



March 25, 2024

Consumer Financial Protection Bureau
1700 G St NW
Washington, D.C. 20552

Re: Docket No. CFPB-2024-0003

To Whom It May Concern:

I write in response to the January 24, 2024 proposed rule by The Consumer Financial Protection Bureau (CFPB) to prohibit covered financial institutions from charging fees, such as nonsufficient funds fees (NSF), when consumers initiate payment transactions that are instantaneously declined. Charging such fees would constitute an abusive practice under the Consumer Financial Protection Act's prohibition on unfair, deceptive, or abusive acts or practices. By establishing safeguards against actors currently imposing these fees, and proactively protecting consumers from them in the future, the CFPB takes important steps in uplifting the financial security and well-being of our Latino and low-income communities.

NALCAB, the National Association for Latino Community Asset Builders, is a U.S. Treasury-certified Community Development Financial Institution (CDFI) that represents and serves over 200 diverse nonprofit community development and asset-building organizations across the country. Approximately one third of our members are certified CDFIs. Our members uplift Latino communities by strengthening access to quality affordable housing, safe financial products, and successful entrepreneurship. Many of the people served by the NALCAB Network are low- to moderate-income individuals who are first- or second-generation immigrants.

To promote a fair, safe, and vibrant financial services marketplace for our underserved communities NALCAB provides grants, and technical assistance to help nonprofit organizations implement or expand the integration of financial capability services into asset building programs. We also create peer to peer connections within our network to share knowledge, best practices and lessons learned. Additionally, with the start of each Congress NALCAB releases a [Latino Economic Policy Agenda](#) which includes comprehensive proposals to boost the economic mobility of Latinos of which the CFPB's efforts on behalf of consumers across the country are key.

NALCAB appreciates the opportunity to provide insight on behalf of this nation's 62 million Latinos that currently face a myriad of obstacles to their financial wellness. Due to the disproportionate impact on certain populations the Bureau has determined that charging NSF fees



would constitute an abusive practice under the Consumer Financial Protection Act's prohibition on unfair, deceptive, or abusive acts or practices. Currently, the combined costs of overdraft and NSF fees constitute a higher cost to consumers than the combined costs of periodic maintenance fees and ATM fees- creating almost \$8 billion in revenue for the financial institutions charging these fees.¹

The proposal provides that NSF fees refer to a charge assessed by a covered financial institution for declining an attempt by a consumer to withdraw, debit, pay, or transfer funds from their account due to insufficient funds. As research shows, economically vulnerable consumers are more likely to be struggling to meet their regular expenses.² Households making less than \$65,000 are those most impacted households by NSF Fees which may be incurred for a number of reasons – transactions may be declined due to chronic income shortfalls, timing mismatches regarding inflows and outflows over which they have no control, or other reasons.^{3,4} These mismatches are frequently seen in the cases of paying rent, utilities, and other services on repeating dates which may not align with a consumer's pay schedule. While they may be able to cover these expenses given their total income, there may be instances by no fault of their own that create a situation for where NSF fees are incurred.

Importantly, Latinos are particularly impacted by NSF fees- many of our households fall within the most impacted group with a median income of \$62,000, nearly \$20,000 below the national average. This results in Latinos being nearly twice as likely to be charged these fees compared to white households.⁵ According to the CFPB's data individuals with more NSF fees in the prior year tend to have lower account balances and tend to be more credit-constrained than other consumers, as they have lower average credit scores, are less likely to possess a general-purpose credit card, have less available credit when they do have such cards, and more often possess thin credit files. Amongst these "Financially Vulnerable" households 46% paid an overdraft of NSF fee, compared to just 4% of "Financially Healthy" households. For a low-wage worker, these fees exacerbate financial hardships and perpetuate cycles of debt for individuals seeking to access and utilize banking services. As a result, NSF fees function as a penalty imposed most acutely on these consumers.

For many of these consumers, as we see in other areas of the financial services industry, there is a lack of transparency and disclosures of the risks associated with their accounts. It is unreasonable to assume that a consumer would knowingly enter a transaction that provides them no benefit and only

¹ <https://www.consumerfinance.gov/data-research/research-reports/data-spotlight-overdraft-nsf-revenue-in-q4-2022-down-nearly-50-versus-pre-pandemic-levels/full-report/#:~:text=For%20the%20full%20year%202022,by%20year%2C%20beginning%20in%202015.>

² <https://www.federalreserve.gov/publications/files/2022-report-economic-well-being-us-households-202305.pdf>

³ <https://www.statista.com/statistics/203301/median-income-of-hispanic-households-in-the-us/>

⁴ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-report-showing-many-americans-are-surprised-by-overdraft-fees/>

⁵



incurs fees on their behalf, and while financial institutions may claim these disclosures were made, the actions of consumers points to a lack of transparency as they show a clear lack of understanding of associated risks. Prohibiting this type of fee will improve the affordability of financial services and encourage low-income individuals to work with financial institutions and could provide a direct benefit to consumers of between \$16.2 million and \$64.6 million in reduced NSF fees.

NALCAB applauds the CFPB for working to reign in fees that disproportionately impact low wage workers, young people and people of color. We also appreciate the efforts of those in the banking industry who have taken up these practices prior to the rule making and look forward to our continued partnership with the Biden-Harris administration and the CFPB in helping promote a financial services marketplace that works for all consumers.

Sincerely,

A handwritten signature in black ink that reads "Clarinda Landeros". The signature is written in a cursive, flowing style.

Clarinda Landeros
Director of Public Policy