

BUREAU OF FINANCIAL INSTITUTIONS
Department of Professional and Financial Regulation
State of Maine
November 21, 2025

BULLETIN #83 – Non-Sufficient Funds Fees

To the Chief Executive Officer Addressed:

During the 132nd Legislative Session of the Maine Legislature, the Committee on Health Coverage, Insurance, and Financial Services directed the Bureau of Financial Institutions (Bureau) to issue guidance to state-chartered financial institutions on the charging of multiple fees for attempted withdrawals involving non-sufficient funds (NSF) through Resolve 2025, chapter 38.

Before developing this Bulletin, the Bureau reviewed guidance on multiple NSF fees issued by the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration (NCUA) and consulted with the Maine Bankers Association and the Maine Credit Union League. (See federal guidance summaries below.)

As a result of its review, the Bureau will treat multiple NSF fees charged to consumer accounts in a manner similar to the FDIC and NCUA, thereby treating such fees as an unfair practice pursuant to 9-B M.R.S. § 241 under the following circumstances:

1. A Maine state-chartered financial institution provides inaccurate disclosure of representment and NSF fee practices; or
2. Notwithstanding accurate representment and NSF fee disclosures, a Maine state-chartered financial institution has a policy of assessing NSF fees on each representment if the customer or member is unable to reasonably avoid the NSF fees:
 - a. A risk of unfairness arises under this subsection if the customer or member is assessed multiple NSF fees in a short period of time without sufficient notice or opportunity to bring their account to a positive balance in order to avoid the assessment of additional NSF fees.

In guidance issued by the FDIC and the NCUA, the agencies informed financial institutions that the assessment of unanticipated fees or failure to disclose material information about fee practices could violate the Consumer Financial Protection Act (CFPA), 12 U.S.C. § 5301,

or Federal Trade Commission Act (FTC Act), 15 U.S.C. § 41, which prohibits unfair or deceptive acts or practices.

Importantly, the federal agencies, as well as the Bureau, will recognize a financial institution's efforts to self-identify and correct violations and may not cite such violations in an examination or pursue subsequent enforcement actions upon self-identification and correction.

Violations that are not fully corrected may lead to supervisory or enforcement actions by federal regulators, including civil money penalties or restitution. Violations of this nature may also constitute anticompetitive or unfair practices under Maine law and lead to exam findings, injunctions, civil penalties, and restitution as ordered by the Superintendent of the Bureau.

The Bureau recommends adhering to the risk-mitigation recommendations within the federal guidance below to ensure that consumers are adequately protected and institutions are properly managing the risks associated with multiple NSF fees.

FDIC Guidance: [FIL-32-2023- Multiple Re-Presentation NSF Fees](#):

- Discusses compliance risks associated with assessing multiple NSF fees arising from the re-presentation of the same unpaid transaction.
- Shares the FDIC supervisory approach where the law is violated and corrective action expected. Failure to comply with FDIC guidance may lead to determinations of unfair or deceptive trade practices in violation of the FTC Act.
- Recommends reducing or eliminating NSF fees, declining to charge multiple NSF fees for the same transaction, conducting comprehensive review of policies, practices, disclosing fee practices, and reviewing customer notification processes.

NCUA Guidance: [24-CU-03- Consumer Harm Stemming from Certain Overdraft and Non-Sufficient Funds Fee Practices](#):

- Highlights the risks associated with certain overdraft and NSF fee practices and outlines practices that may assist credit unions in mitigating risks. Note that violations of NCUA laws due to unanticipated fee practices may lead to supervisory or enforcement actions including restitution to harmed members.
- Recommends analyzing aspects of fee practices, reviewing regulatory developments, considering member impact, monitoring and mitigating reputation, consumer compliance, third-party, and legal risk, and consulting legal counsel for compliance responsibilities and associated risks.

Additional information can be obtained from FDIC, NCUA, OCC, or the CFPB.

/s/ Lloyd P. LaFountain III
Superintendent

Note: This bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties, or privileges, nor is it intended to provide legal advice. Readers are encouraged to consult applicable statutes and regulations and to contact the Bureau of Financial Institutions if additional information is needed