Banking and Finance Law Daily Wrap Up, TOP STORY—CFPB requests comment on 'junk fees' to help shape guidance, rulemaking, enforcement, (Jan. 27, 2022)

Banking and Finance Law Daily Wrap Up

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By Nora Macaluso

Various banking groups responded, saying the Bureau's initiative is misguided and unneeded.

The Consumer Financial Protection Bureau is asking the public to share their experiences of any banks and financial companies charging "junk fees" that may distort the price of services. The Bureau said it will use the information to help shape guidance and rulemaking and to target its enforcement efforts. The CFPB is taking comments through March 31, 2022, on its website, by email, or mail or hand delivery to its headquarters, and all submissions should include the document title and docket number.

The CFPB said it plans to crack down on charges like credit-card late fees, which it said accounted for $14 billion in 2019, and overdraft and non-sufficient funds (NSF) fees, which the Bureau said topped $15 billion that year. "The CFPB will strive to strengthen competition in consumer finance by using its authorities to reduce these kinds of junk fees," the Bureau said.

"Many financial institutions obscure the true price of their services by luring customers with enticing offers and then charging excessive junk fees," said CFPB Director Rohit Chopra. This "fee economy" hides the real price of products, the CFPB said. Hotels, for example, may add resort fees to their advertised rates, and concert venues tag service fees onto ticket prices.

Request for comment. "Both empirical studies and theoretical models suggest that when companies use hidden back-end fees—which are mandatory or quasi-mandatory fees added at some point in the transaction after a consumer has chosen the product or service based on a front-end price—it can lure consumers into making purchasing decisions based on a perceived lower price," the CFPB said in its request for comment.

The request for public comment asks for people's experiences with fees from banks, credit unions, prepaid or credit-card accounts, mortgages, loans, and payment transfers. Those might include fees for things people believed were included in the price of a product or service; unexpected fees; fees that seemed too high; or fees for which the purpose was unclear.

The CFPB said it's also interested in hearing from small business owners, non-profit organizations, legal aid attorneys, academics and researchers, state and local government officials, and financial institutions.

Industry reaction. Banking groups called the initiative "misguided." The CFPB "paints a distorted and misleading picture of our country's highly competitive financial services marketplace," said a joint statement from the American Bankers Association, Bank Policy Institute, Consumer Bankers Association, Credit Union National Association, Financial Services Forum, Independent Community Bankers of America, National Association of Federally-Insured Credit Unions, and National Bankers Association. "Multiple federal laws and the CFPB's own rules already require banks, credit unions and other providers of consumer financial services to disclose terms and fees in a clear and conspicuous manner, and our members do so each and every day," the groups said.

Consumer Bankers Association President and Chief Executive Officer Richard Hunt said the CFPB is using "fuzzy math." Overdraft fees as a percent of total revenue made up less than 2 percent of total industry revenue in 2019, Hunt said.

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Companies: American Bankers Association; Bank Policy Institute; Consumer Bankers Association; Credit Union National Association; Financial Services Forum; Independent Community Bankers of America; National Association of Federally-Insured Credit Unions; National Bankers Association

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