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## Prepared Remarks of CFPB Deputy Enforcement Director Cara Petersen on the Regions Bank Enforcement Action Press Call

BY CARA PETERSEN

Today the Consumer Financial Protection Bureau is taking its first enforcement action under the federal rules that protect consumers against illegal overdraft fees by their banks. We are taking action against Alabama-based Regions Bank for failing to ask consumers if they wanted overdraft service before charging them fees for this service. Regions amplified this harm by letting it drag on for almost an additional year after the bank first discovered the violation. The bank also charged overdraft and non-sufficient funds fees on its deposit advance product despite claims that it would not do so. In the end, hundreds of thousands of consumers paid at least \$49 million in illegal charges.

The 2010 Federal Reserve overdraft “opt-in” rule is critically important. It prohibits depository institutions from charging an overdraft fee for ATM withdrawals and one-time debit card transactions unless the consumer has affirmatively “opted in.” The opt-in permission means that if consumers overspend their balance while using their debit card to make a purchase or withdraw cash from an ATM, the bank will cover the shortage with a temporary advance, in exchange for a fee. If consumers do not opt in, transactions are generally declined, with no fee.

When the rule was first implemented, Regions Bank did not apply it to situations when consumers had one Regions account linked to a second Regions account, such as a savings account or a line of credit. If a consumer exhausted their funds in their checking account, the bank would automatically dip into the second account or line of credit. But in circumstances where the combined balance in both the checking account and linked account was not enough to cover the transaction, Regions would sometimes pay the transaction through its overdraft service and charge an overdraft fee of up to \$36. Yet Regions failed to obtain consumer consent from many of these customers for this overdraft service. This failure to get the required consumer permissions resulted in customers paying tens of millions of dollars in illegal overdraft fees.

To compound the problem, Regions Bank identified the violation but failed to channel that information to senior decision makers. The result was that the bank continued to charge consumers incorrectly for almost a year after it discovered the problem.

Regions also had a deposit advance product, called Regions Ready Advance, which led to a second violation. Deposit advance products are like payday loans; they typically are sold as a way to bridge a cash-flow shortage between paychecks or other income. Generally these loans are for small-dollar amounts and borrowers must repay them quickly by giving lenders access to their deposit accounts.



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Regions said it would not charge overdraft or non-sufficient funds fees when its customers made repayments on its Ready Advance loans. But the bank did, in fact, assess such fees in instances where it collected payment from the consumer's checking account and caused the balance to drop below zero. Charging such fees in addition to collecting its payments was contrary to its description of how these loans worked. At various times from November 2011 until August 2013, the company charged non-sufficient funds fees and overdraft charges of nearly \$2 million to tens of thousands of its deposit advance customers.

Regions has already refunded \$49 million to consumers. Today's order requires Regions Bank to ensure that all remaining customers get their money back if they were wrongfully charged fees. The bank also must pay a fine of \$7.5 million for the violations. And, it is worth noting, Regions' conduct would have warranted an even stiffer penalty if it had not voluntarily refunded consumers and promptly self-reported this problem to the Bureau once it was brought to the attention of senior management. Any consumers who had their credit harmed as a result of the violations will also get their credit records straightened out.

At the Consumer Bureau, we take the issue of overdraft fees very seriously. In its original form, overdraft began as an occasional courtesy service for checks that would otherwise have been returned, but it has evolved over the years. By the time the opt-in rule was adopted in 2010, if a consumer overdrew his account, banks and credit unions often would cover the difference and generally charge a fee for that service. With the advent of debit cards, consumers started to use them instead of cash for more of their small or impulse purchases. And as banks and credit unions came to cover more of these transactions, they started assessing higher fees for doing so. Accordingly, overdraft started to become a significant source of the revenue generated from checking accounts. Today, even with the opt-in rule in place, more than half of consumer checking account income comes from overdraft and similar fees.

Opting consumers into overdraft without their permission can be very expensive. In July 2014, the CFPB released its second report on overdraft that raised concerns about how consumers are being affected by overdraft practices. It confirmed that overdraft fees can pile up quickly on smaller debit card purchases, often for less than \$24, such as buying a quick meal or perhaps an impulse purchase at the mall. The study also found that, on average, opted-in accounts pay almost \$260 per year in overdraft and non-sufficient funds fees, compared to just over \$35 for non-opted-in accounts.

The 2010 opt-in rule made clear that consumer protection in this area is critical. That Regions Bank violated the law raises definite concerns worthy of note by all depository institutions. And their customers should rest assured that the Consumer Bureau is here to protect them when it comes to the hard-earned money they keep in their checking accounts. Thank you.

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*The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit [consumerfinance.gov](http://consumerfinance.gov).*

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