

April 11, 2022  
Hon. Rohit Chopra  
Director  
Consumer Financial Protection Bureau  
1700 G St. N.W.  
Washington, D.C. 20552

Re: Request for Information Regarding Fees Imposed by Providers of Consumer Financial Products or Services (Docket No.: CFPB-2022-0003)

Dear Director Chopra,

Consumer Reports<sup>1</sup> appreciates this opportunity to comment on the Consumer Financial Protection Bureau's Request for Information regarding common junk fees in the marketplace. Fees obfuscate the price of products and services in the marketplace and make comparison shopping more difficult. Fees are also often levied against consumers in order to penalize them for making late payments or having insufficient funds in their bank accounts. For these reasons, fees have served as a longtime nuisance for consumers.

CR asked its members to share their experiences regarding junk fees. We collected over 1,800 comments from consumers. Selected comments regarding a variety of different types of fees in the marketplace are provided below, and the full selection of consumer comments is attached to this letter.

### **Overdraft and Insufficient Funds Fees**

Overdraft services are effectively short-term lending programs with extremely high interest rates, as banks provide short-term liquidity for overdrawn transactions in exchange for a fee.<sup>2</sup> The Bureau has stated that "put in lending terms, if a consumer borrowed \$24 for three days and paid the median overdraft fee of \$34, such a loan would carry a 17,000 percent annual

<sup>1</sup> Consumer Reports is an independent, nonprofit membership organization that works side by side with consumers to create a fairer, safer, and healthier world. For 83 years, CR has provided evidence-based product testing and ratings, rigorous research, hard-hitting investigative journalism, public education, and steadfast policy action on behalf of consumers' interests. Unconstrained by advertising, CR has exposed landmark public health and safety issues and strives to be a catalyst for pro-consumer changes in the marketplace. From championing responsible auto safety standards, to winning food and water protections, to enhancing healthcare quality, to fighting back against predatory lenders in the financial markets, Consumer Reports has always been on the front lines, raising the voices of consumers.

<sup>2</sup> In 2014, the Bureau found that "in the case of debit card transactions, the median amount that leads to an overdraft fee is \$24 and the median amount of a transaction that leads to an overdraft fee for all types of debits is \$50. Most consumers who overdraft bring their accounts positive quickly, with more than half becoming positive within three days and 76 percent within one week." Overdraft fees are typically a flat fee rarely charged in relation to the amount overdrawn, and the average fee is \$35. Consumer Financial Protection Bureau, *CFPB Finds Small Debit Purchases Lead to Expensive Overdraft Charges* 1 (2014) available at

<https://www.consumerfinance.gov/about-us/newsroom/cfpb-finds-small-debit-purchases-lead-to-expensive-overdraft-charges/>

percentage rate (APR).”<sup>3</sup> Without the overdraft rule, consumers could be automatically and unwittingly enrolled in such programs. As research shows, a large majority of consumers (68%) would prefer to have their overdrawn transaction denied, which comes at no expense to them, rather than pay a \$35 fee.<sup>4</sup>

For people with low and moderate incomes, overdraft fees can pose significant hardships. Thomas from Henderson, Nevada told CR in 2018:

“...I am retired and live on a very tight budget. Occasionally I have had overdraft fees caused unexpected recurring charges. In the last year I have [experienced] a couple situations that have worked like this.

I have about \$200 in the bank. My account shows that two checks came on one day, (1. 14.99, 2. 9.99), then my car auto payment came in later in the day, two days early due to the weekend. At the end of that day, Wells Fargo. changed the order to the largest first and the smallest less and then charged me a \$35 overdraft on all three checks, for a total of \$105.00. Then on Monday, the next banking day, my SSA check comes in and brings the account current. One of the problems is that SSA doesn't pay on the same date each month, They pay on the second Monday which can vary by as much as six days each month. This day and week time can vary with each individual, but causes problems with all seniors.

I think it is terrible to charge a person a \$35. bank fee for a 9.99 or 14.99 overdraft charge. I think it should be a percent of the amount of the item. Maybe it should be 10% of the charge with a max \$25. I have been banking with Wells Fargo for 25 years and the last time this happened I called the bank and insisted I talk to a supervisor. After waiting about ten minutes, I got the supervisor and she said they were all legitimate fees. I said, I checked my account early that day and the only charges that had come in were the \$9.00 and \$14.99 checks. I said , do you think it is fair to charge me \$70 for a \$24 overcharge? She said, No, but because you are a long term customer I will take the two \$35 charges off and you will have to pay the first \$35 charge. Big Deal. I understand there are no laws governing late charges, and they can do anything they like.”

Overdraft and insufficient fund fees impact consumers who find themselves with low balances in their deposit accounts and in fragile financial positions. Consumers often do not have sufficient funds due to circumstances out of their control, and insufficient fund fees can make a consumer's fragile financial position even worse. Additionally, these fees often do not scale with the amount overdrawn. Micheal Phillips from Raleigh, North Carolina told us:

“In the past year, I have paid \$50 - 100 First Citizens Bank, [charged a] \$36.00 NSF fee for an overdraft of \$0.03.”

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<sup>3</sup> Ibid.

<sup>4</sup> Pew, (2016); See also The Pew Charitable Trusts, *Overdrawn: Persistent Confusion About Bank Overdraft Practices*, June 2014, p. 10, available at: [https://www.pewtrusts.org/-/media/assets/2014/06/26/safe\\_checking\\_overdraft\\_survey\\_report.pdf](https://www.pewtrusts.org/-/media/assets/2014/06/26/safe_checking_overdraft_survey_report.pdf)

Joe from Boone, Iowa pointed out that overdraft fees can be especially onerous for younger households:

“We don’t run into fees now, now that we have money. But when we were first starting out we paid many fees - sometimes fees and penalties that really hurt us financially and emotionally. We knew that because we were poor and vulnerable, we were targeted. The credit union once sent a check through 3 times - while the office was closed! So we had to pay 3 overdraft charges on the same bad check between Saturday afternoon and Monday morning. They even sent it back through before they were open on Monday morning! They told me it was a third party that does that and they have no control over it. That cost us over \$100 at a time when we had no money left after paying bills, student loans etc. We always felt like we were being preyed upon by financial institutions when we were young and poor. Now they all want to give us money.”

Susan from Portland, OR said:

“I am concerned that banks are charging ‘junk’ fees merely as a way for banks to make more money off of bank customers, especially low -income communities, which skew toward marginalized groups due to current and past discrimination. We have even seen evidence of banks reordering when transactions come in, so that they can charge a NSF fee, simply to increase their profit. So a person who is trying to be financially responsible and put money in the bank before writing that check to pay a bill gets hit with a NSF fee that they can't afford, not because they didn't do the right thing but because banks can make money by reordering the timing of those transactions. If the banks are just trying to drive up profit, on the backs of the people who can least afford it, exacerbating poverty (with all of its attendant harms), on marginalized communities, and also reordering transactions, then they lose the privilege of being allowed to charge whatever fees they want. It's time for the CFPB to protect consumers and our economy, and take action to reduce and eliminate unnecessary banking fees.”

### **Account Maintenance Fees**

Robert from San Francisco pointed out that many banks require account holders to keep large amounts of money on deposit to avoid account maintenance fees – even though the funds earn virtually no interest.

After opening a personal checking/savings account several years ago at BofA I was charged \$12 per month "maintenance"fee if my balance was below \$1,500 for just a few minutes on any given day. Unless of course there was any employer direct deposit.

The savings account required a minimum balance of \$100 which was done on opening the account but then without any further announcement upgraded to \$500 minimum.

Consequently I had to fight with the bank to get the \$12/Mt imposed maintenance charge refunded.

So BofA has a "\$2000 involuntary "hostage loan" from me and if I ever fall below \$1999.99 it is effectively a "9.6% interest loan" the bank is charging me for my own money: \$12 per month "maintenance fee."

William from Tallahassee, Florida reported that:

Bank of America switched me into an account (without advising me of the consequences) where the minimum balance was \$10,000. They then charged me \$25 a month in fees because I didn't maintain that balance (while the account yielded less than \$2 in annual interest).

### **Late Fees**

Maria from Los Angeles shared her perspective about the expensive fees consumers incur when they miss payment deadlines:

"...To me, one of the most unfair of all the fees is the credit card and late mortgage fee. Pay just one hour or one day over the due date, and you're assessed the full fee. I have had times when I've inadvertently scheduled an online payment, for either a credit card or mortgage payment, that fell on a weekday

holiday, thereby pushing my payment to the next business day after the due date and thereby charging me the full late fee. I understand that financial and other companies assess fees to motivate people to be timely and consistent with their payments, but it's unfair and bad business when you assess a full fee simply one hour or one day beyond the due date. Instead, how about prorating the late fee, so it'll be \$10 1-3 days beyond the due date, \$20 more than week late, \$35 more than two weeks late, etc.

I could go on and on about the excess use of fees, but the late fee, while not necessarily a hidden fee, definitely sneaks up and rears its ugly head on you. If you're not careful about being timely and consistent with your payments, it can also be one of the most costly of all the numerous fees we encounter."

Victoria from Bloomington, IN said:

"...What particularly irritates me are late charges for paying bills. I pay for a monthly TV charge of \$8.90 using my Capital One credit card. In the past two years I have been a few days late in paying my bill and as a result have been charged each time \$25, nearly three times the amount of indebtedness.

What irritates me are charges on late payments. I payTV charges using my CapitalOne credit card for a monthly charge of \$8.99. On two occasions over the past two years I

have been charged \$25 for sending in my payment a few days late, nearly three times the amount of each charge.

Generally speaking, the usurious interest charges of credit cards and loans have forced me to become a good financial citizen: I now pay every bill the day I receive it. No interest charges or late fees. But if I were inclined to conspiracy theory, I would begin to wonder why I have begun to fail to receive bills in a timely fashion.”

### **Dormancy and Inactivity Fees**

Terry from Conesus, New York incurred fees because his account was declared “dormant” by his bank:

“...Truist (formerly Suntrust Bank) put my account in "dormant status" as I hadn't used it for 6 months. [This] resulted in my check for payment to my local county clerk's office not being accepted for "insufficient funds", even though my balance was over 10 times the amount for which the check was written. I was required to pay the clerk's office a \$30 fine for a supposedly bad check and threatened with prosecution and a misdemeanor charge! The bank refused to reimburse me the penalty fee assessed by the clerk's office, but did "reactivate" my account so I can now have free access to my own money - as long as I make a transaction at least once every six months! Never notified me of this "dormancy policy".

Even though the bank itself didn't charge me a fee, their non-transparent and restrictive dormancy policies resulted in my having to pay one indirectly to access my own money. It's time for the CFPB to protect consumers and our economy, and take action to reduce and eliminate unnecessary banking fees and overly restrictive and secretive policies.

Allen from Sunnyvale, CA, reported that:

In the past year, I have paid a fee because my account has been inactive. It is small, but every dollar counts. I have called the credit union to indicate that I have not abandoned the account but currently do not have income to supplement it.

Paul from Cleveland, OH said:

“...In the past year, I have paid \$100 - 200 Huntington charged \$15/month for an inactive checking account. Did not get a clear notice of this.”

Ann from Hiram, OH, also reported that:

“...In the past year, I have paid less than \$50 to Middlefield Banking Company. [I was] charged an inactivity fee for a savings account with over \$10K balance. Could not be "active" because of requirement to keep \$5K in [my] checking account. Also, the bank

started a charge to receive a statement from the US Postal Service. [This is a] hardship for people who do not have printers/computers.”

Drew from Newcastle, WA said:

“...In the past year, I have paid \$100 - 200 Lake Michigan Credit Union for ‘account dormant fees.’

With respect to inactive accounts on prepaid reloadable cards, Western Union Netspend Prepaid Mastercard charges a \$5.95 monthly inactivity fee,<sup>5</sup> while SurgePays Visa Prepaid Card charges a \$5.00 monthly inactivity fee, until the card is depleted to zero.<sup>6</sup> As CR has previously recommended, prepaid card issuers should not profit from or grow their profits from assessing abusive fees including inactivity fees or dormancy fees. If an account is dormant for over 90 days, the account should be closed with the remaining balance returned to the consumer without a fee.<sup>7</sup>

### **Fees to Cash the Bank’s Own Checks**

Richard from San Clemente, CA reported that a bank tried to charge him a fee to cash the bank’s own check:

“...My experience was a few years ago but I hope you will consider it as it's had a persistent effect. It involved a demand that I pay Bank of America a fee to cash a valid check, payable to me and drawn on a Bank of America account (the account contained sufficient funds to cover the check).

A bank representative stated that bank policy was that non-account holders pay a fee to cash a check drawn on a Bank of America account. When I replied that my policy was to receive face value of the check I was attempting to cash, they called the police and filed a complaint, resulting in the police telling me that if I ever set foot in the bank again I'd be arrested!

I ended up cashing the check at another bank, without incident. I believe that episode was an abuse of public trust and use of the local police as their private enforcers. That

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<sup>5</sup> Western Union Netspend Prepaid Mastercard fees, accessed 04-08-2022, available at: [https://www.wunetspendprepaid.com/card-order/ve/wu/?AID=W\\_GGL&SITEID=Brand\\_NS\\_Terms\\_PE&S\\_UB=WU-NS-Mastercard-Prepaid&ADID=RsaWUbrand2\\_22\\_&mkwid=stsBcTqfs-dc\\_pcrd\\_582923471271\\_pmt\\_e\\_pkw\\_western%20union%20netspend%20prepaid%20mastercard\\_slid\\_pdv\\_c\\_pgrid\\_16251026429\\_ptaid\\_kwd-76274573387\\_&pgrid=16251026429&ptaid=kwd-76274573387&qclid=CjwKCAjwur-SBhB6EiwA5sKtjgYddnsRRXkhEOXOZUak9Z3MO6Ax6eO36LXAFu35KYVFTFEYk3wyZBoCyvIQAvD\\_BwE&co\\_nxtxt\\_name=wu\\_alpha\\_lg](https://www.wunetspendprepaid.com/card-order/ve/wu/?AID=W_GGL&SITEID=Brand_NS_Terms_PE&S_UB=WU-NS-Mastercard-Prepaid&ADID=RsaWUbrand2_22_&mkwid=stsBcTqfs-dc_pcrd_582923471271_pmt_e_pkw_western%20union%20netspend%20prepaid%20mastercard_slid_pdv_c_pgrid_16251026429_ptaid_kwd-76274573387_&pgrid=16251026429&ptaid=kwd-76274573387&qclid=CjwKCAjwur-SBhB6EiwA5sKtjgYddnsRRXkhEOXOZUak9Z3MO6Ax6eO36LXAFu35KYVFTFEYk3wyZBoCyvIQAvD_BwE&co_nxtxt_name=wu_alpha_lg)

<sup>6</sup> SurgePays Visa Prepaid Card fees, accessed 04-08-2022, available at: <https://surgepayscard.com/fees-and-limits/>

<sup>7</sup> Consumer Reports, *Prepaid Cards: How They Rate*, 2016, p.12, available at <https://advocacy.consumerreports.org/wp-content/uploads/2016/04/Prepaid-Cards-How-They-Rate-2016-07-06-2016-Complete-Report.pdf>

inappropriate and thuggish behavior was unlike anything I've encountered in more than 50 years of banking.”

According to a 2021 article in US News and World Report, several banks including Bank of America, Chase, Wells Fargo, SunTrust and TD Bank charge fees in the range of \$7-8 to non-account holders to cash checks drawn in the bank’s name.<sup>8</sup>

### **Fees for Minimum Purchase Transactions**

Valerie from North Adams, MA, said:

“...For a number of years, I have paid unfair fees to Bank of America. To avoid monthly service fees for my account, it reasonably requires a minimum purchase amount each month. But if there is a problem with a purchased item/service whereby the seller provides a credit/refund that is processed in a subsequent month, the bank back-charges me for the purchase month if the "new" total spent is under the minimum purchase amount.

It's impossible for a consumer to anticipate the need for a credit/return nor the processing time, so it should be equally impossible for the bank to take advantage of this inevitable situation. This happens even when I exchange a same priced item for a different color/style, as the seller often refunds the initial purchase, then requires a new sale--often occurring in two different months.”

### **Fees for Paper Statements**

James from Fremont, CA points out that not having a paper statement might make it harder to make payments on time:

“...Financial institutions are trying to coerce customers to abandon paper statements; switch to electronic delivery, in order to increase profits is to not send statements in a timely manner to allow payment on time so that they can charge late fees and interest. I have been hit several times with this issue but managed to reverse it.

### **Discussion and Recommendations**

From the comments we collected and our survey research, we know that many consumers are both surprised and frustrated by the increasing number of fees for financial service products. They are disappointed both by the increasing frequency and range of fees charged, and also by the high financial cost of outsized or excessive fees that undermine the affordability, accessibility

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<sup>8</sup> Chang, Ellen, *How to Cash Checks Without Paying Hefty Fees*, 1/15/2021, US News and World Report, available at:

<https://money.usnews.com/banking/articles/how-to-cash-checks-without-paying-hefty-fees#:~:text=It%20is%20the%20policy%20of,account%20with%20them%20that%20day>

and usability of financial services. Financial fees are not just a nuisance, they are a costly nuisance that hits low and moderate-income consumers especially hard.

In 2019, Consumer Reports published “Protect Yourself from Hidden Fees,” which examined surprise fees for a variety of services, including financial services, airlines, hotels, car rental and utilities. 37% of consumers told us they had received a hidden fee for personal banking in the last two years, while 36% had received a hidden fee for credit cards and 24% for investment services. Overall, 85% of Americans had encountered an unexpected or hidden fee over the past two years for a service they had used, and 96% found them annoying.<sup>9</sup>

Nearly six in 10 Americans told CR they typically research extra fees that might be added to the cost of their purchase PRIOR to making the transaction, while 19% say they don’t spend any time researching fees, and 12% were unsure. Of those who researched the fee, 74% said they read the fine print of the purchase/service agreement, 71% did an online search, 46% talked with friends and family who have made similar purchases, and 35% called the company directly. Many consumers fought back against hidden fees by sharing information with friends, families and coworkers (47%), stopping or avoiding use of the service (46%), posting comments or reviews on social media (16%), complaining to the company, a government agency or the Better Business Bureau (14%), calling or writing to elected officials (4%) or signing a petition (4%).<sup>10</sup>

While consumers can in theory take fees into account when choosing financial service providers, it is highly difficult to fully research and anticipate the wide range of fees that might be charged in the course of using a particular financial product. As long as fees are disclosed somewhere in the shopping process, consumers can, theoretically, calculate their true costs. But the reality is that add-on fees can be difficult to spot, requiring consumers to click through multiple web pages or scour fine print to get the information—a gradual reveal strategy that economists call drip pricing. Further, few Americans today—many of them juggling jobs and families—have the time, energy, or desire to research a potential \$30 fee, according to Devin Fergus, professor of history, black studies, and public affairs at the University of Missouri and author of “Land of the Fee” (Oxford University Press, 2018).

For this reason, as the CFPB reviews this issue, we urge you where possible to consider ways to protect consumers against excessive, unexpected and hidden fees, and to create greater transparency and accountability regarding financial fees, to help customers compare their financial services choices more effectively. We urge CFPB to strengthen requirements to ensure that all financial fees are clearly disclosed in plain and understandable language, in a standardized format that consumers can obtain and review before deciding to use that product or service. In addition, fees should also bear a reasonable and proportionate relationship to the underlying costs of providing the particular service they are imposed for. Where possible, CFPB

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<sup>9</sup> Wang, Penelope. *Protect Yourself From Hidden Fees*, Consumer Reports, May 29, 2019, available at: <https://www.consumerreports.org/fees-billing/protect-yourself-from-hidden-fees-a1096754265/> and Consumer Reports Survey Research Report, WTFee Survey, 2018 Nationally Representative Multi-Mode Survey, January 3, 2019, attached as Appendix B.

<sup>10</sup> Ibid.



should also consider ways to eliminate or reduce excessive, predatory and/or inappropriate fees that diverge sharply from market norms and ethical business practices.

## Conclusion

Consumer Reports commends the CFPB for investigating the concerns consumers have about financial fees. These fees can really add up and cause serious hardship for Americans living on tight budgets who are doing their best to provide for their households. We hope that the CFPB will take action to rein in excessive junk fees that fall hardest on those least able to afford them. The CFPB should use its authority to ensure that fees are clearly disclosed in plain language, imposed fairly, and proportionate to the actual cost incurred by financial institutions.

Sincerely,



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## Appendix A. Consumer Reports – Member Questionnaire and Story Request Regarding Financial Fees

To learn more about our members' experiences relating to financial fees, Consumer Reports reached out nationally by email in March 2022, and asked members to estimate the amount of financial fees they paid per year to banks and financial service companies. While this was not a random sample of the general public, we found that 61% of respondents estimated the amount of financial fees they incurred was \$100 or less. Approximately 17% of respondents said they paid \$100-200 each year. Another 11% incurred fees of \$200-400, and 9% incurred fees of \$400 or more per year. Many members submitted additional comments and stories regarding their experiences relating to financial fees, which is attached.



### Consumer Reports Comment Data

Fee Dollar Amount	Number of Stories	Percentage
\$0 Fees	19	1%
\$0-\$50	706	38%
\$50-100	428	23%
\$100-200	313	17%
\$200-400	205	11%
Over \$400	168	9%
<b>Total</b>	<b>1839</b>	<b>100%</b>

\*Data provided by way of Consumer Reports 2022 Bank Fee comment collection