



Enforcement Alert from Hudson Cook; CFPB Orders Regional Bank to Pay \$6.2 Million Related to Checking Account Overdraft Fees

December 8, 2023 | [Mark E. Rooney](#) and [Gabriela Chambi](#)

HIGHLIGHTS:

- The CFPB announced a consent order requiring a regional bank to pay \$5 million in consumer redress and a \$1.2 million civil penalty for allegedly enrolling consumers in the bank's checking account overdraft programs without proper consent or proper disclosures.
- The CFPB said the practices violate the Electronic Fund Transfer Act, Regulation E, and the Consumer Financial Protection Act's prohibition on deceptive practices but the bank neither admitted nor denied the allegations in consenting to the fine and other remedial measures.

CASE SUMMARY:

On December 7, 2023, the CFPB issued an order against a regional bank in Richmond, Virginia. The consent order alleges that the bank charged consumers overdraft fees without getting the proper consent and misled its customers about the terms and costs of the bank's overdraft programs in violation of the Consumer Financial Protection Act, the Electronic Fund Transfer Act, and Regulation E.

Specifically, the CFPB alleged that (i) the bank obtained some consumers' oral consent to overdraft fees without first providing them written disclosures as required under Reg E; and (ii) bank employees in communications with consumers omitted key information about the costs of the overdraft services and provided inflated descriptions of the services' benefits. The consent order bars the bank from engaging in similar conduct in the future, requires implementation of a new compliance plan, and orders the payment of \$5 million in consumer redress plus a \$1.2 million penalty.

The CFPB considers this enforcement action part of its ongoing effort against so-called "junk fees." It is at least the second enforcement action in just over a year centered on bank overdraft practices. A September 2022 consent order (described in a [Hudson Cook Enforcement Alert here](#)) involved "surprise overdraft fees" and resulted in \$141 million in consumer redress and a \$50 million penalty.

RESOURCES:

You can review all of the relevant filings and press releases at the [CFPB's Enforcement page](#).

- [Stipulation](#)
- [Consent Order](#)
- [CFPB Press Release](#)

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