



Pay-to-Pay Fees: Twisting the Knife

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What are they? Pay-to-pay fees, sometimes called “convenience fees” are extra charges that creditors make their customers pay when paying a bill. A common example is a \$10 charge to make a payment online, via the company’s website, or a \$25 charge to pay by phone. These charges are usually added to the bill being paid. The amount of these charges is usually far greater than what it actually costs the creditor to provide the service. One creditor, for example, charged customers \$7.50 to make a payment online but was believed to pay only 40¢ to process the payment.

For many customers it is wrong to portray these fees as voluntary or a convenience. For a significant portion of Americans, it is difficult to avoid pay-to-pay fees. Consumers taking out a loan have no way to know who the loan servicer will be or what fees the servicer will charge. And once an account is opened, most consumers lack the flexibility to refinance if the servicer starts charging these fees later.

Normally the only ways to avoid pay-to-pay fees are to make payments by mail (with a check or money order) or to establish an ACH (Automated Clearing House) transfer from the borrower’s bank account—but these methods are difficult or effectively unavailable for many people.

Setting up an ACH transfer requires a bank account and a steady, predictable stream of income. But multiple surveys find that the majority of Americans live paycheck to paycheck.¹ In the one survey that provided a breakdown, 47% of homeowners lived paycheck to paycheck.² A survey by the American Payroll Association asked “How difficult would it be to meet your current financial obligations if your next paycheck were delayed for a week?” Seventy-four percent said it would be “somewhat difficult” or “very difficult.”³

Making payments by phone or online gives the payor greater control over cash management⁴—something vital to consumers living paycheck to paycheck. These customers are most likely incurring payment charges every month.

Pay-to-pay fees are contrary to public policy.

Congress has already banned these fees in some contexts. Pay-to-pay fees first came to the attention of policy makers when credit card companies started charging them. As a result, in 2009 Congress passed the Credit CARD Act,⁵ which makes most pay-to-pay fees illegal. The motive behind this change was clearly explained by one senator:

Charging folks a fee to pay their bills on time is a travesty, it provides an unjustified windfall to credit card companies, and it shouldn't be allowed.⁶

Public opinion strongly supported this view. According to a poll taken two years before the Act was passed, 90 percent of Americans thought it was “unfair” to charge \$10 for payment by phone and 72 percent rated it as “very unfair.”⁷

As amended by the Act, 15 U.S.C. 1637(l) says

With respect to a credit card account under an open end consumer credit plan, the creditor may not impose a separate fee to allow the obligor to repay an extension of

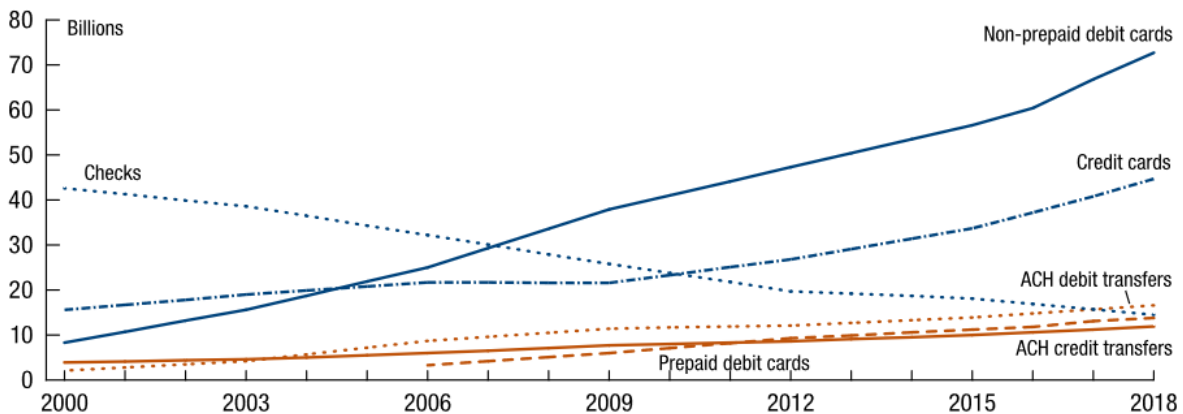
credit or finance charge, whether such repayment is made by mail, electronic transfer, telephone authorization, or other means, unless such payment involves an expedited service by a service representative of the creditor.

A legislative compromise added the last phrase after the comma.⁸ But, as one Congressman said at the time, "it is wrong when you pick up a telephone and you say, listen, I just got my bill, but it is 3 days before it is due. Can I pay you over the phone? And they tell you yes, for 15 or 20 bucks."⁹ So, while it is fair for the creditor to pass along the actual cost of making a rush payment, profiting off their customer's distress is wrong.

American society is moving away from payment by check and increasingly toward electronic payments.

The modern trend among businesses and consumers is toward paying bills via electronic methods.¹⁰ According to the Federal Reserve Payment Study, the number of checks written has been steadily declining for over a decade.¹¹ According to the most recent study, in 2018, there were more ACH debit transfers than check payments.¹² This reflects a long term trend. In 2000, checks outnumbered ACH transfers by nearly 6.9 to 1. In 2018, that ratio had been reduced to an ACH to check ratio of roughly 1.1:1. Figure 1, from the Federal Reserve, clearly shows the trend away from checks and toward payments made by phone or online. As this trend continues, pay-to-pay fees will result in a growing percentage of consumers being driven to pay extra fees every month for the "privilege" of paying their bills.

Figure 1. Trends in noncash payments, by number, 2000–18



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Note: All estimates are on a triennial basis. Card payments were also estimated for 2016 and 2017. Credit card payments include general-purpose and private-label versions. Prepaid debit card payments include general-purpose, private-label, and electronic benefits transfer (EBT) versions. Estimates for prepaid debit card payments are not displayed for 2000 and 2003 because only EBT was collected.

Conclusion

It is harmful for creditors to charge pay-to-pay fees. Congress has clearly demonstrated a public policy against these fees by banning them for credit cards. Based on our experience, the only reason Congress did not do the same for other types of credit is that this exploitive practice had been rare outside the credit card industry.

Now, a large and growing number of Americans do not have a realistic option to avoid pay-to-pay fees. Many Americans live paycheck to paycheck and can't pay their bills until they know they have money in the bank—forcing them to make online or telephone payments to ensure that their payment is not delayed in the mail. The use of checks has been declining for decades, and Federal Reserve data shows that non-check/non-cash methods are now the most common. The credit industry is certainly aware of these trends and should not be allowed to exploit them to make an unreasonable profit off customers who have little choice.

Endnotes

¹ Nat'l Endowment for Financial Education, [New Years Resolution Survey 2020](#) at 16 (53% answered "yes" to question "In your opinion, would you say you typically live paycheck to paycheck?"); Charles Schwab & Co., Inc., [Modern Wealth Survey](#) at 7 (May 2019) (survey finding 59% of Americans live paycheck to paycheck); CareerBuilder, press release, [Living Paycheck to Paycheck is a Way of Life for Majority of U.S. Workers, According to New CareerBuilder Survey](#) (Aug. 24, 2017) ("More than three-quarters of workers (78 percent) are living paycheck-to-paycheck to make ends meet").

² Nat'l Endowment for Financial Education, [New Years Resolution Survey 2020](#) at 16.

³ American Payroll Ass'n, press release, [Survey Finds Majority of Americans Live Paycheck to Paycheck](#) (Sept. 10, 2019) ([Survey Data](#)).

⁴ Cheryl Girling, Accounting Today, [6 Steps to Move Your AP to Electronic Payments...And New Profitability](#) (Mar. 18, 2015), (stating that electronic payments dramatically improve cash flow management).

⁵ 123 Stat. 1740 Pub. L. 111-24 (May 22, 2009).

⁶ H.R. 5244, The Credit Cardholders' Bill of Rights: Providing New Protections for consumers, hearing before the Subcommittee on Financial Institutions and Consumer Credit of the House Financial Services Committee (Apr. 17, 2008) Part IX - Related Hearings: 110th Congress: Document No. 85, at 156 (testimony of Sen. Carl Levin).

⁷ [Testimony of Travis Plunkett on behalf of the Consumer Federation of America et al. before the Banking, Housing and Urban Affairs Committee, U.S. Senate, Regarding Modernizing Consumer Protection in the Financial Regulatory System](#) at 20 (Feb. 12, 2009).

⁸ See Congressional Record at H5017 (daily ed. Apr. 30, 2009).

⁹ Congressional Record at H4966 (daily ed. Apr. 29, 2009).

¹⁰ ACI Worldwide, press release, [Americans Pay More than Half of Their Bills Online](#) (Jan. 24, 2017) (survey finds 56% of all bills are paid online; "[n]early three quarters (72%) of online bill payments are made on a billers' websites, growing 18 percent since 2010." and "Only 32 percent of bills are set up on a recurring basis and the remaining 68 percent are made as one-time payments."); Ass'n for Financial Professionals, press release, [Survey: 80% of Organizations Are Transitioning B2B Payment from Paper Check to Electronic Payments](#) (undated) (2015 survey finding "nearly 80 percent of organizations are in the process of transitioning their business-to-business payments from paper checks to electronic payments."); Girling, *supra*, (stating "One of the most significant trends in recent years has been the move from paper to electronic payments.").

¹¹ See *generally* Bd. of Governors of the Federal Reserve System, [Federal Reserve Payments Study](#).

¹² Bd. of Governors of the Federal Reserve System, [2019 Federal Reserve Payments Study](#).