



Credit Union National Association

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February 19, 2013

Ms. Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Response to Request for Information regarding the CARD Act;
Docket No. CFPB-2012-0048

Dear Ms. Jackson:

This letter represents the views of the Credit Union National Association (CUNA) on the Consumer Financial Protection Bureau's (CFPB) request for information regarding certain aspects of the consumer credit card market, including regulatory changes made under the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act). Though the CARD Act requires the CFPB to conduct a review of the credit card market, we nonetheless appreciate the CFPB's efforts to solicit input from the public. Since well-before enactment of the CARD Act, CUNA has been very involved in conveying credit unions' concerns to Congress, the Federal Reserve Board, and most recently, the CFPB with regard to regulation of the credit card market. By way of background, CUNA is the largest credit union advocacy organization in the country, representing approximately 90% of the nation's 7,000 state and federal credit unions, which serve approximately 96 million members.

CUNA has supported the stated intent of the CARD Act, which is to eliminate predatory credit card practices. However, credit unions remain concerned that regulatory requirements not become any more cumbersome for credit cards than they are now. Our comments focus on ensuring consumers continue to receive reasonable protections while minimizing regulatory burdens on credit unions that offer credit card services to their members.

Credit Unions within the Credit Card Marketplace

The over 50% of credit unions that offer credit card programs do so as a service to their members. Credit unions are member-owned, not-for-profit financial cooperatives that operate for the purpose of promoting thrift, providing credit, and providing other financial services at competitive rates.



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As the only consumer-owned cooperatives in the financial marketplace, credit unions have a tradition of protecting consumer interests, and CUNA has consistently been a strong proponent of appropriate and sufficient safeguards, including those that have been implemented under the CARD Act.

Because credit unions are owned by their members, they have traditionally worked hard to minimize fees on products and services, including in the area of credit card programs, but the services offered by credit unions, such as credit card programs, do have associated costs.

It is reasonable for credit unions to assess appropriate fees and charge appropriate interest rates for such services, particularly in light of the fact that at a credit union, the costs are borne by its members. Credit unions also face regulatory pressures to maintain net worth (capital) that often exceed the well-capitalized level, and unlike publicly traded banks, credit unions have only limited sources from which they can build capital, which is from retained earnings, such as fee income.

As the CFPB revisits regulations implemented under the CARD Act, we urge the agency to be cognizant of the fact that excessive requirements have the potential to divert credit unions' resources and attention away from their primary mission, which is to meet their members' financial needs.

The CFPB has acknowledged, and we agree, that overly complex disclosures tend to be less effective in informing the consumer about the terms of a financial product. However, we ask the CFPB to continue to look for ways in which to improve disclosures, as they relate not only to the consumer but also to affected financial institutions.

We address below several areas regarding the credit card market on which the CFPB has specifically requested comments.

Terms of Credit Card Agreements and Practices of Credit Card Issuers

We believe implementation of the CARD Act has unquestionably resulted in a change to the substantive terms and conditions of credit card agreements. In addition, the CARD Act, as implemented, has required numerous direct changes to issuers' practices, such as by requiring monthly loan statements to borrowers. Further, some creditors have increased their underwriting as a result of the CARD Act.

The CARD Act has resulted in some changes in the marketplace generally that are positive, many of which credit unions were already undertaking prior to the passage of the CARD Act. These include:

- Some borrowers are better informed regarding the interest rates and fees they will actually pay as a result of clearer, more user-friendly disclosures;

- There are restrictions on when an issuer can increase the initial interest rate on a new credit card, as well as on a card with an existing balance;
- The period of time for a borrower to make payments is now 21 days, increased from 14;
- If a borrower pays more than the minimum payment due, the excess payment amount is applied first to the balance with the highest interest rate;
- Penalty fees, such as late fees or over-the-limit fees, now must be “reasonable and proportional” to the relevant violation of account terms; and
- Prior to receiving a credit card or an increase to the credit line of an existing card, card issuers must consider the ability of the consumer to make the required payments.

However, there are also changes as a result of the CARD Act that are not beneficial. For example, because a creditor cannot impose an over-the-limit fee unless the consumer has agreed in advance to such a fee, borrowers are more likely to experience situations in which their over-the-limit transactions are blocked. Another example relates to ability-to-pay requirements. In January, we filed a comment letter in support of the CFPB’s proposal to amend Reg Z to remove the independence requirement regarding the ability-to-pay for consumers of credit cards that are 21 or older. This requirement has made it more difficult for nonworking spouses and partners to obtain credit. However, even with these pending amendments to Reg Z, we believe the ability-to-pay requirement as applied to borrowers between 18 and 21 years of age has made it more difficult for consumers within this age bracket to obtain reasonably affordable credit.

In addition, the application review process has become lengthier and the application form itself has become more complex as a result of additional income and other information the issuer must verify. Further, as a result of stricter underwriting, borrowers may qualify for lower credit limits than they could prior to implementation of the CARD Act.

We believe that, controlling for risk, the total cost of credit has increased as a result of the CARD Act.¹ While the Act was implemented to better manage and enforce industry practices related to certain high-risk borrowers, higher credit costs for all borrowers and credit card issuers has resulted.

¹ Based on CUNA’s review of relevant marketplace data for periods before and after implementation of the CARD Act, monthly average bank credit card rates increased 2.27% while monthly average credit union credit card rates increased 1.49% following implementation of the Act.

Further, we believe there are particular segments of the credit card market for which the CARD Act has had a disparate impact regarding the cost of credit, including those consumers with marginal credit. There is a concern that some issuers are approving fewer credit card applications as a result of the CARD Act and its implementing regulations.

The increased cost of compliance associated with CARD Act regulations has made it more expensive for credit unions and other issuers to operate card programs. We urge the CFPB to provide meaningful regulatory relief from provisions of the CARD Act for which it has appropriate authority and for which there are no clear protections provided to the consumer by the implementing regulations

Again, we ask the Bureau to be mindful of the regulatory constraints credit unions are currently facing from the CFPB and other federal financial regulators. Excessive regulatory requirements have the potential to divert credit unions' resources and attention away from their primary mission, which is to meet their members' financial needs.

Thank you for the opportunity to express our views on the CFPB's request for information regarding the credit card market. If you have any questions about our comments, please do not hesitate to give Senior Vice President and Deputy General Counsel Mary Mitchell Dunn or me a call at (202) 508-6743.

Sincerely,



Luke Martone
Senior Assistant General Counsel for Regulatory Advocacy

Appendix:

CUNA's Advocacy Efforts regarding CARD Act

1. March 2009 testimony before the House Financial Services Committee
http://www.cuna.org/download/congress_testimony_031909.pdf
2. August 2009 letter to Fed
http://www.cuna.org/reg_advocacy/comment_letters/cl_082009.html
3. September 2009 letter to Fed
http://www.cuna.org/reg_advocacy/comment_letters/cl_092109.html
4. November 2009 letter to Fed
http://www.cuna.org/reg_advocacy/comment_letters/cl_112009.html
5. December 2009 letter to Fed
http://www.cuna.org/reg_advocacy/comment_letters/cl_122109.html
6. April 2010 letter to Fed
http://www.cuna.org/reg_advocacy/comment_letters/cl_041410.html
7. September 2010 letter to Fed
http://www.cuna.org/reg_advocacy/comment_letters/cl_091510.html
8. January 2011 letter to Fed
http://www.cuna.org/reg_advocacy/comment_letters/cl_010411.html
9. June 2012 letter to CFPB
http://www.cuna.org/reg_advocacy/download/rcl_100412_10.pdf
10. June 2012 letter to CFPB
http://www.cuna.org/reg_advocacy/download/rcl_100412_11.pdf
11. January 2013 letter to CFPB
http://www.cuna.org/reg_advocacy/download/rcl_010713_0.pdf