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Consumer Groups Call on the Office of Comptroller of the Currency to End Abusive Overdraft Practices

Washington, DC – The Consumer Federation of America, the National Consumer Law Center (on behalf of its low-income clients), the Center for Responsible Lending, Consumers Union, Consumer Action, National Association of Consumer Advocates and U.S. Public Interest Research Group have sent a [letter](#) to Acting Comptroller of the Currency John Walsh, urging the Office of Comptroller of the Currency (OCC) to adopt stricter guidance that requires banks to use fair overdraft practices and fully inform consumers.

The nation's largest banks charge customers overdraft fees averaging \$35 per transaction, often adding up to hundreds of dollars per day. The most common triggers of overdraft fees are small debit card transactions—which cost the consumer nothing when they are simply denied due to lack of funds.

Over the summer, a new Federal Reserve rule went into effect requiring banks to get consumers' consent or "opt-in" to pay overdraft fees for debit card single purchase and ATM overdrafts. But because the Fed did not address the size or frequency of overdraft fees, banks still have strong incentives to push customers to opt in, and then continue to barrage them with fees.

Banks are sending letters to consumers trying to persuade them to opt into paying steep fees for overdrafts, saying that they may need this service in an emergency, when, in fact, banks typically carry a far lower-cost option – an overdraft line of credit – and many also offer transfers from savings accounts or credit cards, which are also usually less expensive. But banks obscure these lower cost options.

"The FDIC and Office of Thrift Supervision have already proposed strengthening overdraft guidelines for the banks they oversee. Now it is time for the OCC to take action," said Rebecca Borne, Center for Responsible Lending. "The OCC should prohibit banks from steering customers into the highest cost overdraft option. Banks should be required to evaluate any customer who wants overdraft coverage to determine whether the consumer qualifies for a lower-cost overdraft option."

"The largest banks typically rearrange and process payments largest first, which significantly increases fees for low-balance customers by causing multiple fees when a single large payment exhausts available funds," said Lauren Saunders, National Consumer Law Center. "The OCC should make it clear to banks that they should not post transactions in an order that maximizes fees."

"The OCC's recent \$33 million enforcement action involving Woodforest National Bank illustrates the need for the OCC to address excessive overdraft fees across the board," said Jean Ann Fox, Consumer Federation of America. "Woodforest Bank's practices do not appear to be atypical. The OCC should also limit

the number of overdraft fees to six per year, consistent with the FDIC's recent proposal recognizing that charging more than six fees per year constitutes excessive use."

"During the past few months, it appears that a number of banks have been pressuring consumers or asking them repeatedly to opt in to overdraft coverage," said Lauren Bowne, Consumers Union. "The OCC should prohibit the banks it supervises from repeatedly asking consumers to opt in. If a consumer declines to opt in or to provide an answer, the bank should be required to assume that the consumer does not wish to opt in and not solicit the consumer again."

"Consumers must be given information about the comparative cost of each alternative in order to make a truly informed and meaningful choice, including a sample APR disclosure to compare fee-based overdraft loans with a traditional overdraft line of credit or transfer from a credit card," said Linda Sherry, Consumer Action. "Every opt-in form should prominently display that the cost of not opting in to ATM and one-time debit card overdraft coverage is \$0. Consumers should get a clear and prominent message that declining to opt in means they will never incur any overdraft fees for ATM and single debit card transactions."

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