

## **If You Paid Overdraft Fees to Bank of America, 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 \$410 million Settlement has been reached in a class action lawsuit about the order in which Bank of America, N.A. (“Bank of America”) posted debit card transactions to customer accounts, and the effect the posting order had on the number of overdraft fees the bank charged its account holders. Bank of America maintains there was nothing wrong about the posting process used.
- Current and former holders of Bank of America consumer checking and/or savings accounts may be eligible for a payment or account credit from the Settlement Fund.
- Your legal rights are affected whether you act or don’t act. Read this notice carefully.

<b>SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>GET A PAYMENT OR ACCOUNT CREDIT</b>	You do not have to do anything to get a payment or account credit from the Settlement. If the Court approves the Settlement and it becomes final and effective, all identifiable Settlement Class Members who remain in the Settlement Class will automatically get a payment or account credit.
<b>EXCLUDE YOURSELF FROM THE SETTLEMENT</b>	Get no benefit from the Settlement. This is the only option that allows you to retain your right to bring any other lawsuit against Bank of America 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 payment or account credit to which you are entitled, and will give up your legal rights.

- 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 or not to approve the Settlement. Payments and account credits will be provided if the Court approves the Settlement and after any appeals are resolved. Please be patient.

**Questions? Call 1-800-372-2390 or Visit [www.bofaoverdraftsettlement.com](http://www.bofaoverdraftsettlement.com)**

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## 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 this class action lawsuit and about all of your options, before the Court decides whether to give final approval to the Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights.

Senior Judge James Lawrence King, of the U.S. District Court for the Southern District of Florida, is overseeing this case. The case is known as *In Re: Checking Account Overdraft Litigation*, 1:09-MD-02036-JLK. The people who sued are called the Plaintiffs. The Defendant is Bank of America, N.A.

### 2. What is this lawsuit about?

The lawsuit claims that Bank of America processed debit card transactions in order of highest to lowest dollar amount to maximize the number of overdraft fees assessed to its customers. Specifically, the lawsuit claims that, instead of declining transactions when an account had insufficient funds to cover a purchase, Bank of America authorized the transactions and then processed them in highest to lowest dollar amount order, which had the effect of increasing the number of overdraft fees the bank charged its customers. The complaints in this action are posted on this website, and contain all of the allegations and claims asserted against Bank of America. Bank of America maintains there was nothing wrong about the posting process used.

### 3. What is an overdraft fee?

An overdraft fee may be assessed when a customer's withdrawals from a bank account exceed the available balance.

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

In a class action, one or more people, called class representatives (in this case, 32 Bank of America customers who were assessed overdraft fees), sue on behalf of people who have similar claims. All of the people who have claims similar to the class representatives are a class or class members, except for those who exclude themselves from the class.

### 5. Why is there a Settlement?

The Court has not decided in favor of either Plaintiffs or Bank of America. Instead, both sides agreed to a Settlement. By agreeing to the Settlement, the Parties avoid the costs and uncertainty of a trial, and Class Members receive the benefits described in this Notice. The Class Representatives and their attorneys think the Settlement is best for everyone who is affected.

## WHO IS IN 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 with Settlement notice, you may still 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 Bank of America consumer checking and/or savings account that you could access with a Bank of America debit card, anytime between January 1, 2001 and May 24, 2011, and
- Were charged one or more overdraft fees as a result of Bank of America's practice of posting debit card transactions from highest to lowest dollar amount.

**Questions? Call 1-800-372-2390 or Visit [www.bofaoverdraftsettlement.com](http://www.bofaoverdraftsettlement.com)**

## THE SETTLEMENT'S BENEFITS

### 7. What does the Settlement provide?

Bank of America has agreed to establish a Settlement Fund of \$410 million from which identifiable Settlement Class Members may receive payments or account credits. The amount of such payments or account credits cannot be determined at this time. However, it will be based on the number of people in the Settlement Class and the amount of additional overdraft fees each Settlement Class Member paid as a result of Bank of America's posting order. There is not sufficient data to identify all Settlement Class Members for the time period January 1, 2001 to December 31, 2003. On behalf of Settlement Class Members who cannot be identified, between 5% and 14% of the Settlement Fund, net of expenses, will be made available to nonprofit organizations.

### 8. How do I receive a payment or account credit?

If you are included in the Settlement Class and entitled to receive a cash benefit, you do not need to do anything to get a payment or account credit. If the Court approves the Settlement and it becomes final and effective, you will automatically receive a payment or account credit.

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

Unless you exclude yourself from the Settlement, you can't sue, continue to sue, or be part of any other lawsuit against Bank of America about the legal issues in this case. It also means that all of the decisions by the Court will bind you. The "Release of Claims" is described more fully in the Settlement Agreement and describes exactly the legal claims that you give up if you remain in the Settlement. The Settlement Agreement is available at [www.bofaoverdraftsettlement.com](http://www.bofaoverdraftsettlement.com).

## EXCLUDING YOURSELF FROM THE SETTLEMENT

If you don't want benefits from the Settlement, and you want to keep the right to sue or continue to sue Bank of America on your own 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.

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

To exclude yourself from the Settlement, you must send a letter that includes the following:

- Your name, address, and telephone number;
- A statement that you want to be excluded from the Bank of America Settlement in *In Re: Checking Account Overdraft Litigation*, 1:09-MD-02036-JLK; and
- Your signature.

You must mail your exclusion request, postmarked no later than **October 3, 2011**, to:

Checking Account Overdraft Litigation Exclusions  
P.O. Box 2505  
Faribault, MN 55021-9505

### 11. If I don't exclude myself, can I sue Bank of America for the same thing later?

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

### 12. If I exclude myself from the Settlement, can I still get a payment?

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

**Questions? Call 1-800-372-2390 or Visit [www.bofaoverdraftsettlement.com](http://www.bofaoverdraftsettlement.com)**

## THE LAWYERS REPRESENTING YOU

### 13. Do I have a lawyer in this case?

The Court has appointed lawyers to represent you and other Class Members as “Class Counsel,” including:

Michael Sobol Lieff Cabraser Heimann & Bernstein, LLP Embarcadero Center West 275 Battery Street, 30 <sup>th</sup> Floor San Francisco, CA 94111-3339	David Stellings Lieff Cabraser Heimann & Bernstein, LLP 250 Hudson Street, 8th Floor New York, NY 10013	Bobby Gilbert Grossman Roth, P.A. 2525 Ponce de Leon Boulevard Suite 1150 Miami, FL 33134
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Class Counsel will represent you and other Class Members. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

### 14. How will the lawyers be paid?

Class Counsel intends to request up to 30 percent of the money remaining in the Settlement Fund, after costs and expenses are paid, for attorneys’ fees and costs. The fees awarded by the Court will be paid by out of the Settlement Fund. The Court will determine the amount of fees to award. Class Counsel will also request that up to \$5,000 per Plaintiff, or \$2,500 per Plaintiff for married couples in which both spouses are Plaintiffs, be paid from the Settlement Fund to the 32 Class Representatives for their service as representatives on behalf of the whole Class.

## OBJECTING TO THE SETTLEMENT

You can tell the Court that you don’t agree with the Settlement or some part of it.

### 15. How do I tell the Court that I don’t 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, and/or Class Counsel’s requests for fees and expenses. 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 Bank of America Settlement in *In Re: Checking Account Overdraft Litigation*, 1:09-MD-02036-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.

A complete list of the requirements to object to the Settlement are set forth in the Settlement Agreement at paragraph 62.

You must submit your objection to the following addresses, so that it is *received* by the people listed below no later than **October 3, 2011**:

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	Checking Account Overdraft Litigation P.O. Box 2505 Faribault, MN 55021-9505
Michael Sobol Lieff Cabraser Heimann & Bernstein, LLP Embarcadero Center West 275 Battery Street, 30 <sup>th</sup> Floor San Francisco, CA 94111-3339	David Stellings Lieff Cabraser Heimann & Bernstein, LLP 250 Hudson Street, 8th Floor New York, NY 10013
Bobby Gilbert Grossman Roth, P.A. 2525 Ponce de Leon Boulevard Suite 1150 Miami, FL 33134	Laurence Hutt 44th Floor 777 South Figueroa Street Los Angeles, CA 90017-5844

**16. What’s the difference between objecting and excluding?**

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

**THE COURT’S SETTLEMENT 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.

**17. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Final Approval Hearing at 9:30 a.m. on **November 7, 2011**, at the United States District Court for Southern District of Florida, Miami Division, located at James Lawrence King Federal Justice Building, 99 Northeast Fourth Street, 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.bofaoverdraftsettlement.com](http://www.bofaoverdraftsettlement.com) for updates on the Final Approval Hearing. 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 this time. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

**18. Do I have to come to the hearing?**

No. Class Counsel will answer questions the Court may have. But, you may come 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 address, and it complies with the other requirements set forth in paragraph 62 of the Settlement Agreement, the Court will consider it. You may also pay your own lawyer to attend, but it’s not necessary.

## 19. May I speak at the hearing?

You may ask the Court for permission to speak at the Settlement 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 Settlement Approval Hearing for the Bank of America 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 is to be presented to the Court at the Settlement Approval Hearing; and,
- Your signature.

You must submit your Notice of Intention to Appear, so that it is *received* no later than **October 3, 2011**, to **all** of the addresses in Question 15.

### IF YOU DO NOTHING

## 20. What happens if I do nothing at all?

If you do nothing, you will still receive the benefits to which you are entitled. Unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Bank of America about the legal issues in this case, ever again.

### GETTING MORE INFORMATION

## 21. How do I get more information?

The notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement at [www.bofaoverdraftsettlement.com](http://www.bofaoverdraftsettlement.com). You may also write with questions to Checking Account Overdraft Litigation, P.O. Box 2505, Faribault, MN 55021-9505 or call the toll-free number, 1-800-372-2390.