

# PYMNTS

## CFPB Draws Fire at Hill Hearing on ‘Politicized’ Financial Regulation

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The Consumer Financial Protection Bureau (CFPB) came under fire on Capitol Hill Thursday (March 7) from critics who charged that caps on credit card late fees, and other actions, would hurt innovation and banks’ customers in the long run.

At the hearing, titled “Politicized Financial Regulation and its Impact on Consumer Credit and Community Development,” held by the Subcommittee on Financial Institutions and Monetary Policy, Rep. Andy Barr (R-Ky.), chairman, contended in his opening statement that recent actions by regulators would “restrict options and restrict access to financial services,” particularly through capped late fees and what he said are “price controls” on various services.

“Fees serve a purpose,” said Barr, “and I support proper disclosure, and discerning use,” of them.

Separately, Rep. Rep. Bill Foster (D-Ill.), the ranking member, said that if businesses compete on the basis of junk fees that can be “unloaded ... on unsuspecting consumers ... that is not an efficient market.” High switching costs are also indicative of inefficient markets, maintained Foster.

“The solution is account portability and open banking,” he said.

Witnesses before the committee warned that regulators may stymie innovation and financial inclusion.

### Unintended Consequences

Nicholas Anthony, policy analyst with the Center for Monetary and Financial Alternatives, Cato Institute, said price controls could have “unintended consequences.” Anthony said in his testimony, “Whether it’s when we are turning in a library book that fell behind the couch or paying off a credit card balance after hitting a rough patch, paying fees is never fun. But that alone is not enough to justify the government implementing price controls throughout the economy.” He maintained that the CFPB’s actions, particularly fee caps, would result in lower fees for consumers, but would result in higher costs elsewhere, and might limit the availability of free or low-cost checking accounts, travel rewards and other offerings.

In her own testimony, Karen Harbin, president and CEO of Commonwealth Credit Union, said high levels of regulatory burden are hampering many credit unions from fulfilling their mission

of serving low- and moderate-income families. She said credit unions and Credit Union Service Organizations (CUSOs) should be considered for and receive appropriate exemptions from some of the Bureau's regulatory requirements. In her written remarks, she said that, with respect to credit card and other fees, the "CFPB's guidance on these fees falsely suggests that these fees are for the sole benefit of the financial institution; however, these fees are used to help the consumer make responsible financial decisions and encourage on-time payments or avoid violating the terms of financial agreements."

### **Innovations and Improvements**

In other testimony, Consumer Bankers Association President and CEO Lindsey Johnson said the CFPB has, through its rulemaking, violated the Truth in Lending Act by misrepresenting consumers' options regarding overdrafts and available alternatives. She also contended that credit card-related late fees are clearly disclosed to the consumer up front. Her testimony included data that Johnson said shows that more consumers are paying their credit card balances off each month than in prior years, and that the data also show that consumers who do revolve debts are paying down higher shares of their balances each month. In part those improvements are due to proactive steps by banks — such as reminders of payment due dates and automatic payment options.

Santiago Sueiro, senior policy analyst, policy and advocacy at UnidosUS, offered remarks on the progress made by financial institutions (FIs) — and the pressures that still remain.

He noted that several FIs, large banks among them, have reduced their overdraft fees and detailed that the unbanked percentage of the population had fallen to 4.5% in the U.S., a historic low. He said many financial institutions are making progress in providing inclusive and low-cost small-dollar loans to consumers. But nonetheless, as he stated during questioning from lawmakers, working class people and people of color are disproportionately impacted by overdraft fees. Lowering the fees, he said, reduces at least some of the pressure that these individuals and households face when deciding whether to make a payment on their credit card or paying for rent, food and other basic necessities.