



June 17, 2015

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

**Re: Request for Information Regarding Credit Card Market
Docket No. CFPB-2015-0007**

Dear Ms. Jackson:

The American Financial Services Association (“AFSA”)¹ welcomes the opportunity to submit additional comments in response to the Consumer Financial Protection Bureau’s (“CFPB”) Request for Information regarding the Credit Card Market (“RFI”). In a May 18 letter, AFSA address many of the CFPB’s issues raised in the RFI. In this letter, AFSA address four additional topics – online disclosures, grace periods, ancillary products, and debt collection. AFSA also has comments on deferred interest products.²

A. Online Disclosures

AFSA is pleased that the CFPB recognizes the challenge of translating regulated disclosures largely created during a paper-and-pencil world for the modern electronic world. At this point, AFSA’s members are overcompensating with disclosures because most of the mobile and online disclosures are the same as the paper-and-pencil versions. Specifically, it would be helpful for issuers if the CFPB and other regulators provided safe harbor versions of complicated mobile and online disclosures outlining when it is permissible for disclosures to be “one-click away.” In general, it would be helpful for issuers to have guidance on how to adapt a paper-and-pencil disclosure to an online or mobile disclosure that is simple and easy-to-read. It would also be helpful for consumers if the CFPB and other regulators would more formally recognize the value of “right time, right place” for disclosures. Consumers should receive the most relevant disclosures at the time that is most meaningful to them rather than seeing all disclosures one or two clicks away from the main message.

AFSA recommends that the CFPB use data to understand consumer behavior before creating new disclosure requirements. AFSA brings this up specifically in light of the CFPB’s interest in the 3x3 online box disclosure. Issuers do not see any difference in payment behavior between consumers who read their disclosures on a paper statement mailed to them, consumers who read

¹ Founded in 1916, AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.

² Although the comment period has closed on this issue, AFSA hopes that the CFPB will still consider a short statement on deferred interest products.

disclosures online, and consumers who open a PDF statement. Therefore, AFSA does not see a benefit in putting the 3x3 static box in new places online. The links that issuers have put into place already provide the correct information to consumers in the right places.

B. Grace Periods

The CFPB has found that disclosing the complex rules governing the availability of a grace period is quite challenging, and so asks what issuers are doing and if consumers understand the disclosures. Some issuers have enhanced not only disclosures, but copy in marketing materials and phone scripts, to explain to consumers in a clear and transparent manner what the impact to their grace period could be after the consumer accepts a promotional offer. AFSA and its members support the CFPB Bulletin 2014-02 on the marketing of credit card promotional annual percentage rate (“APR”) offers, which was released on September 3, 2014. AFSA does not believe further action is warranted.

C. Ancillary Products

Credit card issuers often market various ancillary products to consumers, including payment protection, identity theft protection, credit score monitoring. AFSA stresses that these products can be beneficial for borrowers. In fact, consumers have repeatedly demanded products that protect against identity theft and that enable them to monitor and track their credit scores. Payment protection provides consumers with value in challenging circumstances, such as when they lose a job or have a baby. Credit monitoring and identify theft products give consumers peace of mind, especially in an age of frequent data breaches. According to one estimate, nearly 1 billion records were compromised by criminals in 2014.³

Issuers ensure that their servicing of existing products complies with “unfair, deceptive, and abusive” (“UDAAP”) guidelines. Issuers’ vendors and employees that support the products receive UDAAP training. Issuers also monitor calls, including calls where benefits are activated or declined for some reason. Issuers want to ensure that there are no inappropriate declines. Since the CFPB has expressed some concern about how consumers are enrolled via telephone sales, AFSA wants to take this opportunity to assure the CFPB that when issuers sell the product, they ensure that they receive a clear “yes” or “no” answer.

D. Debt Collection

Early contact, especially before charge-off, benefits both consumers and issuers. At early stages of delinquency, issuers can be more flexible, consumers can get back on track and referrals to third-party collectors can be avoided. Therefore, debt collection rules should allow for frequent early contact and for leveraging new technologies, including text messaging.

In addition to modernizing antiquated regulations, regulators should focus on enforcement against bad actors. Unscrupulous debt collectors can cause considerable harm to consumers. The CFPB should concentrate its efforts on protecting consumers from these predators.

³ Kopan, Tal. “Black Friday Cybercrime is Unstoppable.” PoliticoPro. Nov. 26, 2014. <https://www.politicopro.com/story/financialservices/?id=41257>

Regulators should also recognize that first-party creditors need less regulation and scrutiny than third-party collectors. Imposing burdensome and unnecessary regulatory constraints on creditors that are clearly designed to address the well-documented issues with debt collectors will lead to higher business costs and costs of credit, as well as overall reduced access to consumer credit. Congress did not intend for creditors to be regulated like debt collectors. Congress realized when it passed the Fair Debt Collection Practices Act (“FDCPA”)⁴ that creditors operate differently than debt collectors, and therefore rules applicable to debt collectors may be appropriate, but those rules would not be applicable to creditors. While much has changed in the credit industry since the 1977 passage of the FDCPA, creditors are still restrained by their inherent motivation to protect their goodwill when collecting past due accounts. Unlike consumers who cannot choose their debt collector, often consumers make a conscious decision of which creditor to use. Nothing has changed that would warrant a different conclusion today or warrant unnecessary regulation.

E. Deferred Interest Products

There is no need for the CFPB to issue new regulations regarding deferred interest products at this time. Deferred interest products are very beneficial for many consumers because they allow consumers to pay for major purchases while, over the deferral period, avoid paying interest. The majority of consumers repay within the deferred interest period. It would harm consumers if the CFPB decided to disallow this valuable product.

Already deferred interest products are already heavily regulated. Card issuers are required to: provide special disclosures related to deferred interest balances, send reminders of the date by which the balances must be paid to avoid accrued interest charges, clearly disclose the timeframe of the promotional period, conspicuously disclose the post-promotional APR, only use the phrase “no interest” if the phrase “if paid in full” precedes the disclosure of the deferred interest period, and include information about the deferred interest period on each periodic statement.

Consumers seem to understand the disclosures because these products are not a significant source of complaints. Some card issuers voluntarily provide enhanced disclosures to help their customers. In addition to the mandated reminder in the periodic statement, some issuers call, email, or text their customers with reminders that the deferred interest period is coming to an end.

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⁴ 15 U.S.C. § 1692

Thank you for considering AFSA's comments on the credit card market. Please contact me by phone, 202-466-8616, or e-mail, bhimpler@afsamail.org, with any questions.

Sincerely,

A handwritten signature in black ink that reads "Bill Himpler". The signature is written in a cursive style with a large, prominent "B" and "H".

Bill Himpler
Executive Vice President
American Financial Services Association