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CFPB Announces Large Banks and Credit Unions May Not Charge for Account Information



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The Consumer Financial Protection Bureau ("CFPB") [announced](#) last week [the publication of an Advisory Opinion regarding "Consumer Information Requests to Large Banks and Credit Unions."](#) The Advisory Opinion applies to "large banks and credit unions", which means those with \$10 Billion or more in assets, and will begin to be enforced against these institutions starting February 1, 2024.

The Advisory Opinion interprets a provision of the Consumer Financial Protection Act (CFPA), 12 U.S.C. 5534(c) (also known as Section 1034(c) of the CFPA), that has not previously been addressed or enforced by the CFPB. The basis for many of the CFPB's statements in the Advisory Opinion appears to be driven by their review of comments responding to a Request for Information (RFI) the CFPB issued to consumers in June of 2022, asking consumers for their input on customer service at large banks and credit unions. The CFPB received 1305 comments responding to the RFI, [382 of which the CFPB has posted for perusal at regulations.gov.](#)

Section 1034(c) states that large banks and credit unions "shall, in a timely manner, comply with a consumer request for information in the control or possession of [a large bank or credit union] concerning the consumer financial product or service that the consumer obtained from [the large bank or credit union], including supporting written documentation, concerning the account of the consumer."

The CFPB's Advisory Opinion expounds in-depth, to the tune of 17 pages, upon this provision of the CFPA, turning three times to standard dictionaries (including the Oxford English Dictionary, Merriam-Webster and Black's Law Dictionary) for definitions of terms such as "supporting", "concerning" and "shall."

In sum, the CFPB has concluded that large banks and credit unions "frequently rely on highly standardized processes rather than high-quality human interactions or digital channels that actually facilitate self-help" and therefore consumers often must "navigate a phone tree in the hope of speaking to the right person in a call

center, [search] through largely irrelevant material on a web site to try to find the information they need, or [attempt] to get a clear answer from a chatbot.” As a result, the CFPB intends to address this situation by requiring that affected financial institutions allow consumers to request information regarding their accounts without fees, in a timely manner and without requiring unreasonably difficult methods for submitting such requests.

The information that affected financial institutions should be prepared to provide to consumers without fees, and upon request, includes at least all of the below:

- Information that appears on periodic statements and online account portals;
- Bill payments and recurring transactions that affect the account;
- Terms and conditions of the account;
- Copies of the original, signed agreement between the institution and the consumer; and
- Status of a previously requested lien release.

In reaching the conclusion that affected institutions may not charge fees for this kind of information, the Advisory Opinion first states that Section 1034(c) does not “contain any language stating or suggesting that a large bank or credit union may impose conditions that unreasonably impede consumers’ information requests” and then concludes that fees would be an unreasonable impediment because, “[s]ome consumers cannot afford to pay even a small fee to obtain information about their accounts.”

While the CFPB does acknowledge that repeated requests for the same information from a consumer could probably justify a fee being charged, the Advisory Opinion clearly states that charging a fee in any of the following circumstances would be in violation of Section 1034(c), many of which presently do incur a fee at financial institutions:

1. Responding to consumer inquiries regarding their deposit account balances;
2. Responding to consumer inquiries seeking the amount necessary to pay a loan balance (*i.e.*, to receive a pay-off quote);
3. Responding to a request for a specific type of supporting document, such as a check image or an original account agreement; and
4. Spending time on consumer inquiries seeking information and supporting documents regarding an account.

The CFPB addresses other aspects of providing responses to consumer requests in the Advisory Opinion that could lead to enforcement actions under Section 1034(c) including the timeliness of responding to various requests and other impediments that may be considered unreasonable, such as very long wait times on customer service lines and only recent account information being made available, even though the financial institution “retains” account information for several years. Finally, the CFPB takes aim at the use of “chatbots” by large financial institutions, concluding that such use “may violate section 1034(c) if they employ technologies that do not properly recognize consumer information requests or that provide inaccurate or incomplete information in response to those requests.”
