Attorney General Frosh Joins Coalition Warning CFPB that Weakening Debit Card Overdraft Fee Rule Will Harm Consumers

BALTIMORE, MD (July 2, 2019) – Maryland Attorney General Brian E. Frosh today joined a coalition of 25 state attorneys general in opposing any effort by the Consumer Financial Protection Bureau (CFPB) to roll back or limit the Overdraft Rule. Since 2010 this rule has ensured consumers have clear information from financial institutions about the cost of overdraft services.

The Overdraft Rule permits banks to charge fees to consumers for overdraft services on ATM and one-time debit transactions only after consumers have been provided with important information about those services and fees in a notice and only after those consumers have made the affirmative choice to opt in to such services.

“There is no evidence that the Overdraft Rule places any significant financial burden on small banks, but overwhelming evidence that it has helped consumers avoid millions of dollars in overdraft fees,” said Attorney General Frosh. “Especially when the fees are disproportionate to the amount of money overdrawn, notifying consumers of that risk is critical to protecting consumers’ financial security.”

Prior to the Overdraft Rule, many consumers had been enrolled in overdraft services by default but were never given clear information about their options and the fees their financial institutions charge. In fact, some studies released by the CFPB have shown that fees frequently cost 68 percent of the transaction amount. The Overdraft Rule was established in part to address the concern that automatic enrollment in overdraft services without notice or choice could pose a significant financial burden for consumers.

The CFPB’s data shows that only about 16 percent of consumers have chosen to opt into overdraft services under the Overdraft Rule. Those who choose not to opt in to these services agree to let their financial institution decline a transaction that would result in an overdraft, leading to a significant reduction in the total number and amount of overdraft fees and benefitting millions of Americans.

The CFPB initiated a request for comment regarding the Overdraft Rule, especially as it pertains to its economic impact on small financial institutions. In today’s letter, the attorneys general emphasize that there is no basis to believe that continuation of the Overdraft Rule would place any additional economic burden or cost on small financial institutions. Compliance with the
Overdraft Rule has been straightforward and financial institutions are provided with a model form designed for simplicity and cost-savings. The CFPB itself has not published any data or research to demonstrate any economic burden resulting from the Overdraft Rule.

Joining Maryland in submitting comments to the CFPB were the attorneys general of California, Colorado, Delaware, the District of Columbia, Hawaii, Illinois, Iowa, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington. The Executive Director of the Hawaii Office of Consumer Protection also signed today’s comment letter.