

## If You Paid Overdraft Fees to U.S. Bank, You May be Eligible for a Payment from a Class Action Settlement.

*A federal court authorized this notice. This is not a solicitation from a lawyer.*

- A \$55 million Settlement has been reached in several class action lawsuits about the order in which U.S. Bank National Association (“U.S. Bank”) posted debit card transactions to consumer deposit accounts, and the effect the posting order had on the number of overdraft fees the bank charged its account holders. U.S. Bank maintains there was nothing wrong about the posting process used. The Court has not decided which side is right.
- Current and former holders of U.S. Bank consumer deposit accounts may be eligible for a payment from the Settlement Fund.
- The Settlement offers payments to current and former U.S. Bank customers who paid overdraft fees as a result of U.S. Bank posting debit card transactions in order from highest to lowest dollar amount during the Class Period applicable to the states in which customers opened their U.S. Bank deposit accounts.
- Your legal rights are affected whether you act or don’t act. Please read this notice carefully.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
<b>GET A PAYMENT AUTOMATICALLY</b>	If you are eligible for a payment based on overdraft fees charged during the applicable Class Period, you do not have to do anything to receive a payment. Your payment will be made automatically by either mailed check or electronic payment to your U.S. Bank account if the Court approves the Settlement and it becomes final.
<b>EXCLUDE YOURSELF</b>	Get no benefits from the Settlement. This is the only option that allows you to participate in any other lawsuit against U.S. Bank about the claims in this case.
<b>OBJECT</b>	Write to the Court if you don’t like the Settlement.
<b>GO TO A HEARING</b>	Ask to speak in Court about the fairness of the Settlement.
<b>DO NOTHING</b>	You will still receive any automatic payment to which you are entitled, and you will give up your right to participate in further litigation against U.S. Bank about the claims in this case.

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. If it does, and any appeals are resolved, benefits will be distributed to those who qualify. Please be patient.

## What This Notice Contains

<b>BASIC INFORMATION .....</b>	<b>3</b>
1. Why is there a notice?	
2. What is this litigation about?	
3. What is an overdraft fee?	
4. Why is this a class action?	
5. Why is there a Settlement?	
<b>WHO IS PART OF THE SETTLEMENT? .....</b>	<b>4</b>
6. Who is included in the Settlement?	
7. What if I am not sure whether I am included in the Settlement?	
<b>THE SETTLEMENT BENEFITS.....</b>	<b>4</b>
8. What does the Settlement provide?	
9. How much will my payment be?	
10. When will I receive my payment?	
11. What am I giving up to stay in the Settlement Class?	
<b>HOW TO RECEIVE A PAYMENT .....</b>	<b>5</b>
12. How can I receive a payment?	
<b>EXCLUDING YOURSELF FROM THE SETTLEMENT .....</b>	<b>6</b>
13. How do I get out of the Settlement?	
14. If I do not exclude myself, can I sue U.S. Bank for the same thing later?	
15. If I exclude myself, can I still get a payment?	
<b>THE LAWYERS REPRESENTING YOU .....</b>	<b>6</b>
16. Do I have a lawyer in the case?	
17. How will the lawyers be paid?	
<b>OBJECTING TO THE SETTLEMENT.....</b>	<b>7</b>
18. How do I tell the Court if I do not like the Settlement?	
19. What is the difference between objecting and asking to be excluded?	
<b>THE FINAL APPROVAL HEARING .....</b>	<b>7</b>
20. When and where will the Court decide whether to approve the Settlement?	
21. Do I have to attend the hearing?	
22. May I speak at the hearing?	
<b>GETTING MORE INFORMATION.....</b>	<b>8</b>
23. How do I get more information?	

QUESTIONS? CALL 1-888-398-8207 OR VISIT [WWW.USBANKOVERDRAFTSETTLEMENT.COM](http://WWW.USBANKOVERDRAFTSETTLEMENT.COM)

## BASIC INFORMATION

### 1. Why is there a notice?

A Court authorized this notice because you have a right to know about a proposed Settlement of these class action lawsuits and about all of your options before the Court decides whether to give final approval to the Settlement. This notice explains the lawsuits, the Settlement, and your legal rights.

Senior Judge James Lawrence King of the United States District Court for the Southern District of Florida is overseeing this case. This litigation is known as *In re: Checking Account Overdraft Litigation*, No. 1:09-md-2036-JLK. The people who sued are called the “Plaintiffs.” U.S. Bank is the “Defendant.”

### 2. What is this litigation about?

The lawsuits concern whether U.S. Bank posted debit card transactions in order from highest to lowest dollar amount to maximize the number of overdraft fees assessed to its customers. The lawsuits claim that, instead of declining transactions when an account had insufficient funds to cover a purchase, U.S. Bank authorized the transactions and then processed them in highest to lowest dollar order, which had the effect of increasing the number of overdraft fees the bank charged its customers.

The complaints in the lawsuits are posted on the website [www.USBankOverdraftSettlement.com](http://www.USBankOverdraftSettlement.com) and contain all of the allegations and claims asserted against U.S. Bank. U.S. Bank maintains there was nothing wrong about its approval of transactions or the posting process used.

### 3. What is an overdraft fee?

An overdraft fee is any fee assessed to an account when paying an item at a time the account has insufficient funds to cover the item. Fees charged to transfer balances from other accounts are excluded.

### 4. Why is this a class action?

In a class action, one or more people called “Class Representatives” (in this case, twelve U.S. Bank customers who were assessed overdraft fees) sue on behalf of themselves and other people with similar claims. Together, all the people with similar claims (except those who exclude themselves) are members of a “Settlement Class.”

### 5. Why is there a Settlement?

The Court has not decided in favor of the Plaintiffs or U.S. Bank. Instead, both sides have agreed to a Settlement. By agreeing to the Settlement, the Parties avoid the costs and uncertainty of a trial, and Settlement Class Members receive the benefits described in this notice. The proposed Settlement does not mean that any law was broken or that U.S. Bank did anything wrong. U.S. Bank denies all legal claims in this case. Class Representatives and their lawyers think the proposed Settlement is best for everyone who is affected.

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## WHO IS PART OF THE SETTLEMENT?

If you received notice of the Settlement by a postcard addressed to you, then you are a Settlement Class Member. But even if you did not receive a postcard, you may be a Settlement Class Member, as described below.

### 6. Who is included in the Settlement?

You are a member of the Settlement Class if you:

- Had a U.S. Bank consumer deposit account that you could access with a U.S. Bank debit card during the applicable Class Period; and
- Were charged one or more overdraft fees as a result of U.S. Bank's practice of posting debit card transactions from highest to lowest dollar amount.

The applicable Class Period depends on the state where your U.S. Bank deposit account was opened:

<b>If your account was opened in...</b>	<b>The applicable Class Period is...</b>
Iowa, Illinois, Indiana, Kentucky, Montana, Ohio, or Wyoming	April 1, 2003 through August 15, 2010
Arkansas, Idaho, Kansas, Missouri, Nebraska, or Washington	October 19, 2004 through August 15, 2010
Arizona, Minnesota, North Dakota, Nevada, Oregon, South Dakota, Tennessee, Utah, or Wisconsin	October 19, 2003 through August 15, 2010
California	May 12, 2005 through August 15, 2010
Colorado	October 19, 2006 through August 15, 2010

To be included in the Class, you must have had two or more overdraft fees caused by debits posted to your account on a single day during the time period listed above.

### 7. What if I am not sure whether I am included in the Settlement?

If you are not sure whether you are in the Settlement Class, or have any other questions about the Settlement, visit the Settlement website at [www.USBANKOVERDRAFTSETTLEMENT.COM](http://www.USBANKOVERDRAFTSETTLEMENT.COM) or call the toll free number, 1-888-398-8207. You may also send questions to the Settlement Administrator at [info@usbankoverdraftsettlement.com](mailto:info@usbankoverdraftsettlement.com) or U.S. Bank Overdraft Settlement, P.O. Box 2961, Faribault, MN 55021-2961.

## THE SETTLEMENT BENEFITS

### 8. What does the Settlement provide?

If the Settlement is approved and becomes final, it will provide benefits to Settlement Class Members. U.S. Bank will pay \$55,000,000 to a Settlement Fund to make payments to eligible Settlement Class Members, as well as to pay for attorneys' fees, costs, and expenses, and special service payments to the

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twelve Class Representatives who initiated the lawsuit (*see* Question 17). U.S. Bank has agreed to pay costs associated with administering the Settlement.

#### **9. How much will my payment be?**

Any payment you are eligible to receive will be based on the number of overdraft fees charged to your U.S. Bank consumer deposit account as a result of posting debit card transactions highest to lowest during the applicable Class Period. It is not possible to know at this point how much any Settlement Class Member's payment from the Settlement will be. Only a small percentage of all overdraft fees that were charged by U.S. Bank were affected by high to low posting. So, not every overdraft fee that was charged is eligible for payment under this Settlement. Further, if your account was closed by U.S. Bank with a negative balance that was written off as uncollectible, any payment you would otherwise be eligible to receive from the Settlement will be reduced dollar-for-dollar by the dollar amount of the negative closing balance.

#### **10. When will I receive my payment?**

Settlement Class Members who are entitled to payments will receive their payments, either by electronic payment to their U.S. Bank account or by mailed check, only after the Court grants final approval to the Settlement and after any appeals are resolved (*see* "The Final Approval Hearing" below). If there are appeals, resolving them can take time. Please be patient.

#### **11. What am I giving up to stay in the Settlement Class?**

Unless you exclude yourself from the Settlement, you can't sue U.S. Bank or be part of any other lawsuit against U.S. Bank about the issues in this case. Unless you exclude yourself, all of the decisions by the Court will bind you. The Settlement Agreement is available at [www.USBankOverdraftSettlement.com](http://www.USBankOverdraftSettlement.com) and describes the claims that you give up if you remain in the Settlement.

## **HOW TO RECEIVE A PAYMENT**

#### **12. How can I receive a payment?**

Settlement Class Members who were charged overdraft fees during the applicable Class Period due to posting of debit card transactions from highest to lowest dollar amount will receive payments from the Settlement automatically, either as an electronic payment to the Settlement Class Members' U.S. Bank accounts (if the Settlement Class Member still holds the account) or in the form of a check (if the Settlement Class Member no longer holds the account). To determine the applicable Class Period for your account, see the answer to Question 6.

If you are entitled to a payment based on overdraft fees charged to your account, you do not have to do anything in order to receive that payment. As long as you do not exclude yourself from the Settlement (*see* Question 13), the payment will be made automatically, either by electronic payment to your U.S. Bank account or (if you no longer have that U.S. Bank account) by check mailed to you at the address U.S. Bank has on file. Please contact the Settlement Administrator if you change your address.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

If you don't want benefits from the Settlement, and you want to keep the right to sue U.S. Bank about the legal issues in this case, then you must take steps to get out of the Settlement. This is called excluding yourself—or it is sometimes referred to as “opting out” of the Settlement Class.

### 13. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must send a letter or other written document by mail to the Settlement Administrator. Your request must include:

- Your name, address, telephone number, and account number;
- A statement that you want to be excluded from the U.S. Bank Settlement in *In re: Checking Account Overdraft Litigation*, 1:09-md-2036-JLK; and
- Your signature.

You must mail your exclusion request, postmarked no later than **November 13, 2013**, to U.S. Bank Overdraft Settlement, P.O. Box 2961, Faribault, MN 55021-2961. You cannot ask to be excluded on the phone, by email, or at the website.

### 14. If I do not exclude myself, can I sue U.S. Bank for the same thing later?

No. Unless you exclude yourself, you give up the right to sue U.S. Bank for the claims that the Settlement resolves. You must exclude yourself from the Settlement Class in order to try to maintain your own lawsuit.

### 15. If I exclude myself, can I still get a payment?

No. You will not get a payment if you exclude yourself from the Settlement.

## THE LAWYERS REPRESENTING YOU

### 16. Do I have a lawyer in the case?

The Court has appointed a number of lawyers to represent all Settlement Class Members as “Settlement Class Counsel.” They include:

Bruce S. Rogow, Esq. BRUCE S. ROGOW, P.A. Broward Financial Center 500 East Broward Boulevard Suite 1930 Fort Lauderdale, FL 33394	Aaron S. Podhurst, Esq. PODHURST ORSECK, P.A. 25 West Flagler Street, Suite 800 Miami, FL 33130	Robert C. Gilbert, Esq. GROSSMAN ROTH, P.A. 2525 Ponce de Leon Boulevard 11th Floor Coral Gables, FL 33134
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You will not be charged for contacting these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

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**17. How will the lawyers be paid?**

Class Counsel intend to request up to 30 percent of the \$55 million Settlement Fund for attorneys’ fees, plus reimbursement of the costs and expenses of prosecuting the class action. The fees and expenses awarded by the Court will be paid out of the Settlement Fund. The Court will decide the amount of fees to award. Class Counsel will also request that special service payments of \$10,000 each, or \$5,000 each for married couples, be paid from the Settlement Fund to the twelve Class Representatives for their service as representatives in prosecuting the Action on behalf of the Settlement Class.

**OBJECTING TO THE SETTLEMENT**

**18. How do I tell the Court if I do not like the Settlement?**

If you are a member of the Settlement Class, you can object to any part of the Settlement, the Settlement as a whole, Class Counsel’s requests for fees and expenses, and/or the special service payments to the twelve Class Representatives. To object, you must submit a letter that includes the following:

- Your name, address, and telephone number;
- A statement saying that you object to the U.S. Bank Settlement in *In re: Checking Account Overdraft Litigation*, 1:09-md-2036-JLK;
- The reasons you object to the Settlement, along with any supporting materials;
- Information about other objections you or your lawyer have made in other class action cases; and
- Your signature.

The requirements to object to the Settlement are described in detail in the Settlement Agreement in paragraphs 88 and 89. You must mail your objection to each of the following three addresses, and your objection must be postmarked by **November 13, 2013**:

Clerk of the Court U.S. District Court for the Southern District of Florida James Lawrence King Federal Justice Building 99 Northeast Fourth Street Miami, FL 33132	Robert C. Gilbert, Esq. GROSSMAN ROTH, P.A. 2525 Ponce de Leon Boulevard 11th Floor Coral Gables, FL 33134	James R. McGuire, Esq. MORRISON & FOERSTER LLP 425 Market Street San Francisco, CA 94105
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**19. What is the difference between objecting and asking to be excluded?**

Objecting is simply telling the Court that you do not like something about the Settlement. You can object to the Settlement only if you do not exclude yourself. Excluding yourself is telling the Court that you do not want to be part of the Settlement. If you exclude yourself, you have no basis to object to the Settlement because it no longer affects you.

**THE FINAL APPROVAL HEARING**

The Court will hold a hearing to decide whether to approve the Settlement and any requests for fees and expenses. You may attend and you may ask to speak, but you don’t have to do so.

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## 20. When and where will the Court decide whether to approve the Settlement?

The Court has scheduled a Final Approval Hearing on **December 18, 2013** at 11:00 a.m. in Courtroom 2 of the James Lawrence King Federal Building and United States Courthouse, 99 Northeast Fourth Street, 11th Floor, Miami, FL 33132. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check [www.USBankOverdraftSettlement.com](http://www.USBankOverdraftSettlement.com) for updates. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will also consider any request by Class Counsel for attorneys' fees and expenses. If there are objections, the Court will consider them at that time. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

## 21. Do I have to attend the hearing?

No. Class Counsel will answer questions the Court may have. But you are welcome to attend the hearing at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you submitted your written objection on time, to the proper addresses, and it complies with the other requirements described in paragraphs 88 and 89 of the Settlement Agreement, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

## 22. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must send a letter saying that you intend to appear and wish to be heard. Your Notice of Intention to Appear must include the following:

- Your name, address, and telephone number;
- A statement that this is your "Notice of Intention to Appear" at the Final Approval Hearing for the U.S. Bank Settlement in *In Re: Checking Account Overdraft Litigation*, 1:09-md-02036-JLK;
- The reasons you want to be heard;
- Copies of any papers, exhibits, or other evidence or information that you will present to the Court; and
- Your signature.

You must send copies of your Notice of Intention to Appear, postmarked by **November 13, 2013**, to all three addresses listed in Question 18. You cannot speak at the hearing if you exclude yourself from the Settlement.

## GETTING MORE INFORMATION

## 23. How do I get more information?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. For a complete, definitive statement of the Settlement terms, refer to the Settlement Agreement at [www.USBankOverdraftSettlement.com](http://www.USBankOverdraftSettlement.com). You also may write with questions to the Settlement Administrator at [info@usbankoverdraftsettlement.com](mailto:info@usbankoverdraftsettlement.com) or U.S. Bank Overdraft Settlement, P.O. Box 2961, Faribault, MN 55021-2961 or call the toll-free number, 1-888-398-8207.

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