



December 20, 2012

CFPB Requests Information on Effectiveness of CARD Act

Summary

- The Consumer Financial Protection Bureau (CFPB) has issued a request for information regarding several aspects of the consumer credit card market, including regulatory changes made under the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act or Act). The CARD Act explicitly requires the CFPB to conduct a review of the credit card market, and to solicit public input as part of the review.
- The CFPB is accepting comments through February 19; please send your comments to CUNA by February 8.

Background & Request for Information

The CARD Act was expressly intended to “establish fair and transparent practices related to the extension of credit” in the credit card market. To achieve these agreed-upon purposes, the Act changed the requirements applicable to credit card pricing in a number of significant respects. Prior to the CARD Act, the applicable provisions of the Truth in Lending Act (TILA) and its implementing regulation (Reg Z) focused principally on how companies needed to disclose product pricing terms to consumers, and otherwise placed few substantive limits on industry practice. However, after the CARD Act, TILA and Reg Z also imposed direct limits on a number of pricing practices that Congress deemed unfair or unclear to consumers.

CARD Act changes:

- a) **Interest Rate Increases:** The Act limits the circumstances under which credit card issuers can increase interest rates on existing and new balances. For new balances, the issuer must give the consumer 45 days written notice of a rate increase, and most increases are barred during the first year after the account is opened. For existing balances, the issuer generally cannot increase rates unless the consumer has missed two consecutive monthly payments and the written notice has been provided.
- b) **Penalty Fee Restrictions:** Penalty fees, such as late fees or overlimit fees, must now be “reasonable and proportional” to the relevant violation of account terms.
- c) **Overlimit Fee Opt-In:** There are additional restrictions on the overlimit fees assessed when a consumer exceeds his or her assigned credit line. Issuers may only charge such fees if the consumer expressly opts in to permit overlimit transactions.
- d) **Payment Timing:** Payments must now be due on the same day of each month.
- e) **Payment Allocation:** Subject to certain exceptions, when a consumer makes a payment on the account, issuers are required to allocate that payment first to balances that are subject to higher interest rates.
- f) **Monthly Statements:** Monthly statements must describe how long it would take the consumer—and how much it would cost—to pay the full balance on the card by paying only the required minimum monthly payment. Regulations inherited by the CFPB, require each monthly statement to include the total amount of interest charged year-to-date, and a similar disclosure relating to the total amount of fees.
- g) **Ability to Repay:** Card issuers cannot provide or increase a credit line on a card until they have taken reasonable steps to consider the ability of the consumer to make payments on the amount of that line.
- h) **Student cardholders:** The Act imposed restrictions related to on-campus marketing of credit cards. In addition, any applicant under 21 years of age must demonstrate his or her ability to make payments on the account.

Questions Regarding the CARD Act

- 1) Generally, how do you feel the credit card market is functioning following the implementation of the Act?

- 2) What information do you believe is most relevant to assessing the impact of the Act on the credit card market?

3) *The terms of credit card agreements and the practices of credit card issuers:*

- a) How have the substantive terms and conditions of credit card agreements changed following the Act?
 - b) How have issuers changed their pricing, marketing, underwriting, or other practices?
 - c) What changes have benefited consumers? Are there changes that have harmed consumers?
 - d) If so, how have such harms been caused, and how could they be mitigated, and at what cost?
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4) *The effectiveness of disclosure of terms, fees, and other expenses of credit card plans:*

- a) How effective are post-CARD Act disclosures of rates, fees, and other cost terms of credit card accounts?
 - b) Do consumers better understand the true cost of credit card use in light of the CARD Act?
 - c) To what extent and in what ways do consumers use the new information that is now available to them about credit card costs?
 - d) What further improvements in disclosure would benefit consumer cardholders at this point, and what costs would be incurred in providing such disclosures?
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5) *The adequacy of protections against unfair or deceptive acts or practices relating to credit card plans:*

- a) Do unfair or deceptive acts and practices still exist in the credit card market, and if so, in what form and with what frequency and effect?
 - b) How might those acts and practices be prevented and at what cost?
 - c) Have issuers circumvented, or tried to circumvent, any CARD Act protections against unfair or deceptive acts or practices?
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6) *Whether implementation of the CARD Act has affected the cost and availability of credit, particularly with respect to non-prime borrowers?:*

- a) Controlling for risk, has the upfront interest rate or the overall, all-in cost of credit changed as a result of the CARD Act?
 - b) Are there particular segments of the credit card market for which the Act has impacted the cost of credit?
 - c) Has the CARD Act had any non-price impacts on access to credit, particularly for consumers who do not have prime credit scores?
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7) *Has the CARD Act impacted the safety and soundness of credit card issuers?:*

- a) Has the Act impacted the quality of issuer assets?
 - b) Are there ways to mitigate any adverse consequences and, if so, at what cost to consumer protections?
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8) *Has the CARD Act affected the use of risk-based pricing?:*

- a) To what extent are card issuers still engaged in risk-based pricing?
 - b) What practices have issuers adopted in the wake of rules that restrict account repricing, and how have these practices affected consumers?
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9) *Has implementation of the CARD Act had any effect on credit card product innovation?:*

- a) How has the Act spurred or hampered product innovation in the credit card market?
 - b) If the Act has impacted innovation, what have been the impacts on consumers/other market participants?
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10) Other comments or questions regarding the CARD Act and/or the credit card market.

**Please send comments to Assistant General Counsel [Luke Martone](#).
[Click here](#) for the CFPB's request for information.**