

February 14, 2025

The Honorable Mike Johnson
Speaker
U.S. House of Representatives
H-232, The Capitol
Washington, D.C. 20515

The Honorable Hakeem Jeffries
Democratic Leader
U.S. House of Representatives
H-204, The Capitol
Washington, DC 20515

The Honorable John Thune
Majority Leader
United States Senate
511 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Charles E. Schumer
Democratic Leader
United States Senate
322 Hart Senate Office Building
Washington, D.C. 20510

Dear Speaker Johnson, Leader Jeffries, Leader Thune, and Leader Schumer,

The American Bankers Association and the undersigned 52 state bankers associations collectively represent banks of all asset sizes that serve customers from across the United States. We write to express strong support for S.J. Res. 18/H.J. Res. 59, the resolution of disapproval introduced by Chairman Tim Scott and Chairman French Hill, which would invalidate the final rule issued by the Consumer Financial Protection Bureau (CFPB) on December 12, 2024, regarding overdraft protection services. We urge Congress to pass this resolution without delay.

Overdraft protection services provide a needed form of short-term liquidity for millions of consumers who – following receipt of a consumer-tested disclosure – “opt-in” to use the product to cover emergency or unexpected expenses that overdraw their accounts. In the final days of his tenure, CFPB Director Rohit Chopra issued a final rule that goes well beyond the agency’s statutory authority. It declares overdraft services offered by banks and credit unions with more than \$10 billion in assets to be “credit” regulated by the Truth in Lending Act (TILA) and Regulation Z unless the overdraft fee is below a \$5 price cap or below the institution’s “breakeven” costs to operate its overdraft program.

Director Chopra’s final rule would apply TILA and Reg. Z to overdraft despite the fact that TILA’s definition of “credit” unquestionably precludes this interpretation. Indeed, Director Chopra’s final rule reverses 55 years of consistent interpretation of TILA and Reg. Z by the agencies charged with enforcing it and the courts. In addition, TILA is a disclosure statute; Congress established a consumer protection regime grounded on clear disclosure and consumer choice—not regulation of the terms of consumer credit products. Yet Director Chopra’s final rule goes far beyond mandating disclosure and would impose substantive restrictions on bank overdraft services, to the detriment of the millions of consumers that elect to use it to cover unexpected expenses.

If not invalidated, Director Chopra’s rule would lead banks to restrict, if not eliminate, access to overdraft, harming those consumers who have few, if any, other options for meeting short-term liquidity needs. The rule would do so even though analyses show that the average transaction that overdraws the customer’s account is in the hundreds of dollars. Not surprisingly, survey after survey show that consumers appreciate and value their institution’s overdraft program and

are glad that their institution covered their overdraft payment, rather than returned or declined the payment.

The rule purports to apply only to banks and credit unions with more than \$10 billion in assets, but if the rule takes effect, all depository institutions – and their customers – will be impacted. Large banks will be forced to lower their overdraft fee to the benchmark fee of \$5 or to discontinue or restrict access to overdraft services. If a large bank reduces its overdraft fee to \$5, the neighboring community bank will feel compelled to do the same or risk losing its customers to the large bank. Community banks have limited product lines and fewer sources of revenue to offset reduced overdraft fee income; therefore, the overdraft rule may lead to greater consolidation in the banking industry.

We urge Congress to pass the resolution of disapproval without delay.

Sincerely,

American Bankers Association
Alabama Bankers Association
Alaska Bankers Association
Arizona Bankers Association
Arkansas Bankers Association
California Bankers Association
Colorado Bankers Association
Connecticut Bankers Association
DC Bankers Association
Delaware Bankers Association
Florida Bankers Association
Georgia Bankers Association
Hawaii Bankers Association
Idaho Bankers Association
Illinois Bankers Association
Indiana Bankers Association
Iowa Bankers Association
Kansas Bankers Association
Kentucky Bankers Association
Louisiana Bankers Association
Maine Bankers Association
Maryland Bankers Association
Massachusetts Bankers Association
Michigan Bankers Association
Minnesota Bankers Association
Mississippi Bankers Association
Missouri Bankers Association
Montana Bankers Association
Nebraska Bankers Association
Nevada Bankers Association
New Hampshire Bankers Association

New Jersey Bankers Association
New Mexico Bankers Association
New York Bankers Association
North Carolina Bankers Association
North Dakota Bankers Association
Ohio Bankers League
Oklahoma Bankers Association
Oregon Bankers Association
Pennsylvania Bankers Association
Puerto Rico Bankers Association
Rhode Island Bankers Association
South Carolina Bankers Association
South Dakota Bankers Association
Tennessee Bankers Association
Texas Bankers Association
Utah Bankers Association
Vermont Bankers Association
Virginia Bankers Association
Washington Bankers Association
West Virginia Bankers Association
Wisconsin Bankers Association
Wyoming Bankers Association