the date of presentation contrary to the basics of known banking principles that have been in existence since check writing began and what the consumer has been accustomed to for years.

## II. Cost Basis Comparison

The banks marketed and advertised the convenience of this method of paying for purchases (debit card) in order to decrease their operating costs. It costs them far LESS to process a debit card transaction than a physical check. Why wouldn't they apply the same methodology for assessing overdraft fees to debit card transactions as they do to processing a physical check? Why would they find the need to charge customers based upon a date of transaction rather than the date of presentation? This is contrary to all marketing and advertising they have produced in order to have consumers use a debit card instead of a check. In order to have the public use the debit card, they marketed it specifically as a convenience to the consumer, targeting that it was exactly the same as writing out a check, without the bother. Why should the consumer now have to be subjected to different fees because they are now acting exactly the way the banks wanted them to do? Their advertising campaigns worked and now the consumer is using their debit cards instead of checks resulting in decreased operating costs for banks. Why should consumers be penalized for saving the banks money?

## III. Technological Advances that allow banks to manipulate fees

Just because banks now have a technological method to ascertain the date of the transaction (the date the debit card was presented for payment) does not give them the right to use that data to charge a customer an overdraft fee. If the banks are allowed to charge an overdraft fee based upon the date of transaction rather than the date of presentation as is becoming the common practice for debit card transactions, they could extend that to ACH transactions as well. For instance, many retired consumers who have opted to have their Social Security checks directly deposited through the ACH system, which has saved the Federal Government and the banks millions of dollars in processing costs, also have automatic insurance payments deducted, mortgage payments, etc. In fact, you can now sign up to have every single type of payment that you owe each month automatically debited from your account, such as your electric bill, your telephone, etc. Many of these consumers have the debits coming on the 3rd of the month. ACH transactions are received into the bank prior to the date of presentation. For instance, I myself have these types of transactions and they often show up on my "Pending Transactions" list, and decrease my available balance. If this practice of charging overdraft fees based upon date of transaction rather than date of presentation, technically, the bank could charge me an overdraft fee since the ACH transaction date is prior to the date

of presentation, it is in my Pending Transactions List, and my automatic deposits have not been processed yet, thus the funds are not on deposit to cover that ACH debit based upon the date of transaction. Will they start charging for that type of transaction as well? With new scanning equipment becoming more and more prevalent, what would prevent the banks from beginning to charge for checks based upon the date of transaction? They could scan a check, capture the date the check was written, and then use that to access an overdraft fee instead of using the date of presentation. This type of technology is not hard to employ and if the cost benefit analysis shows that it would be beneficial to purchase it, install it, and then access fees in this manner, the banks will do it. There would be nothing to prevent them. If this practice is allowed to continue, banks would have the legal right to begin to charge for all of these types of transactions.

#### IV. Banks Defense of this Practice

Banks defend the practice, saying it provides customers with accurate information about account balances. This assertion by the banks that they provide adequate information to consumers about account balances to permit them prior knowledge before they use the debit card is totally preposterous. Imagine for a moment the scenario: I am going shopping today with my debit card. I would either have to: 1. check my balance online via a computer prior to leaving the house 2. physically go to the bank to check my balance. The banks are assuming that every single person that has a checking or savings account has an online computer at home at their disposal. This is NOT true. In order to use the card, I now have to go to the bank prior to my shopping expedition to check my balance. Imagine this scenario: I am going shopping with my paper checks today in my pocketbook. I don't have to check my balance immediately because I know that I have some money in there but all I'll do is add up my receipts at the end of the day, and then go the bank and deposit or transfer any money that I am short. OR do it online if I prefer in the middle of the night! Which do you think would be more convenient for me to do? I also reject the notion that banks give you accurate information about your balance. I know that my bank, for instance, does not process an overdraft charge until the DAY AFTER they have returned an item. So I could go online, check my balance, think I am fine, and then the next day, the transaction shows up that they have debited my account for an overdraft fee on a returned item. That is the only way I know that they have returned an item, when the overdraft fee is accessed. I don't receive a notice in the mail until 5 days later! That's because their check processing center is on Long Island and I live in New Jersey. My balance on the day I viewed it online was fine but they had already processed the returned item and the overdraft fee was processed but doesn't show until the batch processing is done that night. So how is this an accurate balance? There are many

other instances of banks being unable to reflect an accurate, up to the minute, balance for a consumer due to processing restrictions. Some ACH transactions are processed differently depending on when a holiday or a Saturday falls in the month. So if I look at my balance, it may not reflect the exact balance that is available that day because there are pending transactions that do not reflect. As payment processing becomes more and more dependent on technology, accurate balances are harder and harder to present to a consumer, contrary to popular belief. There are many transactions that do not update online, in real time, so therefore, the balance is not affected until the batch cycle runs. Banks know this fact. How can they state they provide accurate account balances at all times when they know full well that they do not update every type of transaction in real time and they are still dependent on batch processing? How many times have you gone into your bank, and they are "down?" How many times have you been given a receipt that says "Processed Off Line?" This happens and therefore, the banks are unable to provide you with an accurate balance. I am sure that anyone can come up with scenario after scenario of different occasions that banks can not provide an up to the minute balance. This argument by the banks is so ridiculous, it's amazing that they would even state it as a defense. IV. Overall Negative Affect If more banks begin to use this methodology to charge overdraft fees, consumers will again revert to writing checks, thus increasing the operating costs to banks, which is exactly what they don't want to do. I know if my bank were to start doing this, every single time I go to a cash register in a retail store, I will use a check and not use my debit card. I would then be increasing the costs not only to the bank, but to the retailer as well, as it increases their costs to process checks. Regarding ACH transactions, this would necessitate either returning to check writing and mailing of payments, again increasing costs to all involved in handling the checks (both the banks and the utility companies, credit card companies, etc) or changing all the dates of ACH automatic debits. In some cases, this could cause increased costs to the consumer because the payments may be due at certain times and changing the dates could case the payments to be considered late, thus incurring late fees for the consumer. I believe overall this practice is not only detrimental to the consumer, but also addressing the long range effect, will be contrary to the banks interests as well. I believe this law should be put into effect so that banks will not be able to process overdraft fees based upon the date of the transaction rather than the date of presentation. Thank you for your interest in the public's opinion.