ECONOMY & ENVIRONMENT

# Overdraft fees, late fees could be slashed as White House continues attack on junk fees

BY: **CASEY QUINLAN** - JANUARY 24, 2024 11:06 AM


Wells Fargo is one of the major banks that would be affected by a new overdraft rule proposed by the Consumer Financial Protection Bureau. (Photo by Justin Sullivan/Getty Images

The cost of overdrawing your bank account could ease considerably under a rule proposed last week by the Consumer Financial Protection Bureau. The proposed regulation is in line with a larger effort that the Biden administration has championed the past few years to crack down on "junk fees," which are tacked onto everything from ticket prices to hotel bills.

The agency says roughly 23 million households use overdraft fees each year and while most consumers' overdrafts on debit cards are less than $26, they usually have to pay overdraft fees around $35. Regulators are proposing instead three options for banks: They could offer overdraft loans that comply with lending laws, set a fee that reflects the actual cost or charge a standard fee set by the agency. And while regulators haven't settled on that benchmark fee yet, amounts being considered range from a low of $3 to a high of $14.

The overdraft rule would apply to insured banks and credit unions with more than $10 billion in assets. The regulation, which has to go through a review and public comment period, would likely take effect in October 2025.

President Joe Biden called on federal agencies to come up with a plan for lowering and disclosing junk fees at a White House Competition Council meeting in September 2022, and in February of 2023, Biden devoted a portion of his State of the Union speech to his agenda on lowering junk fees. He said that although these costs may seem small to some, they are burdensome to many households. In financial services, these fees may include onerous overdraft fees or credit card late fees that the CFPB says are often profit-driven..

Marc Jarsulic, a senior fellow and the chief economist at the Center for American Progress, a progressive think tank, said deceptive and unfair fees are prevalent and that this is backed up by estimates of the cost to consumers when they can't easily understand prices and compare them to other options.

"There's a second kind of cost aside from this, the search cost, which is when you can't figure out easily what the price of something is and what the price of alternatives or substitutes might be. … They can spend limited income on things that they normally wouldn't if they knew what the relative prices were," he said.

Although regulators and policymakers have been aware of the problems with junk fees for a decade or more, the prominence of this issue for the Biden administration and the awareness it brings to consumers is unusual, and putting it all into one non-industry specific effort is a substantial change from previous approaches, said Sharon Tennyson, an economist and a professor at Cornell University in the department of policy analysis and management.

"We're all aware that we're facing these fees and they're a big annoyance but to actually get consumers to realize that, hey, this might even be an illegal practice, I think is an important advance of what we're seeing in the new policy environment," she said.

Tennyson said it's fairly rare to see presidents talk about consumer rights.

"It's highly unusual for presidents in these high level speeches to focus on citizens as consumers at all," she said.

## Credit card regulations, banking fines

The new overdraft regulations follow a rule proposed last year that aims to bring down credit card late fees, which the CFPB estimates cost Americans $12 billion each year. The rule, which could be finalized as soon as this month, could reduce those fees by $9 billion each year, the CFPB says. Under current regulations, a credit card company can charge $30 for a first late payment and $41 for subsequent ones, and up to 100% of the required payment, if it can prove the costs it incurs are higher than $41. But under the CFPB's proposal, the late fee could never be more than $8 or 25% of the required payment, if the credit card issuer proves that its costs exceed $8.

Banking groups, including the American Bankers Association and Consumer Bankers Association, oppose the rule, claiming that it will make it harder for consumers to obtain credit cards and that consumers will be forced to turn to payday loans, which will end up costing them more money.

The agency also has released guidance for banks on what it calls "surprise depositor fees" and "surprise overdraft fees," which they said may be illegal under the Consumer Financial Protection Act.

The crackdown on these types of fees has already had an effect on banks' behavior.

"There have been financial penalties on individual banks that have caused banks to change their behavior and we'll know more about that as the CFPB continues to monitor reports of abusive treatment of customers," Jarsulic said.

In July, Bank of America was fined and ordered by the CFPB to stop charging customers repeat non-sufficient fund fees. Wells Fargo paid more than $2 billion to customers and $1.7 billion as a civil penalty in December 2022 for surprise overdraft fees and freezing accounts based on mistaken fraudulent activity. As a result, Wells Fargo has been ordered not to charge overdraft fees to banking customers who had money at the time of their transaction. The agency took a similar enforcement action against Regions Bank in 2022 for its surprise overdraft fees.

## Regulating wallet apps

In addition to monitoring banks, regulators say they want to make sure that non-banking companies' fees and other business activity adheres to the law as well. In November, the CFPB proposed a rule to apply the same banking safeguards it provides to banks – such as deposit insurance – to businesses like Venmo and Apple Pay that provide "digital wallets." Under the regulations, the agency would be able to monitor these companies to make sure consumers' rights to privacy and the transfer of money are being protected.

"What they're saying is there are potentially deceptive practices, and that there is some risk that people are being surveilled by the operators of these apps in ways they might not like and that those data can be misused potentially by big digital firms to manipulate consumers algorithmically or otherwise try to influence their behavior," Jarsulic said. "That proposal is essentially a beginning step to get the data that's needed and figure out what's going on in an area that is itself not transparent."



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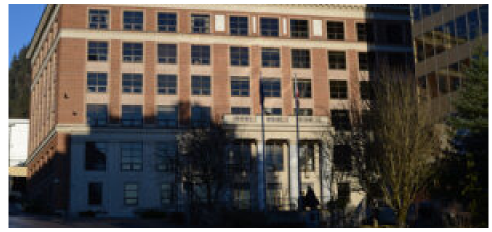

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