

April 27, 2022

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, D.C. 20552

Dear Mr. Chopra:

On March 30, 2022, we sent you a letter regarding the January 26, 2022 effort by the CFPB to solicit public comments on consumer financial fees. The letter highlighted our concerns and asked fundamental questions related to the impact on consumers, impact on financial institutions, analysis conducted by the CFPB, the definition of the term “junk fees,” the legality of consumer fees being identified as “junk fees,” and the current disclosure regimes of financial fees, among others. These questions fall squarely within the legislative and oversight jurisdictions of the Committee on Financial Services and the Bureau’s answers will assist the Committee as we consider any related legislation, among other things.

Your response dated April 15, 2022, failed to answer those questions. Because any prospective actions from the CFPB on consumer financial fees has a direct impact on banking, consumer access to financial services, and safety and soundness, it is imperative that the Committee receive full and complete responses in this matter.

In light of the CFPB’s current unwillingness to provide such responses, it may be necessary for the Committee to seek and obtain answers based on documents and communications in the agency’s custody. It is therefore necessary that you preserve all relevant documents and communications that may refer or relate to the actions in question, including those on official governmental channels and/or personal, non-governmental channels. Specifically, this preservation request should be construed as an instruction to preserve all documents, communications, and other information, including electronic information and metadata, that is or may be potentially responsive to a congressional inquiry, request, investigation, or subpoena that may be initiated or otherwise undertaken by a committee of Congress or any other investigative entity.

The Rules of the House of Representatives for the 117th Congress set forth the jurisdiction of the Committee on Financial Services to include banks and banking, including deposit insurance, and as such the records preserved pursuant to this request are within the scope of the Committee’s investigative and legislative prerogatives.

For purposes of this request, “preserve” means securing and maintaining the integrity of all relevant documents, communications, and other information, including electronic information and metadata, by taking reasonable steps to prevent the partial or full destruction, alteration, testing, deletion, shredding, incineration, wiping, relocation, migration, theft, mutation, or negligent or reckless handling that could render the information incomplete or inaccessible. This

includes preserving all compilations of documents that have already been gathered in response to requests, even if copies of individual documents may still exist elsewhere in the agency. I further request that you or your designee:

1. Exercise reasonable efforts to identify and notify all relevant individuals, including current and former employees, officials, detailees, contractors, subcontractors, and consultants who may have access to potentially relevant information that they should preserve and return such information to the agency;
2. Exercise reasonable efforts to identify, recover, and preserve any potentially relevant electronic information that has been deleted or marked for deletion but is still recoverable;
3. Remind all relevant individuals, including current and former employees, officials, detailees, contractors, subcontractors, and consultants that any federal records sent or received using a nonofficial account must be forwarded to the agency for proper archiving, and forward all such material in your possession;¹ and
4. If it is the routine practice of yours, or any relevant individuals, including current and former employees, officials, detailees, contractors, subcontractors, or consultants to destroy or otherwise alter potentially relevant information, either halt such practices as they relate to the potentially relevant information or arrange for the preservation of complete and accurate duplicates (including metadata) of such documents, communications, or other information.

Please advise in writing as to how you will ensure all records relevant to this matter will be preserved. The Committee will identify specific categories of documents and communications to be produced as soon as possible. Thank you for your attention to this request.

Sincerely,



Patrick McHenry
Ranking Member



Tom Emmer
Ranking Member
Subcommittee on Oversight
and Investigations

¹ See 44 U.S.C. § 2911 (requiring disclosure of official business conducted on nonofficial electronic messaging accounts).



Blaine Luetkemeyer
Ranking Member
Subcommittee on Consumer Protection
and Financial Institutions

cc: The Honorable Maxine Waters, Chairwoman
Committee on Financial Services

Seth Frotman, General Counsel
Consumer Financial Protection Bureau

Tannaz Haddadi, Chief Privacy Officer
Consumer Financial Protection Bureau