

June 7, 2021

The Honorable Shelley Mayer
Legislative Office Building
Room 509
Albany, NY 12247

The Honorable Nily Rozic
Legislative Office Building
Room 941
Albany, NY 12247

Re: Senate Bill 133/Assembly Bill 5698

Dear Senator Mayer and Assemblywoman Rozic:

I write on behalf of the American Financial Services Association (AFSA)¹ to express our concerns with Senate Bill 133 and Assembly Bill 5698, which would set certain requirements for credit card rewards programs. While we understand and appreciate the bills' goal of ensuring that consumers understand their rewards programs and have an opportunity to use points, we believe the legislation may instead contribute to consumer confusion and create significant compliance challenges for card issuers. For these reasons, we oppose the bills as drafted and respectfully request that you delay further action so as to allow stakeholders additional time to continue to work together toward a solution that can more easily be implemented consistent with the legislation's intent.

SB 133 and AB 5698 would require that an issuer provide notification to a card holder within 45 days of a cancellation, closure, termination or modification of the rewards program or credit card account and adds an additional 90-day period for redemption, exchange or use of the points. These requirements are concerning for several reasons. First, the bills seem to place the burden for notification solely on the card issuer; however, this does not address accounts where the credit card rewards program is administered by an entity other than the card issuer, as is often the case. Common examples of a such a program would be co-branded cards that provide hotel or airline points. In many of these cases, changes to the program are made by the partner entity and sometimes may be made without notification to the card issuer and outside the issuer's control.

Additionally, while recent amendments to the bills are an improvement by adding a definition for "modification," we believe the definition is still too broad and could leave consumers inundated with multiple notices of immaterial changes to the program. Further, because the definition would include changes to the "credit card account," even minor changes to the credit account could trigger notification if the account also includes a rewards program. Accordingly, to prevent consumer confusion from multiple frequent notices, we recommend that the requirements only apply to *material* modifications of the rewards program itself. Online posting of material rewards program changes would provide a single source readily available to all cardholders, avoiding further customer confusion with receipt of individual and possibly duplicative notifications.

¹ Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance. AFSA members do not provide payday or vehicle title loans.

We appreciate that the bills' requirements would not apply in cases of fraud or misuse of the credit account or rewards program; however, this provision should be expanded to also cover cases where the credit account is not in good standing (e.g. accounts in default, arrears, or inactive). As drafted, this legislation would permit card holders to accumulate and access rewards points through spending they have no intention of paying back. Expanding this section of the legislation would prevent such abuse.

We urge you to consider the effects these restrictions would have and not move forward with this legislation as drafted. Thank you in advance for your consideration of our comments. If you have any questions or would like to discuss this further, please do not hesitate to contact me at (202) 469-3181 or mkownacki@afsamail.org.

Sincerely,

A handwritten signature in blue ink that reads "Matthew Kownacki". The signature is written in a cursive, flowing style.

Matthew Kownacki
Director, State Research and Policy
American Financial Services Association
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Washington, DC 20006-5517