

Junk Fees



On January 26, 2022, Consumer Financial Protection Bureau (CFPB) Director Rohit Chopra issued prepared remarks on junk fees, which were followed by a formal request for information (RFI) filed in the Federal Register on February 2.¹ Director Chopra stated:

In many cases, junk fees often act as penalties, like with non-sufficient funds and credit card late fees, rather than compensation for a legitimate service. While it may make sense for banks to pass on the cost for extra services provided, many complain that these fees are far higher than the service is really worth.²

The RFI seeks comment on common junk fees,³ including:

- ✓ Fees for not having enough money
- ✓ Late fees
- ✓ Fees to pay a bill
- ✓ Prepaid card fees
- ✓ Closing costs and homebuying fees

The CFPB wants to hear from consumers surrounding:

- ✓ Fees for things that they believed were covered by the baseline price of a product or service
- ✓ Unexpected fees for a product or service
- ✓ Fees that seemed too high for the purported service
- ✓ Fees where it was unclear why they were charged

The RFI specifically highlights the following financial activities:

- ✓ Deposit accounts
- ✓ Credit cards
- ✓ Remittances and payments
- ✓ Prepaid accounts
- ✓ Mortgages
- ✓ Other loans

We would not be surprised if any resulting action (*either rulemaking or enforcement*) ultimately is extended to other activities, including convenience pay features and various rental fees. Director Chopra's January 26 remarks even make mention of hotel and phone bills.

¹ CFPB, Request for Information Regarding Fees Imposed by Providers of Consumer Financial Products or Services (February 2, 2022). <https://www.federalregister.gov/documents/2022/02/02/2022-02071/request-for-information-regarding-fees-imposed-by-providers-of-consumer-financial-products-or>

² Rohit Chopra, "Prepared Remarks of CFPB Director Rohit Chopra on the Junk Fees RFI Press Call," CFPB (January 26, 2022). <https://www.consumerfinance.gov/about-us/newsroom/prepared-remarks-of-cfpb-director-rohit-chopra-on-the-junk-fees-rfi-press-call/>

³ CFPB, "The hidden cost of junk fees" (February 2, 2022). https://www.consumerfinance.gov/about-us/blog/hidden-cost-junk-fees/?_gl=1*17xnq53*_ga*MTM5NjU1MzkzOS4xNjQzMzAyODkx*_ga_DBYJL30CHS*MTY0NDk1OTUxMS41LjEuMTY0NDk1OTkzMC4w

Chopra stated that the CFPB expects that the RFI will result in:

- ✓ Issuing new rules and guidance to spur competition and transparency
- ✓ Identifying why financial institutions don't compete on certain types of fees and features, which will aid in identifying illegal practices through supervision and enforcement actions
- ✓ Learning what new market entrants are doing to be more upfront and honest with prospective customers to help craft new rules that will give consumers more control of their data and more opportunities to move their money

Based on these developments, BRG's Financial Institution Advisory professionals believe that there is a high probability for increased enforcement actions and new rules regarding the permissibility, frequency, and reasonableness of fees charged to consumers.

Therefore, we recommend that clients fully inventory and assess their various fee types to understand how they relate to overall business profitability. Our subject-matter experts have almost two decades of experience assisting financial institutions in assessing whether amounts charged to consumers are reasonable, are consistent with other market participants, comply with applicable regulatory restrictions, and are reflective of economic cost.

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