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NAFCU | Your Direct Connection to Education, Advocacy & Advancement

May 18, 2015

Ms. Monica Jackson
Office of Executive Secretary
Consumer Financial Protection Bureau
1700 G Street NW
Washington, D.C. 20552

RE: Request for Information Regarding Credit Card Market (Docket No. CFPB-2015-0007)

Dear Ms. Jackson:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents federal credit unions, I write to you regarding the Consumer Financial Protection Bureau's (CFPB) request for information regarding the credit card market. *See* 80 FR 14365 (March 19, 2015). NAFCU, in an effort to assist the CFPB in conducting its market review, sought feedback from its member credit unions on their experience since the implementation of the *Credit Card Accountability Responsibility and Disclosure Act of 2009* (CARD Act) and would like to bring the following matters to the CFPB's attention.

General Comments

The passage of the CARD Act was intended to "establish fair and transparent practices related to the extension of credit" in the credit card market. The CARD Act brought sweeping changes to the field of credit card lending, most notably limiting the types of fees and rate increases that may be charged to consumers, requiring issuers to assess a consumer's ability-to-pay prior to the extension of credit, and mandating new simplified disclosures to bolster consumer awareness. As part of the CARD Act, Section 502(a) requires the CFPB to conduct a review of the consumer credit card market every two years. In order to complete this review, the Bureau has solicited comment from industry participants about the status of the credit card market and the effects of the CARD Act.

NAFCU and its member credit unions have long supported providing consumers with fair and transparent financial products. Credit unions have always been good actors in the credit card market and constantly strive to provide their members with credit card products that best fit the member's individual financial needs and goals. However, it is undeniable that the CARD Act has required credit unions to change the way they approach the credit card market.

Regulatory Burden

Credit unions have spent well over one-hundred years espousing a member-first philosophy, fostering a culture that prioritizes the well-being of consumers. NAFCU has consistently maintained that the tidal wave of regulation, taken individually and in its cumulative effect, has altered the credit card market. In particular, the CARD Act required credit unions of various sizes and complexities to incur significant compliance expenses. The regulatory pendulum has swung too far to the side of constraint and increased effort by the CFPB to ease the regulatory burden on credit unions is necessary.

Many credit union members rely on credit to make essential everyday purchases and pay household bills. Any tightening of the market due to further regulation restricting permissible card options, credit lines and/or requiring a greater amount of repayment in a shorter timeframe is a serious concern for credit unions and the millions of members they serve. NAFCU urges the CFPB to give sufficient consideration to the substantial weight that any additional credit card regulation would place on the credit union industry, which was not responsible for the predatory practices that resulted in the need for the CARD Act.

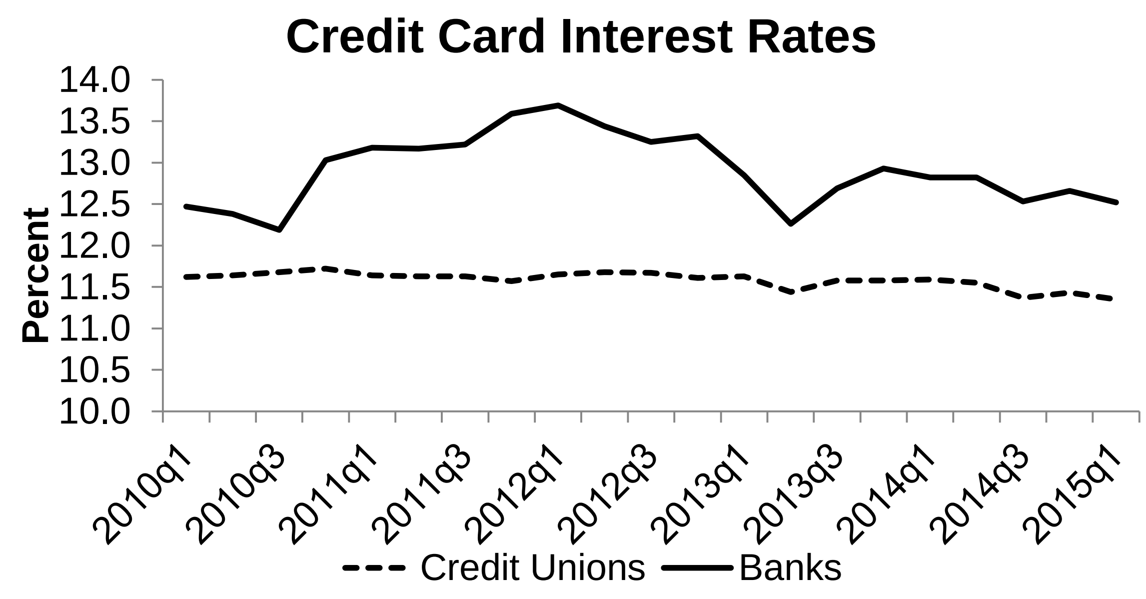
Credit Unions as Good Actors

Credit unions, as member-owned, not-for-profit cooperative institutions, are dedicated to meeting their members' financial needs and demands. This motivation and commitment extends to every aspect of their day-to-day operations, including credit card products.

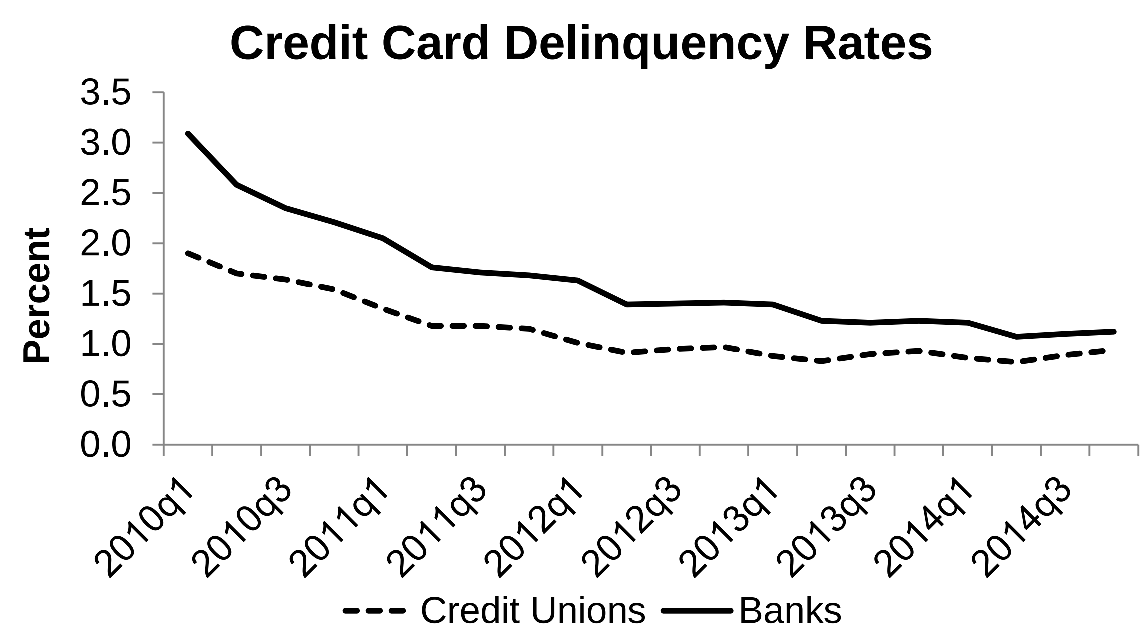
Credit unions provide their members with credit card products that are of significantly greater value than those issued by other entities in the credit card market. Interest rates charged by credit unions are far lower than those charged by banks. Further, both the delinquency and charge-off rates are significantly lower. For the fourth quarter of 2014, for example, credit unions' interest rates were 11.43% compared to 12.66% for banks. Delinquency rates stood at 0.94% compared to 1.12% for banks. And, finally, charge-off rates for credit unions were 1.88% compared to banks' 3.12%.

As the data on the following page clearly indicates, credit unions offer consumers credit card products designed to be more fair and competitive. This aim places pressure on other issuers in the credit card market by offering low-cost products and valuable services while still maintaining lower delinquency and charge-off rates.

Credit Card Data Comparison Charts

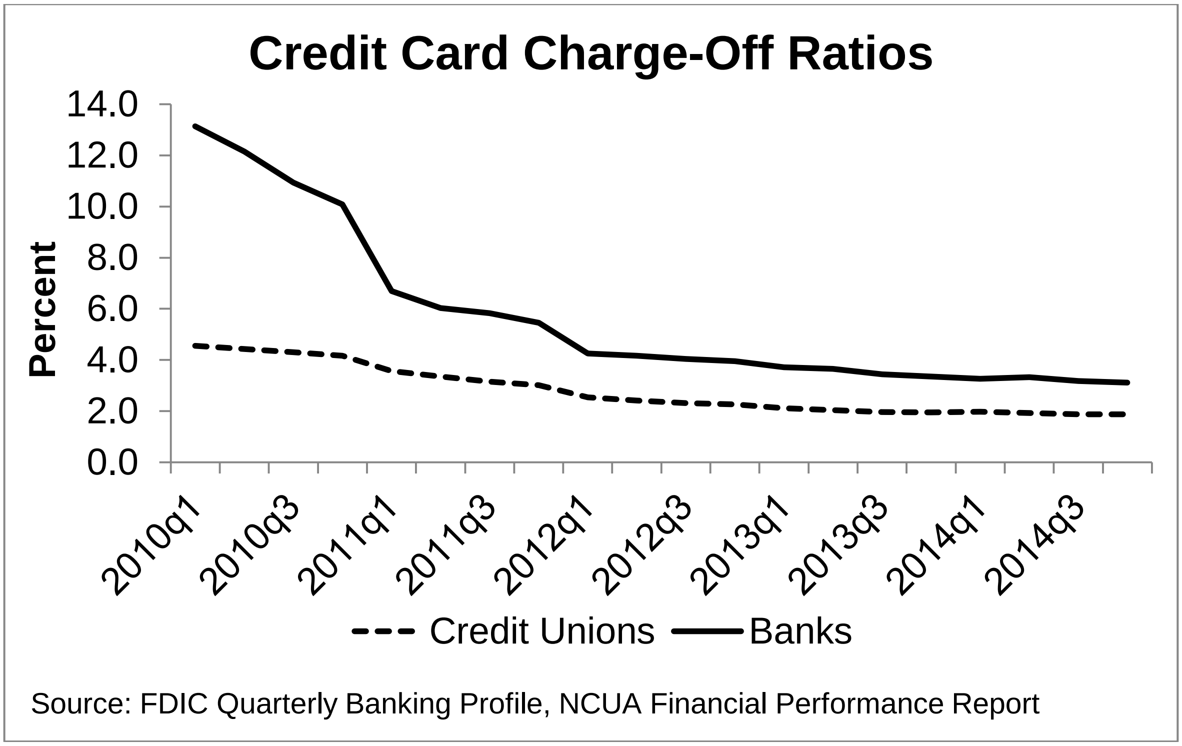


Source: DataTrac



Source: FDIC Quarterly Banking Profile, NCUA Financial Performance Report

Credit Card Data Comparison Charts (Continued)



Disclosures

The CARD Act implemented a series of new disclosures related to interest rates, fees, and other costs associated with a credit card. The new disclosures included requiring card issuers to inform consumers, on their periodic statements, the actual costs that result from making just the minimum payment on their credit card balances: paying more in interest over time and taking longer to pay off their balance.

In general, NAFCU's members have indicated that the current disclosure scheme has been effective in educating consumers. The changes in favor of consistent disclosures across all institutions has put all issuers on a level playing field and consumers are better able to make more informed decisions about selecting the best credit card for their financial needs. The disclosures are simplified for the member in a manner that makes it easier to read, comprehend and compare the credit card to other products available to them.

As credit unions already prioritized member-friendly fee structures prior to the passage of the CARD Act, the credit union industry was not impacted as significantly as other card issuers. Credit Unions have always structured their credit card programs in a way that provides substantial benefits to their members.

Ability-to-Pay

The CARD Act restricts issuers from opening a credit card account or providing a credit limit increase on an existing account without considering the consumer's ability-to-pay. This obligation requires issuers to consider the repayment ability for the required minimum periodic payments under the credit card terms based on the consumer's income, assets, and pending financial obligations. Since implementation of the CARD Act, issuers must establish policies and produces to ensure they consider at least one of the following: the ratio of debt obligations to income; the ratio of debt obligations to assets; or the income the consumer will have after paying debt obligations.

It should be noted that many credit unions already used ability-to-pay calculations in their credit card underwriting prior to the CARD Act's mandate to do so. Credit unions have long practiced responsible lending, implementing ability-to-repay standards through educating their personnel in charge of underwriting of the regulatory requirements. However, NAFCU has heard from multiple members that the ability-to-pay standards remain an area in need of further clarification and guidance.

Data Security

Data security breaches are a serious problem for consumers, merchants and credit card issuers. Credit unions have overwhelmingly stated that data security breaches, and the credit card fraud that often results from a breach, are among the biggest concerns they have for the future of the credit card market. Despite the fact that many credit unions have employed sophisticated data security safeguards, cyber-criminals adapt and find new ways to penetrate data systems. Credit unions are required to expend significant resources and make continuous efforts to stay one step ahead in order to protect their member's financial data.

Due to an inadequate system of accountability, credit unions unfairly bear a substantial burden in the event of a data security breach, regardless of where the true fault of the breach lies. Credit unions typically incur steep losses while taking proactive steps to reestablish the safety of their member's financial information through notification, account monitoring, and the issuing of a new card. All entities – not just financial institutions – that handle consumer information should be held accountable and comply with comprehensive federal data protection standards.

Earlier this month, a NAFCU-backed bipartisan bill was introduced in the House of Representatives, the *Data Security Act of 2015* (H.R. 2205), creating data protection standards, directing protocol for the notification of consumers in the event of a breach and recognizing credit unions' compliance with the *Gramm-Leach-Bliley Act*. The House bill closely aligns with legislation introduced in the Senate, the *Data Security Act of 2015* (S. 961). NAFCU supports these efforts and will continue to push for data security measures that create a strong national standard of data protection for retailers, recognize credit unions' compliance with the Gramm-Leach-Bliley Act and provide legal tools to hold merchants accountable for the breaches that occur on their end. NAFCU believes the CFPB should support comprehensive data security legislation and work to ensure a healthy and secure future for credit card products.

Conclusion

As the CFPB develops its review of the credit card market, we urge you to consider the data NAFCU has submitted with this comment letter. Credit unions are unique and their track record as good actors within the financial services industry proves they should not be put together with the issuers whom the regulators seek to restrict. Regulatory burden has negatively impacted credit unions and their 98 million members. Any additional unwarranted regulatory constraints will significantly encumber the credit card operations of credit unions and, ultimately, hurt the members that rely on these services for their financial stability.

NAFCU appreciates the opportunity to share its thoughts on the credit card market. Should you have any questions or concerns, please feel free to contact me at amonterrubio@nafcu.org or (703) 842- 2244.

Sincerely,

Alexander Monterrubio
Regulatory Affairs Counsel