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CFPB Proposes \$8 Credit Card Late Fee Maximum*

Currently, Regulation Z provides a safe harbor for credit card issuers if they impose penalty fees (such as a late payment fee) that do not exceed certain dollar limits. The CFPB annually adjusts those dollar limits based on inflation. In 2022, those limits were \$30 and \$41, if the card issuer previously imposed a fee for the first violation of the same type during the same billing cycle and the next six billing cycles.

As the law firm previously reported to BCG members in January 2023, surprisingly, the CFPB did not adjust these credit card fee limits when it increased other inflation-tied numerical thresholds in Reg Z. As we noted in that article, the CFPB did not explain why they did not adjust these credit card fee limits for 2023; in fact, they don't even mention them. One would suspect that this may have to do with the negative sentiments the CFPB expressed about these fees in 2022.

Now the mystery is over and we now know why the CFPB did not increase these credit card fee limits for 2023. On February 1, 2022, the CFPB proposed reducing the credit card fee limit to \$8. It also proposed ending the automatic annual inflation adjustments to these limits. Furthermore, the CFPB proposes to restrict any late fee charge to 25 percent of the minimum payment.

The comment period will end on April 3, 2023 or 30 days after the Office of the Federal Register publishes the proposal, whichever is later. As of this article's drafting, the proposal was still unpublished.

Normally, California creditors do not care too much about these Reg Z limits because the maximum late fees on unsecured open-end credit allowed by California Financial Code Section 4001 are: \$7 (for a grace period that is five days after the payment is due); \$10 (for a grace period that is 10 days after the payment is due); or \$15 (for a grace period that is 15 days after the payment is due). If the CFPB adopts the proposed \$8 fee, then California creditors imposing the \$10 or \$15 late fee California permits will need to care about the Reg Z limits. Also, all California card issuers will have to restrict any late fee charge to 25 percent of the minimum payment, if this proposal is adopted.

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