

CFPB Requests Information on Consumer Financial Products or Services Fees

January 28, 2022

On January 26, 2022, the Consumer Financial Protection Bureau announced a request for information seeking comments related to fees charged to consumers in connection with selected products or services. The CFPB expressed concern that when financial institutions charge “back-end fees” – including late fees, convenience fees for processing payments and stop payment fees – they entice consumers into making product decisions based on the perception of a lower price. In requesting public input on such fees, the CFPB indicated that it would use the input it collects to inform its rulemaking, guidance and enforcement priorities.

The CFPB cites its authority to regulate back-end fees in the Consumer Financial Protection Act’s mandate that the CFPB ensure consumer financial markets are fair, transparent and competitive.¹ Echoing his previous comments concerning competition in the markets, CFPB Director Rohit Chopra stated that such fees lack transparency because they allow financial institutions to “obscure the true price of their services by luring customers with enticing offers and then charging excessive junk fees.”

In the request for information, the CFPB stated that it is concerned about “fees that far exceed the marginal cost of the service they purport to cover.” The CFPB also noted that its research has identified specific products and markets where back-end fees can impose significant costs to consumers:

- **Deposit accounts:** The cost of a deposit account includes a number of associated fees, such as overdraft and insufficient funds (NSF) fees. The CFPB alleges that overdraft and NSF fees make up the majority of the revenue that banks derive from deposit accounts, though many established and challenger banks have been moving away from overdraft fees.
- **Credit cards:** The CFPB asserts that in 2019, card issuers charged more than \$14 billion in punitive late fees. Specifically, the CFPB alleges that nearly every issuer charges the maximum fees allowed by law of \$30 for the first late payment and \$41 for subsequent late payments.
- **Remittances and payments:** The CFPB asserts that financial institutions charge fees to stop payments, and on automated clearing house (ACH) or payment transfers, among other services. International transfers are also subject to fees, including charges to make payments over the phone.
- **Prepaid accounts:** While consumers may select a product based on a monthly rate, the CFPB notes that prepaid accounts often include fees for regularly conducted activities such as cash reloads or balance inquiries.
- **Mortgages:** Along with fees such as closing costs that are baked into the upfront cost of a mortgage, some borrowers may be charged fees for making a payment in a certain manner, such as over the phone or online.
- **Other loans:** The CFPB notes that it is also interested in loan origination and loan servicing fees for student loans, auto loans, installment loans, payday loans and other types of loans.

The CFPB has requested that consumers, including those it has traditionally considered vulnerable and for whom there are dedicated offices within the CFPB – such as older consumers, students, service members and consumers of color – submit stories, data and information about how such fees have impacted their lives. The CFPB made the same request of other stakeholders, such as small business owners, legal aid attorneys, academics and researchers, state and local government officials, and financial institutions, including small banks and credit unions. The CFPB noted its particular interest in learning about consumers’ experiences with:

- Fees they believed were included in the baseline price of a product or service.
- Unexpected or back-end fees for a product or service.
- Fees that seemed excessive for a product or service.
- Fees where it was unclear why they were charged.

The CFPB suggested several topic areas that stakeholders may choose to comment on, such as the types of fees that obscure the true cost of the product or service by not being built into the upfront price, the obstacles to

building fees into upfront prices, the existence of data and evidence that suggests consumers do or do not make decisions based on fees, and the oversight and/or policy tools the CFPB should use to address such fees.

Comments must be received on or before March 31, 2022.

Notes

1. 12 U.S.C. § 5511(a).

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