



## LEGAL ALERT

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### Consumer Financial Protection Bureau Launches Inquiry into Overdraft Practices

The Consumer Financial Protection Bureau (the “Bureau”) has announced that it has begun an inquiry into the existing regulations and supervisory guidance issued by various regulators pertaining to the use of overdraft services by financial institutions.

The inquiry consists of a data request that is being sent to a number of banks and a Notice and Request for Information from the public, including consumers, overdraft program processors, and financial institutions. The inquiry is focused on four main areas:

- 1. Transaction Re-ordering that Increases Consumer Costs:** The Bureau is concerned that overdraft practices employed by some financial institutions increase consumer costs, including the practice of commingling of all checks, bill payments, debit card transactions, and ATM withdrawals each day and processing the largest transactions first.
- 2. Missing or Confusing Information:** The Bureau is exploring whether consumers can anticipate and avoid overdraft fees, including examining how clearly overdraft terms are disclosed and the extent to which consumers are made aware of, qualify for, and take advantage of, alternative means of covering overdraft transactions.

- 3. Misleading Marketing Materials:** The Bureau is looking into reports that consumers are receiving misleading marketing materials about overdraft services. The Bureau also seeks to understand how differences in the way institutions explain and promote overdraft services may affect opt-in rates.
- 4. Disproportionate Impact on Low-Income and Young Consumers:** The Bureau is revisiting the 2008 FDIC study that suggests that overdraft services disproportionately impact low-income and young consumers.

This inquiry is in addition to the recent changes to the regulations regarding overdraft services including the amendments to Regulation DD that require institutions to provide additional periodic statements of overdraft fees and the amendments to Regulation E that prohibit institutions from charging overdraft fees unless the consumer opts-in to the overdraft service.

Please contact any of the attorneys listed below at 717.731.1700 or by email at the following addresses for additional information or assistance.

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