

CFPB CREDIT CARD PENALTY FEES FINAL RULE – COMPARISON TO REG Z AND NPRM

| Amendment or Addition (Made or Proposed) | Final Rule | 2023 Proposed Rule (NPRM) | Current Regulation Z (as of 3/5/2024) |
|---|---|--|---|
| Late Fee Safe Harbor First violation in 6 billing cycles | Larger Card Issuers: \$8 flat fee Smaller Card Issuers: \$32 | \$8 flat fee | \$30 |
| Late Fee Safe Harbor Repeat violation within 6 billing cycles after same violation | Larger Card Issuers: \$8 flat fee Smaller Card Issuers: \$43 Charge Cards: Alternative 3% of delinquent balance if required payment-in-full is not made for 2 or more consecutive billing cycles | \$8 flat fee Charge Cards: Alternative 3% of delinquent balance if required payment-in-full is not made for 2 or more consecutive billing cycles | \$41 Charge Cards: Alternative 3% of delinquent balance if required payment-in-full is not made for 2 or more consecutive billing cycles |
| Safe Harbor for Other Penalty Fees (not Late Fees) First violation in 6 billing cycles | \$32 | \$30 | \$30 |
| Safe Harbor for Other Penalty Fees (not Late Fees) Repeat violation within 6 billing cycles after same violation | \$43 | \$41 | \$41 |
| \$8 Late Fee Safe Harbor Excluded from Annual CPI Safe Harbor adjustments | Annual CPI adjustment of penalty fee safe harbor dollar amounts now excludes \$8 flat fee | Annual CPI adjustment of penalty fee safe harbor dollar amounts excludes \$8 flat fee | Annual CPI adjustment of all penalty fee safe harbor dollar amounts |
| Penalty Fee Cap | A penalty fee (including a late fee) must not exceed the dollar amount associated with the violation. (Remains consistent with current Regulation Z.) | A late fee must not exceed 25% of the amount of the minimum payment due. For all other types of penalty fees, a penalty fee must not exceed the dollar amount associated with the violation. | A penalty fee (including a late fee) must not exceed the dollar amount associated with the violation. |
| Definition of “Smaller Card Issuer” | A “Smaller Card Issuer” is a card issuer that together with its affiliates had fewer than one million open credit card accounts in the past calendar year. If a Smaller Card Issuer meets or exceeds the one million-card threshold, their “Smaller Card Issuer” designation will expire after 60 days. | No definition of Smaller Card Issuer | No definition of Smaller Card Issuer |
| Factors that may be included in cost analysis to determine penalty fee that represents reasonable proportion of total costs incurred due to violation | Language added to Official Interpretation mandating exclusion of post-charge off collection costs from cost analysis. | Language added to Official Interpretation mandating exclusion of post-charge off collection costs from cost analysis | Official Interpretation was silent as to the exclusion of post-charge off collections costs from cost analysis. |