# CREDIT CARDS

The State of Lending in America &
its Impact on U.S. Households

Sarah Wolff

December 2012

CENTER FOR RESPONSIBLE LENDING

www.responsiblelending.org

# Credit Cards

## AN INTRODUCTION TO CREDIT CARDS

Credit cards have become one of the most ubiquitous purchasing tools in the U.S. over the past few decades. This convenient access to credit has not come without consequences. After home, car, and student loan debt, American households' biggest financial obligation is credit card debt, which currently totals over $854 billion, an increase of $172 billion since 2000 (Federal Reserve Board [FRB], 2012a). This increased reliance on credit cards has produced unprecedented levels of debt for American consumers and revenue for the credit card industry.

Many associate this increase in debt primarily with Americans living beyond their means. However, a recent Demos survey found that **many low- and middle-income households rely on credit cards to pay for basic living costs and to help them weather the financial stresses caused by unemployment and medical expenses.** Some 40% of low- and middle-income households surveyed reported using credit cards to pay for basic living expenses (such as rent or mortgage bills, groceries, utilities, or insurance) because they did not have enough money in their checking or savings accounts. For 47% of the households surveyed, out-of-pocket medical expenses made up a portion of their outstanding credit card debt. And of the households who incurred expenses because of unemployment, 86% took on credit card debt as a result (Traub & Ruetschlin, 2012).

In the past, credit card companies took advantage of this reliance by engaging in unfair and deceptive practices. Industry practices frequently included high penalty rates that were unfairly and easily triggered, unclear terms in solicitations and statements, and fee structures and other measures that exploited consumers' biases and tendencies. Credit card issuers believed these techniques would increase revenue; however, recent evidence has been to the contrary. **The passage of the Credit Card Accountability Responsibility and Disclosure (CARD) Act of 2009 has made credit card pricing much clearer without leading to higher rates or decreased access to credit.** The Act banned or curbed many deceptive and unfair practices common in the industry at the time. One outcome for consumers has been more transparent pricing; for example, there are fewer differences between stated rates in credit card solicitations and actual rates that consumers paid for credit. Another outcome has been consumers' improved ability to manage credit card debt. Again—importantly—credit card reform has neither cut credit availability nor raised prices.

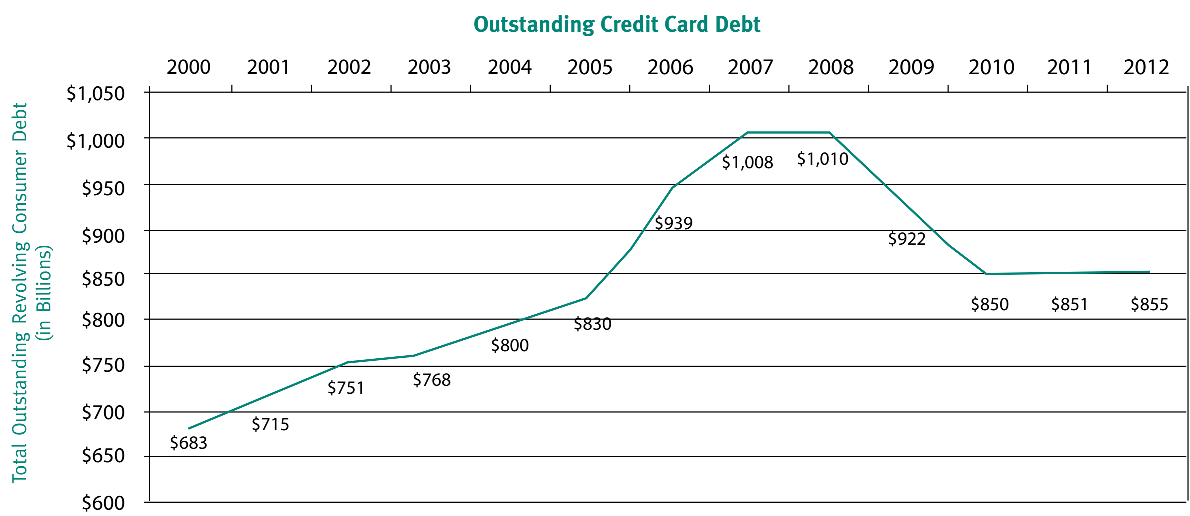
## *MARKET AND INDUSTRY OVERVIEW*

The revolving consumer credit, or credit card, market is large and concentrated. Although there are thousands of credit card issuers, credit card balances are concentrated among a small number of issuers. Two-thirds of credit card balances are owned or securitized by the 14 credit card banks with assets over $200 million (FRB, 2012b). As shown in Figure 1, outstanding credit card debt totaled $855 billion in August 2012, up from $683 billion at the end of 2000, but down from more than $1 trillion at the end of in 2007 and 2008 (FRB, 2012a). As of March 2012, the top five issuers of credit cards were Citigroup, JP Morgan Chase, Bank of America, Capital One, and American Express. These issuers' portfolios totaled $475 billion in outstanding loans and represent over half of the credit card market (American Banker, 2011).

The credit card market is highly profitable for issuers. In its June 2012 *Report to the Congress on the Profitability of Credit Card Operations of Depository Institutions*, the Federal Reserve Board (Board) reported that the banks that control the vast majority of the credit card market enjoyed net earnings of 5.37%. As an indication of how profitable the credit card business is for banks relative to other activities, the rate of return for all commercial banks is 1.18%. Credit card profits are also reliable. Between 2001 and 2011, the largest credit card banks experienced only a single unprofitable year in 2009, at the end of the recession of 2007 to 2009.

A majority of US households use credit cards: the most recent Survey of Consumer Finances (FRB, 2012c) showed that 68% of consumers had a credit card in 2010. However, fewer than 40% of consumers carried credit card balances in that year—the lowest proportion in the history of the survey. This is a result of consumers reducing their debts in the wake of the recession; median balances decreased by 16.1% from 2007 to 2010.

**Figure 1. U.S. Total Outstanding Credit Card Debt ($ billions)**




Source: Federal Reserve Board, Statistical Release G19, Consumer Credit

In the 20 years prior to the Credit CARD Act's effective date in February 2010, credit card issuers increasingly relied on deceptive, unfair pricing practices to boost revenue. Banks justified these practices by saying that these were necessary to mitigate risk; however, many of these practices bore no relation to the costs or risks faced by issuers. Often, lenders were simply exploiting price complexity and consumer behavioral biases (Frank, 2009). Terms in contracts and solicitations were purposefully unclear; policies were buried in fine print and difficult to understand. As a result, consumers paid significantly higher costs than they expected or realized.

CRL research shows that larger issuers were more likely to engage in these bad practices than smaller institutions and that issuers who engaged in one unfair or deceptive practice tended to engage in many (Frank, 2012). The Credit CARD Act curbed or banned many of these, but several continue to hurt consumers and should be addressed by lawmakers and regulators.

## Pre-Credit CARD Act Abuses

### Complicated Pricing

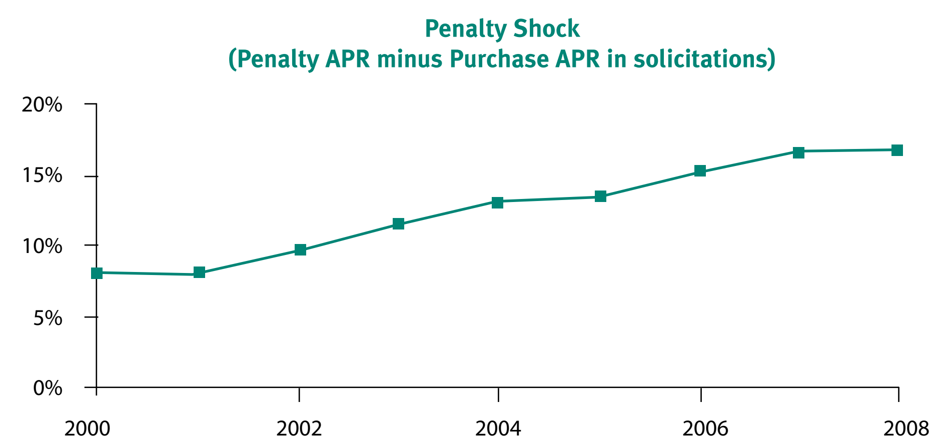
Before the Credit CARD Act, a Federal Reserve paper described the evolution of the credit card industry as a transition from a straightforward model to one with a "complex set of APRs [annual percentage rates], new and increased fee structures, and sophisticated finances charge computation techniques" (Furletti, 2003). Credit card terms became increasingly complex, including in initial solicitations such as direct mail offers. CRL research found that direct mail offers to consumers became 2.5 times more complicated in 2009 than 1999, as measured by the total number of numeric figures appearing in offers (Frank, 2010). This complexity allowed lenders to hide fees and take advantage of pricing practices that consumers tended to be unaware of, discount, or ignore.

Examples of hidden credit card policies that imposed potentially high and unexpected costs included tiered late fees and minimum finance charge requirements. Tiered late fees allowed issuers to apply increasingly higher late fees on a growing group of cardholders. Issuers designed this complex pricing structure to focus consumers' attention on the lowest fee that could be charged, even though it was the one least commonly incurred. Nine out of ten consumers, for example, had credit card balances of at least $250, which for most issuers placed the cardholder in the highest late fee tier and triggered the highest possible penalty fee if the consumer paid late (Frank, 2009). Credit card issuers also imposed oversized minimum finance charges, such as a $2 charge on a penny balance due. International fees could be charged to consumers for international purchases even when those transactions were made in U.S. dollars and at no additional cost to the bank.

### Penalty Rates

Penalty rates are a form of hidden, back-end pricing in which the rate increases after the borrower repays late and typically applies to the entire balance owed. Their impact is especially harmful when easily triggered in the teaser period (Frank, 2008). Before enactment of the Credit CARD Act, penalty rates could be triggered when consumers paid their balances as little as one day late. CRL research found that penalty repricing led consumers to underestimate the interest they were paying. As Figure 2 below demonstrates, between 2003 and 2007, both the prevalence of penalty repricing and the disparity between the size of the penalty rate and the rate consumers expected to pay grew (Frank, 2008). In 2008, the average penalty APR was 16.9 percentage points higher than the average APR consumers paid on purchases (for example, a consumer making one late payment would see their 12% APR raised to 28.9%). We term this disparity "penalty shock" and Figure 2 shows its magnitude in the years prior to the Credit CARD Act. For a household with the average amount of credit card debt ($10,678 in 2008), penalty repricing on balances would result in additional $1,800 in interest costs per year. The financial harm was amplified when penalty rates were easily triggered or difficult to undo.

**Figure 2. Credit Card Penalty Shock**




Source: Comperemedia data and CRL calculations.

## Bait and Switch and Similar Practices

Widening gaps between rates quoted in solicitations and rates consumers actually paid suggests that bait–and–switch tactics were common in the credit card industry. Similar to this was the use of "pick-a-rate" practices, where issuers manipulated variable rates by tying interest rates to an index and picking the date when the index triggered the largest increase. Research by both CRL and the Federal Reserve provided evidence that this pricing strategy was poorly understood by consumers and bore little relationship to issuers' risks or costs (Frank, 2009). This change in formula for calculating variable rates resulted in rates averaging 0.3% higher and cost consumers $720 million a year (Frank, 2009).

Variable rate floors—in which interest rates could never go lower than the starting rate—were another way issuers charged more than consumers expected. This practice was often buried in the fine print of a lengthy and obscure disclosure form, making it hard for consumers to understand it and estimate its cost.

## Universal Default

The practice of universal default allowed credit card issuers to routinely charge penalty rates in response to an activity or situation unrelated to the card in question, e.g., when borrowers paid an unrelated credit card or different lender late. In these situations, consumers experienced steep price jumps that were hard to eliminate even when they were current with the card in question.

## LEGISLATION AND REGULATION

When signed into law by President Obama in 2009, the Credit CARD Act—sometimes called the "Credit Card Holder's Bill of Rights"—was the most significant federal consumer financial reform in decades. The goal of this legislation was to ensure fairness and transparency for consumers with credit cards. The Credit CARD Act went a long way toward curbing interest rate hikes, and banning the use of hair-trigger penalty rates, bait-and-switch tactics, and universal default. The terms of credit card contracts are clearer, and changes to them must be made in a timely fashion. Consumers have reported increased awareness of how their credit card is priced and of how to pay down high debt more quickly.

Provisions of the Credit CARD Act went into effect on February 22, 2010. The Federal Reserve Board was charged with implementing the Act, a responsibility which fell to the Consumer Financial Protection Bureau (CFPB or Bureau) after passage of Dodd-Frank in July 2010. The Act included the following provisions:

- Interest rates charged on an existing balance cannot be increased unless a cardholder is 60 days or more behind in payments or has agreed to a variable rate. Customers who face a penalty rate but pay on-time for six consecutive months are thereafter charged the previous, lower rate.
- All payments above the monthly minimum must be applied to the balance carrying the highest interest rate.
- Issuers must only use the current month's balance to calculate interest charges. Double-cycle billing, or calculating interest using the average of a customer's current and previous monthly balance, is prohibited. Over-limit fees are allowed only for customers who have explicitly affirmed that they wish to be allowed to exceed the credit limit for a fee.
- Customers must be notified 45 days prior to a major change to terms of a credit card contract.
- Issuers must allow 21 days between mailing a bill and imposing a late fee.
- Fees charged during the first year a credit card account is opened are limited to no more than 25% of the initial credit limit. This limitation does not include application fees, late charges, or permitted over-the-limit fees.
- Two ways of manipulating variable rates are no longer allowed: Issuers can no longer set an initial interest rate as a floor, and they can no longer peg an interest rate to the highest prime rate over a set period. Instead, they must use the current prime rate.
- Issuers must more carefully consider a consumer's ability to make payments before issuing credit or increasing credit limits.

### CFPB Curbs Deceptive Practices

In October 2012, the CFPB took action against American Express stating that the company violated consumer protection laws "at every stage of the customer experience." The action required American Express to refund $85 million to 250,000 consumers and end the illegal practices. To date, moves by the CFPB and other regulators to halt deceptive credit card marketing practices have returned nearly a half-billion dollars to American consumers (CFPB, 2012c).

## *IMPACT ON U.S. HOUSEHOLDS*

### Before the Credit CARD ACT

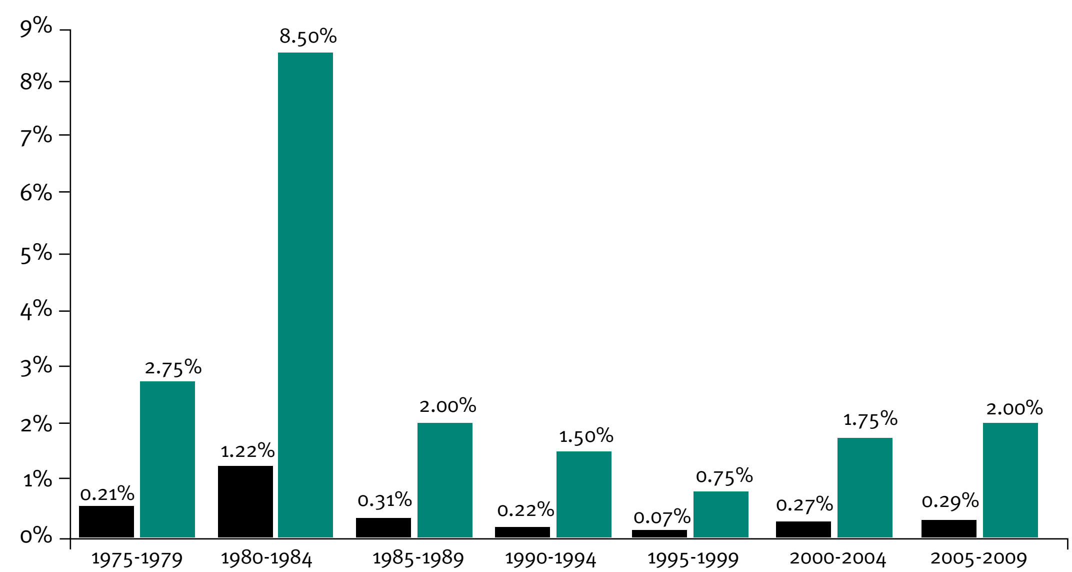
Before the Credit CARD Act, consumers faced deceptive, unfair practices that harmed their finances. The Act fostered price transparency and fairness, allowing consumers to better manage their debt, without reducing credit availability or making it more expensive.

In 2010, CRL released a study examining the cost associated with deceptive, hidden pricing strategies that consumers faced before the Credit CARD Act. This study found that before the Act (Frank, 2009):

- Miscellaneous fees, such as inactivity fees, international transaction fees, cash advance and/or balance transfer floors, ceilings, and related charges with unclear or misleading terms significantly raised consumer costs.

- As demonstrated in Figure 3, "Pick-a-Rate" pricing increased consumers' APRs to 0.3% higher on average over traditional pricing, resulting in a total cost to consumers of $720 million a year (Frank, 2009).

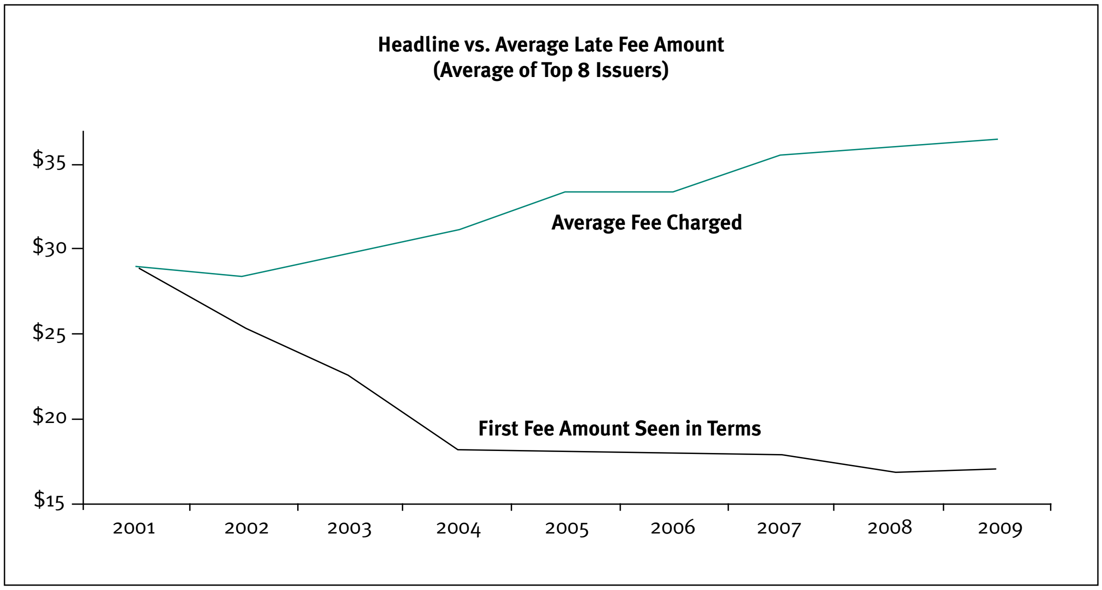
**Figure 3. Average and Maximum Interest Rate Increase from Pick-a-Rate Pricing (using 5-year increments)**




Source: HSH Associates and CRL estimates

- As shown in Figure 4, manipulation of tiered penalty charges put nine out of ten consumers in a category where they would have to pay the highest fee if they were late, even with a balance of only $250.

**Figure 4. Trend in Average Late Fee Charged vs. First Fee Consumers See**




Furthermore, CRL's 2012 Report *Predatory Credit Card Lending: Unsafe, Unsound for Consumers* and *Companies* showed that practices that harmed consumers also harmed the credit card industry. Bad practices were a better predictor of consumer complaints and of an issuer's rate of increase in losses during the downturn than an institution's type, size or location. Additionally, consumer safeguards on credit cards enhanced banks' financial health, contrary to industry's past claim that such safeguards undermine it. The research also demonstrated that credit card issuers with higher loss rates before the recession did not, on average, experience a bigger jump in losses during the recession. This shows that having higher–risk customers did not predict which company's problems would grow the fastest.

***Consumer safeguards on credit cards enhanced banks' financial health, contrary to industry's past claim that such safeguards undermine it.***

## Results of the Credit CARD Act

Multiple studies show the Credit CARD Act has increased transparency, reduced unfair fees and penalty charges, and helped consumers pay off balances faster (Frank, 2011). These results contradict those who predicted the Credit CARD Act would lead to a decline in access to credit.

## Transparency in pricing resulted in declining balances.

Before the Credit CARD Act, consumers had a hard time understanding the true cost of credit because of limited and confusingly stated information in monthly statements (Consumer Financial Protection Bureau [CFPB], 2011b), issuers must now tell cardholders how long it will take to pay off the current balance if they pay only the minimum due. This information allows consumers to understand costs better and has led many to pay down balances faster. A Demos study, for example, shows that average credit card debt among low– and middle–income indebted households fell to $7,145 in 2012, down from $9,887 in 2008.[1] One-third of indebted households in the survey reported

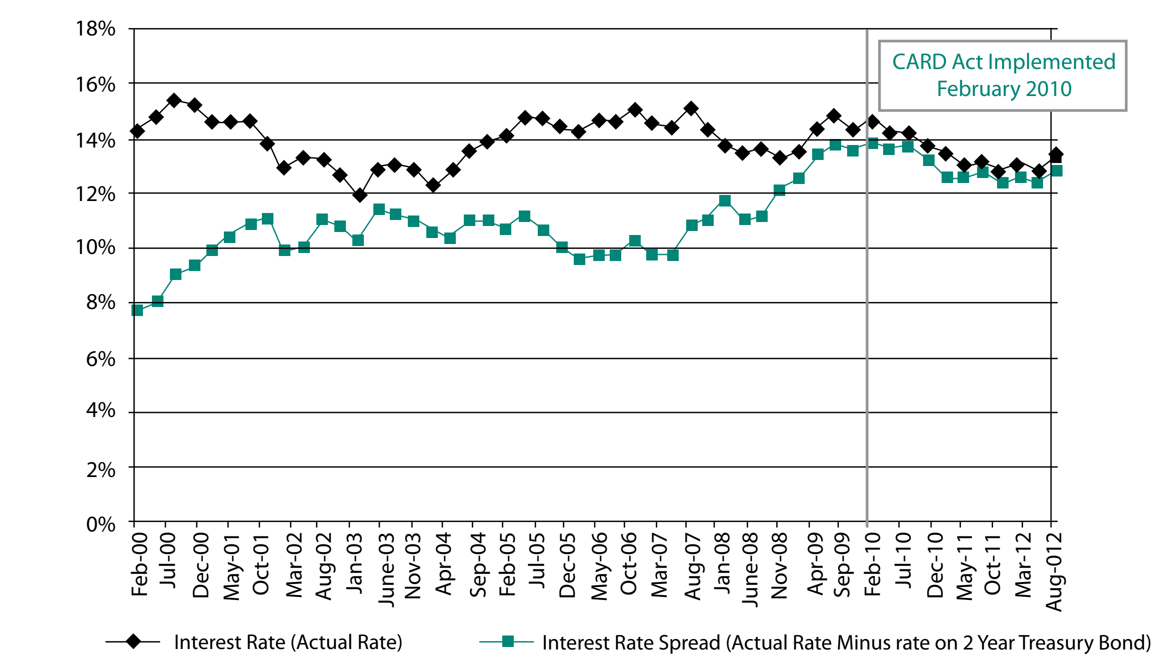
1 In addition to new credit card disclosures, credit constriction in the market and consumer deleveraging were also likely contributors to the decline in credit card balances.

making larger payments on their credit card debt than they did before the law went into effect (Traub & Ruetschlin, 2012). In addition, Federal Reserve Board data show that consumers paid $12.1 billion less annually in unanticipated finance charges relative to what they would have paid before passage of the Credit CARD Act (Frank, 2011).

## Reform has not raised the price of credit, but has made it clearer

Cardholders are not paying more for credit. CRL research examined the impact of credit card regulation on the actual interest rate paid on credit card accounts assessed interest (Actual Rate) (Frank, 2011). The findings show that while unemployment and the prime rate had statistically significant impacts on the Actual Rate, the development and passage of the CARD Act did not. Since the CARD Act was implemented in February of 2010, both the Actual Rate and the Spread (Actual Rate compared to the 2 Year Treasury rate), has fallen as shown in Figure 5. The Actual Rate in August 2012 was a full 2 percentage points lower than it was in August 2007 and 1.45 points lower than it was when the CARD Act was implemented. Both Actual Rates and the Spread rose between 2007 and 2009; however, research points to economic conditions—not regulation—to explain this trend (Bar-Gill & Bubb, 2012)(CFPB, 2011a).

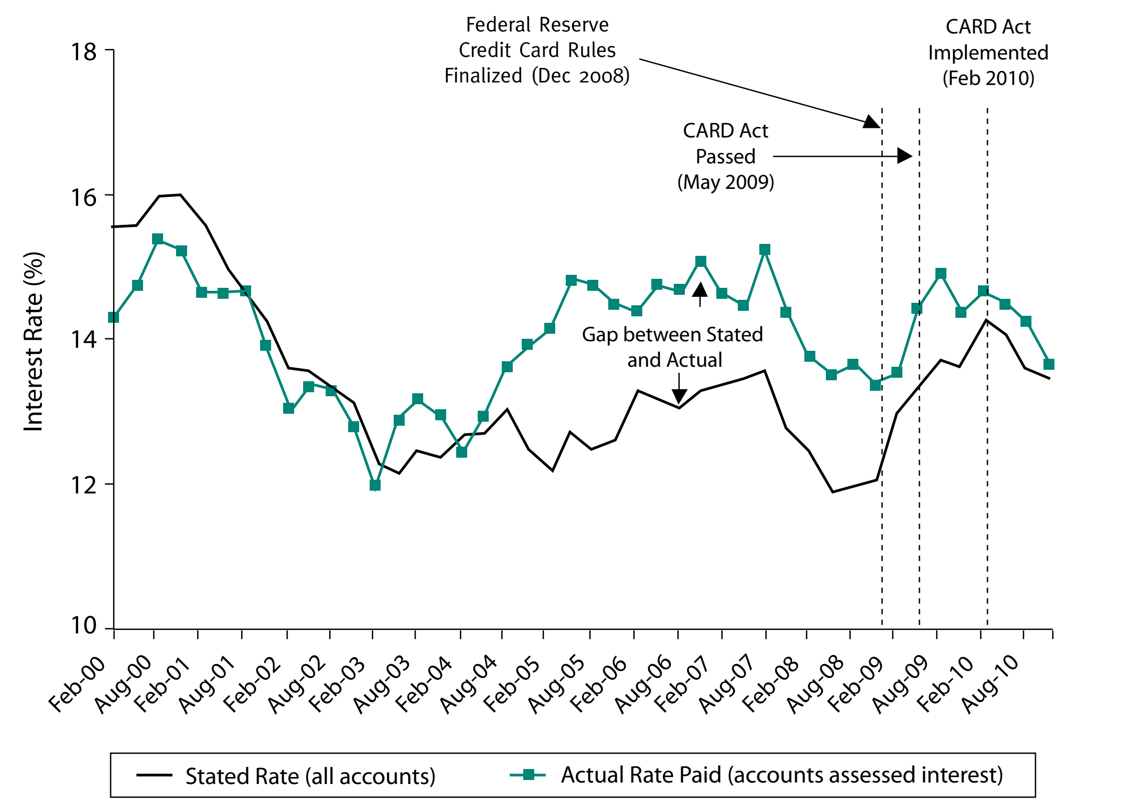
**Figure 5. Credit Card Interest Rates, 2000-2012**




Source: Federal Reserve Board, Statistical Release G19

In contrast to the trend in actual rates, stated rates have increased (Frank, 2011). This means **cardholders have a much more realistic idea of what they will actually by paying** and reverses a multi-year trend in which the gap between the advertised price and the actual price widened. Figure 6 below shows the gap narrowing after passage of the Act. Furthermore, CRL research found that the passage and implementation of the CARD Act impacted the difference between the stated and actual rates (Frank, 2011).

**Figure 6: Stated Rates and Actual Rates Paid on Consumer Credit Cards**




Source: Federal Reserve G.19.

We also find evidence that costs are declining on consumer credit cards by investigating the business card market. Because the Act does not apply to business credit cards, issuers can still affect the overall interest rate through the practices outlawed by the Act in the consumer market. Indeed, the effective rate on business cards has increased relative to consumer cards (Office of Comptroller of the Currency [OCC], 2011). Although advertised rates and actual rates converged for credit cards overall, as noted above, this has not happened for business cards. As figure 7 below shows, the actual rate paid by business cardholders increased more than the rate offered in business card solicitations. This indicates that some of the fees business cardholders actually paid are hidden and not apparent in the published solicitations. In addition, the rate offered for all credit card solicitations—including both business and consumer accounts—rose by more than that for business accounts only, indicating that the consumer accounts are more transparent as a result of the Act.

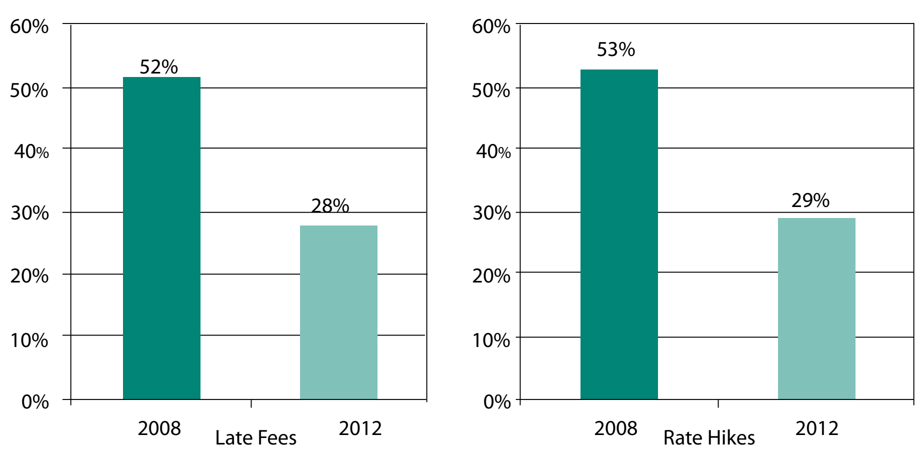
**Figure 7: Change in Business and Consumer Offer Rates**


Note: Change in rate is from period before Federal Reserve final card rules (3rd Quarter 2008) to the most recent period (2nd Quarter 2010). Business Card Estimated Actual Rate is adjusted to take into account the change in gap between actual rates and offer rates.

In addition, Credit CARD Act provisions have substantially reduced credit card penalty charges and fees. Data presented by the OCC show that the **total amount of late fees paid by consumers dropped by more than half,** from $901 million in January 2010 prior to the effective date of the late fee rules, to $427 million in November 2010 after the effective date of the rules. In addition, research found that the number of accounts assessed at least one late fee declined by almost 30% and that the average size of these fees declined from $35 to $23 (OCC, 2011).

As shown in Figure 8 below, Demos's study confirms the OCC data; the number of lower- and middle-income households who reported paying late fees on credit cards fell substantially from 52% in 2008 to 28% in 2012. Similarly, the percentage of reported interest rate hikes declined from 53% in 2008 to 29% in 2012. Those who made late payments also were significantly less likely to experience an interest rate increase. The Credit CARD Act engendered better outcomes for communities of color that were disproportionately affected by abusive practices. Demos found that "African-American and Latino households were especially likely to report a decline in over-the-limit fees in the past two years" (Traub & Ruetschlin, 2012).

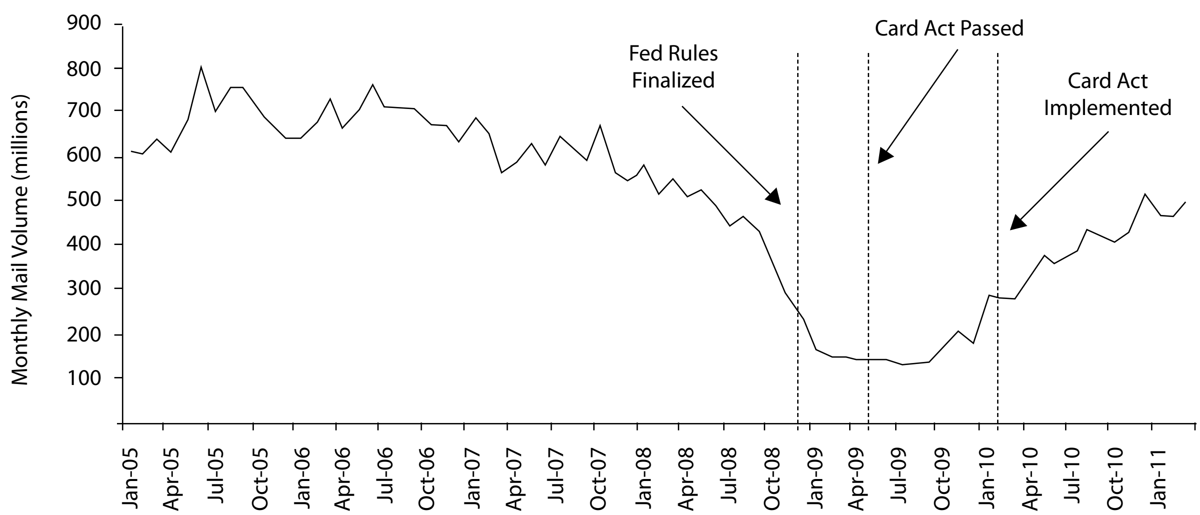
**Figure 8. Decline in Credit Card Late Fees and Rate Hikes, after Credit CARD Act**



## Reform has Not Cut Credit Availability

Opponents of the Credit CARD Act raised fears that the reforms would result in the unintended consequence of restricting consumers' access to credit. This has been proven unfounded. CRL's analysis of direct-mail credit card offers shows that offers have been extended at a volume and rate consistent with economic conditions. In 2008, the volume of mail solicitations for credit cards had been dropping with the sinking economy; since passage of the Credit CARD Act, data show that direct mail volume has risen and continues to do so (Frank, 2011).

### Figure 9. Change in Credit Card Mail Volume




Source: Mintel Comperemedia; CRL calulations

## *REMAINING CHALLENGES*

Consumers still face difficult challenges managing credit card debt as a result of the economic slump and predatory practices that the Credit CARD Act did not address. Many reasons for using credit cards remain the same today as before the Act. Consumers still depend on credit cards to pay for basic living expenses and to use as a safeguard against economic instability, such as illness or a job loss. And although the Act outlawed or limited many harmful practices, some are still actively and legally used, including the following:

### Aggressive and Deceptive Marketing of "Add-On" Products

Since the Credit CARD Act's passage, credit card companies have aggressively marketed add-on products such as debt protection and credit insurance. These products promise to pay all or some of credit card debt for borrowers who suffer from a future disability, unemployment, or other financial stress. These products are expensive (costing sometimes in excess of ten percent of the average monthly balance), marketed with hard to understand terms, and generally fail to deliver if they are needed (Government Accountability Office, 2011).

Examples of credit card issuers' add-on marketing practices that the CFPB has deemed abusive and illegal include:

- misleading consumers that products can improve credit scores and raise credit limits,
- deceiving consumers that the products are mandatory while making it difficult to cancel coverage,
- selling products to cardholders who are already disabled or unemployed and thus ineligible to claim benefits,
- misleading consumers that these products are free or less costly than they are, and
- enrolling consumers for products without their consent and making it difficult to cancel coverage.

The CFPB and other regulators have already taken several significant actions against credit card issuers who engaged in unfair and deceptive practices. Three recent actions against Capital One, Discover, and American Express required the issuers to issue $425 million in refunds to approximately 6 million consumers who were misled into buying such add-ons (CFPB, 2012a & 2012b).

### Disproportionate Rate Increases on New Purchases or Cash Advances

Under the Credit CARD Act, lenders can increase interest rates without limit and for any reason—including universal default—on future purchases, as long as they give 45 days' notice. This provides no guarantee that a rate hike will be proportional to a consumer's risk profile. The Act does give consumers the right to reject the rate increase by closing the account and paying it off at their current rate over five years.

### Fee Harvester Cards

Fee harvester credit cards are offered to consumers with impaired or no credit histories. These cards offer small amounts of credit with very high fees. One issuer, for example, offered only $51 in total credit on a $90 card balance—charging $20 to open the account and $19 in reoccurring monthly fees (National Consumer Law Center & U.S. PIRG, 2012). The Credit CARD Act did not eliminate these cards from the marketplace, but it did require that fees charged to open an account be included in the calculation of the fees allowed in the first year. (The Act put in place a 25% limit on total fees allowed in the first year after a person receives a credit card.) Unfortunately, the CFPB has proposed withdrawing a rule that would include these pre-account fees in the calculation. This was in response to a recent federal court decision for the District of South Dakota in *First Premier Bank v. United States Consumer Financial Protection Bureau*.

## Prepaid Cards: Fast Growing Volume & Risks

Prepaid cards have a set amount of money loaded onto them, with this balance declining as the cardholder makes purchases or, if permitted, withdraws cash. Some are reloadable, such as general-purpose prepaid cards or prepaid cards used by companies to pay employees or by federal or state agencies to pay benefits. Others, such as prepaid gift cards and prepaid rebate cards, typically are not reloadable.

The market for prepaid cards has exploded in the last seven years. Federal Reserve Board numbers show that while credit and debit card use dwarfs prepaid card use, prepaid cards are the fastest growing segment of these three types of plastic payment. **There were 6 billion prepaid card transactions for $140 billion in the U.S. in 2009, more than 22% growth from 2006.** That compares with growth of 14.9% for debit card transactions in the same period and a slight decline in credit card use (Federal Reserve Bank of Philadelphia, 2012).

Prepaid cards typically fall under one of two business models:

a) Those that do not allow purchases beyond the established prepaid amount. Issuers of these cards aren't subject to caps on how much they can charge merchants when customers use their card (swipe fees).
b) Those that offer small, short–term loans over the prepaid balance but also charge overdraft fees. These issuers are subject to the caps on merchant swipe fees.

Several factors have fueled the popularity of prepaid cards. A growing number of consumers use them instead of debit cards to control their spending and avoid overdraft fees. For the many within this financially vulnerable group who lack a bank account, prepaid cards provide entry into the electronic payments system and allow them to build credit.

Also propelling growth is the increased use of prepaid cards rather than paper checks by federal and state governments to provide Social Security, disability, unemployment insurance, and other benefits. Companies also increasingly offer employees the option of being paid on a prepaid card rather than by check.

At the same time, prepaid cards provide lenders with a way to avoid a new limit on debit card swipe fees (also called interchange fees). This swipe-fee limit does not exist for prepaid cards that do not allow users to spend more than their prepaid limit.

Prepaid credit cards can provide convenience and safety, but these advantages can be quickly eroded by high fees. Many prepaid cards come with significant charges—fees to sign up, deposit money, check a balance, use an ATM, and cancel the account. Because the disclosure of fees varies from card to card—many are hidden altogether—consumers have difficulty knowing what their costs will be, let alone comparison–shopping. In addition, some cards lack deposit insurance, vulnerable to fraud or loss.

The CFPB should ensure that prepaid card fees and terms are reasonable and presented clearly by:

- prohibiting overdraft and credit features;
- prohibiting fees designed to obscure pricing;
- prohibiting mandatory arbitration to settle disputes;
- ensuring access to statements and account information, with no fee charged for contacting customer service, making balance inquiries, and gaining electronic account access;
- requiring deposit insurance for funds; and
- requiring issuers to provide monthly paper statements for no more than the cost of the statement, approximately $1 per month.

## *POLICY RECOMMENDATIONS*

### Defend the Credit CARD Act and Consumer Financial Protection Bureau

Aggressive and deceptive tactics used by lenders prior to the Credit CARD Act led to unnecessarily high card balances and defaults, which harmed consumers and lenders, especially during the economic downturn. By limiting arbitrary and excessive charges and practices that maximize fees charged to the borrower, the Act encouraged more responsible, transparent practices in credit card lending. Multiple studies show the Act has led to increased transparency, reduced unfair fees and penalty charges, and faster balance payoff. These results contradict those who predicted that the Act would lead to a decline in access to credit and increase its cost.

Regulators and lawmakers should consider the overarching benefits of increased transparency and responsible lending when addressing abuses related to other consumer financial products. They should also keep these benefits in mind and reject lobbyists' requests to scale back the authority of the CFPB. Allowing the CFPB to stay true to its mission, including enforcement of the Credit CARD Act, will promote overall economic health.

### Address Remaining Abusive Practices

- Curb aggressive marketing of debt protection and insurance products, and ensure that those products actually benefit the consumer. As evidenced by recent state and federal enforcement actions, credit card issuers aggressively sometimes market debt-protection products and obscure the true costs and benefits of these products. Further, data from the credit insurance market show that very little of the insurance premium goes to pay claims. Instead, the majority is used to pay for commissions and marketing.

- Fix loophole on fee harvester cards. The CFPB should include pre-account fees in the calculation of the maximum fees that may be charged in the first year. This would help put a limit on fee harvesters' large up-front fees and reduce lenders' ability to take advantage of financially vulnerable customers. In addition, the CFPB should issue rules to protect consumers targeted for these cards. The rules should:

    - include all required fees assessed in the first year and in subsequent years in the tests for abusive fee harvester cards through the current rule or a supplemental rule;
    - enforce ability-to-repay requirements under the CARD Act and take action against card programs that create unaffordable, unsustainable debt;
    - deem unfair, deceptive, or abusive any card targeted at consumers with poor credit records that harm credit-worthiness, are unaffordable for a significant share of the target audience, or do not live up to claims of improving credit scores;
    - require credit card fees to be reasonable and proportional to their purpose; and
    - require fees charged before an account is opened be fully refundable if the card is cancelled.

- Prepaid cards. Ensure that consumer protections on credit cards extend to prepaid cards by banning overdraft fees, credit features, and mandatory arbitration on prepaid cards.

- Continued state and federal enforcements. State Attorneys General and other state and federal regulators should actively enforce the CARD Act, state credit card laws, and general unfair and deceptive trade practices laws against credit card issuers. These enforcement actions are critical tools, necessary for robust enforcement of existing law and to address emerging issues.

## REFERENCES


American Banker. (2011). *Bank and thrift holding companies with the most U.S. credit card loans*. Retrieved from http://www.americanbanker.com/rankings/-900584.html

Bar-Gill, O., & Bubb, R. (2012). Credit card pricing: The CARD Act and beyond. *Cornell Law Review* (97:967). Retrieved from http://www.lawschool.cornell.edu/research/cornell-law-review/upload/Bar-Gill-final-2.pdf

Frank, J. M. (2008). *Priceless or just expensive: The use of penalty rates in the credit card industry.* Retrieved from Center for Responsible Lending website: http://www.responsiblelending.org/credit-cards/research-analysis/priceless-or-just-expensive.pdf

Frank, J. M. (2009). *Dodging reform: As some credit card abuses are outlawed, new ones proliferate*. Retrieved from Center for Responsible Lending website: http://www.responsiblelending.org/credit-cards/research-analysis/CRL-Dodging-Reform-Report-12-10-09.pdf

Frank, J. M. (2010). *Numbers game: The trust cost of credit card mail offers*. Retrieved from Center for Responsible Lending website: http://www.responsiblelending.org/credit-cards/research-analysis/numbers-game-final-v2.pdf

Frank, J.M. (2011). *Credit card clarity: Card Act reform works*. Retrieved from http://www.responsiblelending.org/credit-cards/research-analysis/credit-card-clarity.html

Frank, J. M. (2012). *Predatory credit card lending: Unsafe, unsound for consumers and companies*. Retrieved from Center for Responsible Lending website: http://www.responsiblelending.org/credit-cards/research-analysis/Unsafe-Unsound-Report-May-2012.pdfhttp://pymnts.com/regulations/card–act/what–does–the–credit–card–market–have–in–common–with–a–peacock–2/

Furletti, M. (2003). *Credit card pricing developments and their disclosure*. Retrieved from Federal Reserve Bank of Philadelphia website: http://www.philadelphiafed.org/consumer-credit-and-payments/payment-cards-center/publications/discussion-papers/2003/CreditCardPricing_012003.pdf

National Consumer Law Center & U.S. PIRG (2012). *Comments to the Consumer Financial Protection Bureau regarding fee harvester credit cards*. Retrieved from http://www.nclc.org/images/pdf/credit_cards/consumer_groups_comments_to_fee_harvester.pdf

Traub, A., & Ruetschlin, C. (2012). *The plastic safety net*. Retrieved from Demos website: http://www.demos.org/sites/default/files/publications/PlasticSafetyNet-Demos.pdf

U.S. Consumer Financial Protection Bureau. (2011a). *CARD Act conference: Key findings*. Retrieved from http://www.consumerfinance.gov/credit-cards/credit-card-act/card-act-conference-key-findings/

U.S. Consumer Financial Protection Bureau. (2011b). *CARD Act fact sheet*. Retrieved from http://www.consumerfinance.gov/credit–cards/credit–card–act/feb2011–factsheet/

U.S. Consumer Financial Protection Bureau. (2012a). *CFPB probe into Capital One credit card marketing results in $140 million consumer refund*. Retrieved from http://www.consumerfinance.gov/pressreleases/cfpb-capital-one-probe/

U.S. Consumer Financial Protection Bureau. (2012b). *Federal Deposit Insurance Corporation and Consumer Financial Protection Bureau order Discover to pay $200 million consumer refund for deceptive marketing*. Retrieved from http://www.consumerfinance.gov/pressreleases/discover-consent-order/

U.S. Consumer Financial Protection Bureau. (2012c). *CFPB orders American Express to pay $85 million refund to consumers harmed by illegal credit card practices*. Retrieved from http://www.consumerfinance.gov/pressreleases/cfpb-orders-american-express-to-pay-85-million-refund-to-consumers-harmed-by-illegal-credit-card-practices/

U.S. Federal Reserve Board. (2012a). *Consumer Credit Release*— G. 19. Retrieved from http://www.federalreserve.gov/releases/g19/current/default.htm

U.S. Federal Reserve Board. (2012b). *Report to the Congress on the profitability of credit card operations of depository institutions*. Retrieved from http://www.federalreserve.gov/publications/other-reports/files/ccprofit2012.pdf

U.S. Federal Reserve Board. (2012c). *Survey of Consumer Finances 2010*. Retrieved from http://www.federalreserve.gov/pubs/bulletin/2012/pdf/scf12.pdf

U.S. Federal Reserve Bank of Philadelphia. (2012). *Consumers use of prepaid cards: A transaction-based analysis*.

U.S. Government Accountability Office. (2011). *Credit cards: Consumer costs for debt protection products can be substantial relative to benefits but are not a focus of regulatory oversight*. Retrieved from www.gao.gov/new.items/d11311.pdf

U.S. Office of Comptroller of the Currency. (2011). *The CARD Act – One year later: Impact on pricing and fees*. (Presentation at CFPB CARD Act Conference). Retrieved from CFPB website: http://files.consumerfinance.gov/f/2011/03/OCC-Presentation.pdf