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CFPB pledges to root out illegal overdraft fee practices

By **Kate Berry** December 01, 2021, 2:35 p.m. EST 4 Min Read



Consumer Financial Protection Bureau Director Rohit Chopra announced a crackdown on large banks that are heavily reliant on overdraft fees and said the bureau will go after individual executives that oversee illegal overdraft practices.

Chopra said Wednesday that large financial institutions should expect enhanced supervision and enforcement scrutiny of overdraft and nonsufficient funds fees. The bureau also may issue policy guidance outlining what overdraft practices it considers to be unlawful, he said.

The intent of the CFPB's initiative appears to be identifying practices that are deceptive or otherwise violate consumer protection law.

"The CFPB will also seek to uncover the individuals who directed any illegal conduct," Chopra said in a conference call with reporters.

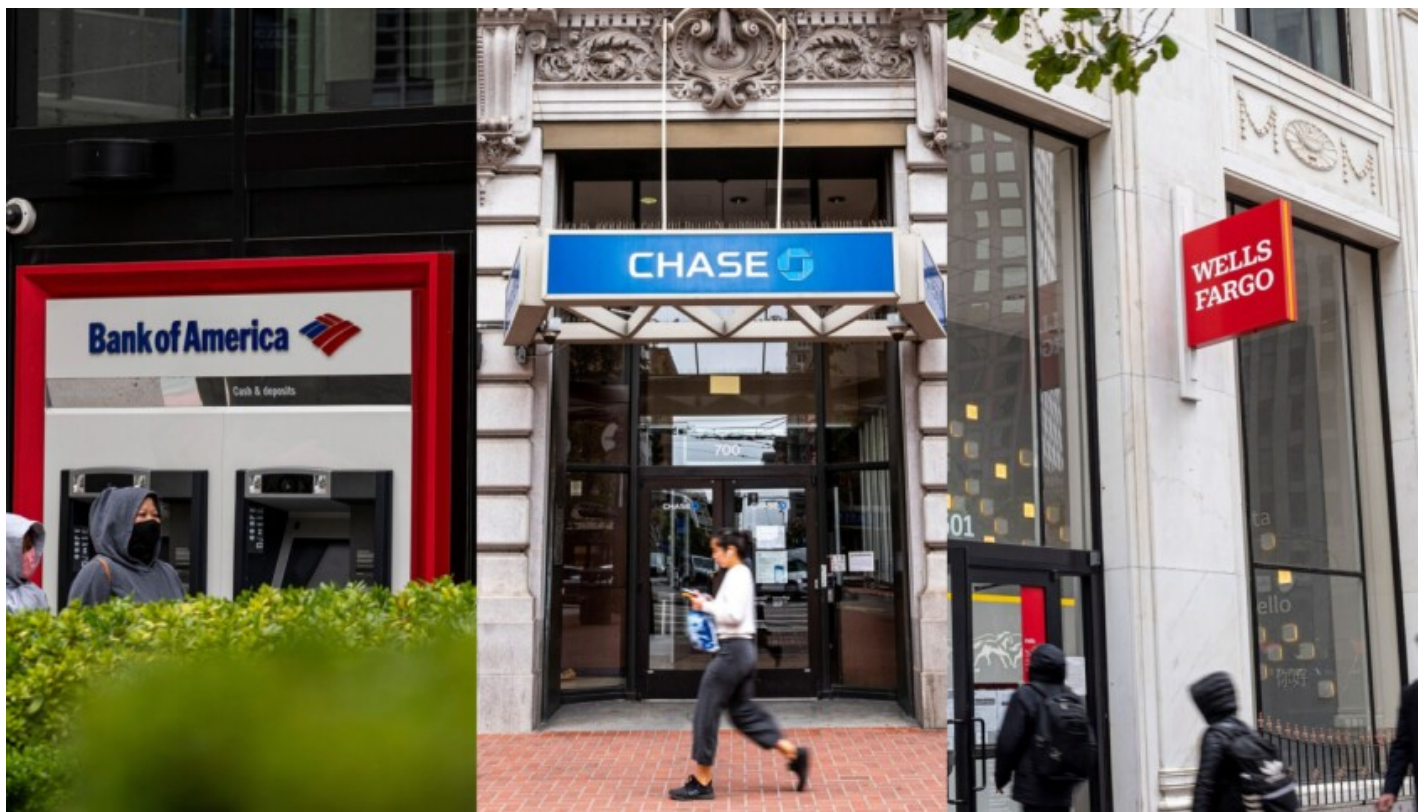
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The new monitoring could have significant ramifications for the three large banks — JPMorgan Chase, Wells Fargo and Bank of America — that collect the most overdraft fees in the industry. In 2019, their combined overdraft-related revenue was \$5 billion, roughly 44% of total overdraft revenue for banks with more than \$1 billion in assets.

Chopra noted that Congress has tasked the CFPB with ensuring that markets are fair, transparent and competitive, but that the market has not adequately policed overdraft protection practices on its own.



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“We have a clear market failure here,” Chopra told reporters.

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to hold individual executives accountable for corporate wrongdoing.

Banks in the past have preemptively opposed efforts to crack down on overdraft programs. They argue that rules implemented in 2010, which required banks to let customers opt in to such programs before charging them fees, had proven effective.

Richard Hunt, president and CEO of the Consumer Bankers Association, cautioned the CFPB against taking swift action, noting that overdraft fees have declined 40% in the past decade.

"America's leading banks now offer more products and features than ever to avoid unintended fees," such as real-time payment updates, 24-hour grace periods, and alerts, Hunt said in a statement. "Outside of overdraft, few options remain for consumers to meet their short-term liquidity needs within the well-regulated, well-supervised banking system."

Chopra, a close ally of Sen. Elizabeth Warren, D-Mass., appears to want to make overdraft practices a priority at the CFPB. In July, Warren, the architect of the CFPB, [called](#) for more robust oversight of overdraft practices as a way to aid struggling families.

Just before Chopra announced heightened scrutiny of banks' overdraft practices, the \$425.4 billion-asset Capital One Financial said it would scrap all overdraft fees and nonsufficient fund fees for its consumer banking customers.

In June, the \$180.8 billion-asset Ally Financial in Detroit [ditched](#) overdraft fees, saying that the penalty charges create customer anxiety and disproportionately affect people of color.

Chopra said overdraft fees heavily impact consumers who are already struggling to stay afloat, driving many into involuntary account closures and deeper into debt. He said big banks "harvested billions in overdraft fees off Americans during the pandemic."

Overdraft fees fell to \$10.5 billion last year from about \$17 billion in 2019, as banks gave customers flexibility on fees during the early stages of the pandemic, according to a study from the research firm Curinos released Wednesday. Still, overdraft fees have been on the decline for years, falling from \$39 billion in 2008, Curinos found. The CBA funded the Curinos study.

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Still, a crackdown on overdraft would drive many families to predatory payday lenders and other expensive options, the CBA's Hunt said.

“The CFPB’s research fails to reflect the introduction of innovative products and services unveiled by America’s leading banks to meet the evolving needs of the customers they serve,” Hunt said. “The fact of the matter is American families understand overdraft and value the emergency safety net it provides.”

Though scrutiny of banks' overdraft practices was not a major priority of the CFPB during the Trump administration, the bureau did announce several major settlements.

Last year, TD Bank, the \$383 billion-asset U.S. arm of TD Bank Group in Toronto, [agreed](#) to a \$122 million settlement with the CFPB, which claimed the Cherry Hill, New Jersey, bank deceptively charged overdraft fees for certain ATM and one-time debit card transactions.

In 2018, the CFPB ordered the \$18.4 billion-asset TCF Financial in Wayzata, Minnesota, to pay a \$5 million fine and provide \$25 million in restitution for the way the bank marketed and charged consumers for overdraft protection.

Polo Rocha contributed to this article.

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