



BERMUDA

BANKS AND DEPOSIT COMPANIES (OVER-THE-LIMIT FEES AND UNAUTHORIZED OVERDRAFT FEES) REGULATIONS 2025

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The Minister of Finance, in exercise of the powers conferred by section 60 of the Banks and Deposit Companies Act 1999 and acting on the advice of the Bermuda Monetary Authority, makes the following Regulations:

Citation

1 These Regulations may be cited as the Banks and Deposit Companies (Over-the-limit Fees and Unauthorized Overdraft Fees) Regulations 2025.

Interpretation

2 In these Regulations, unless the context otherwise requires—
“Act” means the Banks and Deposit Companies Act 1999;
“institution” has the meaning given in section 2 of the Act;
“over-the-limit agreement” means an agreement entered into between an institution and a client as provided under regulation 5 for use by the client of

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certain products, services or facilities offered by the institution, which may attract over-the limit fees;

“over-the-limit fee” means, subject to regulation 3, a fee or charge levied on a client by an institution for transactions made by the client that are over an agreed limit, which occur as a result of the client’s use of credit card facilities, directly or indirectly;

“unauthorized overdraft” means a negative balance in a client’s debit account resulting from a withdrawal, transfer, or payment initiated by the client which exceeds the available balance and is not covered by any prior express overdraft agreement with the institution, but which the institution nevertheless elects to honour as provided in regulation 6, subject to the payment of an unauthorized overdraft fee;

“unauthorized overdraft fee” means a fee or charge levied by an institution on a client for transactions, including automated teller machine transactions, made by the client’s direct or indirect use of debit card facilities, which result in an unauthorized overdraft.

Over-the-limit fee where fees or interest result in exceeded credit card limit

3 An over-the-limit fee shall not be levied or charged in any case where interest or fees of any kind payable by a client result in the client exceeding the credit card limit of the client.

Timing of imposition of over-the-limit fees and unauthorized overdraft fees

4 (1) An institution shall not levy or charge a client an unauthorized overdraft fee with respect to each product, service or facility more than once per calendar month.

(2) An institution shall not levy or charge a client an over-the-limit fee for each product, service or facility more than once per—

- (a) calendar month; or
- (b) quarter, where the billing cycle is longer than 90 days.

Administration of over-the-limit fees by institutions

5 (1) An institution shall, when it has determined to enter into an over-the-limit agreement with a client in relation to the use of a service, product or facility by the client which may attract an over-the-limit fee—

- (a) set out all the terms and conditions relating to any such service, product or facility to be used by the client, under the over-the-limit agreement;
- (b) obtain written confirmation, including written confirmation by electronic means, from the client that for the duration of the over-the-limit agreement, the client—
 - (i) accepts new or recurring terms, conditions or fees that apply or may be imposed under the over-the-limit agreement after execution by the client; or

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- (ii) declines new or recurring terms, conditions or fees that apply or may be imposed under the over-the-limit agreement.

(2) Where a client declines to accept the terms, conditions or fees that apply or may be imposed under an over-the-limit agreement in accordance with paragraph (1)(b)(ii), the client must acknowledge in writing to the institution, that there will be no access to the product, service or facility set out in the over-the limit agreement, beyond the established credit limit under such agreement.

(3) Where a client fails to submit a written confirmation signifying their preference either under paragraph (1)(b)(i) or (ii), within a period of 30 days after being required by the institution to do so, the institution shall—

- (a) treat the client as having declined to enter into an over-the-limit agreement under these Regulations; and
- (b) neither provide over-the-limit access nor levy or charge any over-the-limit fees to such client.

(4) An over-the-limit agreement shall provide—

- (a) an opportunity on an annual basis, from the effective date of the agreement, for a client that has previously—
 - (i) declined terms, conditions, or fees applicable to, or imposed under an over-the-limit agreement in accordance with paragraph (1)(b)(ii), to confirm in writing that they wish to enter into an over-the-limit agreement and agree to such terms and conditions, and shall pay such applicable fees; or
 - (ii) entered into an over-the-limit agreement or any term or condition, to confirm in writing that they wish to terminate the over-the-limit agreement or end any applicable term or condition at any time before the date of termination of such agreement;
- (b) confirmation that termination of the over-the-limit agreement shall not invalidate an over-the-limit transaction made by the client prior to the termination date;
- (c) confirmation that if over-the-limit fees have been incurred by the client—
 - (i) prior to termination of the over-the-limit agreement; or
 - (ii) during the period from the notification date of termination until the date of termination,

such fees shall remain payable by the client until fully paid or the institution advises the client that such is not payable.

Administration of unauthorized overdrafts fees by institutions

6 (1) An institution may notify a client—

- (a) that the institution elects to honour a transaction of the client that results in an unauthorized overdraft on the condition that the institution may levy or charge a fee in accordance with these Regulations;

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(b) of the fee structure that shall apply to the transaction referred to in subparagraph (a); and

(c) of the terms and conditions under which the transaction referred to in subparagraph (a) may be processed.

(2) A client referred to in paragraph (1) may decline to have the institution honour any transaction that would result in an unauthorized overdraft by submitting to the institution a written confirmation, including a written confirmation by electronic means, signifying the client's preference.

(3) Where a client submits a written confirmation referred to in paragraph (2), the institution shall treat the client as having declined to have the institution honour any of the client's transactions that would result in an unauthorized overdraft and shall not levy or charge such client any unauthorized overdraft fees.

(4) Where a client submits a written confirmation referred to in paragraph (2), the institution shall request that the client provide to the institution—

(a) written confirmation that the decline by the client to accept the institution's honouring of the client's unauthorized overdraft shall not invalidate an unauthorized overdraft transaction made by the client prior to the date the client submitted the written confirmation under paragraph (2);

(b) written confirmation that if unauthorized overdraft fees have been incurred by the client prior to the date the client submitted the confirmation under paragraph (2) such fees shall remain payable by the client until fully paid or the institution advises the client that such is not payable.

(5) Where a client fails to submit a written confirmation under paragraph (2) within a period of 30 days after the notification by the institution under paragraph (1), the institution shall—

(a) treat such client as having declined to accept the institution's honouring of the client's unauthorized overdrafts; and

(b) neither provide unauthorized overdraft access nor levy or charge any unauthorized overdraft fees with respect to such client.

(6) Each institution shall, for the purposes of unauthorised overdrafts, provide an opportunity on an annual basis, from the date of the notification under paragraph (1), for a client that has previously—

(a) declined to accept the institution's honouring of the client's unauthorized overdrafts to confirm in writing that they wish to accept the institution's honouring of the client's unauthorized overdrafts and shall pay the applicable fee and comply with the unauthorized overdraft terms and conditions; or

(b) accepted the institution's honouring of the client's unauthorized overdrafts, to confirm in writing that they wish to terminate the institution's honouring of the client's unauthorized overdrafts at any time before the date of termination of the institution's honouring of the client's unauthorized overdrafts.

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Offence

7 An institution that fails to comply with the requirements of these Regulations commits an offence and shall, with respect to each instance of such failure, be liable on summary conviction to a fine of \$10, 000.

Transitional

8 Regulations 5 and 6 of these Regulations shall come into effect six months after the coming into effect of these Regulations.

Made this 24th day of September 2025

Minister of Finance

[Operative Date: 25 September 2025]