



March 25, 2024

Rohit Chopra  
Director  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, DC 20552

**Re: Fees for Instantaneously Declined Transactions, Docket No. CFPB-2024-0003, RIN 3170-AB16**

*Filed electronically via: <https://www.regulations.gov>*

Dear Director Chopra:

CrossState Credit Union Association (CrossState) appreciates the opportunity to share comments from our members on the proposed rule to amend Chapter X of Title 12 to add a Part 1042 that would prohibit covered financial institutions from charging NSF fees on instantaneously declined transactions, regardless of transaction method.

CrossState is a regional trade association that advocates for nearly five hundred credit unions located in the State of New Jersey and Commonwealth of Pennsylvania. Credit unions were formed for the purpose of making credit available to Americans and promoting thrift through a national system of nonprofit, cooperative financial institutions. Credit unions are owned by their members and controlled by a volunteer board of directors elected by the membership of the credit union. Earnings of credit unions are returned to members through fewer and lower fees, higher yields on savings, and lower loan interest rates.

The proposed rule will apply to all financial institutions, as defined in Regulation E<sup>1</sup>, and would include credit unions, regardless of size. A covered transaction under the proposed rule will mean an “attempt by a consumer to withdraw, debit, pay, or transfer funds from their account that is declined instantaneously or near-instantaneously by a covered financial institution due to insufficient funds.”

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<sup>1</sup> 12 CFR 1005.2(I) “Financial institution” means a bank, savings association, credit union, or any other person that directly or indirectly holds an account belonging to a consumer, or that issues an access device and agrees with a consumer to provide electronic fund transfer services, other than a person excluded from coverage of this part by section 1029 of the Consumer Financial Protection Act of 2010, title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376.

As the CFPB notes in the proposal, these are fees that are very seldom charged by banks or credit unions. "The CFPB understands, based on its market monitoring, that currently covered financial institutions rarely charge NSF fees on covered transactions."<sup>2</sup>

CrossState and its members oppose this current rulemaking as unnecessary and urge the CFPB to continue to monitor the market to determine if consumers are being harmed by this practice. CrossState suggests that a rulemaking is not necessary to address these infrequently charged fees that would already be governed under UDAAP and could be addressed with a Supervisory Guidance or Letter.

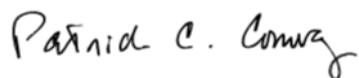
Additionally, CrossState and its members are concerned with the recent focus of the CFPB on what it categorizes as "junk fees." The term creates a negative impression on all financial institutions when it is used to describe fees, such as NSF fees, that are charged in relation to a service that is being provided to consumers. Credit unions, especially as not-for-profit cooperatives, are not in the business of charging abusive fees.

When the term "junk fees" is used to apply to almost all fees charged by financial institutions it is harmful to credit unions, who consistently charge reasonable fees for the services they provide, and has a detrimental effect on the banking habits of consumers. So much so consumers may stay unbanked and continue to rely on the more costly services of payday lenders and check cashiers assigning.

Credit unions have made great strides in supporting the unbanked and providing financial services to underserved communities. The services that credit unions provide go beyond traditional banking products and include financial education programs for their members and the communities that they serve. The consistent use of the term "junk fees" in reference to financial products and services does a disservice to the consumers that credit unions may be able to help the most.

Thank you for the opportunity to comment.

With best regards,



Patrick C. Conway  
President & CEO

cc: CrossState Board  
CrossState Government Relations Committee  
CrossState Regulatory Review Committee

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<sup>2</sup> 89 FR 6031, 6039