

“Junk Fee” Revolution Continues: CFPB Issues Final Rule Limiting Late Fees on Credit Cards

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Today, the Consumer Financial Protection Bureau (CFPB) [issued a Final Rule](#) capping most credit card late fees at \$8. The CFPB believes its new rule may save consumers more than \$10 billion a year in late fee charges for an average household savings of \$220 a year. As CFPB Director Rohit Chopra noted when announcing the Final Rule:

For over a decade, credit card giants have been exploiting a loophole to harvest billions of dollars in junk fees from American consumers. Today’s rule ends the era of big credit card companies hiding behind the excuse of inflation when they hike fees on borrowers and boost their own bottom lines.

The Final Rule, which amends Regulation Z (which implements the Truth in Lending Act), primarily does three things:

First, it amends the safe harbor dollar amounts that a Large Card Issuer (defined as a card issuer that, together with its affiliates, has one million or more open credit card accounts) can charge from \$30 (and \$41 for each subsequent violation of the same type that occurs during the same billing cycle or in one of the next six billing cycles) to \$8.

Second, the Final Rule clarifies that the late fee cap will not be subject to annual changes in the Consumer Price Index (CPI). The Final Rule also provides sample forms that Large Card Issuers can use to take advantage of the safe harbor provisions regarding late fee amounts.

Third, the Final Rule provides that a Large Card Issuer may charge late fees over \$8, but only if they “show their math: Larger Card Issuers will be able to charge fees above the threshold so long as they can prove the higher fee is necessary to cover their actual collection costs,” according to the CFPB.

Notably, the Final Rule does not apply to Smaller Card Issuers (defined as card issuers who, with their affiliates, had fewer than one million open credit card accounts for the entire preceding calendar year). In fact, the Final Rule increases the late fee safe harbor for Smaller Card Issuers from \$30 to \$32 (and from \$41 to \$43 for each subsequent violation of the same type that occurs during the same billing cycle or in one of the next six billing cycles).

The Final Rule is effective 60 days after publication of the rule in the Federal Register. Already, industry groups, including the Chamber of Commerce, have indicated they intend to challenge the Final Rule.

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