

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB-2015-0007]

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 or CFPB) 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, 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 the document title and Docket No. CFPB-2015-0007, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *E-mail:* FederalRegisterComments@cfpb.gov. Include the document title and Docket No. CFPB-2015-0007 in the subject line of the message.

- *Mail:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.
- *Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1275 First Street NE, Washington, DC 20002.

Instructions: All submissions should include the agency name and docket number for this proposal. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to <http://www.regulations.gov>. In addition, comments will be available for public inspection and copying at 1275 First Street NE, Washington, DC 20002, 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 comments, 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. Comments generally will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: For general inquiries, submission process questions, or any additional information, please 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, within the limits of its existing resources available for reporting purposes, of the consumer credit card market every two years. To inform that review, Section 502(b)² instructs the Bureau to seek public comment.

The Bureau's first such review was published in October, 2013.³ To inform the Bureau's next review, 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 a review of the credit card market, including the impact of the CARD Act on that market.

1. Background: the CARD Act.

The CARD Act was signed into law in May 2009.⁴ Passage of the Act was expressly intended to "establish fair and transparent practices related to the extension of credit" in the credit card market.⁵ To achieve these agreed-upon purposes, the Act changed the requirements applicable to credit card pricing in a number of significant respects including direct limits on a number of pricing practices that Congress deemed unfair or unclear to consumers. A high-level summary of CARD Act changes, along with further information about the CARD Act is available on the Bureau's website at www.consumerfinance.gov/credit-cards.

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

¹ See 15 U.S.C. 1616(a).

² See 15 U.S.C. 1616(b).

³ CARD Act Report, available at, http://files.consumerfinance.gov/f/201309_cfpb_card-act-report.pdf.

⁴ The CARD Act's provisions took effect in three stages: August 2009, February 2010, and October 2011.

⁵ Public Law 111-24, 123 Stat. 1734 (2009).

In connection with its pending Review, the Bureau seeks information from members of the public about how the credit card market is functioning. The Bureau seeks comments in three primary areas. Firstly, the Bureau seeks comments on the continuing impact of the CARD Act on the credit card market, including but not limited to those questions explicitly outlined in Section 502(a) and in (a) through (d) below. Secondly, the Bureau seeks comments on six areas of further interest as previously outlined in the previous Review, published October 2013, delineated in (e) through (j) below. Thirdly, the Bureau has since identified additional specific areas of interest on which it specifically seeks comment, outlined in (k) through (l).

The Bureau wants to be alerted to and understand the information that consumers, credit card issuers, consumer groups, and others believe is most relevant to the Bureau's review of the credit card market, so this list of subjects should not be viewed as exhaustive. Commenters are encouraged to address any other areas of interest or concern to them.

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 or the length and complexity of such agreements changed over the past two years? How have issuers changed their pricing, marketing, underwriting, or other practices?

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

How effective are current disclosures of rates, fees, and other cost terms of credit card accounts in conveying to consumers the costs of credit card plans? 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 or unlawful discrimination relating to credit card plans

Do unfair, deceptive, or abusive acts and practices, or unlawful discrimination, still exist in the credit card market, and if so, in what form and with what frequency and effect? How might such conduct be prevented and at what cost?

(d) Whether implementation of the CARD Act has affected (i) the cost and availability of credit, particularly with respect to non-prime borrowers; (ii) the use of risk-based pricing; or (iii) credit card product innovation?

What additional evidence exists since the publication of the Bureau's prior report with respect to the impact of the CARD Act on the factors listed above? Has the impact of the CARD Act on these factors changed over the past two years?

(e) Online Disclosures

Certain disclosures, including disclosures mandated by the CARD Act, are provided to consumers through their periodic billing statements. However, the Bureau's prior study found that most consumers who make on-line payments do not access their monthly statement and instead use online portals which do not contain these disclosures. This reflects a more general challenge of translating regulations related to disclosures largely written for a paper-and-pencil world into the modern electronic world. How do card issuers ensure that consumers using different channels, including mobile, receive effective disclosures both at the point of application and in managing existing accounts?

(f) Rewards Products

The Bureau's prior study observed that rewards play an important part in consumers' decisions to apply for a card but that consumer awareness of rewards terms appears to be declining. Rewards offers can be highly complex, with detailed rules regarding the eligibility for sign-on bonuses, the value of earned points, the rate at which they are earned, and the rules governing their forfeiture. Are rewards disclosures being made in a clear and transparent manner? Do consumers understand these offers in applying for rewards cards? What further improvements in disclosure would benefit consumer cardholders at this point, and what costs would be incurred in providing such disclosures?

(g) Grace Periods

The Bureau's prior study observed that for consumers, who do not pay their balance in full each month, a key determinant of their cost of credit is the grace period and that disclosing the complex rules governing the availability of a grace period is quite challenging. Are grace period limitations being disclosed in a clear and transparent manner? Do consumers understand the limitations? What further improvements in disclosure would benefit consumer cardholders at this point, and what costs would be incurred in providing such disclosures?

(h) Add-On Products

Credit card issuers market or have marketed various "add-on" products to card users, including debt protection, identity theft protection, credit score monitoring, and other products that are supplementary to the actual extension of credit. The Bureau has found through its supervisory and enforcement work that these products are frequently sold in a manner that is unfair, abusive, or deceptive. To what extent are card issuers continuing to market or permit third parties to market add-on products? What actions have issuers taken to prevent unfair,

abusive, or deceptive marketing practices? What harmful practices persist regarding add-on products?

(i) Fee Harvester Cards

Some card issuers charge upfront fees that exceed 25% of a card's initial credit limit, but those practices have been held not to be covered by the CARD Act because a portion of the fees are paid prior to account opening. What is the prevalence and magnitude of application fees or other fee harvesting practices in connection with account opening?

(j) Deferred Interest Products

The Bureau's prior report found that deferred interest products – purchases which retroactively assess and charge interest if the balance is not paid in full by a specific date – can end up costing a significant segment of vulnerable consumers sizable amount of money and that it is unclear whether those consumers understand the risks entailed or how they are affected when they are retroactively assessed interest. At the same time, the Bureau found that even among subprime consumers, a majority of consumers do obtain interest-free financing through deferred interest programs and that it is unclear what alternatives are available to these consumers. Do consumers who use deferred interest promotions understand the risk of being charged retroactive interest? What is the impact on consumers who are assessed such retroactive interest? What alternatives are available to these consumers?

(k) Debt Collection

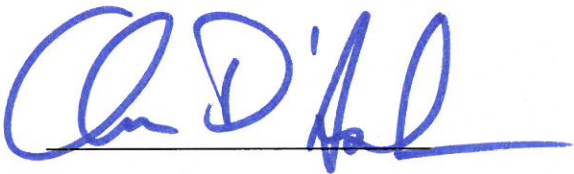
The collection of past due amounts on credit accounts is an important part of any credit system but also an area fraught with risks to consumers. The Bureau seeks to better understand debt collection practices within the credit card industry. What practices are used to minimize losses from delinquent customers prior to chargeoff and with what results? What practices are

used to secure recoveries post charge off and with what results? To what extent do card issuers use third-party contingency collection agencies for collections of accounts and how are such relationships managed? To what extent do card issuers sell charged off accounts to debt buyers and on what terms and with what restrictions?

(1) Ability to Pay

The CARD Act requires issuers to assess a consumer's ability to pay before opening a credit card account or increasing a credit line. The Bureau seeks to better understand how "ability to pay" standards are being implemented in determining whether to approve an application, the amount of credit to extend initially, and whether to increase a credit line. How are card issuers determining whether applicants for a credit card have sufficient income or assets to cover an extension of new credit? How are card issuers making that determination in connection with the consideration of credit line increases? How do these standards and practices affect consumer access to credit and consumer outcomes with credit card products?

Dated: March 16, 2015.



Christopher D'Angelo,

Chief of Staff, Bureau of Consumer Financial Protection.