September 20, 2023

The Honorable Josh Hawley
United States Senate
115 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Hawley:

The undersigned trade associations, representing financial institutions that serve hundreds of millions of American consumers, are united in opposition to S. 2760, the *Capping Credit Card Interest Rates Act* and its consideration to be included as an amendment to the minibus appropriations bill currently being considered in the Senate. As not-for-profit credit unions, community banks, and both large and small financial institutions that issue credit cards, we uniformly oppose this legislation as it would impose government price controls on private products by creating an ***all-in*** annual percentage rate (APR) cap for credit cards at 18 percent, a move that would severely restrict the availability of this type of credit for everyday consumers and effectively harm the very people the proposed legislation seeks to protect.

This bill would significantly limit consumers' access to credit cards. It would not only cap credit card interest rates, but would also include all associated fees, penalties, and add-on products, such as warranties, in its arbitrary "all-in" APR calculation. Including annual fees and other fees in the calculation will cause credit cards to exceed the cap, resulting in the elimination or reduction of valuable credit card features like cash back and other rewards. This cap will also impede innovative credit cards with non-credit features designed to attract underserved groups because even a nominal annual fee could result in an all-in rate that exceeds the cap.

Proponents of a cap on credit card fees and interest believe that it would help consumers, especially subprime borrowers with less than perfect credit histories. In reality, many consumers who currently rely on credit cards would be forced to turn elsewhere for short-term financing needs, including pawn shops, or worse– loan sharks, unregulated online lenders, and the black market.

One in nine Missourians already uses payday loans,[1] almost double the national average, and payday lenders in Missouri charge annual interest rates of more than 300 percent.[2] This bill would eliminate access to credit cards for millions of consumers and direct them to sources of credit which are far more costly and less regulated.

Credit cards are the primary vehicles for expanding financial inclusion and are one of the most highly regulated financial products available. Research shows that credit cards are the number

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[1] https://www.pewtrusts.org/-/media/data-visualizations/interactives/2014/state-payday-loan-regulation-and-usage-rates/report/state_payday_loan_regulation_and_usage_rates.pdf
[2] https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2022/04/payday-loans-cost-4-times-more-in-states-with-few-consumer-protections

one way that people who are ‘credit invisible’ can become credit visible and grow their credit history, helping them gain access to other products like mortgages and auto loans.[3]

Innovation in the financial services sector has made credit more available, cheaper, and convenient than any time in history. The credit card is one such innovation. However, credit cards are rarely collateralized, so the risk of borrower default increases with this type of credit line. Additionally, for an unsecured loan product like a credit card to be sustainable, lenders must be able to recover costs. Costs include not only the cost of funds availability, but also costs related to compliance, customer service, IT, underwriting, administration, defaults, and, most notably– losses. This requires credit card issuers to impose rates on credit cards that maintain the safety and soundness of the lender and ensure credit availability for a wide range of consumers. Accordingly, lenders must price their loan products commensurate with the risk associated with each borrower. Eliminating lenders’ ability to prudently price loans for the risk involved will result in access to credit cards being limited to consumers who have high income and credit scores and pose little risk to card issuers.

The problems that this legislation will cause are compounded by the CFPB’s rule on credit card late fees. Credit card customers are already facing higher prices and reduced access to credit due to the CFPB’s misguided interventions in the market: the CFPB estimates[4] that its proposal to reduce the safe harbor for credit card late fees will cause APRs to increase by about 2 percent. This would push millions more credit card accounts over the legislation’s 18 percent cap, eliminating a critical source of credit for everyday consumers.

Regulated financial institutions that issue credit cards to their customers already protect consumers and comply with numerous regulations and requirements including, but not limited to, those under the Truth in Lending Act, the Fair Credit Reporting Act, the Equal Credit Opportunity Act, the Fair and Accurate Credit Transactions Act, and state consumer credit laws.

As responsible and well-regulated financial institutions, reducing consumer debt is a goal we share. This goal can be achieved without creating barriers for accessing safe and affordable credit products by pushing consumers with troubled credit histories and those on the financial fringe outside of highly regulated financial products to far more costly and less regulated lenders.

Sincerely,

Consumer Bankers Association
Bank Policy Institute
National Association of Federally-Insured Credit Unions
Credit Union National Association
American Financial Services Association
American Bankers Association
Independent Community Bankers of America
Association of Military Banks of America

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[3] https://files.consumerfinance.gov/f/documents/BecomingCreditVisible_Data_Point_Final.pdf
[4] https://files.consumerfinance.gov/f/documents/cfpb_credit-card-penalty-fees-nprm_2023-02.pdf