

# Junk Fee Supervisory and Enforcement Activity Targets Auto Servicers

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For almost two years, the Consumer Financial Protection Bureau (CFPB) has made combating so-called junk fees an agency priority, bringing multiple enforcement actions, undertaking supervisory activity, and collaborating with the FTC and the Biden administration to curb consumer finance companies from charging fees.

According to CFPB Director Rohit Chopra, the fees are “unavoidable, surprise, excessive or unnecessary charges imposed for fake or even worthless services.” While the CFPB has cast a wide net with respect to bringing enforcement actions to combat junk fees, one area of focus has been auto servicing.

The bureau has significant authority over the financial services industry, including the authority to undertake examinations of covered entities’ practices, as well as the ability to file lawsuits and other enforcement actions against companies for violations of consumer financial laws or the Consumer Financial Protection Act (CFPA). The CFPB shares key findings from these examinations and also “communicates operational changes to the supervision program” by publishing [Supervisory Highlights](#).

## Recent Supervisory Activity

The CFPB has issued two special editions of its [Supervisory Highlights](#) dedicated exclusively to junk fees. The first edition focused on a number of alleged junk fees charged by auto servicing companies. This included:

1. Overcharging late fees in excess of the amounts permitted by the underlying contract;
2. Charging unauthorized late fees after the collateral was repossessed and the contract accelerated; and
3. Charging an estimated repossession cost much higher than the actual expense.

As a result of these findings, the servicers were required to cease the practices and refund the overages.

On Oct. 10, the CFPB issued a second junk fees edition of its Supervisory Highlights. Again, the bureau highlighted certain fees in the auto servicing context, this time uncovering certain overcharges to consumers for add-on products after early termination as well as miscalculating refunds for add-on products. Specifically, the bureau noted:

*Examiners found auto servicers engaged in unfair acts or practices because consumers suffered substantial injury when servicers failed to ensure they received refunds for add-on products following early loan*

*termination; consumers were essentially required to pay for services they could no longer use, as the relevant products (including vehicle service contracts, GAP, or credit-life insurance) terminated either when the loan contract was terminated or provided no possible benefits after the consumer lost use of the vehicle.*

In response, the servicers were required to refund nearly \$20 million to the impacted consumers and implement processes to ensure consumers receive refunds for add-on products that no longer provide them any “possible benefit.”

## Recent Enforcement Activity

The CFPB has also brought enforcement actions against auto servicers for charging purported junk fees to consumers. For instance, in August, the bureau filed a lawsuit against an auto loan servicer for allegedly engaging in unfair acts and practices in violation of the CFPA for, among other things, double-billing customers for collateral protection insurance.

Notably, this double-billing was not done intentionally but was the result of a system processing error — and the servicer refunded many customers for the double-billing issue. The bureau also alleged that the auto servicer failed to ensure refunds on GAP premiums at charge-off or upon early payoff, an issue highlighted in the most recent Supervisory Highlights.

Earlier in the year, the bureau issued an order against an auto loan company for allegedly violating the Military Lending Act and the CFPA by, among other things, charging borrowers for an insurance product that provided no actual coverage to over 15,000 consumers. The consent decree required the company to pay over \$5 million in consumer redress.

Finally, the bureau, in conjunction with a state attorney general, brought suit against an indirect finance company for allegedly “pushing” dealerships to sell vehicles with hidden costs and to include “hidden” add-on products in the vehicle purchase. The bureau has claimed these actions are unfair, deceptive and abusive under the CFPA.

If past trends are a harbinger of things to come, the auto lending and servicing industries should stay vigilant — whether through guidance, supervisory oversight or enforcement actions — regarding increased CFPB and other regulatory activity related to so-called junk fees in order to guide their programs.

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