July 1, 2019

The Honorable Kathleen Kraninger
Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC  20552

Re: Overdraft rule review pursuant to the Regulatory Flexibility Act, Docket No. CFPB-2019-0023

Dear Director Kraninger:

Prosperity Now is writing to urge the Consumer Financial Protection Bureau (CFPB) to preserve the 2009 Regulation E overdraft “opt-in” rule under the Regulatory Flexibility Act (RFA) that is currently under review. If anything, the rule should be made stronger, not weakened.

Prosperity Now is a national nonprofit organization based in Washington, DC that works to expand economic opportunity for millions of people, especially people of color and those of limited incomes, to achieve financial security, stability and, ultimately, prosperity. We offer a unique combination of scalable practical solutions, in depth research and proven policy solutions, all aimed at building wealth for those who need it most.

Consumers pay $15 billion annually in overdraft-related fees, and the CFPB’s own research indicates that low-income households who are least able to afford these fees pay a disproportionate share. Indeed, the Bureau finds that approximately 80% of overdraft fees are charged to those with a median account balance of less than $350. One overdraft fee often leads to a series of additional fees, which puts a great deal of strain on household financial health, especially for the most vulnerable consumers.

Overdrafts are also responsible for more bank account closures than any other financial product or service, which is particularly problematic for communities of color, who are more than four times as likely to be unbanked than White households. Those who are locked out of mainstream banking are more likely to seek out high-cost alternative financial services, such as check cashers and payday loans, to carry out every day financial transactions. When broken out by race, these payday customers are twice as likely to be consumers of color.

Each year, these services drain billions of dollars of wealth from working families. In fact, in 2017 alone, underserved consumers—including those unbanked and underbanked—spent $173 billion in fees and interest to use alternative financial services. At a time when nearly 20% of the country has a zero or negative net worth, and communities of color are finding themselves owning just fifteen cents in wealth for every dollar in wealth owned by White households, the Bureau should be working to help our most vulnerable build and protect their wealth, rather than allowing financial institutions to pocket what little resources these families have.
Consumers themselves would like to have the option to avoid overdraft fees. Evidence indicates that people would rather skip a transaction than be charged overdraft fees on debit card transactions. In fact, the “opt-in” rule was enacted to address these preferences. Given this, weakening the rule is not only bad for household financial security, it also undermines consumer choice.

Finally, we think smaller banking institutions should not be treated differently than larger ones. The financial harm from overdraft fees happens whether the banking institution charging the overdraft fees is small or large, and changing the rules for smaller entities could negatively impact their reputation as a safe place to do business.

To help working families build a more secure financial future, Prosperity Now is asking the CFPB not to weaken the 2009 overdraft “opt-in” rule. In fact, the Bureau should be finding ways to make the rule stronger rather than watering it down. Thank you for consideration of our comments.

Sincerely,

David Newville
Vice President, Policy & Research
Prosperity Now

---

7 Overdraft Fees and Opting In: A Survey of Consumer Preferences (Washington, DC: Center for Responsible Lending)