



# CORNERSTONE LEAGUE

*Uniting & Inspiring Credit Unions  
to Advance the Greater Good*

May 3, 2023

Comment Intake—2023 NPRM Credit Card Late Fees  
c/o Legal Division Docket Manager  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

Re: Credit Card Penalty Fees (Regulation Z); Docket No. CFPB-2023-0010

Dear Sir or Madam:

The Cornerstone Credit Union League (Cornerstone League) is a regional trade association serving federal and state credit unions in Arkansas, Kansas, Missouri, Oklahoma, and Texas combined, and more than 14.6 million credit union members.

On behalf of our members, we are writing in response to the Consumer Financial Protection Bureau's (CFPB or Bureau) proposed rule with a request for public comment on credit card late fees and late payments.

## **Position**

Cornerstone League strongly opposes the CFPB's proposed rule as we believe it will both negatively impact the ability of credit unions to offer viable credit card programs and will increase the cost of credit cards for all cardholding members – not just consumers that incur late payments. The well-intentioned proposed rule which is aimed at “helping” consumers will in fact result in the unintended consequence of fewer and/or more expensive services for all consumers.

## **Understanding Credit Unions**

Credit unions are not-for-profit financial cooperatives owned by their members. Credit unions do not issue stock, nor do they pay dividends to shareholders. Earnings (including fee income) are returned to members in the form of lower interest rates on loans, higher interest on deposits, and lower fees. Because of this unique relationship, credit unions' interest in their members' financial well-being and advancing the communities they serve is a top priority.

Credit unions routinely work with members who may be experiencing financial stresses by implementing generous late payment grace periods, reducing fees across-the-board, reducing fees on small card balances, automating the fee waiver process, and/or limiting the frequency

certain fees can be charged over a specified period. In addition, credit unions have a long history of providing financial literacy training to the membership and community. These efforts reveal the innovative nature of credit unions and the proactive work that credit unions are doing to secure financial well-being for all.

### **Background on the Proposal**

The CFPB proposed to amend Regulation Z, which implements the Truth in Lending Act (TILA), to uniformly reduce the level of permissible late fees charged for all consumer credit card accounts with a limit of \$8.

Currently, credit card late payment fees must be “reasonable and proportional” to the late payment as required under TILA. Federal regulators established a safe harbor by expressly permitting credit card late fees at an amount at \$30 for the first late payment and up to \$41 for subsequent late payments.

The Bureau’s proposal would considerably decrease the safe harbor dollar amount for late fees from \$30 to \$8 and eliminate the higher safe harbor dollar amount for fees incurred by subsequent late payments. In addition, the proposal seeks to eliminate the annual inflation adjustment for the safe harbor dollar amounts and fix a reduced safe harbor threshold in perpetuity. The proposal would also mandate late fee amounts not exceed 25 percent of the required minimum payment.

### **Analysis**

Cornerstone League believes that reducing or eliminating the current metric for determining whether a late fee is “reasonable and proportional” (the well-established late fee safe harbor threshold) would result in unintended consequences including making credit union services more expensive (and as a result, a decrease in availability) to those who need them the most. Currently, late fees are clearly disclosed as required by law and regulation including Regulation Z. These fees are not hidden nor are they a surprise to the consumer. The late fees currently being assessed by credit unions are “reasonable and proportional” as is required by law and within the limits set by federal regulators.

Late fees are levied only after a payment is not rendered by a specified date. The late payment is intended to recoup the cost of losses due to non-payment but also to encourage the payment of debts in a timely manner. \$8 simply is not high enough to encourage consumers to make timely payments.

If credit unions were unable to assess reasonable late fees for non-payment, then credit unions would not only face safety and soundness concerns but it’s likely the costs of non-payments

would be borne by the entire membership in the form of higher interest rates or the tightening of credit standards – even for those consumers that pay their debts in a timely fashion.

Finally, we do not believe the data underlying the proposal support the dramatic reduction of the safe harbor dollar threshold or the elimination of the threshold's annual inflation adjustment. The data used was related solely to activity by the largest banks and did not give sufficient consideration to smaller institutions like credit unions. Additionally, the comment deadline was not sufficiently long enough for the credit union industry to fully quantify the impact on consumer cardholders and smaller issuers.

**Summary**

Cornerstone League respectfully requests the CFPB deny adoption of the proposed changes.

Sincerely,

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