

Tel No. : 2869 9228
Fax No. : 2521 7518

Memo

To : CAS(1)4
via CAS(C) *lu⁵/6*

From : SAS(C)5


Ref : CP/C 489/2001

Date : 5 June 2001

**Request for introduction of legislation
to regulate the levying of service charges by banks**

Hon Margaret NG, Hon LEUNG Yiu-chung (Duty Roster Members) and Hon Cyd HO, Hon Audrey EU (Members by invitation) interviewed on 4 June 2001 a deputation called "灣仔反對銀行濫收費用聯會" on the captioned matter. The deputation has conducted a signature campaign and collected some 1 400 signatures in support of their request.

2. The Members have asked that the request of the deputation be referred to the LegCo Panel on Financial Affairs for deliberation. I enclose a copy of the written submission presented by the deputation for your necessary follow up action. The deputation has provided a set of information about "lifeline banking" in USA mentioned in the submission. A copy of the set of information is also enclosed.


(Charles FOO)
SAS(C)5

Encls.

Memol

致各立法會議員:

反對七月銀行濫收費用 立例保障小存戶權益

立場書

近日多間銀行相繼向小存戶收取服務費及漠視無法使用自動櫃員機的弱勢社群的利益，而金融管理局又漠視我們的要求，拒絕干預銀行收費，我們感到非常不滿，希望各位議員能替小存戶出頭，立例保障大眾有免費的基本銀行服務。

我們反對銀行向小存戶設最低限額，認錢不認人的做法；小存戶被迫凍結銀行存款以避收取服務費，但對於一群低收入及領取綜援人士根本無法累積一筆數千元的存款；更甚他們因為要被硬性規定以某銀行交學費及收取贍養費，他們根本無選擇銀行的機會。

另一方面，銀行家漠視無法使用自動櫃員機的弱勢社群，例如：低學歷、長者、失明人士、行動緩慢、不能記密碼的人士；他們根本無信心使用，而是非他們不肯學習新事物。

此外，我們亦對於金融管理局就銀行收費作出的回應非常不滿，他以商業決定為藉口，完全否定銀行擁有公營服務的特質，替銀行業推卸應付的社會責任。還有，只會在市民失去基本銀行服務時才考慮干預行動，完全漠視收費的急切性。

因此我們希望各位立法會議員參考美國立例保障所有市民享有基本銀行服務(LIFELINE BANKING)的例子：

- 1) 在立法會提出議案立法保障存戶利益，保障全港市民大眾能享有免費的基本銀行服務，例如：提存及轉賬服務
- 2) 向金管局施壓，在<銀行營運守則>加上保障存戶利益的條文，避免因經濟情況而損失銀行服務，強制銀行提供免費基本銀行服務。

灣仔反對銀行濫收費用聯會

2001年6月4日

聯絡地址：灣仔石水渠街 85 號七樓轉交

September 1997

State Consumer Protection Laws Need To Be Preserved

States have historically had the authority to regulate businesses operating within their borders. States have been at the forefront of innovation in consumer protection regulation by providing basic banking and other protections for consumers. As Congress moves to expand further the powers of banks, it is essential that states have the authority to protect their residents from price gouging, unfair discrimination and lending practices, and other abusive market practices. **We urge Congress to preserve states' rights by re-establishing the principle that state consumer protection laws apply unless they are inconsistent with a clear requirement of federal law.**

ANY FINANCIAL SERVICES MODERNIZATION LEGISLATION SHOULD PRESERVE IMPORTANT STATE CONSUMER PROTECTION LAWS. THE WIDE VARIETY OF STATE CONSUMER PROTECTION LAWS INCLUDE:

- State laws that help protect vulnerable consumers from price gouging on checking accounts.

States have been at the forefront of ensuring consumers have access to basic banking and protecting consumers from exorbitant fees with lifeline banking or similar laws, including laws prohibiting the latest form of price gouging -- ATM surcharges.

There has been much debate over the last decade about the high cost of basic deposit account services. States such as New Jersey and New York have laws that require banks to offer "no frills" checking accounts at an affordable price. Similarly, Massachusetts requires banks to offer free accounts to seniors and minors.

Additionally, Connecticut and Iowa now have ATM surcharge prohibitions. Banks that own ATMs in those states can charge the consumer's bank for ATM usage, but they can't hit consumers with an additional fee at the terminal. Many other states, including Oregon, Arizona, Montana, Missouri, Pennsylvania, Texas, and Massachusetts, are considering ATM surcharge prohibitions, too.

At the very least, Congress should ensure that all banks comply with the consumer laws of the state in which they do business.

- State laws designed to protect consumers from what state legislators have decided are unfair and unconscionable lending practices.

States have also acted where Congress has failed to outlaw unfair or unconscionable lending practices by banks.

For example, California has a law that prohibits banks from hitting homeowners with prepayment penalties when they sell their home and, in the process, pay off their existing mortgage. Many other states have similar laws. Congress should preserve these laws that can save homeowners thousands of dollars.

PRESERVING STATE CONSUMER PROTECTION LAWS IS PARTICULARLY

NECESSARY BECAUSE THE OCC HAS ARGUED THAT NATIONAL BANKS CAN IGNORE SOME STATE CONSUMER PROTECTION LAWS EVEN WHEN THERE IS NO BASIS FOR THE EXEMPTION IN FEDERAL LAW

Unfortunately, in recent years the OCC has undermined state consumer protection by issuing opinion letters exempting national banks from a number of state consumer protection laws.

- **New Jersey's "lifeline banking" law:** In 1992, the OCC issued an opinion letter telling national banks that they could ignore New Jersey's "lifeline" banking law.
- **State laws prohibiting prepayment penalties:** In 1996, the OCC issued an opinion letter telling national banks that they can ignore state laws prohibiting prepayment penalties.

Something's amiss when Washington overrides the actions taken by state governments to protect their own residents. Congress needs to clarify that state consumer protection laws apply to all banks doing business in the state, unless they are inconsistent with a clear requirement of federal law.

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Basic Banking/Lifeline Accounts

- **Opening an Account:** You can open your Lifeline account with a deposit of only \$25.
- **Minimum Balance:** To keep the account open, you will need only one penny on deposit as a minimum balance.
- **Maintaining Your Account:** Your financial institution can not charge you more than \$3 per month to maintain your Lifeline account.
- **Free Withdrawals:** You can make withdrawals from your Lifeline account at least eight times per month at no charge.
- **No Monthly Minimum Deposit:** Your Lifeline Account will have no restrictions or penalties as to the minimum number of deposits you make per month.

Although these bank accounts offer significant savings to consumers, your financial institution may require you to make direct deposits of your social security, wage or pension payments. You also may be required to close any other transaction accounts.

Dear New Yorker:



If you are concerned about not being able to afford to open and maintain a bank account, you are not alone. Many consumers have encountered difficulties obtaining certain financial services because they can not meet a financial institution requirements. This is particularly troublesome in situations where, for example, seniors can not cash their social security checks because they do not have a bank account, nor can they afford the minimum obligations to open one.

Fortunately, a State law was enacted in 1994 that requires banks to offer lower cost banking services. All banking institutions in the State, including commercial banks, savings banks and credit unions, are required to offer "basic banking" accounts, commonly known as "Lifeline accounts" to any and all customers.

As the cost to maintain a checking account continues to rise and consolidation in the banking industry provides fewer choices for consumers, Lifeline Banking becomes more important than ever.

This card contains a brief description of what a Lifeline Account should provide to you. If you are having difficulty finding a banking institution that will open a Lifeline account, I encourage you to contact my office by calling my consumer help line at (800) 771-7755.

NYC Consumer Affairs

The Basics about "Lifeline" Basic Banking



HOW DOES A CONSUMER OPEN A BASIC BANKING ACCOUNT ?

A banking institution may require a consumer to meet the following conditions for opening and maintaining a Basic Banking account:

- Provide it with the same information and identification required of its other consumers who apply for other types of personal transaction accounts at that banking institution.
- Be a New York State resident.
- Use "Direct Deposit" if available to the consumer for all regularly received payments such as, but not limited to, social security checks, pay checks, or pension checks.
- The Basic Banking account- must close all other transaction accounts at that and/or other banks, except for a separately identifiable burial fund account.



ARE BASIC ACCOUNT HOLDERS EVER SUBJECT TO ADDITIONAL FEES ?

Yes. Banking institutions that offer low-cost Basic Banking account can still charge consumer additional service charges and fees, including fees for "bounced checks," stopped payments" orders, and the use of electronic facilities such as Automated Tellers Machines not operated by the account holders banking institution.



CAN BANKING INSTITUTIONS OFFER DIFFERENT BASIC BANKING SERVICES ?

A banking institution may provide consumers access to alternative banking accounts or services which are at least as advantageous to consumers as a Basic Banking account.



WHAT IS THE BEST WAY FOR A CONSUMER TO FIND OUT WHICH BANKING INSTITUTIONS OFFER BASIC BANKING SERVICES ?

Visit your local community banking institutions - banks, trust companies, savings banks, savings and loan associations or credit unions - and ask if they offer Basic Banking accounts or low-cost banking services.



LIMITED INCOME DOESN'T HAVE TO MEAN LIMITED ACCESS TO BANKING

SERVICES

Take advantage of low-cost consumer banking services under the new "Lifeline" Basic Banking program. As of January 31, 1995, New York State banks which currently offer personal consumer transaction accounts must now offer consumers Basic Banking accounts featuring :

- An opening deposit of no more than \$25.00.
- A minimum balance of no more than one cent (\$.01).
- A maintenance charge not to exceed \$3 on the maximum monthly billing cycle.
- Eight (8) withdrawal transactions including checks, bank withdrawals, and withdrawals from a bank's own automated teller machine (ATM) at no additional charge to the account-holder during any one-month billing cycle.
- Unlimited deposits without incurring additional charges.

Further inquiries and questions should be directed to:

*Consumer Services Division
New York State Banking Department
2 Rector Street
New York, NY 10006*



A public education and outreach program sponsored by the
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NEW YORK CITY DEPARTMENT OF CONSUMER AFFAIRS
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香港天主教正義和平委員會

JUSTICE & PEACE COMMISSION OF THE H.K. CATHOLIC DIOCESE



香港筲箕灣西灣河大石街一號李宏基主教教友培育中心302室
Rm. 302, Bishop Peter Lei Laity Formation Centre,
1, Tai Shek Street, Sai Wan Ho, Shaukiwan, Hong Kong.
Telephone: (852) 2560-3865
Facsimile: (852) 2539-8023

香港天主教區主教委任
(Appointed by the Catholic Bishop of Hong Kong.)

柯清輝先生
匯豐銀行總經理

敬啟者：

你好！我們是一個關心香港基層人士權益的天主教機構，月前從傳媒得知，貴行爲配合今年七月全面撤銷利率協議，將會繼渣打銀行之後，實施一系列新存款利率架構及收費計劃，而其中多項新收費計劃對象更是矛頭直指小存戶。作爲香港歷史悠久，實力雄厚，並擁有四百萬存戶的銀行，貴行此舉極可能成爲商業市場上的指標，將「人」按照存款的多寡及經濟能力採取「分層利率」制，製造社會階級分化。

有不少評論認爲，取消利率協議的同時，意味著免費銀行服務的結束，是小存戶必須面對的商業現實。對於此等說法，我們實在不敢苟同。在取消利率協議之前，銀行的最大收益是來自「利率差」，偏低的存款利率與偏高的貸款利率之間的差額，已經爲銀行帶來豐厚利潤，加上貴行過去多年在香港獲享不少特權和優惠，如發鈔、政府主要戶口及基金存款、票據交收等等，成爲世界十大銀行之一，上年度的獲利更高達二百多億，在業績突出的情況下仍要以剝削窮人去保障更豐厚的商業利潤，實在有點「爲富不仁」，絕對不能縱容和鼓吹。

利率協議取消後，利率差相對減少了，從純商業角度看，以收取手續費和服務費作爲新的收入來源，本是無可厚非。不過，銀行亦有責任照顧弱勢社群的需要，包括領取綜援人士、學歷低及中、老年市民，他們對資訊科技知識貧乏，亦未必知道如何使用自動櫃員機，網上理財對他們來說可能更是遙不可及，他們只可依循以往方式在銀行櫃檯前排隊，增加服務費及扣減利息對他們無疑是雙重剝削，令其生活百上加升。

當然，在每個社會都有邊緣窮人，但目前快速的資訊發展，加上貧富不均的現象嚴重，令到這類人士有日漸增加的趨勢。香港這塊彈丸之地，低收入中年(與綜援金額相若)勞工數字接近一百三十萬，他們生活環境差，工作條件惡劣，亦構成社會現實的主要部份。因此，貴行的措施即使是商業現實，亦爲了股東的利益最大化，但亦不可不正視此社會現

實。一個充滿分化和歧視的社會，對任何一個企業及機構來說，亦不會是理想的營商環境。

我們無意要求 貴行擔任政府角色，解決社會上的矛盾，但作為央央大行，理應有社會良心，不應以歧視性措施加強對窮人的標籤。銀行既生存於社會之中，與社會發展有著密切的關係，亦應該「取之於民，用之於民」。

有見及此，我們在教會內舉辦了簽名運動，希望透過信徒的簽名，去表達我們的不滿和憤怒。目前我們已收集到三千個反對簽名，強烈要求 貴行立即收回早陣子一系列「懲罰」小存戶措施，在人人平等，以客為尊的原則下，共同維護弱勢群體的尊嚴，為社會建立良好典範。

來函亦附上我們蒐集得的簽名，懇請 貴行三思，及儘快予以改善。

祝 貴行業務蒸蒸日上！

劉建熙

主席 劉建熙
香港天主教正義和平委員會

二零零一年五月廿七日

副本交：
銀行公會
立法會
財政司



Handwritten number: 588c
Date received

為弱勢社群請命

譴責「大」銀行排斥「小」存戶

簽名運動

我們譴責「大」銀行：

- 在賺大錢時，罔顧商業家的社會責任，仍向弱勢社群（如領綜援人士）「開刀」，扣減利息及收取費用；
- 單以經濟利益考慮，忽略「以客為尊」應有的營商態度，決定向小額存戶收取「服務」費用；
- 按客戶存款數目採取「分層利率」制度，將「人」按經濟能力分「等級」，製造社會「階級」分化。

我們要求：

香港各大銀行：

- 在人人平等，尊重人性尊嚴的原則下營商，為社會建立良好典範；
- 負起社會責任，停止向弱勢小存戶收取額外「服務」費用；

金融管理局：

- 加強對銀行的監察，正視銀行濫收小存戶額外服務費用的問題，並予以遣責；

我們呼籲：

透過銀行支付薪金和收取學費的公司、機構和學校：

- 不要指定某一間銀行作薪金或學費轉帳，讓僱員及學生有更多選擇，以免他們被迫支付額外費用。

香港市民及教友：

- 以具體行動作出回應，如取消有關銀行之存款戶口；
- 為下一代貫輸正確關貧意識，及
- 共同努力維護弱勢群體的尊嚴，建立一個有愛和包容的社會。



本函編號：BI/IC

傳真及郵遞信件

香港中區皇后大道中8號
立法會大樓
立法會秘書處
傅義生先生
(傳真號碼：2521 7518)

傅先生：

要求設立機制以保障銀行客戶消費權益事宜

多謝秘書處6月7日及8日的來信。

金管局非常關注銀行調整服務收費對市民的影響，並一直密切注視事態發展。

隨著金融市場全球化，銀行業逐步開放，銀行正面對不斷加劇的競爭壓力，它們需要重新釐定其業務策略，以應付不斷轉變的市場環境。有些銀行會提高收費或實施利率分級制，有些會提供更具競爭力的定價和優質產品，以爭取較大的市場佔有率。這些都是銀行的正常商業決定，金管局不適宜干預。我們相信，在自由市場機制下，銀行之間的競爭不單能提高效率及服務質素，亦能令服務收費維持在合理水平。所以，金管局認為，鞏固市場競爭機制的有效運作是保障消費者的首要原則。

此外，要讓消費者盡得自由市場機制的好處，銀行在提供服務時，必須具備足夠透明度。我們與業內公會就《銀行營運守則》合作進行的檢討工作，快將完成。檢討工作的目的，是要加強守則內的條文，確保銀行營運手法公平及提高銀行服務和產品的透明度，從而保障消費者。我們在一月分已發出一套旨在改善卡的服務經營手法的建議。另外，因應七月撤銷利率規則的措施，我們亦於上月提前發出有關賬戶與貸款服務的條文，要求銀行在調整收費時，應透過適當的渠道，給予客戶足夠時間通知，確保客戶可在知情的情況下比較不同銀行的服務收費，以選擇最適合自己的銀行。我們預計整份新守則將於下半年發出。

金管局認同，銀行服務是市民日常生活不可缺少的部分。如有證據顯示有市民失去使用基本銀行服務的機會，金管局會考慮採取適當的措施。但我們重申，金管局無意監管銀行收費作為解決方式。事實上，低收入人士被銀行拒諸門外的問題，目前似乎並不嚴重。從銀行最近的公佈顯

示，市民大眾(包括低收入人士)仍然可享用基本銀行服務，但消費者可能需要採用某些特定的服務渠道進行交易，例如自動櫃員機或其它自動化銀行服務。在此方面，部分銀行亦表示會研究如何協助長者和有需要人士使用自動櫃員機。由此可見，市場似乎已應市民的需要，推出基本銀行服務。我們會繼續注視事態發展，與業界保持聯繫。

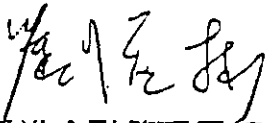
就申訴團體提出有關在美國立法推行“Lifeline Banking”的建議，據我們了解，“Lifeline Banking”的主要目的，是要鼓勵沒有機會使用銀行服務的市民(一般為低收入人士)，開設銀行戶口及使用銀行服務。事實上，美國暫時沒有制定關於“Lifeline Banking”的聯邦法例，只有個別州份立法保障消費者享有“Lifeline Banking”的機會，而每個州在執行法例上亦有所分歧。舉例說，紐約州的法例要求所有銀行提供“Lifeline”基本銀行戶口。這類戶口不設最低戶口結餘限額，而客戶每月可免費提款最少八次，但客戶每月仍需繳付戶口服務費。

金管局就保障銀行服務消費者完成的研究報告指出，英國和澳洲的銀行均自願性地提供基本銀行戶口。而兩地政府在推動這類服務時，均沒有對銀行收費作出正式監管。英國政府只為基本銀行戶口訂出一些非強制性的標準，協助消費者分辨出收費合理、使用方便和採用公平條款的銀行產品或服務，讓消費者有足夠的資料作出選擇。

與英國及澳洲的政策相若，香港政府的一般原則，是不欲立法強逼銀行為所有社群提供服務，但我們鼓勵銀行業採用自發模式提供基本銀行服務。如上文所述，我們認為市民現時仍可享用基本銀行服務。唯金管局會密切注視事態發展，並會繼續研究有關銀行服務消費者權益的事項。

此外，秘書處的來信已轉交香港銀行公會。請直接與公會聯絡或跟進。

希望以上能回應議員及申訴團體關注的事項。


香港金融管理局總裁
(劉應彬代行)

二零零一年六月二十一日

副本送：香港銀行公會