CONSUMER BANKERS ASSOCIATION
The Voice of the Retail Banking Industry

February 19, 2013

Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Docket No. CFPB-2012-0048 – Request for Information Regarding the Credit Card Market

Dear Ms. Jackson:

The Consumer Bankers Association (CBA)[1] appreciates the opportunity to submit comments in response to the Consumer Financial Protection Bureau's (CFPB's or Bureau's) request for information (RFI) to study the effect of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act) on the credit card market. The CFPB states it will use the information collected under this request to produce a report to Congress on the state of the consumer credit card market, as required under the CARD Act, and to inform its policy decisions going forward.

Summary of CBA's Comments

- The CARD Act has been successful in that it accomplished what was intended, which is to establish fair and transparent practices with regard to credit card extensions of credit. As a result, further restrictions are unnecessary.
- The CARD Act restrictions, such as the prohibition on rate increases for existing balances and the limitations on penalties and over-the-limit fees, severely hamper the ability to manage customer risks. Not only does this result in higher rates than would otherwise apply without the CARD Act, but those customers who might otherwise pay lower rates are subsidizing those who should pay higher rates, and credit availability may be constrained.
- Under the CARD Act, when there is an increase in rates, the increase must be reviewed every six months for the life of the account. We believe there should be

[1] The Consumer Bankers Association ("CBA") is the trade association for today's leaders in retail banking - banking services geared toward consumers and small businesses. The nation's largest financial institutions, as well as many regional banks, are CBA corporate members, collectively holding two-thirds of the industry's total assets. CBA's mission is to preserve and promote the retail banking industry as it strives to fulfill the financial needs of the American consumer and small business.

limitations with regard to this review process as this will reduce burdens for the industry, without sacrificing significant benefits for consumers.

- The industry remains concerned with the CFPB's new authority to address unfair, deceptive or abusive acts and practices (UDAAP) and encourages the CFPB to continue to provide the industry with guidance in this area.
- The CARD Act requirements have caused the industry to shift to variable interest rates. Currently, rates are low due to the extremely low interest rate environment. However, our concern is that when rates do rise as a result of an improving economy, the result may be a surge of complaints to the banks and the CFPB, even though the rate increases are not due to specific bank practices.
- As the CFPB collects specific information from card issuers in connection with the RFI, we urge the Bureau to apply safeguards to protect the privacy of the information collected as part of this process. We also request the CFPB publicly announce it would welcome additional input about the credit card market, even if it is submitted after the comment period for this RFI.

Discussion

General Comments

In our view, the CARD Act has helped to establish fair and transparent practices with regard to credit card extensions of credit. Consumers now have thorough up-front disclosures of fees and costs when they apply for credit cards. As a result, we do not believe further restrictions on credit cards are needed.

Although the CARD Act has been successful in improving credit card practices throughout the industry, we believe the annual percentage rates (APRs) are higher than they otherwise would be due to the CARD Act restrictions, such as the prohibition on rate increases for existing balances and the limitations on penalties and over-the-limit fees. We understand the purpose of these and other CARD Act restrictions is to avoid surprises for consumers. However, since rates may not be increased on existing balances and there are now prohibitions and limitations on certain fees, banks must generally rely on managing credit card lending risk through rate increases on future balances.

The issue here is that raising rates on future balances will not fully address the risk posed to a credit card account when a customer's risk profile deteriorates after origination because the outstanding balance at that time cannot be adjusted to compensate for increased risk, which results in higher original rates at account opening than would otherwise be available to consumers. Similarly, because rates on existing balances cannot be adjusted to address increased risk in the future, another risk avoidance strategy is to issue smaller credit lines, reduce current lines, or be less generous with line increases, thereby reducing the amount of credit generally available to consumers. As a result, these limitations in the CARD Act severely hamper the ability to manage customer risks and affect credit availability. Not only do these limitations result in higher rates than would otherwise apply without the CARD Act, but those customers who might have paid lower rates are subsidizing customers who should pay higher rates.

It is difficult to isolate precisely the data demonstrating a causal relationship between the CARD Act and changes in the availability of credit. Credit availability is a function of numerous economic, seasonality and business factors. The weak economy since the CARD Act was enacted in 2009 further compounds the problem in this case. However, we believe, absent all the other factors, some decline in credit availability is an inevitable consequence of the Act as it reduces the ability to price for risk. As described above, issuers may be forced to limit credit, as this is one of the remaining options they have to adjust for consumer risks. We continue to review the available data on the relationship between the CARD Act and the availability of credit.

Current Concerns and Recommendations

Under the CARD Act, when there is an increase in rates, the increase must be reviewed every six months for the life of the account. We believe there should be limitations with regard to this review process as this would reduce burdens for the industry, without sacrificing benefits for consumers. For example, one approach would be to require this rate review only for rate increases occurring within the prior twelve months, in which case it would be limited to two reviews. It makes little sense to require constant, periodic reviews of rate increases for the life of the account. This represents a significant review and implementation burden for banks that will continue to increase throughout the life of the account, while the benefit for consumers declines, as it would seem the reasons for these long ago rate increases would become less relevant to them over time.

The industry remains concerned with the CFPB's new power to take actions under its new UDAAP authority and how it will use that power with regard to credit card practices. We would encourage the CFPB to continue to provide the industry with guidance on any additional practices that may be of concern, including those with regard to UDAAP.

We also note the restrictions imposed under the CARD Act appear to have caused the industry to shift to variable interest rates. Currently, rates are low due to the extremely low interest rate environment. However, this will change as the economy continues to improve. Our concern is when rates do rise as a result of an improving economy, the result may be a surge of complaints to the banks and the CFPB, through the complaint portal, that would require significant resources to address, even though the rate increases are due to economic conditions, as opposed to bank decisions and practices. We suggest that when the general level of interest rates does rise, the CFPB should inform consumers, through its website and other means, that any corresponding increase in credit card rates may be due to improving economic conditions, as opposed to bank practices.

<u>Issues with the RFI</u>

As the CFPB collects specific information from card issuers in connection with the RFI, we urge the Bureau to apply the necessary safeguards to protect the privacy of the information collected as part of this process. We also request the CFPB publicly announce it would welcome additional input about the credit card market, even if it is submitted after the comment period for this RFI. We are concerned the current deadline has not provided the industry and others with sufficient time to collect this information and would appreciate any additional time that could be provided by the CFPB.

* * * * * * * * * * * * *

Thank you for the opportunity to comment on the RFI to study the effect of the CARD Act on the credit card market. If you have any questions or wish to discuss these issues further, please feel free to contact me at (202) 255-6366 or at jbloch@cbanet.org.

Sincerely,

Jeffrey P. Bloch
Associate General Counsel