



Credit Union National Association

cuna.org

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September 25, 2007

The Honorable Carolyn Maloney  
Chairwoman, Subcommittee on Financial Institutions  
and Consumer Credit  
United States House of Representatives  
2331 Rayburn House Office Building  
Washington, DC 20515

Dear Chairwoman Maloney,

I am writing on behalf the Credit Union National Association in opposition to H.R. 946, the *Consumer Overdraft Protection Fair Practices Act*, which is scheduled to be considered by the House Financial Services Committee this week. CUNA is the nation's largest credit union advocacy organization, representing over 90% of our nation's approximately 8,800 state and federal credit unions, their State credit union leagues, and their 89 million members.

Credit unions have long been involved in providing some form of overdraft or bounce check protection for their members. This is fully consistent with the philosophy and mission of the credit union industry to serve members' financial needs and to help them resolve short-term financial problems. CUNA applauds what this legislation is trying to do: eliminate abusive practices associated with certain overdraft protection products. However, H.R. 946 is not the right answer to this problem.

Credit unions have three primary concerns with the legislation. First, as introduced, the bill would classify these products as lending products under the *Truth in Lending Act*, including the service fee associated with the overdraft protection program as a finance charge and included in an APR calculation. If this provision were law, it would cause credit unions offering these programs to exceed the usury ceiling prescribed by the *Federal Credit Union Act* (presently at 18%) and prevent the programs from being offered at credit unions.

Second, assuming that the usury issue is abated, CUNA still has an issue with considering this service fee as a part of the APR, because we have longstanding policy that overdraft protection is not a lending product. We believe that alternative disclosures would actually be helpful to consumers, such as the disclosure of the cost of using the bounce protection program versus the cost of the institution's bounced check (NSF) fee and line of credit.



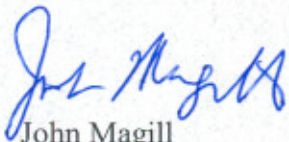
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Finally, H.R. 946 has the potential to present significant operational issues for financial institutions by requiring a written agreement with the member prior to the extension of any overdraft coverage. Also, the proposed ninety-day effective date would need to be significantly extended in order to provide an adequate period for developing the necessary amendments to Regulation Z and implementing compliance steps by financial institutions.

While we will continue to work with the members of the committee to try to develop legislation that is good for credit unions members, the legislation in its present form does not satisfactorily address these major issues, and CUNA must oppose the bill.

Sincerely,



John Magill  
Senior Vice President  
Legislative Affairs

cc: The Honorable Spencer Bachus