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# CFPB Credit Card Late Fee Rule Vacated by Banking Trade Group Lawsuit

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The CFPB's 2024 final rule on credit card late fees has been vacated as a result of the lawsuit filed by several banking industry trade groups challenging the rule's validity.

As previously covered in our blog post "*Consumer Financial Protection Bureau Releases Final Rule Limiting Credit Card Late Fees*," the CFPB's late fee rule, finalized in March 2024, aimed to significantly reduce the amount that large credit card issuers could charge for late payments. This post provides a summary of the vacated rule, the key aspects of the litigation giving rise to this decision, and the anticipated impact of this ruling on both credit card issuers and consumers.

On April 15, 2025, Judge Mark T. Pittman of the U.S. District Court for the Northern District of Texas issued a ruling that effectively vacated the Consumer Financial Protection Bureau's final rule limiting credit card late fees, granting the joint motion for consent judgment filed by the CFPB and the plaintiffs. Judge Pittman's Order held that the late fee rule was vacated "for failure to allow card issuers to 'charge penalty fees reasonable and proportional to violations,' in violation of the Credit Card Accountability and Disclosure Act" (the CARD Act).

The fact that both the CFPB and the plaintiffs representing the banking industry jointly requested the court to vacate the rule underscores the ongoing shift in the Bureau's regulatory posture and priorities. Initially, the CFPB vigorously defended its late fee rule against industry challenges, but the subsequent agreement to a settlement that resulted in the rule being vacated – coming after the change in administration and appointment of new agency leadership – demonstrates the Bureau's willingness to reassess the legal vulnerabilities of rules issued under its former leadership, and the potential for continued alignment with banking industry interpretations.

**Summary of the CFPB's Late Fee Final Rule**

The CFPB's final rule on credit card late fees, issued in March 2024, was a key component of the Biden administration's initiative to curb what it termed “junk fees” across various sectors, with a specific focus on the financial services industry.

The primary objective of the rule was to lower the amount that credit card companies could charge consumers as a penalty for late payments. Previously, credit card issuers could rely on the Regulation Z “safe harbor” fee amounts, permitting issuers to charge up to $30 for the initial late payment and up to $41 for subsequent late payments, with adjustments for inflation on an annual basis. However, a central provision of the late fee rule was the establishment of a new safe harbor threshold, setting the maximum permissible late fee at $8 for “larger card issuers”—defined as those with one million or more open credit card accounts. This $8 cap was intended to apply uniformly to both the initial and any subsequent late payments made by a cardholder. In a departure from the previous regulatory framework (under which fees limits were adjusted annually based on changes in the Consumer Price Index), the final rule also eliminated the annual inflation adjustments for this $8 safe harbor amount. Additionally, the rule clarified that when determining penalty fees, credit card issuers could not include any costs associated with collection efforts that occurred after an account had been charged off.

Although the rule was initially slated to take effect on May 14, 2024, its implementation was stayed pending the legal challenges that ensued after the final rule was issued.

**The Litigation: *U.S. Chamber of Commerce v. CFPB***

The CFPB's late fee rule faced legal challenges soon after its release, notably including a lawsuit filed by the U.S. Chamber of Commerce, the American Bankers Association, and several other industry trade groups (the “Plaintiffs”), in the U.S. District Court for the Northern District of Texas.

At the heart of the Plaintiffs’ legal argument was the assertion that the CFPB's final rule exceeded the statutory authority granted to the agency under the Credit Card Accountability Responsibility and Disclosure (CARD) Act of 2009. The Plaintiffs contended that the CARD Act explicitly permits credit card issuers to charge “penalty fees” for violations of the cardholder agreement, provided that these fees are “reasonable and proportional to such omission or violation.” The Plaintiffs further argued that the CFPB's imposition of an $8 fee limit for late payments did not adequately consider the deterrent effect that late fees are intended to have on consumer behavior, nor did it sufficiently account for the various costs incurred by credit card issuers when cardholders fail

to make timely payments. In addition to the CARD Act violation claim, the Plaintiffs also alleged that the CFPB's rule was “arbitrary and capricious,” thus violating the Administrative Procedure Act, which governs the process by which federal agencies create and implement regulations.

The court initially granted a preliminary injunction in May 2024, which temporarily blocked the implementation of the late fee rule based on constitutional grounds related to the Fifth Circuit's ruling on the CFPB's funding structure (although this basis was later affected by a reversal from the U.S. Supreme Court). However, in December 2024 Judge Pittman issued a ruling indicating a strong likelihood that the Plaintiffs would ultimately succeed on the merits in their challenge, finding that the late fee rule “clearly violates the CARD Act.” This likely influenced the CFPB's subsequent willingness to enter into the joint settlement.

**The Joint Motion for Consent Judgment and the Court’s Ruling**

On April 14, 2025, the Plaintiffs and the CFPB filed a Joint Motion for Entry of Consent Judgment in which the CFPB conceded that its late fee final rule exceeded the agency's authority under the CARD Act by prohibiting credit card issuers from charging reasonable penalty fees. Consequently, both parties jointly requested that the court vacate the late fee final rule and dismiss all remaining claims in the lawsuit with prejudice.

The following day, Judge Pittman granted the joint motion, issuing an Order and Final Judgment that officially vacated the CFPB's credit card late fee final rule, citing the rule’s “failure to allow card issuers to ‘charge penalty fees reasonable and proportional to violations,’” in violation of the CARD Act and Administrative Procedure Act.

The CFPB's explicit admission that its own rule was legally flawed is a notable development, likely signaling a change in the agency's regulatory posture under new leadership and a potential forthcoming reassessment of the legal underpinnings of the previous administration's regulatory agenda.

**Impact on Credit Card Issuers**

With the CFPB’s credit card late fee rule now vacated, large credit card issuers that would have been subject to the rule can continue to charge late fees under the previous regulatory framework, which permitted significantly

higher safe harbor amounts—up to $30 for the first late payment and $41 for subsequent late payments within a specified period (subject to state law limitations and other previously-applicable federal guidelines).

Had the CFPB's rule gone into effect, it was estimated to result in a substantial loss of revenue for the credit card industry, potentially amounting to approximately $10 billion annually in late fee collections. The vacatur of the rule not only preserves this significant revenue stream for issuers but also avoids the need for them to implement potentially costly operational changes and adjustments to their fee structures that would have been required to comply with the $8 cap. This decision allows credit card companies to maintain their existing business models related to late fee charges, at least for the time being.

However, it is important that credit card issuers continue to closely monitor the regulatory landscape for any future developments or potential attempts to regulate credit card fees. Despite this legal development, the underlying policy debate regarding the appropriateness and level of credit card late fees will likely persist, suggesting that future regulatory actions by the CFPB, FTC, or other bodies like state regulators remain a possibility.

**Impact on Consumers**

The impact to consumers that will result from the late fee rule being vacated is a subject of differing perspectives among various stakeholders.

Opponents of the rule, such as the American Bankers Association and other trade groups, argue that the vacatur is ultimately beneficial for consumers because implementation of the $8 cap could have led to unintended negative consequences such as an increase in late payments, potentially resulting in lower credit scores for consumers. They also suggested that to compensate for the lost revenue from late fees, credit card issuers might have increased interest rates or reduced the availability of credit, particularly for those with lower credit scores or higher risk profiles.

Conversely, consumer advocates have expressed concerns that the court's decision is a setback for consumer protection. They argue that the vacating of the rule will allow large banks and credit card companies to continue charging what they consider to be excessively high late fees, leading to consumers paying billions of dollars more in these charges annually. These advocates believe that the CFPB's original rule was a necessary

measure to curb what they describe as a loophole that allowed large card issuers to generate substantial profits from late fees that exceeded their actual costs associated with late payments.

**Takeaways: Implications of the Vacated Late Fee Rule**

The CFPB's request to vacate its own credit card late fee final rule marks a significant turn in the regulation of the financial services industry under the Bureau's new leadership. The court's decision was primarily driven by the CFPB's concession that the rule exceeded its authority under the CARD Act and therefore violated the Administrative Procedure Act – a concession consistent with the arguments made by the banking industry trade groups that initially challenged the rule. This may be indicative of the Bureau's willingness to more closely align its regulatory interpretations with those of banking industry participants under its current leadership. Furthermore, the timing of this settlement in April 2025 aligns with the broader context of the Trump administration's stated goals of reducing the scope and impact of the CFPB, as indicated by directives for the agency to review and potentially repeal existing guidance.

For credit card issuers, the immediate impact is the continuation of the previous, more permissive framework for charging late fees, allowing them to maintain their current operations and collect a substantial revenue stream. The impact on consumers, however, is viewed through different lenses: while industry proponents argue that the late fee rule's elimination prevents potential negative consequences like higher interest rates and reduced credit access, consumer advocates fear that it will lead to increased costs for consumers through the continued imposition of higher credit card late fees.

This development underscores the ongoing tension between the interests of financial institutions and consumer protection in the credit card market, highlighting the importance of continued attention to regulatory developments in this sector.