

# Getting ahead of CFPB regulatory change

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# Is it time to clean out your 'junk fee' drawer? Getting ahead of CFPB regulatory change

*Regulatory change from the CFPB is on the horizon, so financial institutions should be turning a critical eye on their fees and practices.*

The Consumer Financial Protection Bureau (CFPB) is spearheading a new effort aimed at certain fees charged by banks and finance companies which it has labeled "junk fees."<sup>1</sup> These are fees the CFPB considers excessive or exploitative, such as fees on top of the baseline price of a product or service that far exceed the marginal cost of service they purport to cover, for example, convenience fees for processing payments or minimum balance fees.

The CFPB says that Americans are paying \$29 billion annually in these "excessive charges," and is targeting them in the name of promoting competition and ridding the market of illegal practices.<sup>2</sup> A wide swath of fees associated with bank, credit union, debit and credit card accounts, mortgages, loans and payment transfers is coming under scrutiny.

Anticipating CFPB action - and getting ahead of the competition - many large financial institutions have already announced the elimination or reduction of some fees, such as non-sufficient funds (NSF) and overdraft fees.



## CFPB says banks are hooked on fees

The CFPB says that in 2019, revenue from NSF and overdraft fees was more than \$15 billion and credit card companies charge more than \$14 billion per year in late fees.<sup>3</sup> The Bureau says this is indicative of a burgeoning “fee economy” that is stifling competition and distorting the free market by concealing the true price of goods and services.

While federal regulation of bank fee requirements is not new (e.g., rules 6500 § 1026.5, § 1026.52, § 1026.54 and § 1026.55<sup>4</sup>), the CFPB has clearly stated its intention to scrutinize ancillary fees in the name of increasing competition and curbing deceptive practices. “Rather than competing on quality service and attractive interest rates, many banks have become hooked on overdraft fees to feed their profit model,” says CFPB Director Rohit Chopra. “We will be taking action to restore meaningful competition to this market.”<sup>5</sup>

Recent press on CFPB examinations suggest the Bureau is backing up its messaging with actions.<sup>6</sup> As the CFPB increases its scrutiny of fees charged to consumers, the potential reputational damage, along with enforcement actions and fines from the CFPB, should be raising concern for all financial institutions.<sup>2</sup>

## Summer cleaning

In order to get ahead of potential CFPB scrutiny, financial institutions should assess the fees they charge consumers for financial products and services. Start by asking questions and gathering information:

- ▶ What types of fees do you charge to your customers?
- ▶ Do any ancillary fees exceed the marginal cost of the service?
- ▶ Are the fees adequately disclosed and charged consistently with disclosures?

It can be difficult for institutions to see their practices impartially. But since change from the CFPB is imminent and shifting consumer sentiment and competitor response is growing, it's a critical moment to take the first step: a thorough objective review of all the fees charged to your customers.

<sup>1</sup> “CFPB Research Shows Banks’ Deep Dependence on Overdraft Fees,” Consumer Financial Protection Bureau, 01 December 2021.

<sup>2</sup> “Consumer Financial Protection Bureau Launches Initiative to Save Americans Billions in Junk Fees,” Consumer Financial Protection Bureau, 26 January 2022.

<sup>3</sup> Ibid.

<sup>4</sup> FDIC Law, Regulations, Related Acts 6500 § 1026.5, § 1026.52, § 1026.54 and § 1026.55.

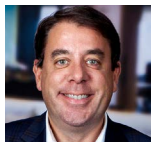
<sup>5</sup> “CFPB Research Shows Banks’ Deep Dependence on Overdraft Fees,” Consumer Financial Protection Bureau, 01 December 2021.

<sup>6</sup> “CFPB Supervisory Report Finds Unlawful Auto Repossessions, Breakdowns in Credit Report Disputes,” Consumer Financial Protection Bureau, 02 May 2022.

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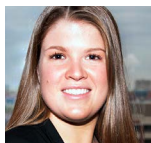
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