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June 7, 2017

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

Re: Docket No. CFPB-2017-0006, Requests for Information: Consumer Credit Card Market

Dear Ms. Jackson,

The Independent Community Bankers of America¹ appreciates the opportunity to provide comments to the Consumer Financial Protection Bureau (CFPB or Bureau) on its Request for Information (RFI) on the Consumer Credit Card Market. The Credit Card Accountability Responsibility and Disclosure (CARD) Act requires the CFPB to conduct a review of the consumer credit card market every two years. ICBA commends CFPB for its ongoing efforts such as this RFI to dialogue with stakeholders to gain a

¹ The Independent Community Bankers of America®, the nation's voice for more than 5,800 community banks of all sizes and charter types, is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education and high-quality products and services.

With 52,000 locations nationwide, community banks employ 760,000 Americans, hold \$4.7 trillion in assets, \$3.7 trillion in deposits, and \$3.2 trillion in loans to consumers, small businesses, and the agricultural community. For more information, visit ICBA's website at www.icba.org.

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better understanding of the credit card market and the impact of its regulations. Please find below ICBA's responses to the questions posed by the RFI.

(a) The Terms of Credit Card Agreements and the Practices of Credit Card Issuers

How have the substantive terms and conditions of credit card agreements or the length and complexity of such agreements changed over the past two years? How have issuers changed their pricing, marketing, underwriting, or other practices?

- Community bank credit card issuers report that they have made minimal changes to their credit card agreements in the last two years. Any recent changes have been limited and have not had a material impact on the length or complexity of the agreements.
- Community bank credit card issuers also report that pricing, marketing and underwriting strategies are largely unchanged since the last review, but that they have implemented changes related to fraud prevention and personally identifiable information (PII) security, both at the time of application and on existing accounts.

(b) The Effectiveness of Disclosure of Terms, Fees, and Other Expenses of Credit Card Plans

How effective are current disclosures of rates, fees, and other cost terms of credit card accounts in conveying to consumers the costs of credit card plans? What further improvements in disclosure, if any, would benefit consumer cardholders at this point, and what costs would be incurred in providing such disclosures?

- Community bank credit card issuers report receiving very few questions regarding rates and fees, and believe that the current disclosures are effective in communicating this information.

(c) The Adequacy of Protections Against Unfair, Deceptive or Abusive Acts or Practices (UDAAP) or Unlawful Discrimination Relating to Credit Card Plans

Do unfair, deceptive, or abusive acts and practices, or unlawful discrimination, still exist in the credit card market, and if so, in what form and with what frequency and effect? How might any such conduct be prevented and at what cost?

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- Community bank credit card issuers indicate that they have robust procedures in place to prevent prohibited activity, including actions covered by the UDAAP and fair lending laws and rules.
- Community bank credit card issuers report that they occasionally hear from cardholders that other creditors are agreeing to remove derogatory credit information from individuals' credit reports in exchange for settlement of charged-off or seriously delinquent accounts, which is a violation of the Fair Credit Reporting Act. ICBA urges the CFPB to consider issuing a compliance reminder or guidance which clearly states regulatory expectations.

(d) The Cost and Availability of Consumer Credit Cards, the Use of Risk-Based Pricing for Consumer Credit Cards, and Consumer Credit Card Product Innovation

How have the cost and availability of consumer credit cards (including with respect to non-prime borrowers), the use of risk-based pricing for consumer credit cards, and consumer credit card product innovation changed since the Bureau reported on the credit card market in 2015? What has driven those changes—or, if there has been little change, the stability in those metrics? How are consumers with lower credit scores faring in the market? Has the impact of the CARD Act on these factors changed over the past two years?

- The market's leveraging of digital platforms, including mobile devices, has produced new innovative capabilities which are being appended to existing credit products. Stability has been driven by a number of factors, including improving economic conditions and the CARD Act requirements. Credit product innovation is constrained by the significant expenses that would be incurred to bring a truly innovative product to market, as well as by the elevated regulatory risks inherent in new products and services and the embedded technology. Many community banks are unwilling to invest heavily in a credit product or service for which return is uncertain, and for which they may receive significant regulatory pushback.
- Community bank credit card issuers report that consumers with lower credit scores are faring about the same as in years past, though more issuers are either offering or considering secured cards as a way to service this segment of the population.
- Community bank credit card issuers report that have already absorbed the costs of CARD Act compliance, so very little has changed over the last two years.

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However, CARD Act requirements continue to impose barriers to entry for most small financial institutions, and the complexity of the rules discourage product innovation.

(e) Deferred Interest Products

The Bureau's prior Review found that deferred interest products, while popular, can pose risks to consumers. How have market trends and issuer practices evolved since the Bureau's prior Review? What areas of risk still remain for consumers? What, if anything, should be done to address these risks?

- ICBA did not receive comments from any issuers that offer deferred interest products.

(f) Subprime Specialist Products

The Bureau's prior Review examined the practices and metrics of certain “subprime specialist” issuers who provide cards to millions of consumers with lower credit scores. These issuers offer products to consumers distinguished by their high cost and their reliance on fees, rather than finance charges, relative to mass market issuers. How does the consumer experience of using these cards compare to the experience of consumers with similar credit profiles when using mass market credit cards?

- ICBA did not receive comments from any issuers that offer subprime specialist products.

(g) Third-Party Comparison Sites

Third-party comparison sites are Web sites that provide information to consumers about different credit card products in order to facilitate the selection of a product. The Bureau has received indications that some such sites generate significant revenue from issuer payments made in exchange for approved applications, and that in many cases contracts between sites and issuers can influence or explicitly determine which (and how) products and choices are presented to consumers. To what degree do consumers understand the benefits and risks of using third-party comparison sites? To what degree do existing standards, practices, and disclosures protect consumers from unfair, deceptive, and abusive acts and practices? Where, if anywhere, do opportunities for improvement exist, and how would any such improvements most appropriately be realized?

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- ICBA did not receive any comments from issuers that utilize third-party comparison sites.

(h) Innovation

The Bureau's prior Review noted two major trends in financial innovation which are poised to substantially impact the credit card market. The first was advancements and evolutions in payment security and form factor, including both the widespread adoption of EMV standards and the possibility for wider adoption of mobile payments. The second was the trend toward new consumer lending models potentially competing with credit cards, both indirectly by being marketed as a tool for debt consolidation and more directly at the point-of-sale. To what degree, have either of these trends advanced in ways both expected and unexpected over the past two years? Which of these trends appear likely to have the greatest impact on the consumer credit card market in the foreseeable future? What are the benefits and risks to consumers posed by these trends? What other innovations are impacting, or are likely to impact, consumers in the credit card marketplace?

- The continued delay in adoption by some merchants has caused EMV standards to be less effective, but for those merchants who have complied with the new standards, EMV has helped discourage card present and counterfeit fraud. Conversely, the new standards seem to have spurred greater card-not-present fraud (such as internet and mobile purchases), application fraud, account take over, and creation of synthetic identities.
- Consumers will continue to be placed at elevated risk until merchants fully adopt EMV, support Near Field Communication (NFC) payments, and strengthen InfoSec network controls. New consumer lending models, particularly debt consolidation loans from organizations such as finance companies, seem to be growing in popularity, but presently are not having a material impact on credit card activity.
- Mobile payment adoption has moved at a slower pace than expected but is beginning to gain traction. Mobile payment adoption and payment security are the areas of greatest potential impact.

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(i) Secured Credit Cards

The Bureau believes that secured credit cards potentially offer consumers with limited or damaged credit history a beneficial way to both access credit and build or rebuild a positive credit record. The Bureau has taken note of some indications that secured card originations have increased and that new entrants to the market signal increasing issuer interest in offering this potentially valuable product to consumers. What is the current state of the secured credit card market, and what evidence is there to support indications of positive consumer outcomes? What obstacles, including regulatory obstacles or obstacles with potential regulatory solutions, may prevent secured cards from reaching their potential in the marketplace? What risks should consumers be aware of when choosing a secured card?

- Community bankers observe that the number of issuers offering secured cards appears to be increasing. Several factors are driving this uptick. Post-recession consumers are debt averse, want security, added value, a good credit rating and ease of use, and a secured card can support each of these.
- Regulatory expectations for this type of card are high, making them higher cost products for issuers, and these accounts are also more closely scrutinized by examiners, which are probably the two main reasons an issuer would not offer these cards.
- Consumers should be aware of the risks of losing the funds they have pledged as collateral, but also need to be aware that paying late will reflect negatively on their credit reports - some secured cardholders mistakenly think that the issuer will pay any past due payments out of the cardholders collateral.

(j) Online and Mobile Account Servicing

The Bureau's prior Review found that large and increasing numbers of consumers are enrolling in issuers' online and mobile account servicing platforms. That Review also found that many of those consumers have both opted out of receiving paper statements and appear to rarely access their statements online. These consumers therefore rarely encounter certain mandatory disclosures intended to encourage and enable positive outcomes for consumers who have not always had positive experiences with credit cards. To what extent are consumers who, for example, make only minimum payments, or have a higher propensity towards making payments late, not encountering these disclosures?

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- Providing disclosures in paper form provides no assurances that the cardholder has read or understood them. While some cardholders might not be reviewing electronic disclosures on a regular basis, these disclosures are archived and remain available to the cardholder. By contrast, paper disclosures are frequently discarded by cardholders and are not readily available should the cardholder later have questions about the administration of the account.

What other potential benefits or risks does a broader shift towards digital account servicing pose to consumers?

- Community bank credit card issuers report that digital servicing is generally more secure than mailing paper statements to a cardholders' residence, and allows for more information to be archived for cardholder access for extended periods of time.

What other practices or potential innovations are issuers engaging in to accomplish the same goals as those disclosures? What obstacles, including but not limited to specific regulatory obstacles, inhibit issuers from further innovating in leveraging online and mobile account servicing platforms to improve consumers' experiences and outcomes using credit cards?

- Cost is a barrier to innovation, as technology changes rapidly and frequently requires specialized knowledge not commonly found in a community bank. There is also significant regulatory risk in adopting new technology, as community banks are frequently in the position of trying to apply outdated regulations in light of current technology. Regulators could remove some of these barriers by removing outdated regulations, providing more timely guidance, providing a workable approval process for new products and services before they are introduced, and by taking a consultative rather than punitive approach to regulating new products and services.

(k) Rewards Products

The Bureau's prior review found that rewards programs associated with credit cards are prevalent, popular, and can provide value to consumers. That same Review identified areas for concern regarding the impact of rewards on consumer choice and usage of credit cards, as well as disclosure practices and program structure. How have market trends and issuer practices evolved since the Bureau's prior review? What areas of risk still remain for consumers? What, if anything, should be done to address those?

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- Digital delivery has changed the rewards landscape. Point programs are beginning to simplify and merge. Cash back programs have moved to the forefront. Account opening incentives have become more and more lucrative. Information for rewards programs are frequently inadequate, lacking information that would allow cardholders to make informed decisions. Some minimum disclosure requirements would ensure that consumers have important information.

(l) Variable Interest Rates

The Bureau's prior Review found that most credit cards now have variable interest rates. Those credit card rates will rise when background interest rates increase. To what extent are consumers aware that their credit card borrowing costs will increase on funds already borrowed when market rates increase? What common practices are issuers using to inform consumers of such rate increases? What practices, if any, should issuers adopt to help consumers understand the implications of card use in a rising interest rate environment?

- Community bank credit card issuers report that this information is disclosed to cardholders at account opening. Community bank credit card issuers indicate that they notify cardholders prior to a rate increase.

(m) Debt Collection

The Bureau's prior Review examined the policies and practices of consumer credit card issuers' collections and debt sales operations. What, if any, changes have been made in such policies and practices since the last Review? If they have changed, what drove the applicable changes? What associated market metrics have changed as a result, and how did such changes occur? Have market metrics changed in other significant ways, and if so, how and why?

- Community bank credit card issuers report that third-party debt collectors are now asking for debt validation prior to attempting to collect on an account, and seem to be more concerned with training their staff to follow collections laws than they have been in the past. These changes seem to be driven by increased regulatory expectations. Delinquencies have begun to increase, but this change appears to be directly related to economic conditions rather than recent regulatory changes.

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Conclusion

ICBA appreciates the opportunity to respond to the RFI. If you have any questions regarding this letter, please contact the undersigned at viveca.ware@icba.org or 202.659.8111.

Sincerely,

Viveca Y. Ware
Group Executive Vice President, Regulatory Policy

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