Behind The Financial Industry's Rhetoric On Credit Card Late Fees Is A Much Costlier Reality For American Consumers

Summary: In February 2023, the Consumer Financial Protection Bureau (CFPB) released a proposed rule that would cap most credit card late fees to $8 and end the automatic adjustment of fees to inflation. The CFPB received nearly 57,000 comments, mainly in support of the announcement. However, the financial services industry flooded the comment period with letters in staunch opposition. Industry groups made rhetorical arguments that lowering these fees will have adverse effects on borrowers, trying to paint a glossy picture that high credit card fees are actually *beneficial* to consumers. However, the CFPB, advocacy groups, and lawmakers paint a clearer picture on how this rulemaking will save Americans $9 billion a year.

As recently as July 2023, Bank of America was fined $150 million by the CFPB and Office of the Comptroller of the Currency for "charging excessive fees and withholding credit card rewards." Specifically, Bank of America double-dipped on insufficient funds fees and even withheld credit card bonuses that were promised to American consumers. These recent fines highlight the importance of cracking down on excessive fees and predatory business practices. Among industry talking points are:

RHETORIC: Industry groups, such as the Consumer Bankers Association and Independent Community Bankers of America have argued that "junk fees" simply do not exist, calling the CFPB's rulemaking "misguided."

- REALITY: Academics point out that excessive fees were created in the 1990s, as late fee revenue for credit card issuers dramatically climbed from $1.7 billion in 1996 to $7.3 billion by 2001.CFPB data showed late fees cost consumers $12 billion by 2022.

RHETORIC: Industry claims that capping late fees at $8 would cause issuers to raise the cost of credit for consumers.

- REALITY: Evidence shows that previous regulations on credit card fees did not cause lenders to hike borrowing costs for consumers.

RHETORIC: Industry argues that the CFPB's credit rule would be "especially" harmful "for the most vulnerable consumers."

- REALITY: Data collected by the CFPB shows that low-income and Black-majority communities are already the most impacted by high credit card late fees.

RHETORIC: Industry argues that lowering credit card late fees would create fewer incentives for Americans to make payments on time.

- REALITY: Research shows previous regulation on credit card late fees did not cause Americans to be "less careful in avoiding [credit card late] fees."

RHETORIC: Credit card issuers argue that the new "safe harbor" rule will not allow banks to adequately cover the costs of missed payments by Americans.

- REALITY: The CFPB and consumer groups have pointed out that banks can charge higher fees if they show the fee is needed to fully cover costs.

In January 2022, The Consumer Financial Protection Bureau (CFPB) Launched An Effort To Reduce "Exploitative" Junk Fees, Including Overdraft Fees, And Called Out Financial Services Companies For Distorting The "Trust Price Of Products" With Fees That Often Exceed The Cost Of Services.

January 2022: The Consumer Financial Protection Bureau (CFPB) Launched An Effort To Save Consumers Billions Of Dollars A Year By Reducing "Exploitative Junk Fees," Such As Overdraft Fees.

In January 2022, The Consumer Financial Protection Bureau (CFPB) Launched An Initiative To "Save Households Billions Of Dollars A Year By Reducing Exploitative Junk Fees." "Today, the Consumer Financial Protection Bureau (CFPB) launched an initiative to save households billions of dollars a year by reducing exploitative junk fees charged by banks and financial companies. Today's request is a chance for the public to share input that will help shape the agency's rulemaking and guidance agenda, as well as its enforcement priorities in the coming months and years." [Consumer Financial Protection Bureau, 01/26/22]

The CFPB Described A New "'Fee Economy'" In Which Fees Distort The "True Price Of Products" And Greatly Exceed The Cost Of Services. "Companies across the U.S. economy are increasingly charging inflated and back-end fees to households and families. This new 'fee economy' distorts our free market system by concealing the true price of products from the competitive process. For example, hotels and concert venues advertise rates, only to add 'resort fees' and 'service fees' after the fact. And fees purportedly charged to cover individual expenses, like paperwork processing, can often greatly exceed the actual cost of that service." [Consumer Financial Protection Bureau, 01/26/22]

The CFPB Sought Consumers' Experiences With Being Charged For "Fees People Thought Were Covered By Its Baseline Price; Unexpected Fees; Fees That Seemed Too High; And Fees Where It Was Unclear Why They Were Charged." "The Consumer Financial Protection Bureau on Wednesday signaled a broad crackdown on hidden and excessive fees charged by banks, mortgage lenders and other financial entities. The federal agency, created in the wake of the 2008 financial crisis, is seeking consumers' input on so-called junk fees associated with their bank, credit union, prepaid or credit card account, mortgage, loan or payment transfers. Such experiences related to a product or service include: Fees people thought were covered by its baseline price; unexpected fees; fees that seemed too high; and fees where it was unclear why they were charged, according to the agency's announcement Wednesday." [CNBC, 01/26/22]

In February 2023, The CFPB Announced Proposed Rulemaking Aimed At Capping Credit Card Late Fees At $8 To Save Americans An Estimated $9 Billion Per Year.

In February 2023, The Consumer Financial Protection Bureau (CFPB) Announced A Proposed Rule That Would Curb Excessive Late Fees, Saving Americans An Estimated $9 Billion Per Year.

February 2023: The Consumer Financial Protection Bureau Announced Proposed Rulemaking On Excessive Credit Card Late Fees. "Today, the Consumer Financial Protection Bureau (CFPB) proposed a rule to curb excessive credit card late fees that cost American families about $12 billion each year." [Consumer Financial Protection Bureau, 02/01/23]

The CFPB Estimated The Rule Would Save American Consumers $9 Billion A Year. "Credit card companies have also relied on this provision to hike fees with inflation, even if they face no additional collection costs. The proposed rule would help ensure that over the top late fee amounts are illegal. Based on the CFPB's estimates, the proposal could reduce late fees by as much as $9 billion per year." [Consumer Financial Protection Bureau, 02/01/23]

As Credit Card Companies Charge As Much As $41 For Each Missed Payment, The CFPB's Rule Aims To Cap Late Fees At $8, While Also Banning The Automatic Inflation Adjustment Of Credit Card Late Fees.

The CFPB Noted That Credit Card Companies Currently Charge Late Fees As High As $41 Per Missed Payment. "Companies currently charge people as much as $41 for each missed payment, and these fees result in billions of dollars in annual junk fee revenue for credit card companies." [Consumer Financial Protection Bureau, 02/01/23]

The Proposed Rulemaking Would Effectively Lower Credit Card Late Fees To $8 By Lowering The Credit Card Accountability Responsibility And Disclosure Act's (CARD Act's) Immunity Provision To $8. "CFPB's proposed changes, which would amend regulations implementing the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act), would ensure that late fees meet the Act's requirement to be 'reasonable and proportional' to the costs incurred by issuers to handle late payments. Specifically, the proposed rule would lower the immunity provision for late fees to $8 for a missed payment as well as end the automatic annual inflation adjustment." [Consumer Financial Protection Bureau, 02/01/23]

The CFPB's Proposed Rule Would Also Eliminate The Automatic Inflation Adjustment For Credit Card Late Fees. "The CFPB's proposal would eliminate the automatic annual inflation adjustment for the immunity provision amount. This adjustment is not required by law, nor is it necessarily reflective of how collection costs change over time. The CFPB would instead monitor market conditions and the immunity provision amount for potential adjustments as necessary." [Consumer Financial Protection Bureau, 02/01/23]

The CFPB's Proposed Rule Would Also Restrict Late Fees To 25% Of The Minimum Payment Required. "The current rule allows a card issuer to potentially charge a late fee that is 100% of the minimum payment owed by the cardholder. The CFPB proposes to restrict any late fee charge to 25% of the minimum payment to be more consistent with Congress's intent to authorize only reasonable and proportional late fee amounts." [Consumer Financial Protection Bureau, 02/01/23]

Advocacy Groups Such As The National Consumer Law Center And AARP Commended The CFPB For "Provid[ing] Ample Evidence" That The $8 Fee Limit Is "Fair" And "Reasonable," Highlighting It Would "Ensure Access" To Credit For Borrowers.

In May 2023, Consumer Groups Led By The National Consumer Law Center (NCLC), Applauded The CFPB For "Provid[ing] Ample Evidence" The New Safe Harbor Rule Was "Fair And "Reasonable."

May 2023: A Coalition Of Consumer Advocacy Groups, Led By The National Consumer Law Center (NCLC), Sent A Letter To The CFPB Commending The Agency For Its Rulemaking On Credit Card Late Fees. "The National Consumer Law Center (NCLC) (on behalf of its low-income clients), Americans for Financial Reform Education Fund, American Economic Liberties Project, Consumer Action, Consumer Federation of America, Demand Progress Education Fund, Local Initiatives Support Corporation (LISC), National Community Reinvestment Coalition, and Tzedek DC submit the following comments in response to the Consumer Financial Protection Bureau's (CFPB or Bureau) Notice of Proposed Rulemaking (NPRM) on

Credit CARD Late Fees and Late Payments. We strongly support the proposed rule. We thank the CFPB for proposing such an impactful and beneficial regulation for credit card late fees. This rule, when adopted, will save consumers billions of dollars each year in late fees, putting that hard-earned money back in their pocket." [Coalition Letter to Consumer Financial Protection Bureau, 05/03/23]

Consumer Groups Believed "The CFPB Provided Ample Evidence" That The $8 Safe Harbor Was "Fair" And "Reasonable," And "The CFPB 'Showed Its Math' Coming Up With The Figure. "We strongly support the CFPB's proposed safe harbor of $8 for credit card late fees. The CFPB provided ample evidence that this amount is fair, reasonable, and proportional to the costs incurred by issuers for late payments. Put simply, the CFPB 'showed its math; in coming up with the amount of $8, and credit card issuers did not show their math for any alternative figure." [Coalition Letter to Consumer Financial Protection Bureau, 05/03/23]

The NCLC Also Highlighted The CFPB's Caveat That Banks Would Be Able To Charge Higher Fees If They Were Able To "Show Their Math."

The NCLC And Consumer Groups Also Noted That Financial Institutions Can Charge More If They Are Able To "Show Their Math," Urging The CFPB To Have Issuer Data Made Public On These Decisions. "If issuers want to charge more than the proposed safe harbor of $8, they need to show their math. Furthermore, they need to show the data publicly and not just to the CFPB. While we would be confident that this current CFPB administration would carefully and critically scrutinize data submitted by issuers on collection costs, there will inevitably be changes in administration." [Coalition Letter to Consumer Financial Protection Bureau, 05/03/23]

The AARP Commended The Rule Saying It Would "Ensure Access To High-Quality Credit Products" At A Time When All Borrowers Are Hurt By Rising Interest Rates, Making It Difficult For U.S. Cardholders "To Effectively Plan For Or Adapt To Rising Rates."

April 2023: In Response To The Rulemaking, The AARP Sent A Comment Letter In Support Of The Rule, Saying It Will "Ensure Access To High-Quality Credit Products." "On behalf of AARP's nearly 38 million members and all older Americans nationwide, I write to comment on the Consumer Financial Protection Bureau's (Bureau or CFPB) request for information regarding consumer credit card markets (RFI). Fair, equitable, and transparent financial products are essential to helping people and communities build and maintain wealth. To that end, AARP strongly supports efforts by the Bureau to ensure access to high-quality credit products and welcomes this opportunity to share our views on changes to the credit card markets over the past two years." [AARP, 04/20/23]

The AARP Argued that 47% Of Americans Over The Age Of 60 "Are Likely To Be Unable To Pay Or Make Only A Partial Payment On Their Credit Cards," Exceeding The Rate Of Younger Borrowers. "At the same time, 47% of Americans aged 60 and over are likely to be unable to pay or make only a partial payment on their credit cards—a rate that exceeds their younger counterparts. Alarmingly, a February 2023 survey found that 22% of credit cardholders are not confident about their ability to pay their next credit card bill in full." [AARP, 04/20/23]

AARP Also Noted Interest Rate Increases Had Led To Increased Delinquencies, With "47% Of U.S. Cardholders Indicat[ing] They Did Not Know Or Were Unsure About Their Credit Cards' Interests Rates." "The increase in credit card balances and delinquencies comes at a time when credit card interest rates are also increasing. [...] Further, a recent survey showed that 47% of U.S. cardholders indicated they did not know or were unsure about their credit cards' interest rates, with that number rising to 55% for Gen Z respondents.

- **This Means Borrowers Are Not Able "To Effectively Plan For Or Adapt To Rising Rates."** "If credit card users are unsure about their interest rates, they cannot effectively plan for or adapt to rising rates." [AARP, 04/20/23]

In May 2023, Sen. Elizabeth Warren (D-MA)—Along With Six Democratic Senators—Wrote To Credit Card Companies Requesting An Outline Of The Industry's Late Fee Practices, Although Companies Failed To Provide Requested Data That "Substantiated" Claims High Fees Are To Cover Costs.

Following The CFPB's Proposed Rulemaking, Sen. Elizabeth Warren (D-MA) Sent Letters To The Largest Credit Card Issuers Requesting An Outline Of Their Credit Card Late Fees Practices.

May 2023: Following The CFPB's Rulemaking, Senator Elizabeth Warren (D-MA) Requested Responses From The Largest Credit Card Issuers, "Requesting Information On Their Credit Card Late Fees Practices." "Following the CFPB's announcement, Senator Warren sent a letter to ten of the largest credit card issuers – PNC, JPMorgan Chase, Capital One, Citigroup, Discover, Bank of America, American Express, Wells Fargo, US Bancorp, and USAA – requesting information on their credit card late fee practices. In the responses, the credit card issuers revealed the weaknesses of their case against reining in excessive late fees." [Senator Elizabeth Warren, 06/30/23]

Card Issuers Failed To Provide Requested Data That "Substantiated" Claims Financial Institutions Charge High Fees To Cover Costs.

According To Sen. Warren, Issuers Failed To Provide The Requested Data To Back Up Claims That Their Fees Cover The Costs. "'The respondents repeatedly revealed their interest in maintaining exorbitant late fees as tools of punishment, arguing that late fees must be maintained at an 'effective deterrent level' and that 'fees encourage timely payment' while providing no evidence to suggest that excessive $41 fees are necessary to deter late payments,' wrote Senator Warren. 'None of the issuers provided data we requested to substantiate their claims that the costs associated with collecting late payments exceeds the total late fees collected.'" [Senator Elizabeth Warren, 06/30/23]

Industry Groups Have Claimed That "Junk Fees" Simply Do Not Exist, Calling The CFPB's Rulemaking "Misguided," While In Reality Studies Show Excessive Late Fees Started In The 1990s, With Late Fees Revenue Reaching $12 Billion A Year By 2022.

RHETORIC: Banking Groups Have Called The CFPB's Rule "Misguided" As "Junk Fees" Do Not Exist Or Impact Consumers, Adding They Are "Well-Understood And Accepted."

April 2023: The Consumer Bankers Association Said That The CFPB's Proposal To Lower Late Fees Was "Misguided" And Sought "To Conflate Fees In Unrelated Industries As 'Junk.'" "Earlier this year, the Consumer Financial Protection Bureau (CFPB) announced a new proposal (a Notice of Proposed Rulemaking or NPRM) to lower the credit card late fee amount to $8. The proposal is part of the Administration's misguided political campaign to conflate fees in unrelated industries as 'junk.' On the surface, this proposal sounds good –

no one likes 'junk' – but the reality for consumers isn't so simple and could have significant consequences long-term." [Consumer Bankers Association, 04/17/23]

February 2023: Following President Biden's State Of The Union Address, The Independent Community Bankers of America (ICBA) Argued That Credit Card Late Fees Are Not "'Junk Fees'" And "Meet The Credit Card Needs Of Their Customers." "ICBA and the nation's community banks continue to reject President Biden's mischaracterization of overdraft protection services and credit card fees for late payments as 'junk fees.' Such language misrepresents the overdraft protection services that banks offer their customers and how community banks meet the credit card needs of their customers." [Independent Community Bankers of America, 02/07/23]

May 2023: A Joint Trade Letter From The ABA And CBA Argued The CFPB's "Mischaracterization" Of Late Payments As "Junk Fees" "Ignores The Well-Understood And Accepted Value" Of Late Fees. "The Bureau's repeated mischaracterization of late payment fees as so-called 'junk fees' ignores the well-understood and accepted value of late fees as a deterrent and undermines the significance of the role of these late fees in the credit market." [Regulations.gov, 05/04/23]

REALITY: Studies Show "Excessive" Late Fees Revenue Didn't Skyrocket Until The 1990s, When Most Lenders Only Charged Consumers $5 To $10, With Late Fees Revenue Reaching $12 Billion In 2022.

September 2006: According To A Government Accountability Study, Many Credit Card Issuers Did Not Typically Impose Late Fees Until The 1990s With Late Fees Prior To The 90s Ranging From $5 to $10. "Prior to about 1990, card issuers offered credit cards that featured an annual fee, a relatively high, fixed interest rate, and low penalty fees, compared with average rates and fees assessed in 2005. [...] As noted earlier, prior to 1990, the level of late fees on cards generally ranged from $5 to $10." [Government Accountability Office, September 2006]

In The 1990's, Credit Card Company Late Fees Skyrocketed To $7.3 Billion In Late Fees Revenue In 2001 From $1.7 Billion In Late Fees Revenue In 1996. "Late fees have become the fastest growing source of revenue for the industry, jumping from $1.7 billion in 1996 to $7.3 billion in 2001. Late fees now average $29, and most cards have reduced the late payment grace period from 14 days to 0 days." [Demos, September 2003]

Data From The CFPB Found That Credit Card Late Fees Cost Consumers Roughly $12 Billion Per Year. "The Consumer Financial Protection Bureau (CFPB) is taking the first step toward addressing credit card company penalty policies costing consumers $12 billion each year, starting by looking at excessive late fees." [CFPB, 06/22/22]

Industry Groups Argued The CFPB's Credit Card Rule, Including The $8 Cap, Would Raise The Cost Of Credit For Consumers, "Especially For The Most Vulnerable Consumers," When In Reality There Is Little Evidence Previous Rulemaking Raised Costs Of Credit And Low-Income Communities Are Already Impacted The Most By Fees.

RHETORIC: Capping The Cost Of Credit Card Late Fees At $8 Would Raise The Costs Of Credit For Consumers And Hurt Consumers Who Pay On Time.

The Consumer Bankers Association Asserted That Lowering The Cost Of Credit Card Late Fees Would Raise Costs For All Consumers. "As a result of the $8 late fee reduction, costs will go up for all consumers, which means those who pay their credit card bill on time will be subsidizing the cost of those who don't. In fact, in 2019, 74% of all consumer credit card accounts did not incur late fees." [Consumer Bankers Association, 04/17/23]

May 2023: The U.S. Chamber Of Commerce Argued The CFPB's Rulemaking "Would Harm Responsible Consumers," "Leading To An Increased Cost Of Credit And Reduced Credit Availability Within The Marketplace." "The CFPB's Proposed Rule would harm responsible consumers by undermining late fees' deterrent effect, leading to an increased cost of credit and reduced credit availability within the marketplace. These consequences will particularly harm consumers who pay their credit card bills on time by forcing them to cover the costs of those who do not [...]" [U.S. Chamber of Commerce, 05/02/23]

REALITY: Empirical Research Found Previous Regulations On Credit Cards Did Not Lead Financial Companies To Hike Other Fees Or Increase Borrowing Costs For Consumers.

September 2013: Researchers For The National Bureau Of Economic Research (NBER) Found That Regulations On Credit Card Fees Did Not Lead Industry To Hike The Fees In Other Categories. "Panels B and D show that other fees do not respond to the CARD Act. Some industry observers conjectured that credit card issuers would respond to the loss in over limit fee revenue by increasing annual fees. The plots show no evidence of an offsetting increase of an economically significant magnitude. The pooled regression estimates, shown in columns 5 and 6 of Table 4, confirm that, on average, the regulation does not affect other fee categories. However, while we observe no offsetting medium-term increase in fee revenue, firms might respond by introducing novel fees in the long run, as theorized in Heidhues, K˝oszegi and Murooka (2012)." [Regulating Consumer Financial Products: Evidence from Credit Cards, September 2013]

- **According To Its Website, NBER "Is A Private, Nonpartisan Organization That Facilitates Cutting-Edge Investigation And Analysis Of Major Economic Issues."** "The National Bureau of Economic Research (NBER) is a private, nonpartisan organization that facilitates cutting-edge investigation and analysis of major economic issues. It disseminates research findings to academics, public and private-sector decision-makers, and the public by posting more than 1,200 working papers and convening more than 120 scholarly conferences, each year." [National Bureau of Economic Research, accessed 07/19/23]

A 2015 Paper Found That Credit Card Regulations Did Not Lead To Higher Borrowing Costs For Consumers. "An empirical paper by Agarwal et al. (2015) found that regulation of credit card fees saved consumers $11.9 billion per year in borrowing costs, with the largest impact on the lowest credit score borrowers." [The White House, 10/26/22]

RHETORIC: Industry Argues That Capping Fees Would Hinder Its Ability To Provide Credit To "The Most Vulnerable" Communities.

The Bank Policy Institute Criticized the CFPB's Credit Card Late Fee Rule, Specifically A Proposed 15-Day Courtesy Period Before Late Fees Are Assessed, As Negatively Impacting Access To Credit, "Especially For The Most Vulnerable Consumers." "Imposing a courtesy period would completely upend how banks assess credit risk and negatively impact access to credit, especially for the most vulnerable consumers. Banks cannot tell if a consumer is late because they forgot to pay on time or because they are actually going to go into delinquency or default." [Bank Policy Institute, 05/03/23]

- **According To Its Website, The Bank Policy Institute Is A Research And Advocacy Group "Representing The Nation's Leading Banks."** "The Bank Policy Institute (BPI) is a nonpartisan public policy, research and advocacy group, representing the nation's leading banks. Our members include universal banks, regional banks and the major foreign banks doing business in the United States." [Bank Policy Institute, accessed 07/19/23]

REALITY: Data Collected By The CFPB Shows That Credit Card Late Fees Hurt Black-Majority And Low-Income Communities The Most.

A March 2022 CFPB Report Found That Credit Card Late Fees Primarily Hurt Black-Majority And Low-Income Communities. "Credit card late fees disproportionately burden consumers in low-income and majority-Black neighborhoods. Late fees are negatively correlated with indicators of upward economic mobility. Furthermore, these penalty fees can represent a surcharge of 24 percent annualized on top of assessed interest on unpaid balances—one of multiple financial consequences of a missed payment." [Consumer Financial Protection Bureau, March 2022]

Industry Argues Capping Credit Card Late Fees Would Disincentivize Americans To Make Payments On Time, When In Reality Previous Rulemaking On Credit Cards Did Not Lead To Consumers "Being Less Careful In Avoiding Fees."

RHETORIC: Industry Argues The CFPB Rulemaking Would Disincentivize Consumers To Pay Balances On Time.

May 2023: The U.S. Chamber Of Commerce Sent A Letter To The CFPB Saying That Lowering Credit Card Fees Would Disincentive Consumers From Paying Bills On Time. "Such late fees play an important role in encouraging prudent consumer behavior by incentivizing borrowers to pay their bills on time. By doing so, late fees help consumers establish good repayment history, as well as avoid additional interest accruing on unpaid balances, future default on debt, and negative credit reporting." [The U.S. Chamber Of Commerce, 05/02/23]

May 2023: The American Bankers Association (ABA), Consumer Bankers Association (CBA), And National Association Of Federally-Insured Credit Unions (NAFCU) Argued That Current Late Fees "Help Cover The Costs And Risks Of People Failing To Pay [On Time]," "Encourage On-Time Payments," And "Minimize Defaults And Delinquencies." "As with many obligations, late fees provide an important incentive to pay on time and help cover the costs and risk of people failing to pay. Late fees are designed to recover at least part of the issuer's costs associated with late payment, encourage on-time payments, minimize defaults and delinquencies, and promote good credit management. As discussed further herein, consumers understand and support this construct." [American Bankers Association, 05/03/23]

May 2023: Lobbyists For The Consumer Bankers Association Sent A Comment Letter To The CFPB Arguing That Capping Fees At $8 Would "Essentially Eliminate The Most Effective Consumer Consequence For Paying Late." "The Bureau argues that the deterrent effect of an $8 late fee is similar to the deterrent effect of the current rate structure, but its analysis is profoundly lacking. The Bureau also argues that the $8 fee along with other potential costs, such as the loss of a grace period or negative credit reporting, will have a sufficient deterrent effect. But those consequences already exist, and consumers still pay late even with a higher potential fee. In fact, the Bureau's proposal will essentially eliminate the most effective consumer consequence for paying late, therefore reducing the deterrent effect of the late fee." [Consumer Bankers Association, 05/03/23]

REALITY: Research Has Found That Regulations—Such As The CARD Act—Did Not Cause Borrowers To Miss Payments, Suggesting "Consumers Did Not Respond By Being Less Careful In Avoiding Fees."

Researchers From NEBR Found That Regulations On Late Fee Payments After The CARD Act Did Not Cause An Increase In The Frequency Of Late Payments, Suggesting "Consumers Did Not Respond By Being Less Careful In Avoiding These Fees." "In the pre-CARD Act period, about 8% of accounts experienced a late fee each month. These values drift downward over the sample period, with similar declines for consumer and small business accounts. In particular, the plot shows no effect of the August 2010 implementation date on the frequency of late payments. This suggests consumers did not respond by being less careful in avoiding these fees in response to a reduction in their cost, and is consistent with our other evidence on the non-salience of fees." [Regulating Consumer Financial Products: Evidence from Credit Cards, September 2013]

- **According To Its Website, NBER "Is A Private, Nonpartisan Organization That Facilitates Cutting-Edge Investigation And Analysis Of Major Economic Issues."** "The National Bureau of Economic Research (NBER) is a private, nonpartisan organization that facilitates cutting-edge investigation and analysis of major economic issues. It disseminates research findings to academics, public and private-sector decision-makers, and the public by posting more than 1,200 working papers and convening more than 120 scholarly conferences, each year." [National Bureau of Economic Research, accessed 07/19/23]

Industry Argues That Lowering The Cost Of Late Fees To $8 Would Not Allow Companies To Adequately Cover Costs, When In Reality The Rulemaking Allows Companies To Charge Higher Prices If They Can Show The Fees Are To Cover These Costs.

RHETORIC: Industry Argues That Lowering The Credit Card Late Fees To $8 Would Not Allow Lenders To Adequately Cover The Costs Of Missed Payments.

The American Financial Services Association Argued The CFPB Had A "Narrow View Of Late Fees As Revenues" And The Rule Would Not Allow Lenders To "Cover The Significant Costs Of Notifying Customers Of Delinquency, Processing Late Fees, And Incurring The Opportunity Cost Of The Lost Use Of The Delinquent Payment." "Focusing on a narrow view of late fees as revenue ignores the full costs to banks associated with late payments, the costs to consumers from late payments, and the larger impact late payments have on the credit ecosystem. Moreover, the Bureau ignores the fact that late fees are used to cover the significant costs of notifying customers of delinquency, processing late payments, and incurring the opportunity cost of the lost use of the delinquent payment." [American Financial Services Association, 05/03/23]

REALITY: During A Senate Banking Hearing, Director Chopra Told Lawmakers That The Rule Does Not Eliminate Credit Card Fees Altogether And Allows Banks To Charge Higher Fees If They Show It's Actually Needed To Cover The Cost Of A Missed Payment.

When Asked By Senator Elizabeth Warren (D-MA) If The CFPB Rule Would Eliminate Credit Card Late Fees, Chopra Said "No, Absolutely Not." Senator Elizabeth Warren: "Director Chopra, does the CFPB's proposed rule ban credit card companies from charging late fees?" CFPB Director Rohit Chopra: "No, absolutely not." [Senate Committee on Banking, Housing, and Urban Development, 06/13/23 (56:33)]

The Rule Also Permits Companies To Charge Higher Fees If They Show It Is Needed To Cover The Actual Cost Of A Missed Payment. "So let me ask this, if a bank needs to charge more than eight dollars to cover the actual costs of collecting missed payments, would the proposed rule permit that? (Senator Elizabeth Warren) "Yes, they will just have to calculate it." (CFPB Director Rohit Chopra) [Senate Committee on Banking, Housing, and Urban Development, 06/13/23 (56:58)]

REALITY: The National Consumer Law Center Also Notes The Proposed Legislation Reduces The Amount Institutions Can Charge But Allows Them To Charge A Higher Late Fee If They Can Show The Amount Is Needed To Cover Costs.

The National Consumer Law Center Noted That The Proposed Safe Harbor Rule Isn't A Hard Cap And Financial Institutions Could Charge Higher Amounts If They Can Prove It's To Adequately Cover Costs. "Furthermore, it is important to recognize that the nature of this $8 amount, as it is called, is a safe harbor. If $8 does not adequately compensate an issuer for its costs in dealing with late payments, the issuer can charge more if they can justify the amount under Regulation Z, § 1026.52(b)(1)(i)), i.e., the cost analysis method." [National Consumer Law Center, 05/03/23]