

## Advancing Health Education With Telemedicine (Advances in Medical Education, Research, and Ethics)

Washington, D.C. " Today, the Consumer Financial Protection Bureau (CFPB) issued guidance about two junk fee practices that are likely unfair and unlawful under existing law. The first, surprise overdraft fees, includes overdraft fees charged when consumers had enough money in their account to cover a debit charge at the time the bank authorizes it. The second is the practice of indiscriminately charging depositor fees to every person who deposits a check that bounces. The penalty is an unexpected shock to depositors who thought they were increasing their funds.

"Americans are willing to pay for legitimate services at a competitive price, but are frustrated when they are hit with junk fees for unexpected or unwanted services that have no value to them," said CFPB Director Rohit Chopra. "We are providing guidance on existing law that will help law-abiding businesses seeking to fairly compete and the families they serve."

Overdraft and depositor fees likely violate the Consumer Financial Protection Act prohibition on unfair practices when consumers cannot reasonably avoid them. Today's Consumer Financial Protection Circular on surprise overdraft fees and the CFPB's compliance bulletin on surprise depositor fees lay out when a financial institution's back-end penalties likely break the law.

### Surprise Depositor Fees

When a consumer deposits a check that bounces, banks sometimes charge a fee to the depositor, usually in the range of \$10 to \$19. However, a person trying to deposit a check has no idea or control over whether the check will clear, and sometimes, that person is the victim of check fraud. In fact, there are many reasons deposited checks can bounce, and the most common reason is that the check originator does not have enough money available in their account. Charging a fee to the depositor penalizes the person who could not anticipate the check would bounce, while doing nothing to deter the originator from writing bad checks.

The bulletin explains that indiscriminately charging these depositor fees, regardless of circumstances, likely violates the Consumer Financial Protection Act. Financial institutions can generally stay on the right side of the law when they employ more tailored fee policies that charge depositor fees only in situations where a depositor could have avoided the fee, such as when a depositor repeatedly deposits bad checks from the same originator.

### Surprise Overdraft Fees

An overdraft fee can become a surprise fee when the customer doesn't reasonably expect their actions to incur an overdraft fee. For instance, even if a person closely monitors their account balances and carefully manages their spending to avoid overdraft fees, they can easily incur penalties when financial institutions employ processes that are unintelligible or manipulative.

Today's Consumer Financial Protection Circular explains that when financial

institutions charge surprise overdraft fees, sometimes as much as \$36, they may be breaking the law. The circular provides some examples of potentially unlawful surprise overdraft fees, including charging penalties on purchases made with a positive balance. These overdraft fees occur when a bank displays that a customer has sufficient available funds to complete a debit card purchase at the time of the transaction, but the consumer is later charged an overdraft fee. Often, the financial institution relies on complex back-office practices to justify charging the fee. For instance, after the bank allows one debit card transaction when there is sufficient money in the account, it nonetheless charges a fee on that transaction later because of intervening transactions.

In September 2022, the CFPB took action against Regions Bank for charging surprise overdraft fees known as authorized positive fees. As early as 2015 the CFPB, as well as other federal regulators, including the Federal Reserve, began cautioning financial institutions against charging certain types of authorized positive fees, such as the ones used by Regions to unlawfully penalize customers. Regions is required to, among other consequences, reimburse consumers all the funds it unlawfully charged since August 2018 and pay a \$50 million penalty.

Today's Consumer Financial Protection Circular on surprise overdraft fees and its bulletin on surprise deposited item fees are just the latest announcements as part of the CFPB's junk fee initiative, one of many efforts across the federal government to increase competition and reduce unnecessary financial burdens on American families.

#### Junk Fee Initiative

In January 2022, the CFPB launched an initiative to scrutinize back-end junk fees that cost Americans billions of dollars. Tens of thousands of people responded to a CFPB Request for Information with their stories and complaints about unnecessary fees in banking. Since then, the CFPB has taken action to constrain "pay-to-pay" fees, and has announced a rulemaking proceeding on credit card late fees. In the last year, the CFPB has also published several research reports on overdraft fees and an analysis of college banking products.

The CFPB has observed that financial institutions have started to compete more when it comes to fees. Earlier this year multiple banks announced they were eliminating overdraft fees or updating their policies to be more consumer

friendly. And, in recent months, multiple large banks announced that they are eliminating non-sufficient fund fees on their checking accounts. The CFPB estimates that these changes mean \$3 billion in savings for consumers.

Read today's Consumer Financial Protection Circular, Surprise Overdraft Fee assessment practices .

Read today's compliance bulletin .

Read the CFPB's recent enforcement action against Regions Bank for charging surprise overdraft fees.

Learn about the CFPB's work on junk fees at [consumerfinance.gov/JunkFees](https://consumerfinance.gov/JunkFees).

Consumers can submit complaints about overdraft and depositor fees, as well as about other financial products or services, by visiting the CFPB's website or by calling (855) 411-CFPB (2372).

Employees who believe their companies have violated federal consumer financial protection laws are encouraged to send information about what they know to [whistleblower@cfpb.gov](mailto:whistleblower@cfpb.gov).

## Reference

[Single Subject Research: Applications in Educational Settings](#)

[In Conversation with Karen Barad \(Postqualitative, New Materialist and Critical Posthumanist Research\)](#)