

RISK Alert

ACTIONABLE INSIGHTS FOR BOND POLICYHOLDERS.



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MUTUAL
GROUP

Alert Type

Awareness

Watch

Warning

CFPB Focus on Credit Card Late Fees as Harmful to Low-Income Consumers

The Consumer Financial Protection Bureau (CFPB) continues to identify issues where fees charged by financial institutions disparately impact consumers. Low-income areas and areas with lower economic mobility tend to bear more of the burden from credit card late fees. Late fee penalties are charged when a cardholder does not make the minimum payment by the due date.

Details

The CFPB indicated that credit card issuers charged \$12 billion in late fee penalties in 2020, down from \$14 billion in 2019 according to [March 29, 2022 press release](#).

Evidence suggests that stimulus checks improved household balances and liquidity. The fact that late fees charged by credit card issuers fell during the same period suggests that late fees are a penalty on households living paycheck-to-paycheck rather than a meaningful incentive to make on-time payments.

“Many credit card issuers have made late fee penalties a core part of their profit model. Markets work best when companies compete on price and service, rather than relying on back-end fees that obscure the true cost.” said CFPB Director Rohit Chopra. “Given their current practices, we expect that credit card issuers will hike fees, based on inflation, as limits continue to rise.”

The Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act) created a range of protections for cardholders, including limiting how much credit card companies could charge for penalties such as over-the-limit fees and late fees. While the CARD Act may have been effective in reducing the total cost of credit, the report highlights that late fees continue to negatively affect millions of Americans.

Significant findings include:

- **Many major issuers charge the maximum late fee allowed under the immunity provisions set by the Federal Reserve Board of Governors in 2010.**
- **Subprime cards and private label cards are particularly susceptible to late fee charges** and deep subprime accounts are more likely than super-prime accounts to carry smaller balances. As a result, deep subprime cardholders pay late fees that represent a higher percentage of their balances. For private label cards, late fees comprised the overwhelming majority—91%—of all consumer fees and 25% of total interest and fees.
- **Low-income areas, areas with higher populations of African Americans, and areas with lower economic mobility all bear more of the late fee burden.** In 2019, credit card accounts held by cardholders living in the United States’ poorest neighborhoods paid twice as much on average in total late fees than those in the richest areas. Cardholders in majority African American populations paid more in late fees for each card they held with major credit card issuers.

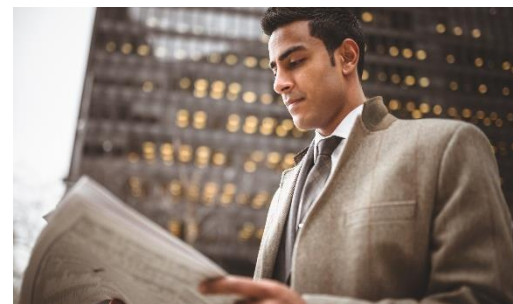
Date: May 31, 2022

Risk Category: Consumer Payments; Credit Cards: Lending; Compliance

States: All

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Facing risk challenges?

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Risk Mitigation

Credit unions should:

- Follow all the rules in Section 1026.52(b) of Regulation Z. This section requires a penalty fee to represent a “reasonable proportion of the total costs incurred” by the credit union as a result of a member’s failure to meet the contractual terms.

To calculate the reasonableness of late fees, credit unions may consider all costs associated with collecting a late payment, including, notifications to members and processing delinquencies. The rule also provides a safe harbor for the dollar amount of penalty fees, which is updated regularly to account for inflation.

Currently, these amounts are \$30 for the first violation and \$41 for a second violation within six billing cycles.

- Work with members to identify the most appropriate product for their personal situation and disclose all fees and penalties as required by Regulation Z, Section 1026.6.

A suggested practice is to review your credit card application processes and ensure members have a clear understanding of the costs associated with the account.

Risk Prevention Resources

Access CUNA Mutual Group’s [Protection Resource Center](#) for exclusive risk and compliance resources and RISK Alerts to assist with your loss control needs (User ID and Password required).

- 02/08/2022 RISK Alert: [CFPB Launches Initiative on Excessive Junk Fees](#)

CFPB Resources:

- 03/29/2022 Press Release: [CFPB Finds Credit Card Companies Charged \\$12 Billion in Late Fee Penalties in 2020](#)
- [Credit Card Late Fees Report](#), March 2022



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