



On December 12, 2024, the CFPB issued a final rule, largely as proposed, that amends Regulations E and Z to update applicable regulatory exceptions for overdraft credit provided by financial institutions with more than \$10 billion in assets.<sup>1</sup> The final rule is intended to provide for overdraft credit adherence to consumer protections required of similarly situated products, unless the overdraft fee is a small amount that only recovers estimated costs and losses. The final rule is scheduled to become effective October 1, 2025.

### 5 insights you should know

**Covered financial institutions:** The final rule applies only to insured depository institutions (IDIs) and credit unions with more than \$10 billion in assets. While the final rule does not change the regulatory framework for overdraft services offered by financial institutions with assets of \$10 billion or less, the CFPB plans to monitor the market's response to this rule in determining whether to alter the regulatory framework for financial institutions with assets less than or equal to \$10 billion.

**Overdraft fee threshold:** Under the final rule, Regulation Z will generally apply to overdraft credit provided by covered financial institutions unless it is provided at or below costs and losses. The final rule gives financial institutions the ability to determine whether an overdraft charge is considered above breakeven overdraft credit by either: (1) calculating its own costs and losses using a standard set forth in the rule; or (2) relying on a benchmark fee of \$5. Under the proposal, the CFPB had considered benchmarks ranging from \$3 to \$14.

**Requiring separate credit account for overdraft credit:** The final rule requires covered overdraft credit offered by covered financial institutions to be put in a credit account that is separate from the asset account. Accordingly, the final rule prohibits structuring covered overdraft credit as a negative balance on a checking or other transaction account. The CFPB stated its objective for this change was to make it easier for consumers to understand covered overdraft credit and their funds activities.

**Prohibition of compulsory preauthorized repayment:** The final rule would apply Regulation E to prohibit compulsory use of preauthorized electronic fund transfers (EFTs) for repayment of covered overdraft credit. As a result of this change, covered overdraft credit offered by covered financial institutions cannot be conditioned on consumers agreeing to automatic debits from their checking account. However, consumers may still opt into automatic payments on a periodic basis.

**Extending CARD Act provisions to hybrid debt-credit cards:** The final rule extends the application of all of Regulation Z's credit card provisions (i.e., portions that implement the Credit Card Accountability Responsibility and Disclosure (CARD) Act) to covered overdraft credit accounts offered by covered financial institutions if the credit account can be accessed by a hybrid debit-credit card.

### 5 considerations to evaluate

**1 Determine revenue impact:** The CFPB noted that 68% of covered financial institutions charge between \$35 and \$37 per overdraft transaction representing market-wide overdraft revenues of more than \$12 billion pre-pandemic. For many covered financial institutions, this rule may present a significant impact to existing revenue streams. Therefore, covered financial institutions should undertake an individualized impact assessment and consider potential strategic revenue alternatives.

**2 Conduct overdraft cost analysis:** Under the final rule, covered financial institutions who do not wish to rely on the \$5 benchmark may calculate their own costs for determining covered overdraft credit. Covered financial institutions should understand not only the costs associated with insufficient funds and the application of fees, but also management accounts with no funds or in collections.

**3 Prepare operational changes to overdraft credit structure:** Covered financial institutions should assess the potential operational and technological changes necessary to structure overdraft credits as a separate account. During the comment period, some financial institutions raised concerns these structural changes may substantially increase costs for providing overdraft credit which may be of small duration and amount. Covered financial institutions should consider these potential cost implications when assessing their internal cost calculations for compliance purposes with the final rule.

**4 Develop alternative payment methods for overdraft credit:** In order to provide consumers with an alternative payment option for overdraft fees under the final rule, covered financial institutions may need to incur a one-time cost to implement new payment methods for obtaining and processing consumers' payment choices (e.g., automatic or manual). Covered financial institutions should also consider the potential increased risk of overdraft credit nonrepayment into their business operations.

**5 Assess potential changes to policies and procedures:** Covered financial institutions should prepare to update their policies and procedures to provide for compliance requirements under the CARD Act for hybrid debit-credit cards. This includes, among others, provisions such as ability to pay underwriting requirements, limitations on penalty fees including certain fees on transactions that are declined due to nonsufficient funds, and various requirements related to rate changes.

## Endnotes

<sup>1</sup> Consumer Financial Protection Bureau (CFPB), "[Overdraft Lending: Very Large Financial Institutions](#)," December 12, 2024.

## Connect with us

### John Graetz

Principal  
Deloitte & Touche LLP  
[jgraetz@deloitte.com](mailto:jgraetz@deloitte.com)

### Thomas Nicolosi

Principal  
Deloitte & Touche LLP  
[tnicolosi@deloitte.com](mailto:tnicolosi@deloitte.com)

### Shaun Nabil

Managing Director  
Deloitte & Touche LLP  
[snabil@deloitte.com](mailto:snabil@deloitte.com)

### Bradley Mervis

Managing Director  
Deloitte & Touche LLP  
[bmervis@deloitte.com](mailto:bmervis@deloitte.com)

### Jessica Golden

Senior Manager  
Deloitte & Touche LLP  
[jegolden@deloitte.com](mailto:jegolden@deloitte.com)

## Deloitte Center for Regulatory Strategy, US

### Irena Gecas-McCarthy

*FSI Director, Deloitte Center for Regulatory Strategy, US*  
Principal  
Deloitte & Touche LLP  
[igecasmccarthy@deloitte.com](mailto:igecasmccarthy@deloitte.com)

### Aaron Salerno

Manager  
Deloitte Services LP  
[asalerno@deloitte.com](mailto:asalerno@deloitte.com)

### Kyle Cooke

Manager  
Deloitte Services LP  
[kycooke@deloitte.com](mailto:kycooke@deloitte.com)

This publication contains general information only and Deloitte is not, by means of this publication, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This publication is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this publication.

As used in this document, "Deloitte" means Deloitte & Touche LLP, a subsidiary of Deloitte LLP. Please see [www.deloitte.com/us/about](http://www.deloitte.com/us/about) for a detailed description of our legal structure. Certain services may not be available to attest clients under the rules and regulations of public accounting.