

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB-2012-0048]

Request for Information Regarding Credit Card Market

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for information.

SUMMARY: Section 502(a) of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act or Act) requires the Bureau of Consumer Financial Protection (Bureau) to conduct a review (Review) of the consumer credit card market, within the limits of its existing resources available for reporting purposes. In connection with conducting that Review, and in accordance with Section 502(b) of the CARD Act, the Bureau is soliciting information from the public about a number of aspects of the consumer credit card market, which are described further below.

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS**

AFTER DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER] to be assured of consideration.

ADDRESSES: You may submit responsive information and other comments, identified by Docket No. CFPB-2012-0048, by any of the following methods:

- *Electronic:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail/Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street, NW, Washington, DC 20552.

Instructions: The Bureau encourages the early submission of information and other comments. All submissions must include the agency name and docket number. In general, all submissions received will be posted without change to <http://www.regulations.gov>. In addition, submissions will be available for public inspection and copying at 1700 G Street, NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435-7275.

All submissions, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or social security numbers, should not be included. Submissions will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Wei Zhang, Division of Research, Markets and Regulations, Consumer Financial Protection Bureau, at (202) 435-7700, or wei.zhang@cfpb.gov.

Authority: 15 U.S.C. 1616 (a), (b).

SUPPLEMENTARY INFORMATION:

Section 502(a) of the CARD Act¹ requires the Bureau to conduct a review of the consumer credit card market. To inform that review, Section 502(b)² instructs the Bureau to seek public comment. Accordingly, the Bureau hereby invites members of the public, including consumers, credit card issuers, industry analysts, consumer advocates, and other interested persons to submit information and other comments relevant to the issues expressly identified in Section 2 below, as well as any information they believe is relevant to assessing the impact of the CARD Act on the consumer credit card market.

¹ See 15 USC 1616(a).

² See 15 USC 1616(b).

1. *Background: the CARD Act.*

The CARD Act was signed into law in May 2009.³ Passage of the Act was expressly intended to “establish fair and transparent practices related to the extension of credit” in the credit card market.⁴ 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 (Regulation Z) focused principally on how companies needed to disclose product pricing terms to consumers, and otherwise placed few substantive limits on industry practice.⁵ After the CARD Act, however, TILA and Regulation Z also imposed direct limits on a number of pricing practices that Congress deemed unfair or unclear to consumers. The following is a high-level summary of CARD Act changes. Further information about the CARD Act is available on the Bureau’s website at www.consumerfinance.gov/credit-cards.

(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 card 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 card issuer generally cannot increase rates unless the consumer has missed two consecutive monthly payments and the requisite written notice has been provided.⁶

³ The CARD Act’s provisions took effect in three stages: August 2009, February 2010, and October 2011.

⁴ Text of H.R. 627 (111th), available at www.govtrack.us/congress/bills/111/hr627/text.

⁵ The Federal Reserve Board promulgated several substantive rules shortly before passage of the CARD Act, but they had not taken effect before the Act was signed into law.

⁶ CARD Act § 101; *see also* 12 C.F.R. 1026.9(c) and 55.

(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. The implementing rules establish a safe harbor benchmark for reasonable and proportional late fees of \$25 for a first late payment, and \$35 for a second violation within the next six months.⁷

(c) Overlimit Fee Opt-In

There are additional restrictions on the overlimit fees assessed when a consumer exceeds his or her assigned credit line. Following the Act, issuers may only charge such fees if the consumer expressly opts in to permit overlimit transactions.⁸

(d) Payment Timing

Payments must now be due on the same day of each month. In addition, the Act and implementing regulations contain a set of rules as to when payments must be treated as timely. There are also rules about how much notice cardholders must receive before a bill is due.⁹

(e) Payment Allocation

Subject to certain exceptions, when a consumer makes a payment on the account, issuers are now required to allocate that payment first to balances that are subject to higher interest rates.¹⁰

(f) Monthly Statements

⁷ CARD Act § 102(b); *see also* 12 C.F.R. 1026.52(b).

⁸ CARD Act § 102(a); *see also* 12 C.F.R. 1026.56.

⁹ CARD Act § 106; *see also* 12 C.F.R. 1026.5(b)(2)(ii), 10, 7(b)(11)(A). The Act also barred so-called “double-cycle billing,” a practice that enabled an issuer to charge interest on purchases for a billing cycle prior to the cycle for which the consumer paid late.

CARD Act § 102(a); *see also* 12 C.F.R. 1026.54.

¹⁰ CARD Act § 104; *see also* 12 C.F.R. 1026.53.

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. For comparison, the statement must also show how much it would cost the consumer each month to pay off his or her current balance in three years. Regulations issued by the Federal Reserve Board and inherited by the Bureau, which took effect along with the CARD Act implementing rules, 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.¹¹

(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.¹²

(h) Student cardholders

The Act imposed new restrictions related to on-campus marketing of credit cards. In addition, any credit card applicant under 21 years of age must demonstrate his or her ability to make payments on the account.¹³

2. *Issues on which the Bureau seeks public comment for its Review.*

In connection with its pending Review, the Bureau seeks information from members of the public about how the credit card market is functioning following the implementation of the CARD Act. Thus, the Bureau seeks comments about any of the subjects addressed in (a) through (g) below, which are identified in Section 502(a) of the CARD Act. In addition, the Bureau wants to be alerted to and understand the

¹¹ 12 C.F.R. 1026.7(b).

¹² CARD Act § 109; *see also* 12 C.F.R. 1026.51(a).

¹³ CARD Act §§ 301, 303, 304; *see also* 12 C.F.R. 1026.51(b), 57.

information that consumers, credit card issuers, consumer groups, and others believe is most relevant to assessing the impact of the Act on the consumer credit card market, so this list of subjects should not be viewed as exhaustive.

Please feel free to comment generally and/or respond to any or all of the questions below but please be sure to indicate in your comments on which topic areas or questions you are commenting:

(a) The terms of credit card agreements and the practices of credit card issuers

How have the substantive terms and conditions of credit card agreements changed following the CARD Act? How have issuers changed their pricing, marketing, underwriting or other practices? What changes have benefited consumers? Are there changes that have harmed consumers? If there are such harms, how have they been caused, and how could they be mitigated, and at what cost?

(b) The effectiveness of disclosure of terms, fees, and other expenses of credit card plans

How effective are post-CARD Act disclosures of rates, fees, and other cost terms of credit card accounts? Do consumers better understand the true cost of credit card use in light of the CARD Act? To what extent and in what ways do consumers use the new information that is now available to them about credit card costs? What further improvements in disclosure would benefit consumer cardholders at this point, and what costs would be incurred in providing such disclosures?

(c) The adequacy of protections against unfair or deceptive acts or practices relating to credit card plans

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? How might those acts and

practices be prevented and at what cost? Have issuers circumvented, or tried to circumvent, any CARD Act protections against unfair or deceptive acts or practices?

- (d) Whether implementation of the CARD Act has affected the cost and availability of credit, particularly with respect to non-prime borrowers?

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

- (e) Has the CARD Act impacted the safety and soundness of any credit card issuers?

Has the Act impacted the quality of issuer assets or issuers' return on equity? Are there ways to mitigate any adverse consequences and, if so, at what cost to consumer protections?

- (f) Has the CARD Act affected the use of risk-based pricing?

To what extent are card issuers still engaged in risk-based pricing? What practices have issuers adopted in the wake of rules that restrict account repricing, and how have these practices affected consumers?

- (g) Has implementation of the CARD Act had any effect on credit card product innovation?

To what extent and in what ways has the Act spurred or hampered product innovation in the credit card market? If the Act has impacted innovation, what have been the follow-on impacts on consumers and other market participants?

Dated: December 14, 2012.

A handwritten signature in blue ink, appearing to read "Garry Reeder".

Garry Reeder,

Chief of Staff, Bureau of Consumer Financial Protection.