

APR 28 2015

# CFPB Fines Regions Bank \$7.5 Million for Unlawful Overdraft Practices

## *Bank Refunds \$49 Million in Illegal Fees to Consumers Who Did Not Opt-In to Overdraft*

WASHINGTON, D.C. – Today the Consumer Financial Protection Bureau (CFPB) took action against Regions Bank for charging overdraft fees to consumers who had not opted-in for overdraft coverage. The bank also charged overdraft and non-sufficient funds fees on its deposit advance product despite claims that it would not. Regions has already refunded hundreds of thousands of consumers approximately \$49 million in fees, and the consent order requires the bank to fully refund all remaining consumers. The Bureau also fined the company \$7.5 million for its illegal actions.

“Today the CFPB is taking its first enforcement action under the rules that protect consumers against illegal overdraft fees by their banks,” said CFPB Director Richard Cordray. “Regions Bank failed to ask consumers if they wanted overdraft service before charging them fees. In the end, hundreds of thousands of consumers paid at least \$49 million in illegal charges. We take the issue of overdraft fees very seriously and will be vigilant about making sure that consumers receive the protections they deserve.”

Regions Bank, headquartered in Birmingham, Alabama, operates approximately 1,700 retail branches and 2,000 ATMs across 16 states. It is one of the country’s biggest banks with more than \$119 billion in assets. Among its various products and services, it has checking accounts and offers loans known as deposit advance products. With deposit advance products, the borrower authorizes the bank to claim repayment as soon as the next qualifying electronic deposit is received.

Regions offers overdraft services with its checking accounts. An overdraft can occur when consumers spend or withdraw more money from their checking accounts than is available. The financial institution can choose to cover the payment by advancing funds on the consumer’s behalf, and generally charges a fixed overdraft fee for doing so. The institution can also choose to return the payment if it is a check, online bill payment, or direct debit, and then charge a non-sufficient funds fee. In recent years, most banks have adopted automated systems for making these decisions. These systems have contributed to the evolution of overdraft from an occasional courtesy to a significant source of industry revenues.

In 2010, federal rules took effect that prohibited banks and credit unions from charging overdraft fees on ATM and one-time debit card transactions unless consumers affirmatively opted in. If consumers don’t opt-in, banks may decline the transaction, but won’t charge a fee. The “opt-in” rule took effect in July 2010 for new accounts and August 2010 for existing accounts.

The Bureau found that Regions Bank:

- **Failed to obtain required opt-ins for certain consumers:** Regions allowed consumers to link their checking accounts to savings accounts or lines of credit. Once that link was established, funds from the linked account would automatically be transferred to cover a shortage in a consumer’s checking

account. Regions never provided customers with linked accounts an opportunity to opt in for overdraft. Because those consumers had not opted in, Regions could have simply declined ATM or one-time debit card transactions that exceeded the available balance in both the checking and linked accounts. Instead, the bank paid those transactions then charged its customers a fee of up to \$36. Those fees violated the opt-in rule.

- **Delayed fixing the violation until almost a year after discovering it:** Thirteen months after the opt-in rule's mandatory compliance date, an internal review by the bank found that linked-account overdraft fees violated the rule. But Regions failed to stop the charges for almost another year. It was not until April 2012 that the compliance department brought the violation to the attention of senior executives, who then reported the error to the Bureau. Regions reprogrammed its systems to stop charging the unauthorized fees in June 2012. In early 2015, the bank discovered additional accounts that had been charged unauthorized fees.
- **Misrepresented overdraft and non-sufficient funds fees related to its deposit advance product:** Regions charged overdraft and non-sufficient funds fees with its deposit advance product, called Regions Ready Advance, despite claiming it would not. Specifically, if the bank collected payment from the consumer's checking account and the payment was higher than the amount available in the account, it would cause the consumer's balance to drop below zero. When that happened, the bank would either cover the transaction and charge an overdraft fee or reject its own transaction and charge a non-sufficient funds fee. At various times from November 2011 until August 2013, the bank charged non-sufficient funds fees and overdraft charges of about \$1.9 million to more than 36,000 customers.

## Enforcement Action

Under the Dodd-Frank Act, the CFPB has the authority to take action against institutions violating federal consumer financial laws, including by engaging in unfair, deceptive, or abusive acts or practices. Regions Bank violated the Electronic Fund Transfer Act and the Consumer Financial Protection Act of 2010. The CFPB's order requires that Regions Bank:

- **Provide refunds to all remaining affected consumers:** Regions Bank voluntarily reimbursed approximately 200,000 consumers a total of nearly \$35 million in December 2012 for the illegal overdraft fees. After the Bureau alerted the bank to more affected consumers, Regions returned an additional \$12.8 million in December 2013. In January 2015, the bank identified even more affected consumers and is now required to provide them with a full refund. Under the terms of the consent order filed today, Regions must hire an independent consultant to identify all remaining consumers who were charged the illegal fees. Regions will return these fees to consumers, if not already refunded. If the consumers have a current account with the bank, they will receive a credit to their account. For closed or inactive accounts, Regions will send a check to the affected consumers.
- **Correct errors on credit reports:** Regions must identify and fix all instances of negative credit reporting resulting from the unlawful fees.
- **Pay a \$7.5 million fine:** Regions will make a \$7.5 million penalty payment to the CFPB's Civil Penalty Fund. Regions' violations and its delay in escalating them to senior executives and correcting the errors could have justified a larger penalty, but the Bureau credited Regions for making reimbursements to

consumers and promptly self-reporting these issues to the Bureau once they were brought to the attention of senior management.

**A copy of the consent order is available at:**[http://files.consumerfinance.gov/f/201504\\_cfpb\\_consent-order\\_regions-bank.pdf](http://files.consumerfinance.gov/f/201504_cfpb_consent-order_regions-bank.pdf)

**Today the CFPB also issued a consumer advisory on overdraft issues.** The advisory can be found at: [http://files.consumerfinance.gov/f/201504\\_cfpb\\_consumer-advisory\\_overdraft.pdf](http://files.consumerfinance.gov/f/201504_cfpb_consumer-advisory_overdraft.pdf)

**The CFPB's July 2014 Overdraft Data Point is available**

**at:**[http://files.consumerfinance.gov/f/201407\\_cfpb\\_report\\_data-point\\_overdrafts.pdf](http://files.consumerfinance.gov/f/201407_cfpb_report_data-point_overdrafts.pdf)

**The CFPB's Responsible Conduct Bulletin is available**

**at:**[http://files.consumerfinance.gov/f/201306\\_cfpb\\_bulletin\\_responsible-conduct.pdf](http://files.consumerfinance.gov/f/201306_cfpb_bulletin_responsible-conduct.pdf)

###

*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).*