



# CORNERSTONE LEAGUE

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

March 22, 2024

Comment Intake—2024 NPRM Fees for Instantaneously Declined Transactions,  
c/o Legal Division Docket Manager  
Bureau of Consumer Financial Protection  
1700 G Street NW  
Washington, DC 20552

**RE: Fees for Instantaneously Declined Transactions (Docket No. CFPB-2024-0003)**

Dear Sir or Madam:

On behalf of Cornerstone Credit Union League [Cornerstone League], I am writing in response to the notice of proposed rulemaking [NPRM] issued by the Consumer Financial Protection Bureau [CFPB or Bureau] regarding its proposed rule to prohibit covered financial institutions from charging fees, such as nonsufficient funds [NSF] fees, when consumers initiate payment transactions that are instantaneously declined.

Cornerstone League is a regional trade association that represents just shy of 600 state and federally chartered credit unions in Arkansas, Kansas, Missouri, Oklahoma, and Texas. Those 600 credit unions in turn represent nearly 12 million member/owners. Credit unions are not-for-profit member owned financial cooperatives committed to the financial success of the individuals, families, and communities they serve.

Credit unions strongly support the financial well-being of their member/owners. However, despite the good intentions of the CFPB to protect consumers with this and similar proposals, we oppose the proposal due to the unintended consequences it will bring for consumers and credit unions.

In the proposal, CFPB acknowledges that many financial institutions have stopped charging NSF fees, and when they are charged, they are generally limited to check and ACH transactions which do not occur instantaneously. As a result, it is clear that CFPB is trying to fix a non-existent problem with the proposal at hand.

Cornerstone League cautions the CFPB against overregulating these and similar service charges under the generalization that these charges are inherently abusive practices under the Consumer Financial Protection Act's prohibition on unfair, deceptive, or abusive acts or practices (UDAAP).

Please note, these types of fees are not "surprise junk fees"; they are properly disclosed by the financial institution and tied to a service that benefits the consumer. The disclosure of fees and rates under both the Truth in Savings Act and the Truth in Lending Act permit consumers to make informed decisions when choosing the financial institution that best meets their needs.

Also, the fees are avoidable by consumers who properly manage their accounts. We acknowledge that financial responsibility can be a challenge for many consumers, which is why credit unions focus on providing financial education to their members.

By its own definition, the Dodd-Frank Act describes an “abusive act or practice” as one that: “Materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service, or takes unreasonable advantage of:

- A lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service;
- The inability of the consumer to protect its interests in selecting or using a consumer financial product or service; or
- The reasonable reliance by the consumer on a covered person to act in the interests of the consumer”

By these criteria, the assessment of a fee for which a consumer was informed prior to assessment and which the consumer had the ability to avoid with proper account management would not constitute an abusive act or practice.

Again, these fees are not punitive; rather they are associated with a direct service being sought by members. Financial institutions provide payment systems, such as debit or credit cards, which makes payment verification quick and secure, benefiting both consumers and merchants. The operation of a debit card program is a service that bears high costs to the financial institution provider. These significant operational and financial costs are associated with staffing, operations, technology, cards, compliance, fraud, and more. Dictating specific service level fees will impact any financial institution’s ability to safely provide such services.

Both consumers and businesses benefit from safe, secure, and reliable card usage, and the CFPB’s proposed rule could unintentionally harm those consumers that rely on their financial institution for those services; therefore, Cornerstone League suggests the CFPB withdraw this rulemaking.

Please feel free to reach out should you have any questions.

Sincerely,  
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