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Alert | Financial Regulatory & Compliance

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CFPB Launches Public Inquiry into Rising Mortgage Closing Costs and 'Junk Fees'

Go-To Guide:

- The Consumer Financial Protection Bureau (CFPB) has launched a public inquiry into rising mortgage closing costs, seeking to understand the reasons behind the increase, identify who benefits, and find ways to reduce costs for both borrowers and lenders.
- This inquiry, part of a broader effort against "junk fees," aims to gather public input on the impact of these fees on consumers' financial health and the mortgage lending market, with a focus on third-party costs, fee beneficiaries, and the evolving nature of these expenses.

On May 30, 2024, the CFPB issued a new request for information (RFI) from the public regarding "why closing costs are increasing, who is benefiting, and how costs for borrowers and lenders could be lowered."

As part of a wider effort targeting what both the CFPB and the Biden administration refer to as "junk fees," the CFPB is focusing on evaluating how these fees affect consumers' financial health and the broader impact on mortgage lenders. This follows the CFPB's continued expression of interest in "junk fees," on which GT reported in a May 2024 blog post.

"Junk fees and excessive closing costs can drain down payments and push up monthly mortgage costs," CFPB Director Rohit Chopra said in a separate press release. "The CFPB is looking for ways to reduce anticompetitive fees that harm both homebuyers and lenders."

The Request for Information

According to a recent CFPB analysis, mortgage closing costs surged by over 36% from 2021 to 2023. The CFPB alleges that these unavoidable fees can strain household budgets and limit the ability to afford a down payment, while also hindering lenders from offering competitive mortgage options due to the higher costs they must absorb or pass on.

The CFPB is seeking public input to address these concerns and make mortgage costs more manageable. Some key areas of interest include:

- **Competitive pressure**. The CFPB aims to evaluate the extent to which consumers or lenders currently apply competitive pressure on third-party closing costs, seeking to understand market barriers that limit competition.
- **Fee beneficiaries**. The CFPB aims to identify the beneficiaries of required services and determine whether lenders have control or influence over the third-party costs that are transferred to consumers.
- **How fees are evolving and their impact on consumers**. The CFPB seeks details on which expenses have surged the most in recent years and the factors driving these increases, such as the higher prices for credit reports and credit scores. Additionally, the CFPB is interested in understanding how closing costs affect housing affordability, access to homeownership, and home equity.

Takeaways

The CFPB oversees numerous laws and regulations concerning mortgage lending and real estate settlement, such as the Truth in Lending Act, the Fair Credit Reporting Act, and the Real Estate Settlement Procedures Act. The insights gained from this inquiry are poised to shape rulemaking, guidance, and various policy initiatives moving forward.

The CFPB invites comments and data from the public and stakeholders within 60 days of the RFI being published in the Federal Register.

We have provided ongoing analysis and commentary on this issue as it has developed. See below more context on legislative and regulatory efforts to curb "junk fees":

- Tim Butler Quoted in LA Times Article on California 'Junk Fees'
- California Bans Hidden Fees, Effective July 1, 2024
- CFPB Releases Report Highlighting Junk Fees on Mortgage Servicing
- CFPB Unveils Final Rule Banning 'Excessive' Credit Card Late Fees
- CFPB Issues Proposed Rule to Stop 'Junk Fees' on Bank Accounts
- CFPB Issues Advisory Opinion on 'Illegal Junk Fees' By Large Financial Firms
- FTC Proposed Rule Targeting 'Junk Fees'
- California AG Publishes FAQs on California's 'Junk Fee' Law

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