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GOVERNMENT RELATIONS

Hearing Summary *May 9, 2024*

SENATE BANKING HOLDS HEARING ON FEES IN FINANCIAL SERVICES AND RENTAL HOUSING

EXECUTIVE SUMMARY

On May 9, the Senate Committee on Banking, Housing, and Urban Affairs held a hearing on fees in financial services and the rental housing industry. The discussion's tone was frequently partisan, with Republicans attempting to attribute economic malaise to the policies of the administration, as well as high interest rates. In contrast, Democrats made use of the hearing to denounce the prevalence of fees in several sectors of the economy, most notably financial services and housing.

Additionally, Senate Republicans sought to highlight the importance of late and overdraft fees in covering the operating costs of financial institutions. Conversely, Democrats questioned the necessity of these fees across industries and tried to expound on their contribution to housing costs.

OPENING STATEMENTS

Chair Sherrod Brown (D-OH) (statement) railed against "junk" fees, arguing that they serve no purpose other than generating corporate profits — he condemned their proliferation in industries such as rental housing and telecommunications services. He hailed the CFPB's credit card late fee rule, noting that late fees for credit cards are the "most widespread fee in the U.S." Chair Brown highlighted auto loans and rental housing as areas where these fees are especially punishing for consumers.

Ranking Member Tim Scott (R-SC) (statement) expressed his belief that fees are a negligible contributor to economic difficulties, pointing instead to the administration's broader economic policies. He critiqued the phrase "junk fees," describing it as an attempt to villainize corporations. He claimed that the CFPB's credit card fee rule would result in the following: (1) lower credit limits; (2) higher interest rates; (3) restricted access to credit for low-income individuals; and (4) new costs for services that are currently free. In closing, Ranking Member Scott disagreed with the premise that fees are an attempt to confuse or deceive consumers, highlighting credit card late fees and overdraft fees are already "heavily regulated" in the banking and financial services industries.

WITNESS TESTIMONY

Mr. Adam Rust (testimony), of the Consumer Federation of America, commented on the harmful effects of hidden fees on consumers — specifically regarding the rental housing industry and credit cards. He noted that only card issuers with more than one million open accounts will be made to comply with the CFPB rule. He claimed that reliance on fees ultimately serves to undermine public confidence in the banking system. Mr. Rust criticized the heavily utilization of fees in the rental housing industry, saying that they should be included in the up-front cost.

Ms. Karen Madry (testimony) of Afena Federal Credit Union, joined Ranking Member Scott in critiquing the phrase "junk fees," noting that credit union fee programs are heavily regulated by federal and state governments. She claimed that the reduction in fees would force her institution to cut services for customers. She drew attention to Afena's participation in an overdraft protection program. While she acknowledged that smaller institutions, such as hers, are exempt from the CFPB rule, she suggested that her customers would expect a reduction in fees if larger institutions were forced to cut theirs. Ms. Madry established her opposition to the proposed eight-dollar late fee cap in the CFPB's rule.

Mr. Santiago Sueiro (testimony), of UnidosUS, drew attention to historically high levels of credit card debt and called for efforts to reduce credit card fees. He argued that late fees do not serve to dissuade late payment and pointed to a lack of adequate financial resources as underpinning most missed payments. Mr. Sueiro established his support for the CFPB's rule.

Discussion and Questions

Banking and Financial Services Fees

- Chair Brown and Mr. Rush each agreed that rental housing fees, credit card late fees, and overdraft fees are particularly harmful for consumers.
- Ranking Member Scott asked Ms. Madry about the primary sources of economic difficulty for her customers. She relayed that many of her customers are experiencing acute economic pain, sharing how her institution works to improve their financial health through debt consolidation loans and financial counseling.
- In dialogue with Sen. Scott, Ms. Madry confirmed that a reduced fee structure would negatively impact the services her institution provides to customers.
- **Sen. J.D. Vance (R-OH)** noted the contribution of high interest rates to economic malaise. Ms. Madry noted that her market is "over-banked" and "under-served," saying that this creates significant pressure to maintain low interest rates. She relayed that fee income is critical to covering operating costs as a result.
- In conversation with Sen. Vance, Mr. Rust expressed his belief that the CFPB rule will not result in significant costs for credit card companies. Sen. Vance expressed fear that the rulemaking will reduce credit availability to low-income people.
- Discussing unbanked people with **Sen. Bob Menendez (D-NJ)**, Mr. Rust and Mr. Sueiro highlighted fees as a major factor in people refusing to engage with the financial system.
- **Sen. Katie Britt (R-AL)** joined Ranking Member Scott in describing the focus on "junk" fees as a "blame-deflection exercise." In a dialogue with the witness panel, Ms. Madry confirmed that federal regulations require disclosure of fee structures.
- Discussing service availability at her institution with Sen. Britt, Ms. Madry suggested that free checking accounts may need to be eliminated under the proposed fee reduction.

- Mr. Sueiro confirmed to **Sen. Tina Smith (D-MN)** that one of the key reasons that people are forced into paying late fees is due to an overall lack of financial resources.
- **Sen. Elizabeth Warren (D-MA)** asked about differentials in fees between large credit card companies and smaller institutions. Mr. Rust confirmed that smaller lenders generally have lower rates.
- In conversation with Sen. Warren, Mr. Sueiro confirmed that low-income and minority consumers disproportionately pay fees.
- **Sen. John Fetterman (D-PA)** asked if late and overdraft fees serve as a profit center for financial services institutions. Mr. Rust confirmed that these fees amount to up to 40 percent of a financial institution's revenue.
- **Sen. Chris Van Hollen (D-MD)** established his support for the CFPB rule, and asked Mr. Rust to describe its scope. Mr. Rust noted that the rule creates different structures for different institutions and use cases.

Housing Fees

- Chair Brown noted the contribution of fees in rental housing to historically high costs for rent, and asked Mr. Rust about their structure. Mr. Rust expressed his belief that increasing the housing supply for renters may help to reduce the prevalence of these fees. Mr. Sueiro claimed that this dynamic also applies to the financial services sector, in which consumers often have limited choices of where to open an account.
- **Sen. Jon Tester (D-MT)** drew attention to the housing shortage in Montana and nationwide, commenting on the economic harm it causes to the state. He criticized out-of-state investors for the large-scale purchase of single-family homes, apartment buildings, and manufactured home communities, noting that they have raised both rent rates and fees. Mr. Rust highlighted the entry of private equity investors into the rental market, saying this has caused particular harm to workforce housing and senior housing. Mr. Rust promoted the Preservation and Reinvestment Initiative for Community Enhancement (PRICE) Act (text) which seeks to provide grant funding from the Department of Housing and Urban Development (HUD) to promote reinvestment in manufactured housing communities.
- Sen. Smith called attention to screening fees for rental housing and criticized the tenant screening industry broadly. Mr. Rust agreed, noting that tenant screening reports are becoming increasingly complex, though not necessarily more accurate.
- **Sen. Catherine Cortez-Masto (D-NV)** emphasized the potential role of manufactured housing in addressing housing costs. She hailed HUD's PRICE Program and endorsed the PRICE Act to make the program permanent. Mr. Rust highlighted the cost of infrastructure investment as a lasting challenge for manufactured housing communities and noted that access to capital could help to revitalize these communities.
- Sen. Cortez-Masto expressed her concerns with the private equity industry's entry into the housing sector.
- In conversation with Sen. Cortez-Masto regarding renters' fees, Mr. Rust argued that the prevalence of these fees has put well-intentioned landlords at a disadvantage if they disclose these fees as part of the up-front cost.

- Sen. Van Hollen questioned what role junk fees play in the housing market. Mr. Rust highlighted the contribution of these costs to the price of homeownership, pointing to "junk" fees in the title insurance market. Mr. Suiero highlighted application fees, utility fees, and administrative fees in the rental market.

Other Questions

- Sen. Menendez, in discussion with Mr. Sueiro, highlighted the importance of multi-lingual contracts, promotions, and pricing structures.
- **Sen. Laphonza Butler (D-CA)** argued that fees contribute to the racial wealth gap and hinder the accumulation of generational wealth.
- In conversation with Sen. Butler, Mr. Rust emphasized the lack of supply of housing as the main factor in areas with persistently high costs of living.