

CFPB Seeks Information on "Junk Fees" Charged by Providers of Consumer Financial Products or Services

April 29, 2022 | [Frank Bishop, Jr.](#)

On January 26, the Consumer Financial Protection Bureau issued a "Request for Information Regarding Fees Imposed by Providers of Consumer Financial Products or Services." In a contemporaneous statement, CFPB Director Rohit Chopra described the request for information as the beginning of a "new effort to help save American families billions of dollars in junk fees in their financial life." The request for information seeks public comment on how these "junk fees" impact individuals (specifically older people, students, servicemembers, persons of color, and lower-income consumers) and requests feedback from social services organizations, consumer rights and advocacy organizations, legal aid attorneys, academics and researchers, small businesses, financial institutions, and state and local government officials.

As part of the request for information, the CFPB identified the following as its points of emphasis:

- If you are a consumer, please tell us about your experiences with fees associated with your bank, credit union, prepaid card account, credit card, mortgage, loan, or payment transfers, including: (a) fees for things you believed were covered by the baseline price of a product or service; (b) unexpected fees for a product or service; (c) fees that seemed too high for the purported service; and (d) fees where it was unclear why they were charged.
- What types of fees for financial products or services obscure the true cost of the product or service by not being built into the upfront price?
- What fees exceed the cost to the entity that the fee purports to cover? For example, is the amount charged for NSF fees necessary to cover the cost of processing a returned check and associated losses to the depository institution?
- What companies or markets are obtaining significant revenue from back-end fees or consumer costs that are not incorporated into the sticker price?
- What obstacles, if any, are there to building fees into up-front prices consumers shop for? How might this vary based on the type of fee?
- What data and evidence exist with respect to how consumers consider back-end

fees, both inside and outside of financial services?

- What data and evidence exist that suggest that consumers do, or do not, understand fee structures disclosed in fine-print or boilerplate contracts?
- What data and evidence exist that suggest that consumers do or do not make decisions based on fees, even if well disclosed and understood?
- What oversight and/or policy tools should the CFPB use to address the escalation of excessive fees or fees that shift revenue away from the front-end price?

The request for information originally set a deadline for comments to be provided on or before March 31.

However, on March 25, the CFPB extended the deadline to April 11 and announced that it has already received 25,000 comments.

In a February 2 blog post, the CFPB described "junk fees" as fees that "take many different forms, including fees for late penalties, overdrafts, returns, using an out-of-network ATM, money transfers, inactivity, and more." The blog post identified the following "common junk fees" in more detail:

- fees for not having enough money (overdraft fees and NSF fees);
- late fees;
- fees to pay your bill (convenience fees);
- prepaid card fees; and
- closing costs and homebuying fees.

In the supplementary information provided as part of the request for information, the CFPB characterized charging "hidden back-end fees," which are "mandatory or quasi-mandatory," as an anti-competitive tactic designed to "lure consumers into making purchasing decisions based on a perceived lower price." In support of its position, the CFPB noted that:

- overdraft and NSF fees exceeded \$15.4 billion in 2019, compared to only \$1 billion in account maintenance fees;
- fees represent about 20% of the total costs of credit cards (including \$14 billion in late fees);
- convenience fees remain common, despite a bulletin in 2017 from the CFPB on unfair, deceptive, and abusive acts or practices (and violations of the Fair Debt Collection Practices Act) relating to fees for making payments over the phone; and
- in the context of residential mortgage transactions, "monthly property inspection

fees, new title fees, legal fees, appraisals and valuations, broker price opinions, force-placed insurance, foreclosure fees, and miscellaneous, unspecified 'corporate advances' can all price a homeowner out of a home."

While the request for information focuses on credit cards, residential mortgages, and fees charged by financial institutions in connection with deposit accounts, it is clear that the CFPB's scope of interest is much broader than that. The CFPB explicitly states that it is "interested in other loan origination and loan servicing fees, including for student loans, auto loans, installment loans, payday loans, and other types of loans." Therefore, while sales finance companies and installment lenders are not the immediate focus of the CFPB's investigation into the fees charged in connection with financial services, we believe that such creditors should anticipate CFPB examination of such practices and future rulemaking governing origination and servicing fees by creditors of all types. The request for information also indicates, as expected, that Director Chopra plans to use the expansive supervision and examination functions of the CFPB to aggressively regulate creditors and their financial products.

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7037 Ridge Road, Suite 300, Hanover, Maryland 21076
410.684.3200

hudsoncook.com

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