Credit Union National Association
CUNA

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October 27, 2020

Division of Research, Markets, and Regulations
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: CARD Act Rules Review Pursuant to the Regulatory Flexibility Act; Request for Information Regarding Consumer Credit Card Market, Docket No. CFPB-2020-0027

Dear Sir or Madam:

The Credit Union National Association (CUNA) represents America's credit unions and their 120 million members. On behalf of our members, I am writing in response to the regulatory review and Request for Information (RFI) from the Consumer Financial Protection Bureau (CFPB or Bureau) concerning the consumer credit card market.[1]

Background

The Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act) and its implementing regulations generally affect credit card issuers and other creditors that offer open-end (not home-secured) credit plans.[2] The Bureau is requesting comment on two related, but separate, reviews. These reviews include a regulatory review consistent with section 610 of the Regulatory Flexibility Act (RFA) and a bi-annual review of the consumer credit card market under section 502(a) of the CARD Act.[3]

The RFA review requires the Bureau to seek comment on the economic impact of the CARD Act on small entities to determine whether the rules should be continued without change, or should be amended or rescinded. The CFPB is also seeking input on several aspects of the consumer credit card market as required by the CARD Act. This review marks the fifth such review of the credit card market.

While CUNA continues to support the stated intent of the CARD Act, which is to eliminate predatory credit card practices, we caution against any expansion of regulatory requirements that would make CARD Act compliance more cumbersome for member-owned credit unions. The Bureau should focus on ensuring its rules provide meaningful consumer protections while minimizing regulatory compliance burdens on credit unions that already offer fair and sound credit card services to their members.

Credit Unions' Credit Card Products

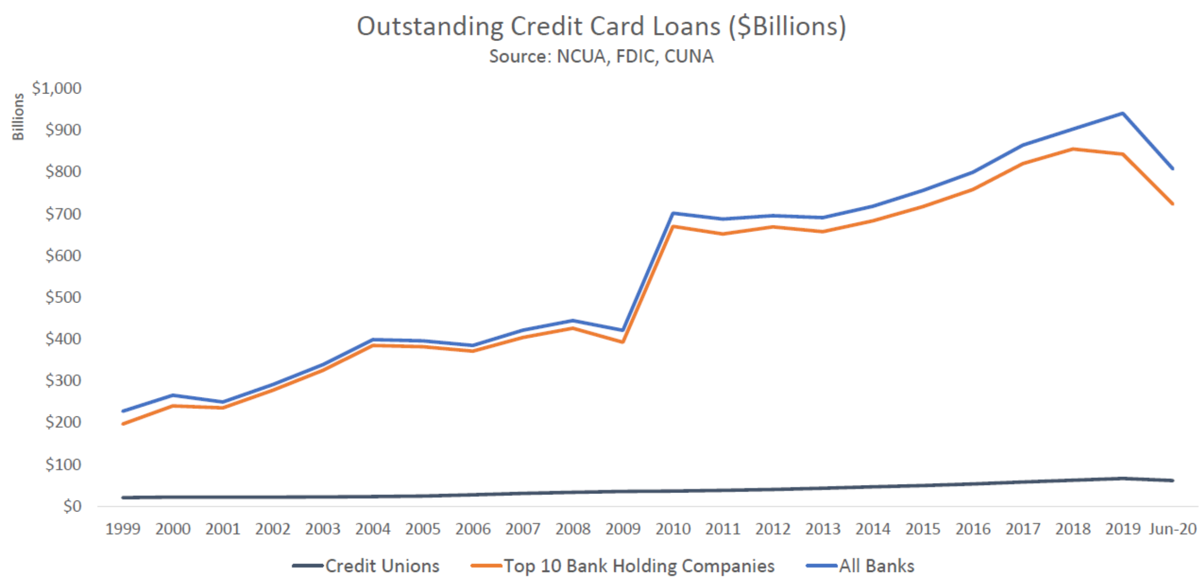
As the CFPB conducts its review of the credit card market, we urge it to be cognizant that excessive regulatory requirements have the potential to divert credit unions' resources and attention from meeting their members' needs. The credit unions that offer credit card programs do so as a service to their 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 interest rates, which are regularly lower than those offered by banks. The data provided in this letter demonstrates that

[1] CARD Act Rules Review Pursuant to the Regulatory Flexibility Act; Request for Information Regarding Consumer Credit Card Market, 85 Fed. Reg. 53299 (August 28, 2020).
[2] Public Law 111-24, 123 Stat. 1734 (2009).
[3] Public Law 96-354, 94 Stat. 1164 (1980).

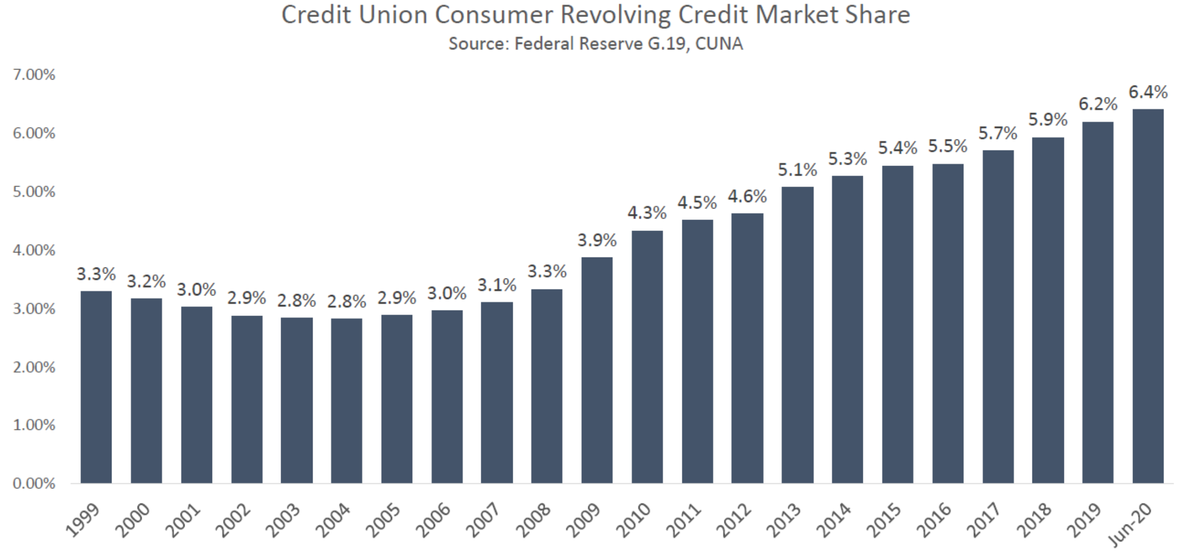
credit unions are fulfilling this mission even though they face regulatory and business hurdles in the credit card marketplace.

Credit cards as a service offering (measured by bank or credit union reporting of outstanding credit card loans) is more common at credit unions compared to banks. 62.8 percent of credit unions serving 93 percent of all credit union members offer consumer credit cards, but only 17.71 percent of Federal Deposit Insurance Corporation (FDIC) banks had outstanding credit card loans despite banks holding most of the market for revolving credit.

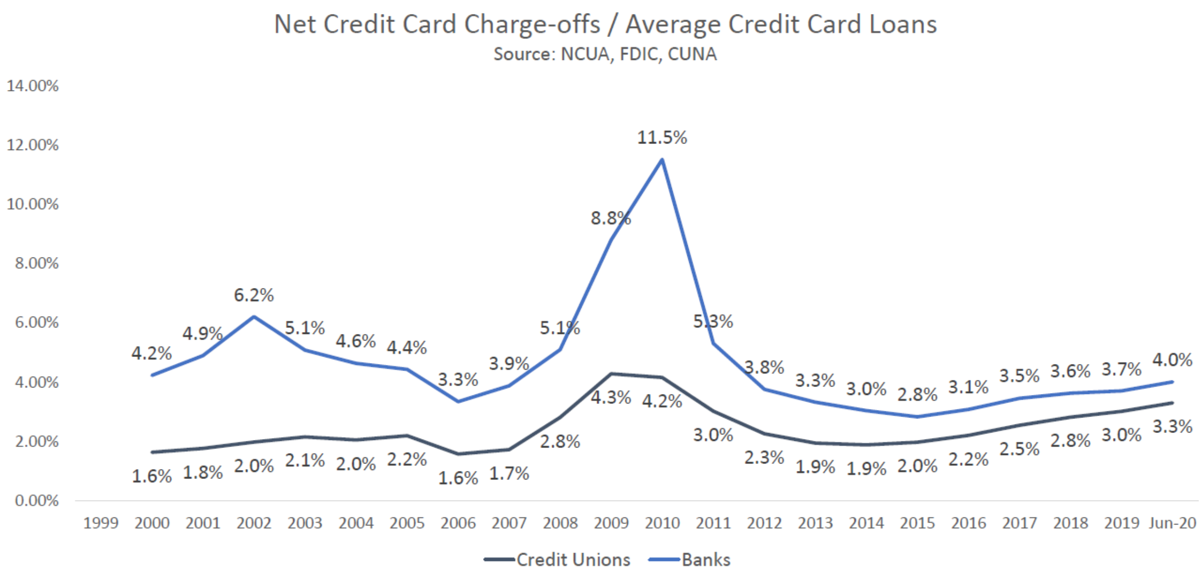
Additionally, if outstanding credit card debt is organized by a bank holding company, the top 10 bank holding companies (by outstanding credit card debt) control over 90 percent of the bank market, and have for most of the last two decades. As of June 2020, the amount of credit card loans outstanding at credit unions stood at $61.4 billion whereas banks and the top 10 bank holdings companies had $808 billion and $724 billion in outstanding loans, respectively.



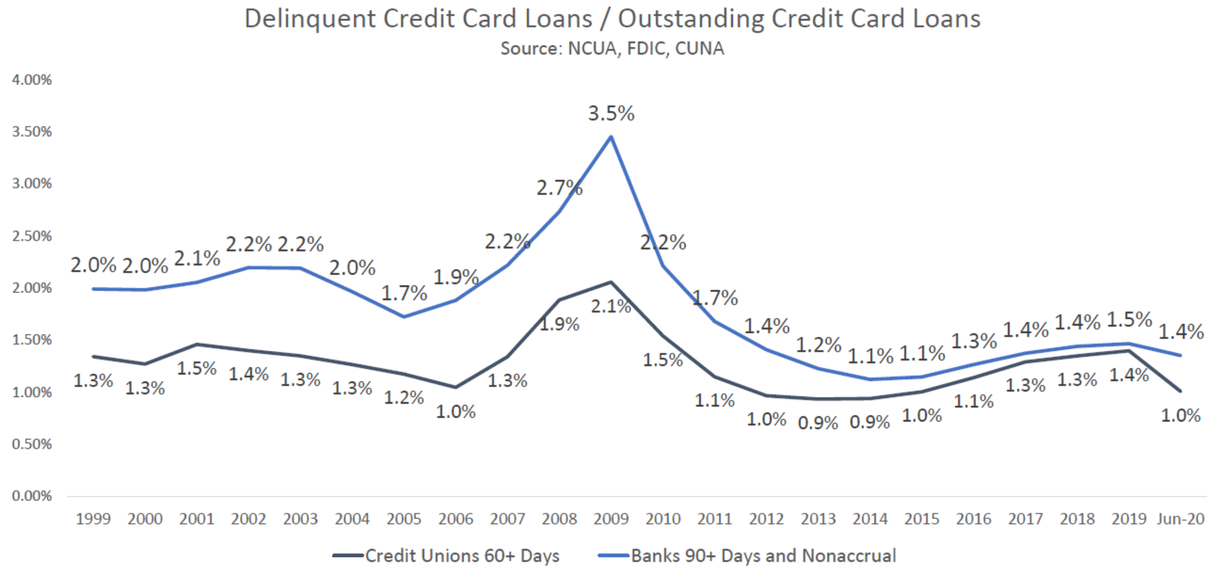
Although credit unions have a relatively small share of the overall credit card market, the industry has nearly doubled its share of the market of revolving credit from ~3.29 to ~6.41 percent over the last decade according to the Federal Reserve's G.19 Report.[4]



Along with credit unions' continued growth in the credit card marketplace, they remain responsible credit card providers as evidenced by the industry's low delinquency and charge-off rates. In fact, the delinquency and charge-off rates for credit unions' credit cards remain lower than those of their bank counterparts. This historic trend has remained true in both the 2008-2009 Recession, where banks saw a dramatic spike in credit card delinquencies, and in the more stable post-recession economy. Furthermore, credit unions report delinquent loans once an account is 60+ days past due, in contrast to banks where reporting occurs at 90+ days past due. Even with this difference in reporting, banks see higher delinquency rates.



[4] https://www.federalreserve.gov/releases/g19/HIST/cc_hist_r_levels.html



As member-owned financial cooperatives, credit unions have a vested interest in minimizing fees on products and services, including for credit card programs. Nevertheless, the services offered by credit unions, such as credit card programs, have associated costs. It is reasonable for credit unions to assess appropriate fees and charge fair interest rates for such services, particularly because the costs of these features are borne by credit union members. Credit unions also face regulatory pressures to maintain net worth (capital) that often exceeds the well-capitalized level and unlike publicly-traded banks, credit unions have limited sources from which they can build capital, which is from retained earnings such as fee income. Therefore, credit card fees or interest charges are necessary for credit unions to maintain these programs for their members.

Credit unions continue to face additional challenges, which might not impact other credit card issuers to the same degree. Unique among credit unions is the statutory interest rate cap that federally-chartered credit unions are subject to by law. The Federal Credit Union Act caps credit union interest rates at 15 percent but provides the National Credit Union Administration (NCUA) Board limited ability to increase the cap in certain instances.[5]

During its January 2020 meeting, the NCUA Board approved a continuation of an 18 percent maximum loan interest rate for federal credit unions through September 10, 2021.[6] Federal credit unions are unable to provide interest rates on credit cards and most other loan products higher than this threshold. In addition, NCUA staff analysis concluded that lowering credit unions' interest rate cap below the current 18-percent level could result in a reduction in the availability of short-term small dollar loans for members, reduce federal credit union earnings, and threaten safety and soundness.[7] CUNA has called on the Board to continue monitoring the propriety of the 18 percent cap and consider increases to the 18 percent cap or the adoption of a floating rate cap, if needed.

Although the average credit union credit card interest rate is significantly below the statutory limit, the cap does potentially affect credit unions' ability to compete with other credit card issuers. For example, credit unions can struggle to match other issuers rewards and signing bonuses when consumers chase extras

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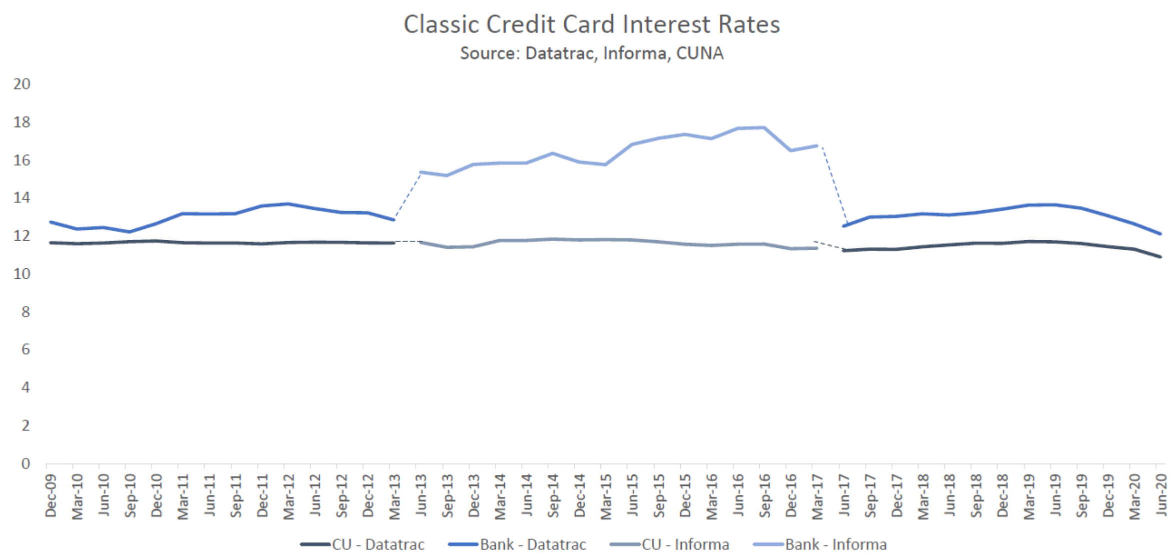
[5] 12 U.S.C §1757(5)(A)(vi)(I).
[6] *See* National Credit Union Administration, Board Action Bulletin (January 23, 2020), https://www.ncua.gov/newsroom/press-release/2020/board-proposes-rules-subordinated-debt-combination-transactions.
[7] *See* NCUA Staff Memorandum: "Supplemental Information and Interest Rate Statistics" (January 2020) *available at* https://www.ncua.gov/files/agenda-items/AG20200123Item5b.pdf.

instead of focusing on interest rates alone. There are also challenges associated with supporting a credit card program during in an increasing interest rate environment.



As illustrated, credit unions offering credit cards do so at lower interest rates than banks. As of December 2020, credit unions' average interest rate for classic credit cards stood at 10.89 percent compared to banks' average interest rate of 12.1 percent. This trend holds true for most credit cards, including niche credit cards associated with special rewards programs. This difference serves as further evidence that credit unions are the best financial option for America's consumers.

Credit Card Disclosures

As member-owned cooperatives, credit unions have a proven track record of protecting their members' interests. CUNA has consistently been a proponent for tailored, appropriate consumer protections on regulated entities, including some of those implemented under the CARD Act. However, the CFPB has acknowledged, and credit unions agree, that complex disclosures are less effective at informing consumers about the terms of a financial product. To that end, CUNA recommends the CFPB study methods to improve and simplify disclosures as they relate not only to the consumer but also to affected financial institutions.

Credit Card Data Breaches

Data breaches at retailers and merchants are a problem impacting credit unions. Merchants are not subject to a federal data security standard and are not responsible to credit unions and other issuers for financial institutions for losses stemming from a breach or loss of credit card data maintained on their computer systems. The effect of breaches has an outsized impact on cost and staff hours for credit unions, where logistics of a breach pull staff from other credit union services, and losses from fraud and reissuance costs consume precious resources. CUNA supports legislative efforts to create a national data security standard that would add protections for consumers while reducing compliance burdens stemming from a patchwork of standards across the states.

Innovation Initiatives

Under CFPB Director Kathy Kraninger's leadership, the CFPB has taken several steps to revitalize its approach to innovation as a key policy priority, including the establishment of new No-Action Letter (NAL), Trial Disclosure and Compliance Sandbox policies. Innovation, through technology and other creative solutions, can enhance the delivery and quality of consumer financial products and services, especially those related to revolving credit.

Credit unions have been at the vanguard of innovation as a byproduct of their cooperative nature, member-driven focus, and relatively small size. We believe consumers benefit when credit unions have more opportunities to pursue fresh answers to traditional questions with the blessing of relevant federal and state regulators. For this reason, as part of this review, CUNA would like to reiterate our support for the CFPB's increased efforts to encourage innovation in financial services and call on the Bureau to ensure credit unions are given equal access to its innovation initiatives.

Conclusion

On behalf of America's credit unions and their 120 million members, thank you for the opportunity to share our thoughts on the consumer credit card market. If you have questions or require additional information related to our feedback, please do not hesitate to contact me at (202) 508-3629 or amonterrubio@cuna.coop.

Sincerely,

Alexander Monterrubio
Senior Director of Advocacy & Counsel