Statement for the Record from the Bank Policy Institute

Before the U.S. Senate Committee on Banking, Housing and Urban Affairs

"Consumer Protection: Examining Fees in Financial Services and Rental Housing"

May 9, 2024

The Bank Policy Institute welcomes the opportunity to provide input on today's Senate Banking Committee hearing titled "Consumer Protection: Examining Fees in Financial Services and Rental Housing." The hearing centers on a topic that some federal policymakers have unfortunately mischaracterized and politicized, and BPI welcomes the chance to correct those mischaracterizations.

Banks provide a variety of products and services that help consumers meet their financial needs. They frequently offer these products and services, from mortgages to payment services, at a more affordable and transparent price point than less regulated competitors like payday lenders and fintech firms.

But banks' products and services are made possible only by covering the costs of providing those products and services. For example, with respect to credit products such as credit cards, banks must account for the risk that some borrowers will default. Without covering these costs and risks, banks would be putting their own safety and soundness at risk, contrary to their legal obligations. The political narrative around so-called "junk fees" in the banking and financial services marketplace, however, promulgates the falsity that all fees charged by banks are "junk fees." Banks are always transparent with customers about fees and disclose them, as required by law. Unfortunately, the CFPB and the Administration, among others, have ignored reality and embraced political rhetoric, demonizing economically necessary charges as "junk fees."

This narrative ignores the significant benefits that accrue to consumers from their bank's consumer financial products and services and the complex set of factors that determine how these benefits get priced. For example, a deposit relationship with a bank brings consumers multiple benefits. The largest benefit is access to a payment system that works twenty-four hours a day, every day of the year, around the world. Furthermore, many consumers are paid interest on the money they hold in their accounts. And consumers are insured by the FDIC against loss on that money, with the premiums for that insurance paid not by consumers but by the bank. Similarly, the consumer benefits by opening a credit card account with the ability to pay merchants anywhere in the world, and at a 0% rate if the balance is repaid monthly; fraud protection; and travel, cash back and other rewards.

Providing these benefits to consumers requires banks to incur costs, including costs to provide 24-hour-a-day customer service and other personnel, maintain branches and other real estate, provide online banking capabilities and other digital products and services through continuous research and innovation, and ensure compliance required to operate in this highly regulated industry. To cover the costs of providing consumers these benefits, a bank must earn revenue on the account, just like any business must earn revenue to enable it to provide products and services to its customers. The types and amounts of fees charged to cover a bank's costs of providing consumer financial services, including deposit accounts, are the result of robust competition to attract customers, within an existing regulatory regime that ensures disclosure and transparency of pricing and fees.

Further, if banks were not able to charge for services, or were limited as to the amount they could charge, the result could be harmful to consumers, as banks may simply cease offering certain products or services or charge more to consumers for other services. If banks were to cease offering certain products or services, consumers may be forced to turn to non-bank providers of certain products and services that, as the CFPB has acknowledged, may "charge higher fees and interest rates."[1]

This characterization of all bank fees as "junk fees" ignores the robust consumer protection laws and comprehensive supervisory standards by which banks must abide. The "junk fees" rhetoric has culminated in several CFPB rulemakings, such as restrictions on overdraft and credit card late fees, which would only serve to limit access to important products and services for consumers.

The CFPB's efforts ignore the tremendous benefits consumers realize from banks' consumer financial products and services as well as the ways in which banks respond to customer demand for lower fees. For example, in recent years, many institutions have substantially curtailed or even eliminated overdraft fees through competition; a similar trend has occurred with respect to insufficient funds fees. A prime example of the market's response to consumer demand in the deposit account market is the recent development of a new type of low-cost bank transaction account, called Bank On.[2] Bank On accounts allow for limited monthly fees and opening deposit amounts in recognition of the costs of account maintenance but prohibit overdraft or insufficient fund fees. For example, the Bank On Standards include a minimum opening deposit of $25 or less, and no or low ($5 or less) monthly maintenance fees.[3] The Bank On Standards do not permit penalty fees for low balances or account dormancy.[4] Additionally, Bank On accounts allow for negative balances without charge to consumers.[5]

According to the most recent data about Bank On, there are now over 375 nationally certified Bank On accounts offered by banks and credit unions representing over 60 percent of the domestic deposit market, and more than half of all U.S. branches of banks offer Bank On certified accounts.[6] As of 2021, more than 14 million Bank On certified accounts had been opened across 28 reporting institutions, a 67 percent increase from the previous reporting year, and of those, over 5.8 million accounts were open and active as of 2021.[7] Based on 2021 data, neighborhoods with over 50 percent minority representation, which make up 13 percent of all neighborhoods, accounted for 32 percent of ever-

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[1] Shawn Sebastian, CFPB Blog, "New effort focused on financial issues facing rural communities," (Mar 10, 2022), available at: https://www.consumerfinance.gov/about-us/blog/new-effort-focused-on-financial-issues-facing-rural-communities/.

[2] For more information about Bank On, see https://joinbankon.org/.

[3] *See* Bank On, Bank On National Account Standards (2023-2024), https://joinbankon.org/wp-content/uploads/2020/10/Bank-On-National-Account-Standards-2021-2022.pdf.

[4] *See* id.

[5] *See* id.

[6] Press Release, Bank On and CFE Fund, Country's Top Banking Regulators Celebrate Growth of National Safe Banking Partnership (May 23, 2023), Country's Top Banking Regulators Celebrate Growth of National Safe Banking Partnership (prnewswire.com).

[7] *Id*.

opened accounts, underscoring the positive effect of Bank On accounts on minority communities.[8] Similarly, the 2021 data shows that neighborhoods with over 50 percent low-to-moderate-income households, which make up 20 percent of all neighborhoods, represented 40 percent of ever-opened accounts.[9]

The CFPB's rulemakings also ignore the high level of competition in the credit card market, which its own credit card report has even acknowledged. The CFPB's final credit card late fee rule embodies the flaws of the "junk fee" campaign by disregarding the rule's ultimate negative impact on consumers. First, lower late fees may cause more consumers to pay late, which would damage consumers' credit scores and decrease their access to credit in the future or result in higher interest rates. Additionally, interest rates and other charges on subprime credit cards could increase to account for higher default risks, and for prime customers, premium cards could face higher maintenance fees and fewer benefits. The costs of providing credit cards do not disappear – they have to be recouped through either higher rates or less available credit.

We encourage the Committee to consider the benefits that customers receive from bank products and services and the harm consumers could face from diminished access to these products. Politicizing late fees and other legitimate fees would ultimately harm the consumers the CFPB seeks to help.

[8] Paul Calem and Yasmeen Abdul-Razeq, *"Bank On" Transaction Accounts and Financial Inclusion: New Data Shows Continuing Success* (July 25, 2023), https://bpi.com/wp-content/uploads/2023/07/Bank-On-Transaction-Accounts-and-Financial-Inclusion-New-Data-Shows-Continuing-Success.pdf.

[9] *Id*.