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Card Users, Take Heart: One Penalty Is Vanishing

The Fee for Exceeding a Card's Limit Is Vanishing

The noxious penalty imposed on American Express and Discover consumers who exceeded their spending limit has finally died, quashed by legislation

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signed in May by President Obama to ease onerous fees for cardholders. In recent days, American Express customers began receiving notices of the fee elimination, which takes effect in October. Discover Card customers will soon get similar notifications.

For now, they are alone: Bank of America, Capital One, Chase and Citigroup all say they have not followed suit, though they wouldn't rule it out either.

So is this obituary for the \$35 to \$40 over-the-limit fee, that consumers have been paying for about 25 years, premature?

The changes at Discover and American Express (which, by the way, included in its letter a notice that it would raise late fees and interest charges) come in the wake of the Credit Card Accountability, Responsibility and Disclosure Act, which bars card companies from penalizing consumers unless they specifically ask to breach their limit and agree to pay for the privilege.

Rather than levying the fee automatically, both firms will now use technology to decide whether and when to allow consumers to exceed their limit, based on the cardholders' recent spending and creditworthiness.

But before you gush over the changes, consider this: Both

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firms probably arrived at their decision based on a calculus that showed it would be too costly to build a system that lets consumers opt to breach their credit limit, as the law required. Instead, it was cheaper to simply do away with the fee.

Desiree Fish, an American Express spokeswoman, said the company had determined that the cost to build such a mechanism would be more than it received from over-the-limit fees. Most other banks are likely to come to the same conclusion, particularly since they would have to tell customers why they are levying a fee when competitors are not doing so anymore.

Why wouldn't customers choose this privilege, given the opportunity presented by the new law? To understand, let's review the history — and indulge in a bit of grave dancing, too.

Back in the good old 1980s, exceeding your credit limit was for the most part a fee-free convenience. According to Robert McKinley, who tracks the industry at CardWeb.com, you often wouldn't pay a fee unless you went over your limit by 5 percent to 10 percent, or more, and it might not be charged until the

end of the month.

Eventually, card issuers realized there was some risk in letting people go that far, and started levying fees of \$10 or so to discourage overspending. By the latter half of the 1990s, however, it was clear that the fees could be a great source of profits. So banks began raising them regularly — well beyond the cost of the risk of letting cardholders go a bit over their credit limits.

"The issuers just got greedy," said Gene Truono, a former card industry executive who is now a managing director in Manhattan for BDO Consulting.

According to Mr. McKinley, many industry executives had acknowledged privately that the fees were always a bad practice. Publicly, however, the party line was that it was all about customer service. After all, what cardholders would want to be cut off in a restaurant or embarrassed in front of their clients?

Today, however, most big banks charge up to \$39 for that privilege. But it's not at all clear that people want to pay that much for it. The recent credit card reform legislation means we might finally get to vote on this issue with our wallets — that is, if any companies are left that believe they wouldn't lose in a land-

slide.

But here's why you might not ever get the opportunity to choose whether to pay an over-limit fee, at least at banks like Chase or Citi. According to David Thompson, a lawyer at McGlinchey Stafford in Cleveland and a former lawyer for Fleet Financial, any fees levied by credit card companies are now required by the new credit card reforms to be reasonable and proportional.

While it's not yet clear what the definition of "reasonable and proportional" will be, it's entirely possible that in this regulatory environment banks that once charged \$39 for breached credit limits won't continue to get away with it. They may simply calculate that it's not profitable to charge new, lower fees. That, in turn, may mean the fee eventually dies more broadly across the industry.

Even if your bank does let you vote on breaching your limit, you might ignore the ballot unless card issuers wave it under your nose. "That call to action to consumers who don't necessarily read your disclosures is a difficult thing to implement," he said. While it's understandable that Mr. Thompson doesn't want to speak ill of the dead (fee) in its obituary, his is probably the un-

derstatement of the year.

The fact is, we've long since gotten past the point where anyone is worried about being embarrassed at the restaurant. There are lots of reasons for cards to be declined — from unfiled expenses at work to over-active card security mechanisms that cut you off for fear your card has been stolen while you're on the road. All of your dinner guests know this, and they've been there themselves. Also, you probably have a bunch of other cards that you can whip out at a moment's notice.

Robert Manning, the author of "Credit Card Nation," said not everyone is so fortunate. Many people are living hand to mouth with just one card, and others have had their credit limits slashed through little or no fault of their own. He thinks some companies might come up with membership programs to serve this population, with new cards that charge annual fees and waive a handful of over-the-limit and late fees each year, no questions asked.

But you don't have to do business with any of them. And you can opt out of an over-the-limit fee if your bank decides to see if it can still make money levying one. This fee is dead to you. Goodbye. And good riddance.