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National Association of Federally-Insured Credit Unions

April 30, 2019

Comment Intake
Bureau of Consumer Financial Protection
1700 G Street NW
Washington, DC 20552

RE: Request for Information Regarding Consumer Credit Card Market (Docket No. CFPB-2019-0002)

Dear Sir or Madam:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing in response to the Bureau of Consumer Financial Protection's (Bureau or CFPB) request for information regarding the consumer credit card market. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 116 million consumers with personal and small business financial service products. We appreciate the opportunity to share our members' feedback with the Bureau on aspects of the consumer credit card market. Credit unions provide their members with high quality consumer credit card products that include consumer-friendly fee structures and lower than average interest rates. NAFCU recommends that the Bureau encourage effective credit card disclosure use, including giving credit unions flexibility in providing required disclosures via mobile banking platforms. Secondly, NAFCU recommends that the Bureau recognize the importance of a national data security standard in light of the increased volume of data breaches which poses a safety and soundness concern to credit unions. Additionally, NAFCU asks the Bureau to ensure a level playing field exists between fintech companies and regulated financial institutions to allow credit unions the opportunity to develop innovative credit card products. Lastly, NAFCU asks the Bureau to exclude secured credit cards from the ability to pay requirements of the CARD Act.

General Comments

The *Credit Card Accountability Responsibility and Disclosure Act of 2009* (CARD Act) was signed into law in May 2009 to "establish fair and transparent practices related to the extension of credit." Section 502(a) of the CARD Act requires the Bureau to conduct a review of the consumer credit card market every two years. Responsibility for review was passed from the Board of Governors of the Federal Reserve System to the Bureau upon the passage of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*. The CARD Act prohibits credit unions from extending credit without assessing a member's ability to pay, and restricts the amount of initial fees that may be charged during the first year after an account is opened. Additionally, the CARD Act limits a credit union's ability to increase interest rates on credit cards.

NAFCU members support providing fair and transparent credit products and services. Credit unions are not-for-profit, cooperative financial institutions focused on providing exceptional member service, not capitalizing profits for shareholders. Credit unions have changed their credit card practices as technology and the regulatory landscape have evolved. Despite changes to the technology and regulatory landscape, credit unions put their members first, and provide high quality credit card products with lower than average interest rates and member-friendly fee structures.

Consumer credit cards play an important role in credit union members' daily lives, and represents one of the largest portions of overall consumer debt. According to the Federal Reserve's 2018 year-end data, U.S. credit card debt hit a record high of $870 billion, surpassing the peak of pre-recession credit card debt. In addition, the data showed that credit card balances rose by $26 billion from the third quarter to the fourth quarter of 2018, and both credit card limits and the number of cards in circulation increased. The National Credit Union Administration's (NCUA) 2018 year-end data showed that in total, federal credit union credit card balances rose 7.5 percent to a total of $61.8 billion. Given that consumer credit card debt is at a record high, it is important the Bureau continue to report on the market to ensure fair and transparent practices are taking place in accordance with the CARD Act's intent. More importantly, the Bureau should entertain changes to the regulations carrying out the the CARD Act as the consumer credit card market evolves.

Effectiveness of Disclosures

The CARD Act's onerous credit card disclosure requirements do little to educate consumers on important aspects of the financial product they are using. The disclosures include complex information that is not displayed in the most consumer-friendly manner, reducing their effectiveness. According to a 2016 survey, 24 percent of Americans never read credit card agreements, 22 percent hardly read credit card agreements, 27 percent sometimes read credit card agreements, and 26 percent regularly read credit card agreements.[1] Consumers miss important information regarding their credit card products when they do not read or only selectively read the agreements and disclosures. The Bureau should encourage effective credit card disclosures that are in a simple and easy-to-read format. Improvements to the disclosures, such as a more user-friendly format, would encourage greater readership of credit card agreements and disclosures.

In order to be effective, credit card disclosures also need to be adaptable to the way members access and view credit card information. Current credit card disclosure rules may not be suitable for our digital environment. As mobile and online banking become more mainstream, it is important that credit unions are able to offer credit products through these channels without running afoul of the current rules. For instance, if a member applies for a credit card via a credit union mobile app and is provided with the required credit card disclosures that are compliant with the rules, the font and format may be difficult to read. NAFCU recommends that the Bureau ensure that credit unions are given flexibility in providing the required disclosures via mobile banking platforms specifically for form and font size.

[1] *See* https://www.creditcards.com/credit-card-news/unreadable-card-agreements-poll.php.

Cost and Availability of Consumer Credit Cards

NAFCU members have increased the availability of credit card products to meet an increased member demand for unsecured credit cards since the Bureau previously reported on the market. According to NAFCU's 2018 *Federal Reserve Meeting Survey*, demand for unsecured credit cards increased by 23.3 percent in 2018 and 18.4 percent in 2017. Costs of consumer credit card products, in terms of interest rates charged by credit unions remains competitive and lower than the average bank rates. The average interest rate at a bank is 13.62 percent for a classic credit card and 14.3 percent for a platinum card. Conversely, the average interest rate at a credit union is 11.69 percent for a classic credit card and 10.28 percent for a platinum card.[2]

In addition, costs of consumer credit cards in terms of delinquency and charge off rates have decreased since the Bureau previously reported on the market. Despite higher demand for unsecured credit card products and lower interest rates, NAFCU members have reported delinquency rates remaining relatively unchanged since 2014. According to the NCUA's 2018 data, total delinquent loans were 0.57 percent, compared to 1.06 percent for banks, and 0.82 percent for community banks. Charge-offs decreased from 0.60 percent in 2017 to 0.58 percent in 2018. Decreased costs, in terms of delinquency and charge off rates, are in part due to credit unions remaining diligent and effectively mitigate risks. Additionally, lowers costs are due to the tightening of lending standards. According to NAFCU's 2018 *Federal Reserve Meeting Survey*, 11 percent of respondents reported a tightening of loan standards in 2018, versus 5.3 percent in 2017. Credit unions continue to meet the demands for vital consumer credit card products, and continue to act as responsible lenders and decrease costs in terms of interest, delinquency, and charge-off rates.

Safety and Soundness Issues

Data Breaches

Data breaches pose a threat to the safety and soundness of the financial services industry, and financial institutions across the board have experienced unprecedented data breaches in recent years. Unfortunately, data breaches are a growing concern for the credit union industry, and are one of the top impediments to industry growth. According to NAFCU's 2018 *Federal Reserve Meeting Survey*, 71.8 percent of respondents reported that maintaining a secure electronic environment presents the greatest challenge over the next three years. In addition, the survey also asked NAFCU members what issue they considered most critical to continued growth and success, and over 84 percent responded that a financial marketplace with appropriate safeguards against fraud and data breaches is the most critical issue. Data breaches are not only a financial loss to credit unions, but the reputational harm suffered can be quite severe.

Credit unions continue to strengthen safeguards against data breaches, but as criminal tactics evolve given technological advancements, fraudsters are able to launch more creative attacks. An

[2] *See* https://www.culookup.com/Compare-CU-Rates.

example of this is the recent uptick in data breaches stemming from voice fraud and attacks on call centers. A recent study by Pindrop found that voice fraud rates increased by 350 percent since 2013, with the banking industry seeing a 20 percent increase.[3] The study segmented credit unions and found that the fraudulent call rate was about half that of banks. Voice fraud has increased due to advances in artificial intelligence and machine learning. The Identity Theft Resource Center found that the total number of data breaches was down 23 percent in 2018 from the previous year, but the amount of personal identifiable information compromised by a data breach was up 126 percent.[4] So, although fewer breaches are happening, the magnitude of consumer data comprised has grown significantly.

Credit unions allocate a significant amount of resources to protect their members' financial data and to educate their members on ways to protect themselves from data breaches. NAFCU has consistently advocated for a more stringent data security standard for retailers similar to the requirements imposed on financial institutions by the *Gramm-Leach-Bliley Act*. It is essential that the Bureau recognize the importance of a national data security standard and support such a legislative change as it would drastically improve the health of the credit card market.

Credit Card Innovation

Regulatory Burdens and Competitive Pressures

Innovation is difficult for credit unions due to existing regulatory obstacles and competition from the fintech industry. The overwhelming amount of regulatory burdens have caused compliance costs to skyrocket in recent years. According to NAFCU's 2018 *Federal Reserve Meeting Survey*, the number of full time equivalent (FTE) staff members devoted to "total compliance activities" has increased 127 percent since 2010, a 13 percent increase from 2017. Furthermore, 91 percent of respondents expect to increase the number of compliance FTEs in the near future. Smaller credit unions often have limited resources, allocating the resources they do have to ensure regulatory compliance versus allocating these resources to innovation of products and services. The Bureau's Office of Cost-Benefit Analysis will be helpful in reviewing the economic impacts of implementing regulations, and reduce excessively burdensome regulations on credit unions. NAFCU is supportive of the Office of Cost-Benefit Analysis as the office will assist in making resources available that can be allocated to innovation.

In addition to increased compliance costs and limited resources, credit unions also face competitive pressures from the fintech industry. Credit unions face growing competitive pressure to adopt new technologies in order to attract and retain members, as well as improve the member experience. As technology advances, credit unions are faced with increased costs and competition. Competition with non-banks poses one of the greatest threat to credit unions. An example of a non-bank competitive product is the recently introduced Apple Card. This product provides a physical and digital credit card all with no fees to the consumer, that can be linked to their Apply

[3] *See* https://www.pindrop.com/2018-voice-intelligence-report/.
[4] *See* https://www.idtheftcenter.org/2018-end-of-year-data-breach-report/.

Pay account. Although non-bank lenders are subject to the enforcement and rulemaking authority of the Bureau, they are not always supervised in the same manner as credit unions or banks. NAFCU supports robust competition in the marketplace, and recognizes that fintech can produce real benefits to consumers, however innovation should not be prioritized in a way that undermines financial stability and competitive equality. NAFCU asks the Bureau to ensure a level playing field exists between fintechs and financial institutions in terms of supervision and enforcement. A level playing field is key in assisting credit unions with innovating credit card products and services.

Secured Credit Cards

Currently, the CARD Act requires a credit union to evaluate a member's ability to pay for a share-secured credit card. Provisions of the CARD Act stifle innovation of secured credit cards, which serve as an important credit-building product for members who lack credit or need assistance in re-building credit. Because of their cooperative nature, credit union members have an ownership stake in the credit union itself; therefore, the collateral for a secured card is the member's share in the credit union, or their "share account." In order for members to maintain their membership status, they must continue to own at least one share in the credit union. A member not only has a share in a "share account" but also places the required capital aside for a secure card. Therefore, a credit union can easily evaluate whether a member has the ability to pay, and additional ability to pay requirements on top of these are unnecessary and duplicative. The requirement to engage in this analysis has made the process of applying for a secured credit card more time intensive, both for the credit union and its members.

A secured credit card is a valuable credit-building product that enables people who are "credit invisible" to have access to a credit product. NAFCU has repeatedly asked the Bureau to reevaluate the ability to pay requirement in the context of secured credit cards, particularly as applied to credit unions, so as to increase access to these vital products. Secured credit cards do not carry the same level of risk as unsecured credit cards. Requiring an independent analysis for secured credit cards is just one more regulatory obstacle that does not substantially reduce risk, and has only made it harder for credit unions to properly serve their members. For these reasons, NAFCU asks the Bureau exclude secured credit cards from the ability to pay requirements of the CARD Act.

Conclusion

NAFCU appreciates the opportunity to share its members' views on this matter. Should you have any questions or require additional information, please do not hesitate to contact me at (703) 842-2249 or kschafer@nafcu.org.

Sincerely,

Kaley Schafer
Regulatory Affairs Counsel