



**FOR IMMEDIATE RELEASE:**

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**CONSUMER FINANCIAL PROTECTION BUREAU ORDERS SANTANDER BANK  
TO PAY \$10 MILLION FINE FOR ILLEGAL OVERDRAFT PRACTICES**

Bank Deceptively Marketed Its Overdraft Service to Consumers, Violated “Opt-in” Rule

**WASHINGTON, D.C.** — The Consumer Financial Protection Bureau (CFPB) has ordered Santander Bank, N.A. to pay a \$10 million fine for illegal overdraft service practices. Santander’s telemarketing vendor deceptively marketed the overdraft service and signed certain bank customers up for the service without their consent. In addition to paying the civil money penalty to the CFPB, Santander Bank must go back and give consumers the opportunity to provide their affirmative consent to overdraft service, not use a vendor to telemarket its overdraft service, and it must increase oversight of vendors it uses to telemarket consumer financial products or services.

“Santander tricked consumers into signing up for an overdraft service they didn’t want and charged them fees,” said CFPB Director Richard Cordray. “Santander’s telemarketer used deceptive sales pitches to mislead customers into enrolling in overdraft service. We will put a stop to any such unlawful practices that harm consumers.”

Santander is a national bank based in Wilmington, Del. Santander Bank operates a network of nearly 700 retail branch offices in Connecticut, Delaware, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, and Rhode Island. Santander offers overdraft service with its checking accounts. An overdraft can occur when consumers spend or withdraw more money from their checking accounts than is available.

From 2010 to 2014, Santander marketed and enrolled consumers in its “Account Protector” overdraft service for ATM and one-time debit card transactions, and charged consumers \$35 per overdraft. Santander used a telemarketer to call consumers to persuade them to opt in to the overdraft service and rewarded the telemarketer with a higher hourly rate when it hit specified sales targets.

In 2010, federal rules took effect prohibiting banks and credit unions from charging overdraft fees on ATM and one-time debit card transactions unless consumers affirmatively opt in. If consumers don’t opt in, banks may decline the transactions because of insufficient or unavailable funds, and can’t charge an overdraft fee.

The Bureau found that Santander marketed its overdraft service deceptively during

telemarketing calls and enrolled consumers in overdraft service without their consent in violation of the opt-in rule. For example, during numerous telemarketing calls, call representatives did not ask the consumers if they wanted to opt in but enrolled them anyway. The Bureau found Santander Bank's illegal and improper practices included:

- **Signing consumers up for overdraft service without their consent:** In some instances, Santander's telemarketer briefly described Account Protector to consumers, then asked for the last four digits of their Social Security numbers, and enrolled them without their consent. In other instances, consumers said they did not want to enroll but requested information about the overdraft service, but the telemarketer enrolled them anyway. When Santander charged those consumers overdraft fees on ATM and one-time debit card transactions, it violated the opt-in rule.
- **Deceiving consumers that overdraft service was free:** Call representatives led consumers to believe that Account Protector was free, when in fact it could potentially cost them hundreds of dollars in fees. Some call representatives falsely suggested that consumers would not be charged a fee if they brought their account current within five business days of an overdraft. Other representatives implied that consumers would be charged fees only for emergency transactions, and that non-emergency purchases would not result in fees.
- **Deceiving consumers about the fees they would face if they did not opt in:** In some instances, call representatives told consumers the bank would charge overdraft fees on ATM and one-time debit card transactions regardless of whether they signed up for Account Protector. In fact, Santander could not charge those fees without the consumer's consent. Some representatives even told consumers that they risked being charged additional fees if they did not sign up for Account Protector, when in fact the opposite was true.
- **Falsely claiming the call was not a sales pitch:** Call representatives falsely told consumers that "this is not a sales call" and that the reason for the call was that the bank had recently changed its name. In fact, the purpose of the call was to sell Account Protector, and Santander's name change was irrelevant.
- **Failing to stop its telemarketer's deceptive tactics:** Santander offered the telemarketer financial incentives to hit certain sales targets. Santander then failed to identify and stop the deceptive and other improper tactics that its telemarketer used to achieve those sales targets.

### **Enforcement Action**

Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, the CFPB has the authority to take action against institutions engaging in unfair, deceptive, or abusive practices, or other violations of federal consumer financial law. Santander Bank violated the Electronic Fund Transfer Act and the Dodd-Frank Act. The CFPB's order requires that Santander Bank:

- **Validate all opt-ins associated with the telemarketer:** Santander will contact all consumers who were enrolled in Account Protector through the bank's telemarketer, and ask them whether they wish to be opted in. Santander will not

be able to charge those consumers overdraft fees unless they affirmatively consent to opting in.

- **Not use a vendor to telemarket overdraft service:** Santander is prohibited from using a vendor to conduct outbound telemarketing of overdraft service to consumers. Santander also may not require its employees to generate a target number of opt-ins or provide its employees with financial incentives in connection with opt-ins.
- **Increase oversight of all third-party telemarketers:** Santander will develop and implement a new or revised policy governing vendor management for service providers engaged in telemarketing of consumer financial products or services.
- **Pay a \$10 million penalty:** Santander will make a \$10 million penalty payment to the CFPB's Civil Penalty Fund.

**The full text of the CFPB's consent order is available at:**

**[http://files.consumerfinance.gov/f/documents/20160714\\_cfpb\\_Consent\\_Order.pdf](http://files.consumerfinance.gov/f/documents/20160714_cfpb_Consent_Order.pdf)**

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