

InfoSight Newsletter

February 2nd, 2024 | Volume 18 | Issue 4

League InfoSight Highlight: The Writing Has Been on the Wall!

Since [January 2022](#), the CFPB has focused their attention on fees charged by financial institutions. Not only have they collected information from consumers on their experiences with fees, but they have also issued Advisory Opinions, Enforcement Actions, Compliance Bulletins, and Circulars to remind financial institutions of fee practices that could (or do) constitute an unfair act or practice under the Consumer Financial Protection Act.

- [June 2022 – Advisory Opinion – Debt Collectors’ Collection of Pay-to-Pay Fees](#)
- [September 2022 – Regions Bank Enforcement Action – Surprise Overdraft Fees](#)
- [October 2022 – Compliance Bulletin – Unfair Returned Deposited Item Fee Assessment Practices](#)
- [October 2022 – Circular – Unanticipated Overdraft Fee Assessment Practices](#)
- [February 2023 – Proposed Rule regarding credit card penalty policies](#)
- [March 2023 – Supervisory Highlights – “Junk Fees” Special Edition](#)
- [July 2023 – Bank of American Enforcement Action – Double-dipping on Insufficient Funds Fees](#)

When the CFPB recently issued two proposed rulemakings directly related to overdraft programs and non-sufficient funds fees, it shouldn't have caught us by surprise. The writing has been on the wall!

[Overdraft Lending](#). This proposed rule is for financial institutions over \$10 billion in assets to have certain overdraft programs covered under Regulation Z and applicable disclosure requirements and finance charge calculations (in general), which essentially allows consumers to shop as they do now for covered credit

products. Overdraft programs that would be exempt from Regulation Z would only charge a fee for overdrafts that are calculated to be “break even,” either by their calculation or using the benchmark fees established under the rules (which is seeking feedback on \$3, \$6, \$7, or \$14). Credit unions under \$10 billion shouldn’t get too comfortable, the CFPB is planning to monitor the market’s response to the rule, likely making another rulemaking for the smaller financial institutions.

Nonsufficient Funds Fees. This proposed rule is for financial institutions as defined within Regulation E (so no asset size threshold here). The rule would prohibit a financial institution from assessing a nonsufficient funds fee in connection with any covered transactions. A covered transaction is when a consumer attempts to withdraw, debit, pay, or transfer funds from their account and the transaction is declined instantaneously due to insufficient funds. Examples would include one-time debit card transactions that are not pre-authorized, ATM transactions, and certain P2P transactions – generally those transactions that are authorized in real time.

What can we learn from this example? Pay very close attention to the communications and guidance coming out of the CFPB as this most likely will foreshadow proposed rulemaking and focus from our regulatory agencies. Recently, we’ve seen a tremendous focus on the Fair Credit Reporting Act and Fair Lending/Regulation B. Take the time now to review the guidance and see if there are opportunities to adjust your policies, procedures, and processes. Being proactive and integrating changes (if needed) now, will save more time in the long run and have your credit union one step ahead with compliance.

Make sure to leverage the resources from your League/Association! [InfoSight](#), [CU PolicyPro](#), and [RecoveryPro](#) are frequently reviewed and actively updated based on regulatory guidance and expectations.

Glory LeDu
CEO, League InfoSight and CU Risk Intelligence

News and Alerts!

Consumer Compliance Outlook Issue 4 Released

The Consumer Compliance Outlook is a Federal Reserve System publication dedicated to consumer compliance issues. The fourth and final issue of 2023 has been released! Check out their latest issue which features the top Federal Reserve Compliance Violations under the Fair Credit Reporting Act and Equal Credit Opportunity Act.

[Read More](#)

The CFPB's Enforcement Work in 2023 and What Lies Ahead

The CFPB safeguards household financial stability by ensuring that consumer financial markets are fair, transparent, and competitive. The CFPB indicates that their enforcement authority is among the most impactful tools to reinforce compliance with federal consumer financial laws and send a clear message to entities under their authority and the public that they remain vigilant on behalf of consumers.

[Read More](#)

Registration Open for Supervisory Priorities Webinar

The National Credit Union Administration (NCUA) is hosting a webinar on February 8 to share key points about the NCUA's 2024 supervisory priorities.

The NCUA's 2024 Supervisory Priorities Webinar will provide exclusive insights into the agency's key supervisory focus areas this year, expounding on the [2024 Supervisory Priorities Letter to the Credit Unions](#). This year's letter includes credit risk, liquidity risk, interest rate risk, consumer financial protection, and information security as priorities. The webinar will also cover updates on the Bank Secrecy Act and support for small credit unions and minority depository institutions.

[Read More](#)

FinCEN Finds Iraq-based Al-Huda Bank to be of Primary Money Laundering Concern and Proposes a Rule to Combat Terrorist Financing

The U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) issued a finding and notice of proposed rulemaking (NPRM) that identifies Al-Huda Bank, an Iraqi bank that serves as a conduit for terrorist financing, as a foreign financial institution of primary money laundering concern. Along with its finding, FinCEN proposed imposing a special measure that would sever the bank from the U.S. financial system by prohibiting domestic financial

institutions and agencies from opening or maintaining a correspondent account for or on behalf of Al-Huda Bank.

[Read More](#)

Agency Information Collection Activities; Proposed Collection; Comment Request; Beneficial Ownership Information Requests

FinCEN invites all interested parties to comment on the proposed information collection associated with requests made to FinCEN, by certain persons, for beneficial ownership information, consistent with the requirements of the Beneficial Ownership Information Access and Safeguards final rule.

[Read More](#)

**Is this your face when looking
for state-specific content:**

InfoSight can help
relieve your stress!

We have state-specific
content for all 50 states!

InfoSight



Questions, Comments, Concerns? We are here to help! Email us at info@leagueinfosight.com