



This week the CFPB released guidance on how to avoid charging illegal junk fees on deposit accounts. The guidance is specifically regarding surprise overdraft fees and surprise depositor fees. The CFPB is classifying these junk fees as unfair and unlawful as consumers cannot reasonably avoid them.

An overdraft fee becomes a surprise overdraft fee when the customer does not reasonably expect their actions to incur an overdraft fee. These situations happen when a bank uses unintelligible or manipulative processes, such as using complex back-office practices to justify charging overdraft fees.

Regarding surprise depositor fees, the guidance states that charging a fee to the depositor of a check that bounces penalizes the depositor who could not anticipate the check would bounce. Indiscriminately charging these depositor fees, regardless of circumstances, is likely a UDAAP violation.

You can access the following CFPB resources for more information:

**[Consumer Financial Protection Circular on Surprise Overdraft Fees](#)**

**[Compliance Bulletin on Surprise Deposit Fees](#)**

The CFPB has made clear their focus on scrutinizing bank fees through their 'Junk Fee Initiative'. CCI suggests our clients review their practices for charging back-end fees specifically related to overdrafts and nonsufficient funds. We anticipate upcoming exams to have a focus on potential UDAAP violations surrounding fees. If your bank would like to chat with one of our consultants regarding your current practices, we would be happy to be of assistance.

