



January 27, 2023

CFPB SEEKS COMMENTS FOR BIENNIAL CARD ACT REPORT

On January 24, 2023, the Consumer Financial Protection Bureau ("CFPB") issued a [request for information](#) regarding the consumer credit card market as part of its obligation under the Credit Card Accountability Responsibility and Disclosure Act of 2009 ("CARD Act") to conduct a review, within the limits of its existing resources available for reporting purposes, of the consumer credit card market every two years. The CFPB published its first CARD Act review in December 2015 and has published subsequent reviews in December 2017, August 2019 and September 2021. Section 502(b) of the CARD Act specifically instructs the CFPB to seek public comment to inform its review of the consumer credit card market. To that end, the CFPB is now inviting public comment to inform the upcoming 2023 review.

While the request for information seeks general comments on the overall health of the credit card market, it also identifies 7 specific topics of interest for public comment, including:

- (1) The terms of credit card agreements and the practices of credit card issuers;
- (2) The effectiveness of disclosure of terms, fees and other expenses of credit card plans;
- (3) The adequacy of protections against unfair, deceptive or abusive acts or practices relating to credit card plans;
- (4) The cost and availability of consumer credit cards;
- (5) The safety and soundness of credit card issuers;
- (6) The use of risk-based pricing for consumer credit cards; and
- (7) Consumer credit card product innovation and competition.

The request for information additionally includes specific questions associated with each topic. Those questions ask about trends over the last two years within the specified topic, such as changes in pricing, marketing, underwriting, credit card features, access to special populations and the evolution in electronic communication. However, neither the topics nor the questions are exclusive, with comments encouraged to address any other topics or trends they believe would be of interest or concern to the CFPB.

The CFPB's focus on market competition, which served as the

basis for their on-going campaign against so-called "junk fees", can be seen throughout the request for information's guided questions. See our ALERT of [Jan. 26, 2022](#). Under almost every topic the CFPB proposes questions aimed at competition, whether through the impact of marketing on the consumer's ability to comparison shop between credit card issuers or the impact of other consumer financial products and services on competition in the credit card market. The CFPB's questions also reveal an interest in the availability of credit for "special populations" (defined as servicemembers, low and moderate income consumers, older Americans and students) and consumers with low credit scores.

The CFPB specifically seeks comment from consumers, credit card issuers, industry analysts, consumer groups and other interested persons. CFPB Director Rohit Chopra says that responses to the request for information will serve as "a meaningful data point" to help inform the CFPB's decision making on any potential changes. Additionally, the CFPB has issued market-monitoring orders to major and specialized credit card issuers to collect information on their business practices, including applications and approvals, debt collection and digital account servicing. The CFPB will rely on both public comments and the market-monitoring reports when publishing the biennial report to Congress later in the year.

Public comments must be submitted by April 24, 2023. It is important that the industry educate the CFPB about how the credit card market actually works and the challenges the industry faces. We can assist with drafting responses and comments. We will continue to monitor and report on the status of the 2023 report.

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