[Date]

Honorable Rohit Chopra, Director

Consumer Financial Protection Bureau

1700 G St. NW

Washington, DC 20552

**RE: Overdraft Lending: Very Large Financial Institutions Docket No. CFPB-2024-0002**

Dear Director Chopra:

As credit union leaders, we are writing in response to the notice of proposed rulemaking issued by the Consumer Financial Protection Bureau (CFPB) regarding its efforts to limit overdraft fees for very large financial institutions (an insured depository institution or an insured credit union that has total assets of more than $10 billion). We have several concerns with this proposed rule and would like to respectfully provide the following comments for your consideration. Specifically, we kindly ask that the CFPB study how the proposed rule would: 1) impact of availability of overdraft services across the credit union industry; 2) impact of the proposed rule on institutions below $10 billion in assets; 3) affect access to overdraft services among low- and moderate-income households.

Credit unions are proud of our mission of “people helping people” and promoting financial wellbeing for all. Concerns about the proposed rule stem from feedback from credit union members about the benefits of overdraft services. Open communications and relationship banking are a hallmark of credit union services. Attached to this letter are stories from credit union members expressing their support for the overdraft services they choose to participate in.

**Specific Comments Pertaining to the Proposed Rule:**

The CFPB contends that consumers will significantly benefit from this proposed rule; however, evidence suggests otherwise, as consumers actively choose to enroll in overdraft programs even after receiving comprehensive, transparent written meaningful disclosures of the program. Additionally, contrary to the CFPB's portrayal, overdraft fees are not deemed unfair or deceptive, nor should they be labeled as "junk fees."

Credit unions offer overdraft services that are reasonable and disclosed to consumers. In addition, per Regulation E 12 CFR 1005.17, overdraft services are opt-in and disclosures are outlined in writing. Overdraft services are also disclosed up front before enrolling in the service or before the credit union member opts to make changes to the service. Credit unions are required to disclose this information per Truth in Savings Act Regulations,12 CFR 707.11.

***Consumers understand the benefit and value of overdraft.***

As indicated above, consumers anticipate these fees, as they voluntarily participate in overdraft protection with clear meaningful disclosures and the option to opt out at any time. Before opting for overdraft protection, credit unions encourage our members to carefully review the terms and conditions associated with the service. This includes understanding the overdraft fees charged by the credit union, any limits on overdraft amounts, and how overdraft transactions are processed. In addition, it is common practice for credit unions to reach out to consumers who overdraft frequently.

***We urge the CFPB to carefully consider the potential unintended consequences of the proposed changes – particularly for consumers of moderate means.***

For many of our members, overdraft protection is not just a convenience but a lifeline, especially for those with low to moderate means or a low credit score. It serves as a crucial emergency safety net, allowing them to cover essential expenses like groceries, gas, utilities, and housing payments. Without overdraft protection, failing to cover these transactions could result in severe consequences such as eviction or force members into seeking more expensive alternatives, such as predatory lenders.

Furthermore, restricting access to overdraft protection could force credit unions into a difficult position. If finalized as proposed, a credit union, especially those under the $10 billion threshold, might have to either accept higher risks associated with unchecked overdraft behaviors or eliminate these services altogether.

Credit unions may experience “safety and soundness” challenges during exam periods with the National Credit Union Administration if they lower overdraft fees to offer a competitive service. Therefore, the CFPB's proposal to restrict overdraft fees could lead to reduced access to financial services and increased costs for basic necessities, disproportionately impacting financially vulnerable consumers. Such a move contradicts the objectives of promoting access and inclusion in financial services that regulators, including the CFPB, strive to achieve.

***The proposal does not consider key administrative costs.***

Credit unions are not-for-profit organizations owned by their members, who are also their customers. Any profits generated by our credit union are returned to our members in the form of lower fees, higher interest rates on savings, or better services. The proposal overlooks the actual administrative costs involved in covering overdrafts and monitoring repayment processes. There are significant expenses associated with opening and servicing accounts in a compliant manner. This includes implementing and maintaining the technological infrastructure necessary to manage our overdraft protection program, as well as analyzing usage patterns, evaluating the impact on our members, and carefully assessing and managing our risks to protect both their own financial stability and the interests of their members.

***Outreach to our members is important.***

In the interest of protecting our members, credit unions have implemented positive, proactive measures that expand choices, strengthen transparency, and increase affordability for our members. Across the credit union industry, many credit unions have taken steps to: (1) reduce fees overall, (2) reduce fees on small transactions, (3) eliminate or reduce fees on transactions resulting in small negative balances, (4) eliminate transfer fees, (5) automate the fee waiver process; and/or or (6) cap the number of instances certain fees can be charged per day or another specified period.

Furthermore, credit unions are focused on assisting credit union members that frequently incur overdraft fees. When a credit union becomes aware of a member’s frequent overdraft usage, the credit union may attempt to contact the member to address their financial situation and offer financial education and/or alternative credit products tailored to their unique needs. This proactive approach exemplifies the pro-consumer nature of the credit union-member relationship, which distinguishes it within the financial services industry.

**Conclusion:**

Enclosed are 200+ stories from credit union members who opt-into and leverage overdraft services to manage their finances. As the CFPB develops regulations, consideration must be given to how consumers may be empowered to make choices that best support their personal finances.

We appreciate your consideration of our views on this critical matter. The proposed rule has the potential to undermine the vital role credit unions play in providing affordable and accessible financial solutions to our members. I urge you to consider a fair and balanced solution that addresses the unique challenges faced by credit unions in today's financial landscape.

Sincerely,

[Credit Union Name]