

## **Dodging Reform:**

**As Some Credit Card Abuses Are Outlawed,  
New Ones Proliferate**

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**TABLE OF CONTENTS**

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Executive Summary . . . . . 2

Background . . . . . 8

Findings . . . . . 10

Conclusion . . . . . 26

Appendix A. . . . . 29

Endnotes . . . . . 30

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## EXECUTIVE SUMMARY

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**F**aced with pending and proposed reforms designed to protect consumers from a series of unfair charges, credit card issuers have established or expanded the use of at least eight hidden charges across more than four hundred million accounts.

The May 2009 Credit CARD Act addressed the hidden and deceptive pricing strategies that had been the most costly to credit card users. However, some issuers appear to be working to compensate for part of this lost revenue by instituting or accelerating new practices that increase hidden costs on consumers. Some of the tactics discussed here are not well known, while others are known but have not been explored in the context of larger trends and impact on credit card borrowers.

The pricing strategies discussed in this report all appear to be primarily designed to take advantage of inattention, lack of knowledge, and documented behavioral biases exhibited by consumers. In addition, they exploit areas that are not covered by recent policy changes—none are prevented by recent Federal legislation or Federal Reserve rules. All have been growing in frequency, with at least some top issuers changing their account terms recently to adopt or expand a particular practice. All are also either hidden or obscure and complex enough that most consumers are unlikely to notice these strategies or to fully appreciate their cost implications. Finally, most, if not all, are inefficient pricing strategies in that they fail to align prices with risk or other issuer costs. The eight pricing strategies discussed in this paper are detailed in Table 1. Several involve the gaming of interest rates using multiple tactics, one involves the deceptive structure of penalty fees, while others involve the padding of miscellaneous fees.

**Table 1: Summary of Practices Examined**

Practice	Description	Stopped by CARD Act?	Recent Trend	Consumer Knowledge	Economic Efficiency
<b>Pick-a-Rate</b>	Change in formula for calculating variable interest rates results in rates that average 0.3% higher.	No	Prevalence up from a year ago.	Buried in fine print, difficult to understand, hard to estimate cost.	Inefficient—causes revenue to become out of synch with cost of funds.
<b>Variable Rate Floors</b>	Variable rates cannot go down from the starting rate for the account, but they can move up.	No	Prevalence up from a year ago.	Buried in fine print, difficult to understand, hard to estimate cost.	Inefficient—causes revenue to become out of synch with cost of funds.
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<b>Compression of Balance Categories in Tiered Late Fees</b>	Applying highest late fee amounts to smaller balances results in 9 in 10 consumers paying the highest fee.	Not Explicitly	Balance categories for late fees are closer together (more tier compression) than a year ago.	Designed to add complexity to terms, and brings focus on lowest fee which is least common.	Inefficient—causes penalty to be less proportional to violation.
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<b>International Transaction Fees: Level Growth and Expanded Definition</b>	Issuers are increasing charges for transactions in a foreign currency, and expanding the definition of foreign transactions to include those in dollars.	No	Fee levels are up, and circumstances in which they apply are expanded since a year ago. Some growth since Credit CARD Act.	Probably receives little consumer attention, easily ignored or forgotten.	Inefficient—price does not reflect any cost. Expansion of fee is even harder to justify.
<b>Balance Transfer/Cash Advance Fees</b>	More issuers are charging a fee for these transactions, and the amount of the fee (as a percentage) is rising.	No	Higher than a year ago. Some issuers have raised since Credit CARD Act.	Consumers likely moderately aware of this, but may discount it when evaluating product cost.	Inefficient—high fees are unrelated to cost and risk is already accounted for through APR.
<b>Balance Transfer/Cash Advance Fee Floors/Ceilings</b>	Minimum cash advance and balance transfer fee amounts have increased, while maximum fee amounts have disappeared.	No	Some issuers have raised/added floors or removed ceilings since Credit CARD Act.	Adds a layer of complexity to fees, consumers likely often unaware of impact.	Inefficient—high floors reduce the correlation between revenues and costs.

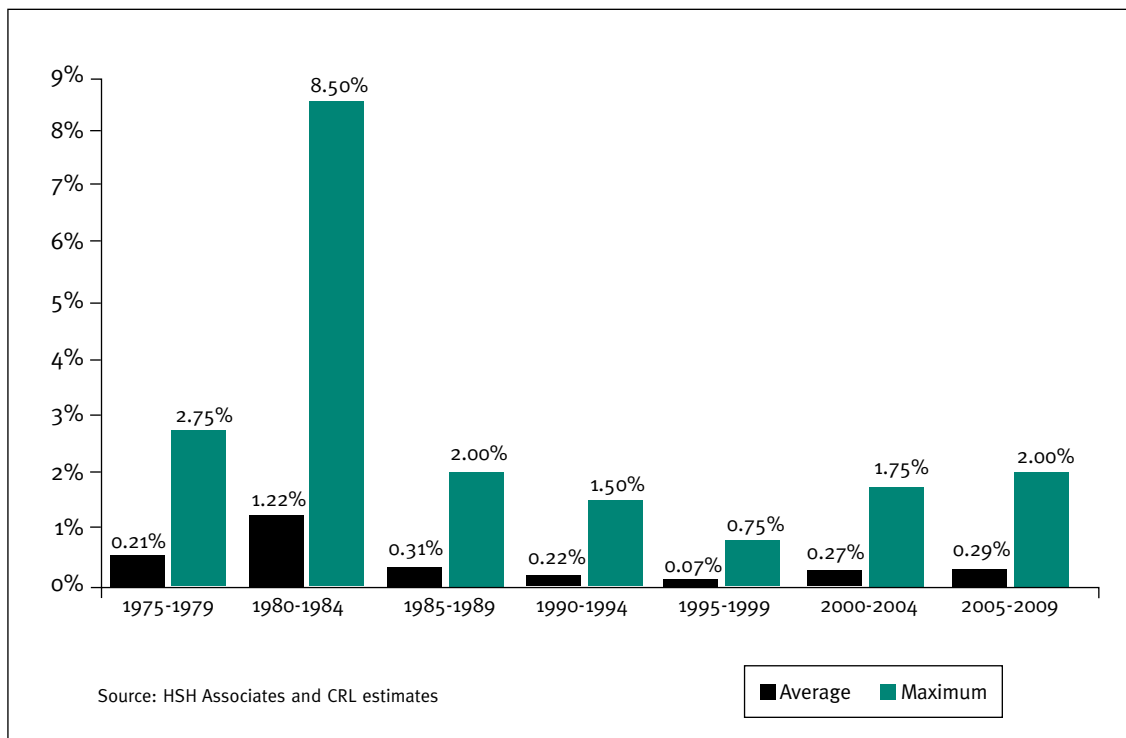
**Finding 1: Issuers have adopted a number of schemes to game interest rates. An increasing number of issuers have adopted a practice we have identified as “pick-a-rate,” with 117 million accounts currently affected.**

- Hidden “pick-a-rate” pricing charges consumers APRs 0.3 percentage points higher on average than traditional pricing.
- Pick-a-rate results in a total cost to consumers of \$720 million per year and may reach \$2.5 billion per year if the practice becomes the industry standard.
- Other rate-maximizing practices that increase costs for cardholders include minimum finance charges and variable rate floors.

On a majority of credit card accounts, lenders calculate rates by adding a fixed amount to a previously identified index rate, typically a market-based rate that changes over time. Traditionally, issuers have specified the index rate on a certain date as the rate used for calculating that billing cycle’s interest rate. A growing number of credit card issuers have begun to charge customers a higher interest rate by making a very minor and obscure change in the fine print of the agreement. More specifically, instead of stating that the index rate “will be the maximum prime rate reported on the last day of the billing cycle,” many issuers now say the index rate “will be the maximum prime rate reported in the 90 days preceding the last day of the billing cycle.”

The issuer selects the highest rate in this practice we call “Pick-a-Rate.” This seemingly innocuous change is virtually invisible to cardholders but is extremely costly for borrowers in the aggregate. Using data since 2000, we find the practice raises APRs on average by 0.3 percentage points.

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

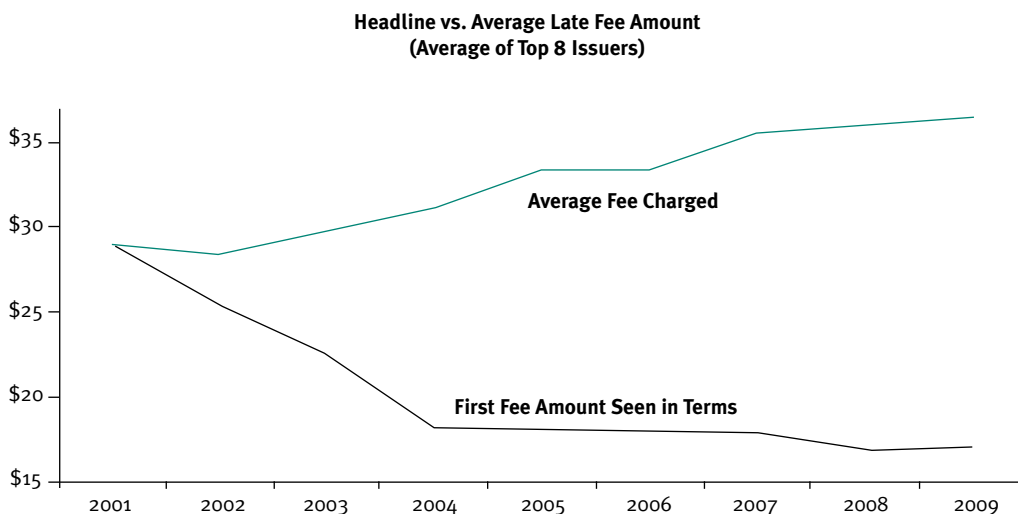


**Finding 2: Issuers have manipulated penalty fee structures to charge almost everyone (87 percent) the highest penalty fee possible, while projecting the appearance of charging lower fees.**

In 2002, the top issuers started to introduce tiered late fees, varying based on the consumer’s balance. This practice spread rapidly so that by the beginning of 2005, all of the Top 8 issuers—who hold 86% of all balances—used tiered late fees. However, the ranges for balances used in tiered late fees have become compressed over the past five years so that an increasing number of people fall in the highest category.

For example, many top issuers used three balance categories five years ago with the highest range routinely being \$1,000 and above. Today there normally are still three ranges, but the highest category is typically \$250 and above. Rather than making fees proportional to the violation, tiered late fees seem designed to appear low while in reality a high fee is assessed.

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



**Finding 3: Issuers are padding their other miscellaneous fees since the announcement of new Federal Reserve rules and passage of the Credit CARD Act and have disguised many of these charges. Fee changes include:**

- adding inactivity fees
- expanding the definition of an international transaction, and
- raising consumer costs by changing cash advance/balance transfer floors, ceilings, and related charges.

Issuers have increased costs to consumers through other mechanisms that borrowers are unlikely to notice. While these practices vary in nature and impact, they all share some traits. They were not regulated by the Credit CARD Act of May 2009, nor by rules announced in December 2008 by the Federal Reserve. Issuers have expanded the circumstances in which they apply or the amounts charged recently. All the practices are either hidden or at least obscure enough that they are easily missed by consumers. Most, if not all, are economically inefficient in that they create fees that have little correlation with issuer costs or the value of the benefits received.

## Recommendations

This report uncovers a disturbing trend: a number of hidden pricing mechanisms have risen as reform has been debated and enacted. Credit card legislation has been successful in limiting some of the most costly consumer traps in existence right now, but reform has been hampered by the issuers dynamically adjusting their own behavior to identify new ways to increase fees and raise revenue. It is likely future credit card issuer practices will continue to circumvent the intent of Congress, making tracking and enforcement an ongoing challenge for regulators and for borrowers. The practices described in this report illustrate how seemingly minor—and largely unnoticed—changes in terms can cost consumers billions of dollars in the aggregate.

These issuer policies damage the economy by hurting not only consumers, but also small businesses that often rely on credit cards.

## Policy Recommendation

None of the practices examined here were addressed by the Federal Reserve's 2008 rules, nor by the provisions of the Credit CARD Act of May 2009. In every case, the use of these practices has expanded while Congress and the Federal Reserve were occupied debating a legislative fix or the implementation of rules geared toward a completely different set of harmful practices. The need for a proactive consumer protection agency, a real-time monitor for the marketplace, is clearly demonstrated by industry's actions. As proposed, the Consumer Financial Protection Agency would have the capacity to quickly identify tactics adopted to evade existing rules, or otherwise undermine fair and transparent rules for a competitive market. It could then act to curb such abuses through enforcement, regulation, or education.

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***"You make the stupid laws, I'll comply, and I'll make money.... Tell me the rules, and then I'll outsmart you all."***

Shailesh Mehta, Providian Ex-CEO,  
describing industry mind-set  
Frontline – November 24, 2009

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The Credit CARD Act was landmark legislation that put in place important basic protections for credit card customers. However, like almost all legislation, it requires vigilant oversight by a regulator to make sure that new abuses and tricks do not replace the ones that were just stopped. This report has highlighted eight practices that banks have recently begun or expanded to add unfair fees and interest to families' credit card bills. In addition, there are other areas where credit card banks may game the rules in an attempt to evade the provisions of the Credit CARD Act.

For example, credit limits can be reduced and accounts can be closed without notice. Minimum payments can be sharply increased, and if the cardholder is unable to stay current with the new higher payment and falls 60 days behind, the existing balance can be raised to a penalty rate. Minimum payments also may be used as a bargaining tool to get cardholders to accept a higher interest rate on their balance. These are just a few of the tricks that are possible even with the protections that go into effect in February 2010. In some cases, issuers have already actively started using these tactics.

Effective protection from unfair practices ultimately depends upon a new regulator that will make safeguarding American consumers its top priority. Enactment of the proposed Consumer Financial Protection Agency (CFPA) is the best way to stop credit card banks from creating new tricks and traps.

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The rise of tiered late fees also has important implications for interpreting existing legislation. The Credit CARD Act requires penalty fees to be reasonable and proportional to the violation, with the exact limits on penalty fees determined by the Federal Reserve. The Federal Reserve should use its authority to hold issuers strictly accountable to this standard. Issuers may argue that they have already made late fees “proportional to the violation” by basing the fee on the balance, but the evidence here demonstrates the contrary. Late fee tiers have been moving in the opposite direction of proportionality. A top late fee tier typically starts for balances of \$250 and up. Roughly 9 in 10 consumers fall into this top tier, showing that issuers are not trying to create true proportionality in their late fee system. Instead they are creating a system that suggests a low fee exists, while in reality charging almost everybody the highest fee.

## **Recommendation for Borrowers**

Monitoring the number of hidden charges discussed here would be very challenging for consumers. These practices often can only be detected by scouring the detailed terms and conditions of the credit card contract. Unfortunately, even if one reads and successfully interprets the subtle differences in language that define, for example, how the variable rate is calculated, it still is almost impossible to comparison shop. It is difficult to compare because how your rate will be increased by this practice is unknown in any future period.

Consumers should review both the terms and conditions on their credit card, and the actual charges they receive on each statement. However, until a robust regulatory regime is in place to curb abusive practices, consumers will have a difficult time tracking all the possible “gotcha” tactics issuers continue to use.

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## BACKGROUND

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A May 2009 CRL research brief, “Selective Interpretation?,” found that every one of the Top 8 issuers increased rates on existing balances in addition to engaging in a number of other practices designed to extract additional fee income from consumers. While some top issuers have recently touted new products that allegedly are more straightforward and consumer-friendly, this report finds that these same issuers are also expanding on new hidden tactics to create inefficient and obscure pricing systems that end up charging consumers more.

The Credit CARD Act passed in May 2009 placed some much-needed limitations on the pricing tactics utilized by credit card issuers. The Act prevented or limited many hidden and deceptive pricing strategies that had been costly for credit card users. However, some issuers appear to be working to compensate for part of this lost revenue by instituting or accelerating practices that increase hidden costs on consumers. Some of the tactics discussed here are not well known (such as the pick-a-rate practice), while others are known but have not been explored in the context of larger trends and impact on credit card borrowers (such as “tier compression” in late fees and the increase in minimum finance charges).

The pricing strategies discussed in this report all appear to be primarily designed to take advantage of inattention, lack of knowledge, and documented behavioral biases exhibited by consumers. In addition, they exploit areas that are not covered by recent policy changes—none are prevented by recent Federal legislation or Federal Reserve rules. All have been growing in frequency, with at least some top issuers changing their account terms recently to adopt or expand a particular practice. All are also either hidden or obscure and complex enough that most consumers are unlikely to notice these strategies or to fully appreciate their cost implications. Finally, most, if not all, are inefficient pricing strategies in that they fail to align prices with risk or other issuer costs. The eight pricing strategies discussed in this paper are detailed in Table 1. Several involve the gaming of interest rates using multiple tactics, one involves the deceptive structure of penalty fees, while others involve the padding of miscellaneous fees.

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## FINDINGS

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**Finding 1: Issuers have adopted a number of schemes to game interest rates. An increasing number of issuers have adopted a practice we have identified as “pick-a-rate,” with 117 million accounts currently affected.**

- Hidden “pick-a-rate” pricing charges consumers APRs 0.3 percentage points higher on average than traditional pricing.
- Pick-a-rate results in a total cost to consumers of \$720 million per year and may reach \$2.5 billion per year if the practice becomes the industry standard.
- Other rate-maximizing practices that increase costs for cardholders include minimum finance charges and variable rate floors.

Most credit cards currently carry variable interest rates.<sup>1</sup> Variable rates reduce issuer risk by ensuring that the difference between the rate charged consumers and the rate paid to borrow money remains stable and positive. Variable rates are calculated by adding a fixed percentage to an index rate. The most commonly used index is The Wall Street Journal prime rate. Traditionally, issuers have specified the prime rate on a certain date (e.g. the end of a billing cycle) as the index rate used for calculating that billing cycle’s interest rate.

### Why the Change from Fixed to Variable Rates

Credit card issuers likely do not want to hold fixed rate accounts when the Credit CARD Act is fully implemented because, for the first time, fixed rates must be truly “fixed.” Prior to the reform legislation, a card issuer could change a “fixed rate” when they chose to with little notice. Issuers are also switching accounts from fixed to variable rates at a time that allows them to take advantage of low prime rates, since variable rates are likely to only rise.

Credit card issuers have increasingly begun to charge customers a higher interest rate by making a very minor and obscure change in the fine print of the agreement. More specifically, instead of stating that the index rate “will be the maximum prime rate reported on the last day of the billing cycle,” many issuers now say the index rate “will be the maximum prime rate reported in the 90 days preceding the last day of the billing cycle.” This seemingly innocuous change is virtually invisible to cardholders but is extremely costly for borrowers in the aggregate, significantly increasing revenue for issuers.

A sample of actual credit card terms and conditions featuring pick-a-rate pricing is shown in Appendix A. As the contract states, the relevant prime rate that would apply using the pick-a-rate technique was 4.00%. Yet prime for the date specified in the offer was actually 3.25%, meaning the consumer would pay an additional 0.75 percentage points in interest under pick-a-rate pricing.

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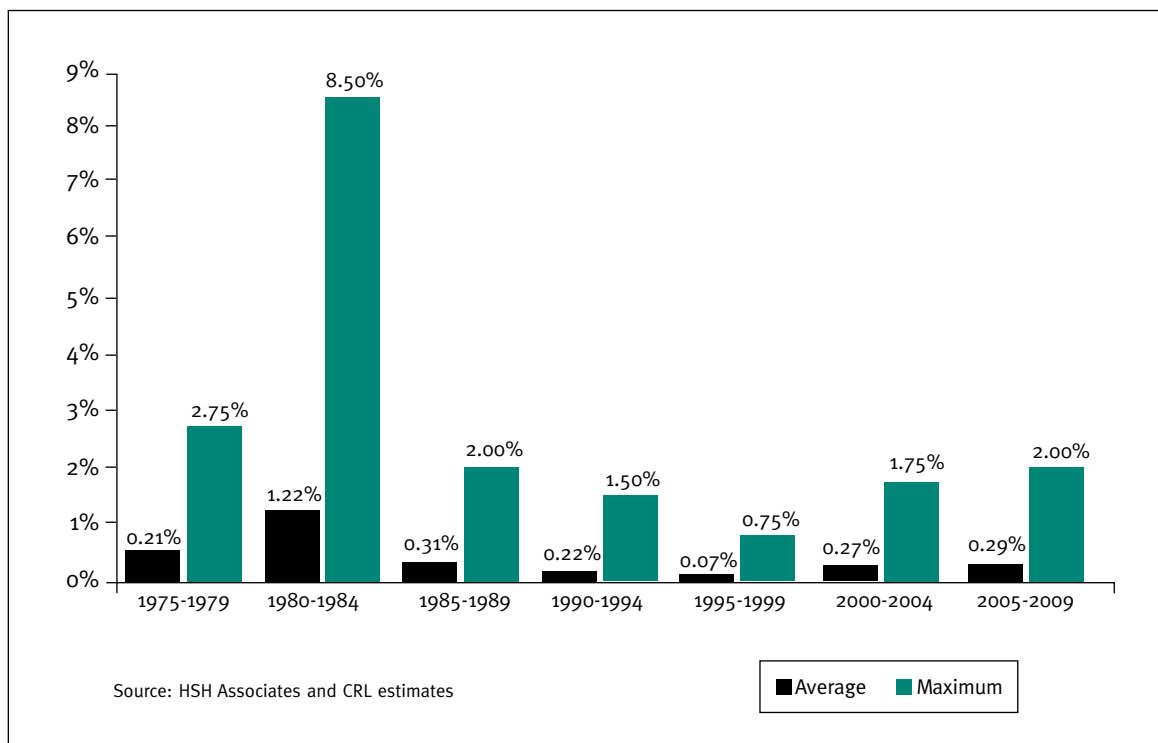
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Even if borrowers were to notice this scheme, they might underestimate its effect since the prime rate does not change much. Indeed, since 2000, prime has changed about once every 2.5 months. However, our analysis shows the impact can be surprisingly significant, with APRs being raised an average of 0.3 percentage points over traditional pricing. When this APR difference is summed across all affected consumers, it results in a total cost of \$720 million per year. This cost could reach \$2.5 billion per year if the practice becomes the industry standard.

The degree to which pick-a-rate usage raises interest rates varies. The difference between the index rate on a particular day and the maximum rate for that same index over the preceding 90-day period defines pick-a-rate’s impact.<sup>2</sup> When rates are falling or when they are volatile in general, pick-a-rate will have the largest impact.

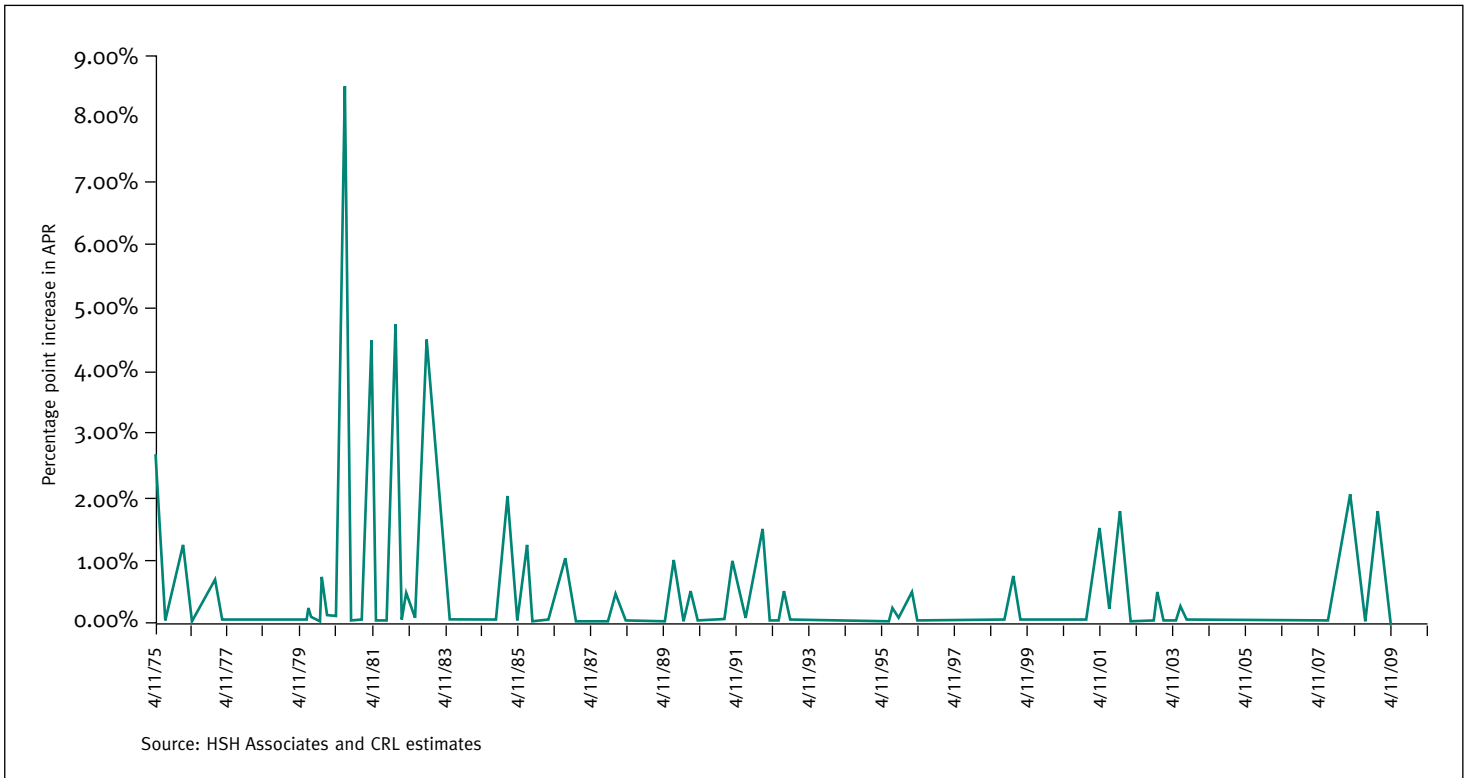
Analyzing the full historical data available, starting in 1975, the pick-a-rate practice leads to an average gain in interest rate of 0.4 percentage points. Using data since 2000 only, the effect is 0.3 percentage points. One day in history, the pick-a-rate practice would have raised a consumer’s APR by as much as 8.5 percentage points.

**Figure 1: Average and Maximum Interest Rate Increase from Pick-a-Rate Pricing (using 5-year increments)**

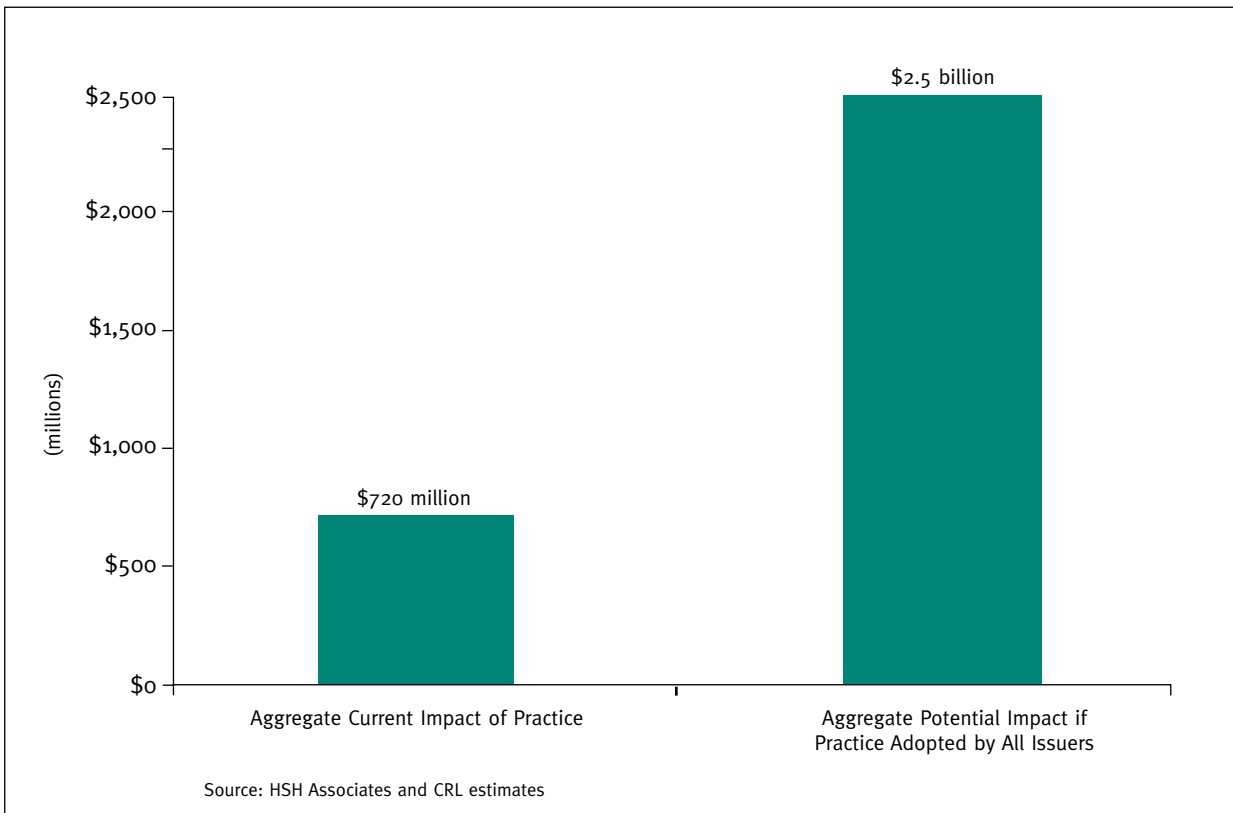


Since 2000, pick-a-rate pricing would have raised the rate charged by as much as 2.0 percentage points. However, as shown in Figure 2, the impact of the practice varied greatly depending on the date.

**Figure 2: Historic Interest Rate Increase from Pick-a-Rate Pricing**



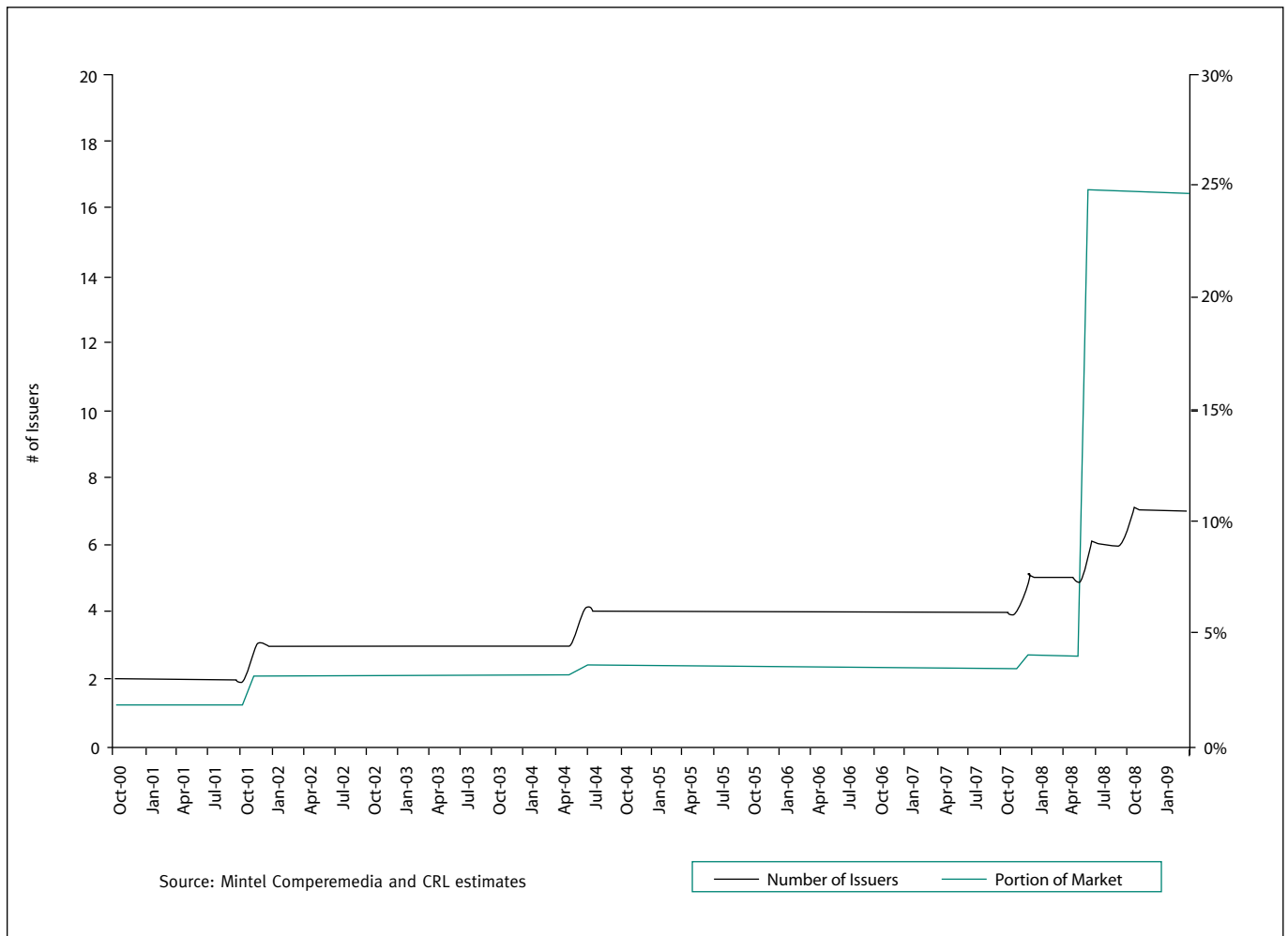
**Figure 3: The Aggregate Impact of Pick-a-Rate**



On a dollar basis, a quarter of balances currently use a 90-day window for picking prime. Also, an additional 11.4% of the market employs pick-a-rate with about a one month window, rather than choosing prime from a particular date. The impact of the one-month window raises the rate charged by 0.1 percentage points. These two practices combined currently cost customers \$720 million annually.<sup>3</sup> The impact will be even higher if the current trend holds and more issuers move to a 90-day window. The potential cost to consumers is \$2.5 billion per year if all issuers adopted this deceptive practice. The impact would be even larger if issuers opt to choose a window longer than 90 days.

A few medium-sized issuers have used pick-a-rate for years. The number of pick-a-rate issuers has grown recently, however, with top issuers now just starting. As Figure 3 shows, not only has the number of issuers using pick-a-rate been growing over time, but the rate of increase has been accelerating.<sup>4</sup> In addition, the balances represented by issuers using pick-a-rate have been growing even more quickly. It is estimated that 117 million active accounts are now affected by the practice and that number is climbing.<sup>5</sup>

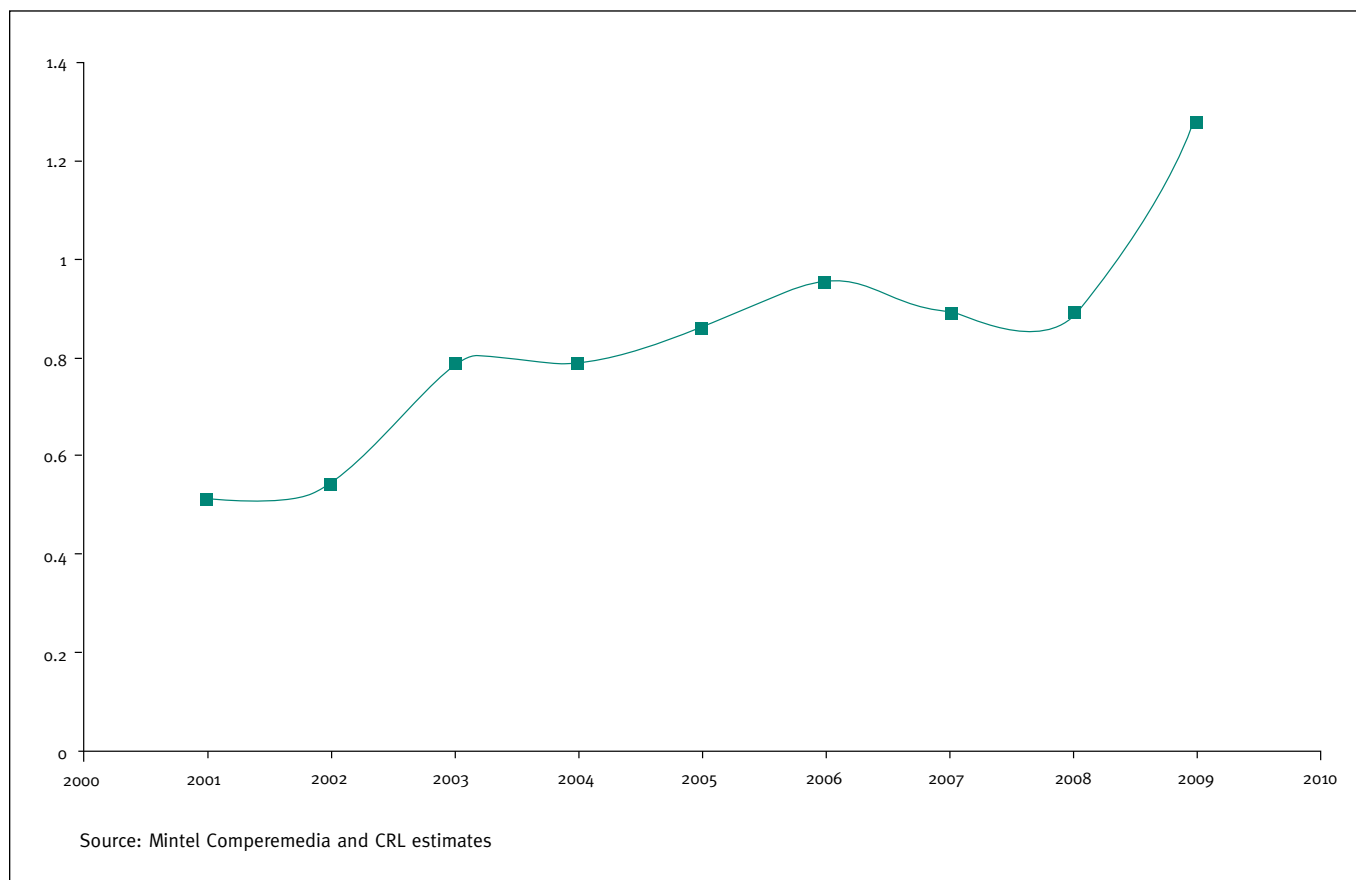
**Figure 4: Growth in Adoption of the Pick-a-Rate Practice**



## Minimum Finance Charges

In 2001, the minimum finance charge for 7 of the Top 8 issuers was \$0.50. By 2009, most issuers charged a dollar or more as their minimum finance charge, with the highest being \$2.00. Currently, they average \$1.28.<sup>6</sup> Borrowers pay more than \$430 million annually as a result of minimum finance charges and that figure is rising as these charges are increased.

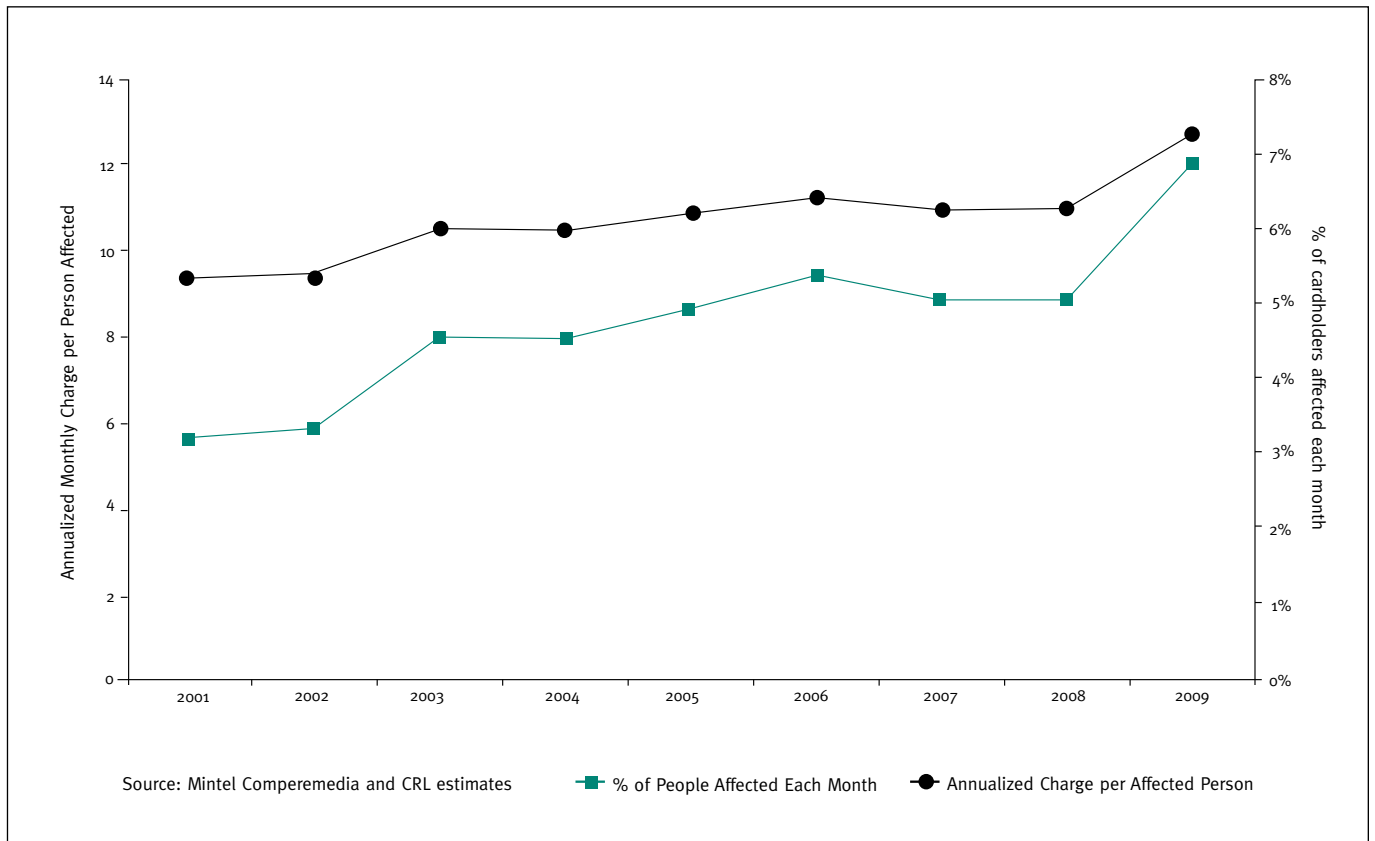
Figure 5: Average Minimum Finance Charge Amount Among Top 8 Issuers



These minimum finance charges take effect when a consumer borrows money—a cash advance—on their credit card, but the amount borrowed is low enough (or the interest rate is low enough) that the finance charge would normally be below the minimum. For example, if a consumer charged \$50 on their credit card, had an interest rate of 12% and did not pay the balance in full, they would normally owe 50 cents in finance charges. But if the issuer had a minimum finance charge of \$1.50, they would instead be required to pay this amount. Usually, a minimum finance charge is not assessed if a consumer takes advantage of their grace period and pays in full. What is less clear in some cases is whether a minimum finance charge will be assessed if a customer has a 0% introductory rate and pays no finance charges even though they borrow money. Technically, the language in most credit card offers allows them to assess the minimum finance charge in this situation. Minimum finance charges can also compound the negative and often frustrating effects of “trailing interest” (see text box for more details).

Minimum finance charges have been rising, leading to both more people being affected and the monetary impact for those affected increasing. One bank recently raised its minimum finance charge for some customers to \$2.00. While this may appear to be a small amount, for a customer that incurs this charge every month and would otherwise only have a few pennies in interest, they would be paying approximately \$24 a year extra, the equivalent of a hidden annual fee. Based on data from the 2007 Survey of Consumer Finances, it is estimated that 7.3% of active accounts are currently hit by monthly minimum finance charges that average \$12.01 on an annualized basis.<sup>7</sup> This results in a total annual cost to consumers of \$430 million.

**Figure 6: Effect of Minimum Finance Charges**



It could be argued that a 50 cent minimum finance charge (the amount most issuers charged several years ago) is a reasonable charge to recover the cost of billing. However, this claim fails to hold up when examined more closely. People who get a bill and pay the balance in full receive no such charge, making their treatment inconsistent. Issuers instead rely on interchange income to recover the billing cost for the typical non-borrowing consumer. Our analysis of Survey of Consumer Finances data, however, suggests that people subject to a minimum finance charge averaged an even higher amount of monthly purchases than people who utilize their grace period and pay no interest at all, at about \$900 each month. Interchange income is more than sufficient to cover this cost and, for those assessed a minimum finance charge, it would average about \$16.<sup>8</sup> Most top issuers have raised their minimum finance charge from the original dominant price point of 50 cents, with most charging minimums of \$1 or higher. This appears to be simply another way to stealthily extract additional revenue from borrowers using mechanisms consumers are likely to overlook.

### **“Trailing Interest”**

If a credit card user borrows money for one month or longer and then tries to pay their balance in full, they are often taken by surprise by a practice known as “trailing interest.” The amount on the credit card bill indicates the total finance charges as of the date the bill was generated. However, between the date the bill is generated and when a check is received, new finance charges will be incurred. Therefore, somebody who pays their bill in full after borrowing money the prior month is often surprised to find that there are interest charges the following month. Then when they pay that second smaller bill in full, they may still get a bill the following month for interest on the interest. Due to the use of minimum finance charges, even if a consumer would normally owe just a few pennies of trailing interest on a tiny balance for a few days (the time between checking the balance and receipt of payment), they will still be charged up to \$2.00 due to the minimum finance charge.

### **Variable Rate Floors**

In a recent study, Pew Health Group’s Safe Credit Cards Project found that the use of variable rates has expanded along with the use of floor rates that did not allow the rate to decrease from its start point.<sup>9</sup> Pew analyzed application disclosures for all consumer credit cards offered online by the largest 12 bank issuers and found that the use of a minimum rate requirement—the variable rate has a floor that keeps it from falling—has increased among credit cards issued by the largest banks, from one percent to nine percent of cards (for purchase rates) and from ten percent to 38 percent of cards (for cash advance rates). These floor rates create a situation where the interest rate is called “variable,” but it can only vary upward relative to its starting value. The interest rates can never decline from where they start.

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This once again appears to increase revenue using an obscure mechanism. Like pick-a-rate, it also is inefficient pricing because it causes the variable rate to be less closely associated with the cost of funds than it otherwise would. This practice had been a growing trend in the mortgage industry, and credit card issuers may have borrowed this practice from them. Our own analysis shows that while 2 of the Top 8 credit card issuers currently commonly use a floor equal to the current purchase APR, none of the Top 8 issuers used this practice on most of their cards five years ago.

**Finding 2: Issuers have manipulated penalty fee structures to charge almost everyone (87 percent) the highest penalty fee possible, while projecting the appearance of charging lower fees.**

In 2002, the top issuers started to introduce tiered late fees, varying charges based on the consumer's balance. For example, in 2003 one top issuer charged \$15.00 on balances up to \$150.00; \$29.00 on balances between \$150.00 and \$1,200.00; and \$35.00 on balances of \$1,200.00 and over. This practice spread rapidly so that by the beginning of 2005, all of the Top 8 issuers—who hold 86% of all balances—used tiered late fees. However, the ranges for balances used in tiered late fees have become compressed over the past five years so that an increasing number of people fall in the highest category.

For example, many top issuers used three balance categories five years ago with the highest range typically being \$1,000 and above. Today there normally are still three ranges, but the highest category is typically \$250 and above. Rather than making fees proportional to the violation, tiered late fees seem designed to appear low while in reality a high fee is assessed.

There are two possible motivations for issuers to introduce tiered late fees: one to make fees more proportional to the violation and, two, to give the appearance of lower fees by showing a low rate that few people receive (see Appendix A for a sample of one major issuer's terms and conditions that uses the language quoted above). If the first amount is relatively low, by showing multiple late fee amounts, people tend to glance quickly at a lengthy and complex list of numerous terms and conditions are unlikely to focus on the fine details of the late fee tier structure. They may focus on the first number they see and ignore other rates as well as ignoring the ranges for the tiers. Cardholders may also underestimate the likelihood of incurring the higher late fees.

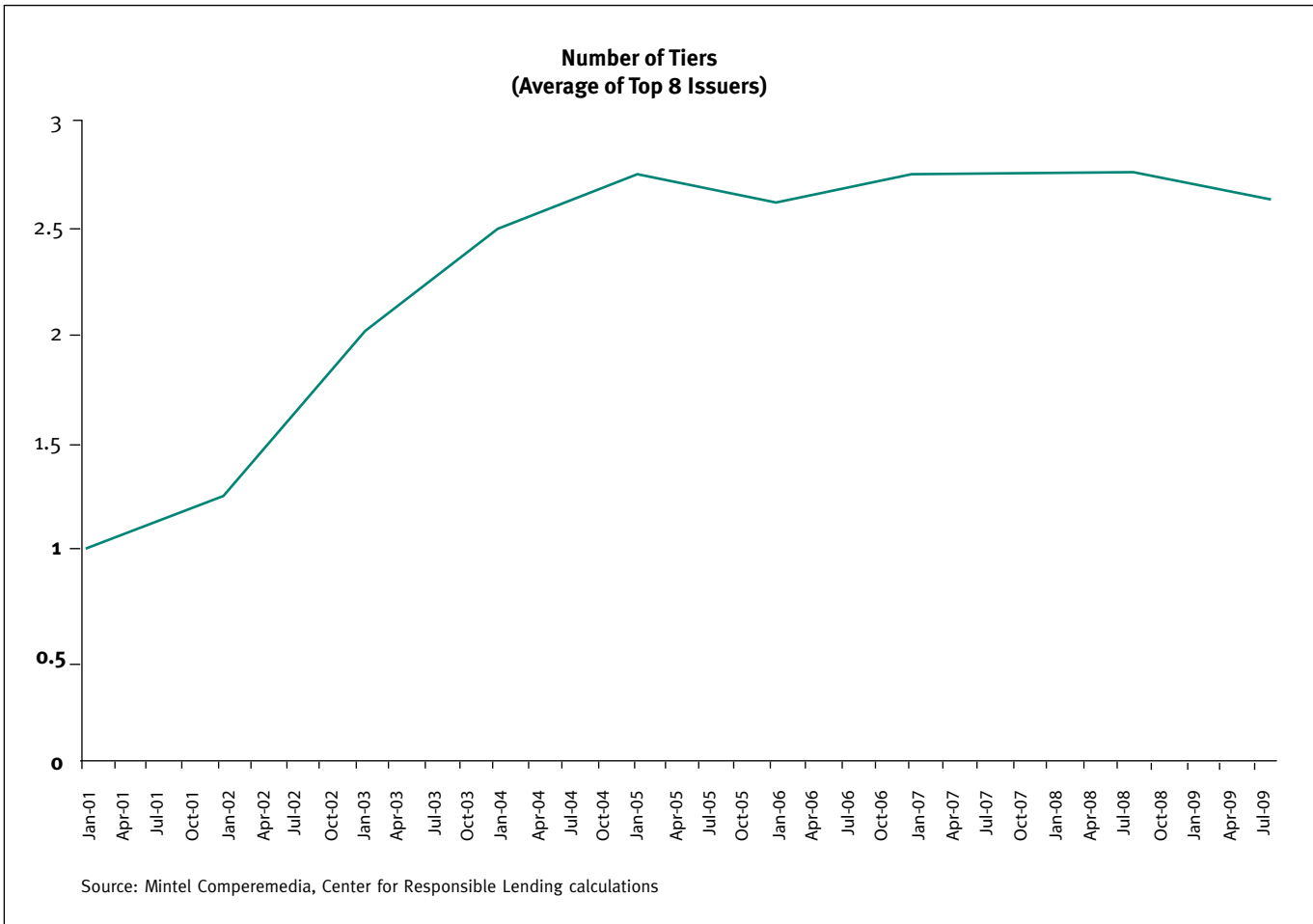
In understanding issuer motivation in moving to a tiered late fee structure, it is noteworthy that this approach was first implemented for most top issuers simultaneously with a fee increase for the top tier. If a tiered structure is added at the same time as a fee increase for the top tier, the impact appears ambiguous to consumers. Cardholders see a new lower fee for some conditions, and a higher one for others. However, in reality, most cardholders are charged the highest fee, making the net impact a hidden fee increase.

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*Rather than making fees proportional to the violation, tiered late fees seem designed to appear low while in reality a high fee is assessed.*

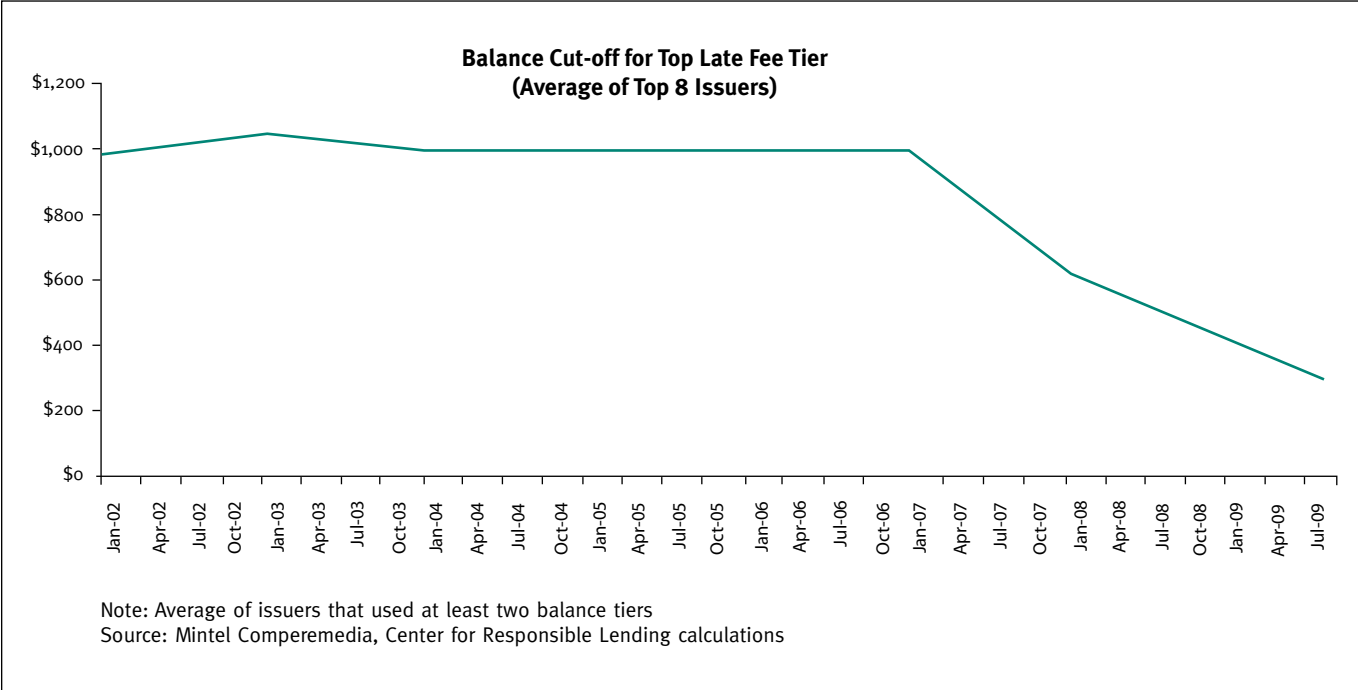
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Figure 7: Growth in the Number of Late Fee Tiers



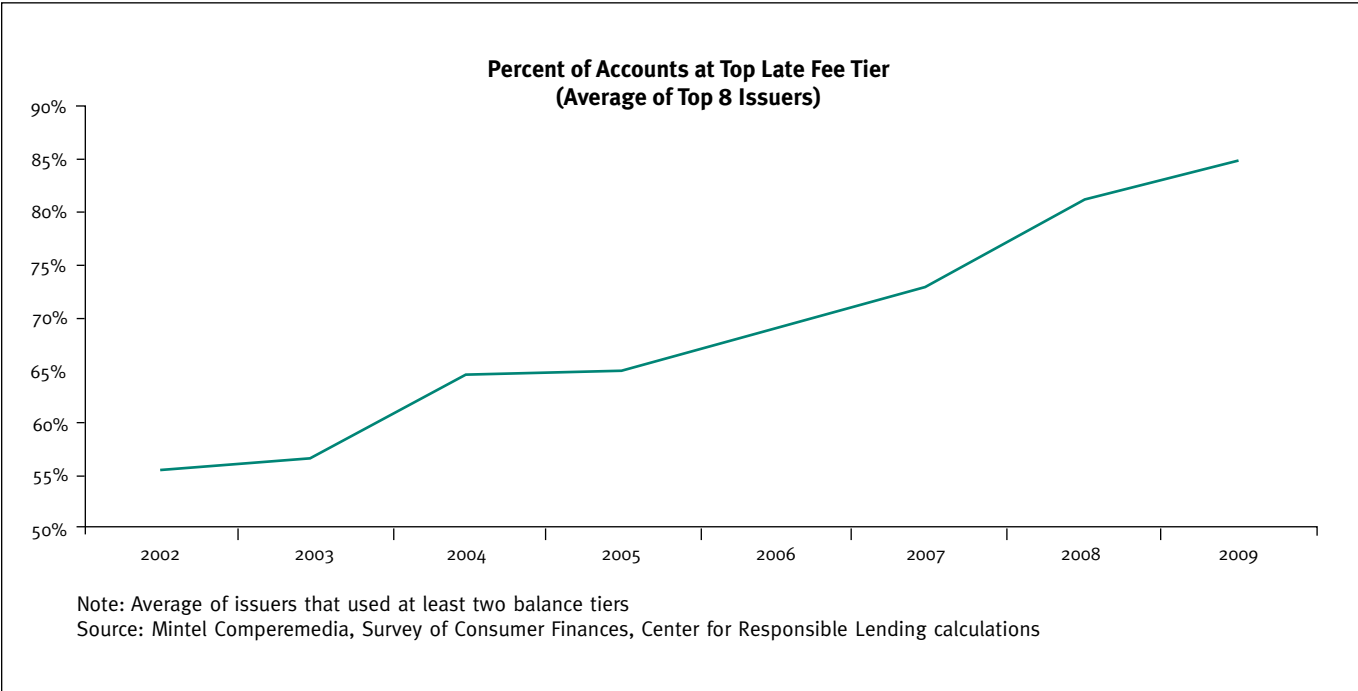
While the number of late fee tiers used has grown over time (see Figure 8), this does not mean that the fees have necessarily become more proportional to the balance. In fact, since their initial implementation, late fees have undergone “tier compression” in which the balance categories are closer together rather than further apart. In particular, the lower fee levels were squeezed together more so that an increasing proportion of people were charged the top fee level (see Figure 9).

**Figure 8: Late Fee Tier Compression Using Balance Cut-off**



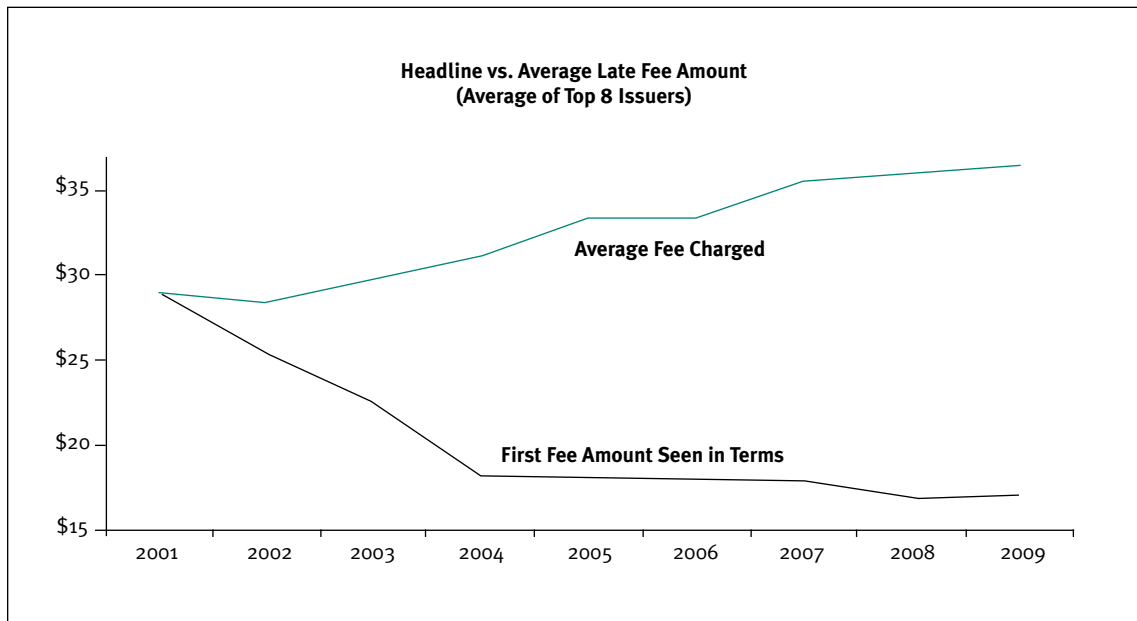
Three to five years ago, the top late fee tier typically was applied only to about half (53 percent) of active accounts.<sup>10</sup> Today, the top late fee tier is applied to 87 percent of active accounts. Therefore, tiered late fees now do not have much impact in creating a proportional fee since the vast majority of people are charged the highest fee.

**Figure 9: Late Fee Tier Compression Using Percent of Accounts in the Top Tier**



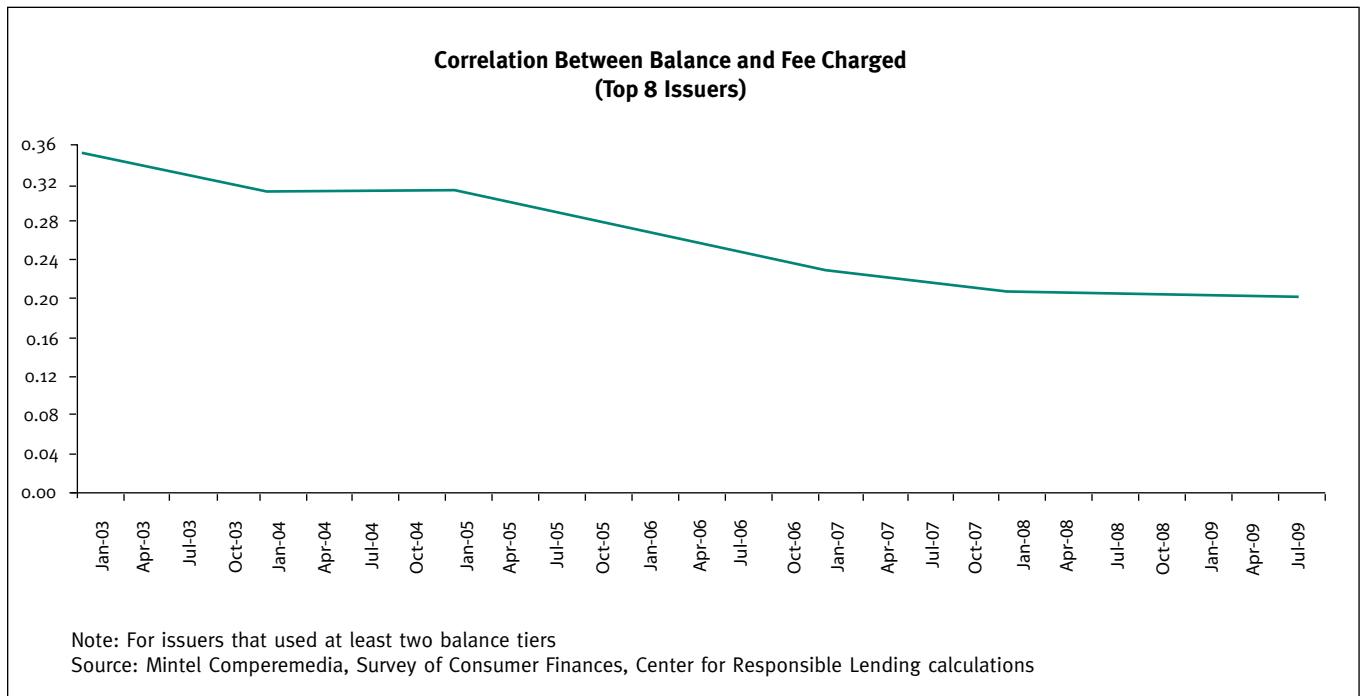
While the clear trend of late fee tier compression may not make sense if issuers are trying to create fees that are proportional to balances, it does make sense from a marketing perspective. As shown in Figure 10, it creates a situation in which the first late fee amount consumers see in their terms and conditions declines even while the actual average fee charged rises.

**Figure 10: Trend in Average Late Fee Charged vs. First Fee Consumers See**



The weakening relationship between the customer’s balance and the late fee charged can also be seen statistically through the use of the correlation statistic. As Figure 11 shows, rather than becoming more proportional to balance amounts, the amount charged in late fees has actually become less correlated with balances over time.<sup>11</sup>

**Figure 11: Late Fee Tier Compression: Correlation between Balance and Fee**



**Finding 3: Issuers are padding their other miscellaneous fees since the announcement of new Federal Reserve rules and passage of the Credit CARD Act and have disguised many of these charges. Fee changes include:**

- adding inactivity fees
- expanding the definition of an international transaction, and
- raising consumer costs by changing cash advance/balance transfer floors, ceilings, and related charges.

Issuers have increased costs to consumers through other mechanisms that borrowers are unlikely to notice. While these practices vary in nature and impact, they all share some traits. They were not regulated by the Credit CARD Act of May 2009, nor by rules announced in December 2008 by the Federal Reserve. Issuers have expanded the circumstances in which they apply or the amounts charged recently. All the practices are either hidden or at least obscure enough that they are easily missed by consumers. Most, if not all, are economically inefficient in that they create fees that have little correlation with issuer costs or the value of the benefits received.

## Inactivity and Account Management Fees

While none of the Top 8 issuers have yet added an inactivity fee, at least five other issuers make use of inactivity fees or “account management fees” and the practice appears to be expanding. At least one large bank added this fee since passage of the Credit CARD Act (in the amount of \$19 per year).

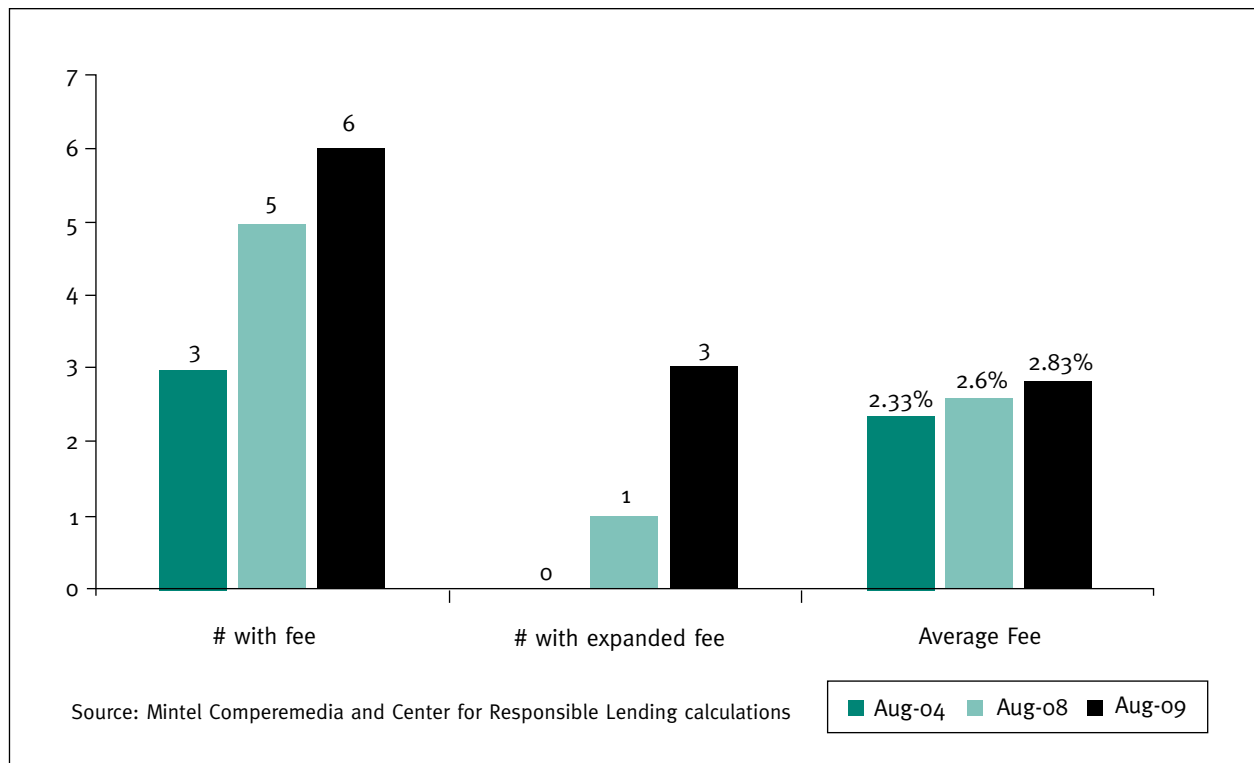
While inactivity fees tend to be an annual charge for non-use of an open account, several banks charge monthly “account management fees” for having a balance on a closed account. Some specify that this only applies if the account is closed voluntarily. Others do not. However, with the new Credit CARD Act requirement that issuers allow consumers that opportunity to “opt out” of term changes, voluntary closure may not always be truly voluntary. Choosing to “opt out” of terms may inadvertently morph into an account inactivity fee. Often to opt out, a consumer must close their account. Therefore, by opting out of a price or fee increase, it is possible consumers will find themselves forced to pay a new fee in the form of an inactivity fee.<sup>12</sup> These fees in some cases are \$3 each month, or \$36 per year.

## International Transaction Fees

Until recently, international transaction fees were charged by some issuers when a currency exchange was involved. This in itself was a fee without any cost basis. The electronic payments system (Mastercard or Visa, for most issuers) sets the exchange rate and charges their own fee separately from the issuing bank. If there is any service provided that involves a cost, it is provided by the payment system which charges the consumer a fee for this service. The credit card issuer's charge would be an additional fee for the payment system's service. Further, several issuers have recently expanded this fee to include purchases that are originally denominated in US dollars. This is likely to now include many internet transactions with an international merchant or processing center involved, even if these merchants are set up to take purchase primarily from US customers. This expansion is once again a way to raise revenue in ways that are likely not to be noticed.

In 2004, the majority of the Top 8 issuers did not charge an international transaction fee. In 2009 three-quarters of the top issuers charge this fee to most of their accounts. The size of the fee has also increased. In 2004, most of the issuers who charged this fee had a fee of 2%. Today most issuers charge 3%. This cannot be accounted for by inflation since it is a percentage of purchase activity, and that purchase activity level will already change to account for inflation.

**Figure 12: International Transaction Fee Growth**



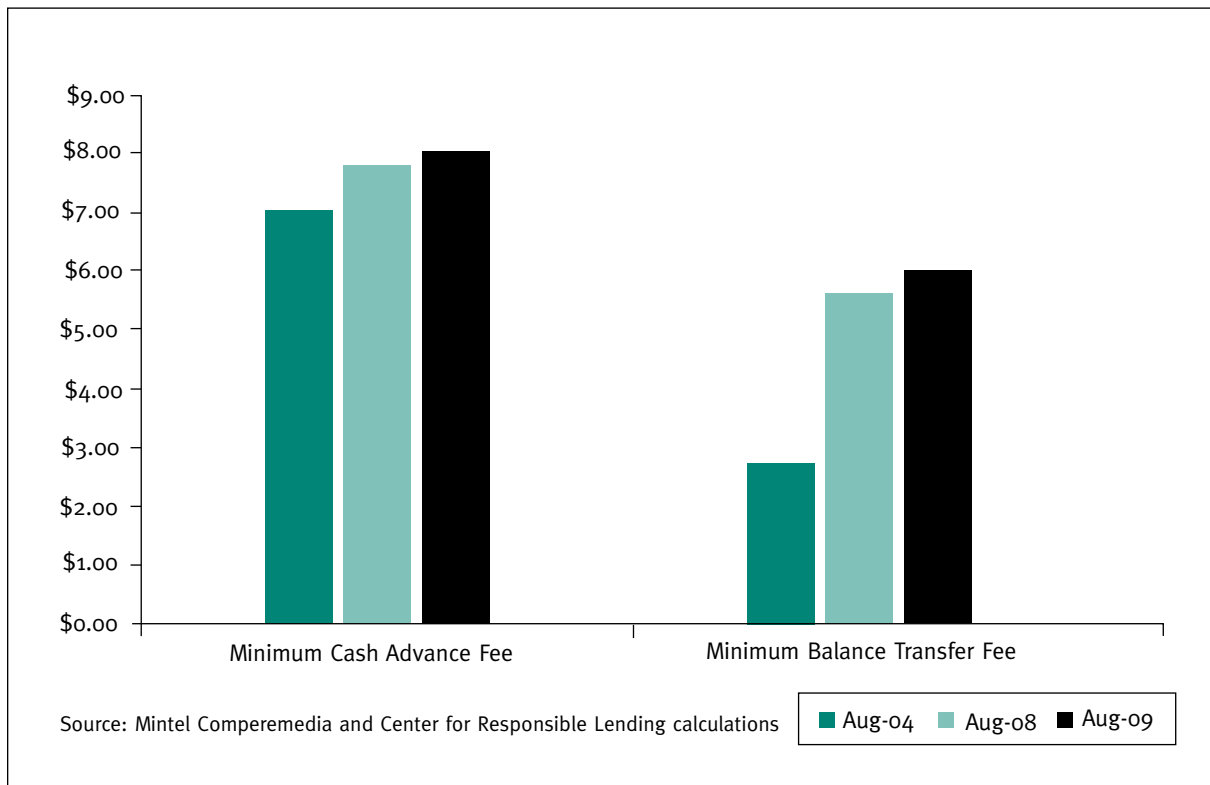
## Balance Transfer/Cash Advance Fees, Floors, and Ceilings

Most large issuers charge a fee for transferring a balance or taking a cash advance that is equal to a percentage of the transaction amount. The level of these fees has been going up. While customers are probably less aware of these potential fees than APRs and annual fees, the floors and ceilings on these fees, which have been changing, are even more obscure. Minimum charges or floor levels on these fees have been added or raised while maximum fee levels/ceilings have increased or been eliminated. Credit card users are unlikely to notice these technical limits or fully account for their impact.

Their impact, however, can be quite significant. For example, one Top 8 issuer recently raised their cash advance and balance transfer minimum fee to \$20. For a consumer who takes out a short-term \$100 cash advance, this adds \$18 in extra cost to this relatively small transaction. If they used this cash for a short-term need and paid the money back in a month, and if their normal cash advance APR was 20%, this minimum fee raises their effective APR for the transaction from 20% (without any fees) to 260%.<sup>13</sup> A different Top 8 issuer recently removed their \$99 maximum fee for balance transfers. It is not uncommon for balance transfers on this high-limit card to be \$10,000 or more. For a borrower making a \$10,000 balance transfer, eliminating this ceiling adds an extra \$200 to the cost of making this transfer.<sup>14</sup>

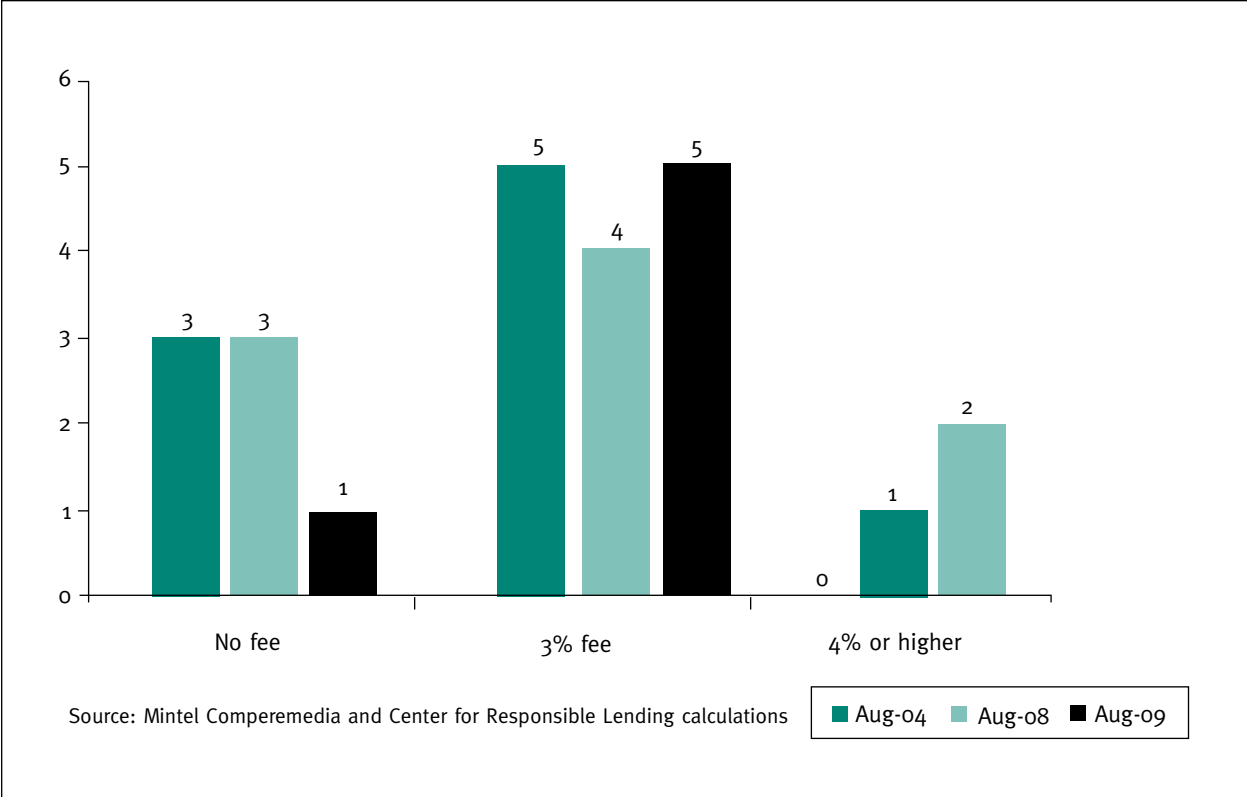
According to data from Mintel Comperemedia, in the second quarter of 2008, 47% of balance transfer offers had no ceiling on the fee. Just a year later, 76% of balance transfer offers had no ceiling on the fee. Over that same time period, the number of balance transfer offers with no fee charged declined from 19% to 11%. At the same time, minimum fees have been rising for both cash advances and balance transfers, with the average balance transfer floor more than doubling over the last 5 years (see Figure 13).

**Figure 13: Average Minimum Cash Advance/Balance Transfer Fee (Top 8 Issuers)**



In addition to adding minimum charges and taking away maximum charges, the average fee itself has been rising. As shown in Figure 14, over the last 5 years the number of Top 8 issuers whose typical product has no balance transfer fee has declined from 3 to 1, while the number of issuers with fees above 3% has increased from zero to 2.

Figure 14: Distribution of Balance Transfer Fees (Top 8 Issuers)



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## CONCLUSION

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This report uncovers a disturbing trend: credit card companies have increased their use or increased the cost of a number of hidden pricing mechanisms even as reform efforts to reduce the use of issuer tricks through new legislation were debated and enacted. While federal legislation has been successful in limiting some well-known and costly consumer traps, issuers are dynamically adjusting their own behavior, hampering the impact of reform. The Federal Reserve has an opportunity to strengthen consumer protection with new rules in 2010. It is likely future credit card pricing methods will continue to flummox policymakers, making tracking and enforcement an ongoing challenge for regulators and for borrowers.

### Small Businesses and Credit Cards

Small businesses are just as dependent on credit cards as consumers, yet they do not receive the same protections as consumers, including the provisions of the May 2009 Credit CARD Act. There has also been a constriction in the supply of small business cards, with the largest issuer devoted primarily to small business credit card lending, Advanta, filing for bankruptcy in November 2009. A recent study found that 58 percent of small businesses surveyed relied on credit card debt in their first year.<sup>15</sup> However, the same study found that reliance on credit card debt can hurt the chances of survival for small businesses. A separate study by the National Small Business Association found that credit cards were the most common source of financing to meet capital needs among small businesses.<sup>16</sup> According to the report, the terms on credit card accounts have gotten worse over the last five years for four out of five small businesses. Between April 2008 and April 2009, 63% of small businesses surveyed had their credit card interest rate raised, while 41% had their credit limit reduced.

These issuer policies damage the economy by hurting not only consumers, but also small businesses. Prior Center for Responsible Lending studies have described two schools of thought regarding credit card price complexity. One school believes price complexity attempts to account for risk while the other school views price complexity as deceptive pricing that superficially claims to be risk-based.<sup>17</sup> Most of the practices discussed here are inconsistent with the risk-based pricing perspective. For example, the newly uncovered pick-a-rate practice is inconsistent with risk-based pricing and with efficient pricing because it causes variable prices to be less closely tied to the cost of funds. Even if the period over which cost of funds is determined is greater than a single month, the best matching variable price will be an average or similar non-biased measure rather than the maximum rate over a period, which is consistently higher than the typical rate over a given period and which distorts the relationship between prices charged and funding costs.<sup>18</sup> Floor rates for variable APRs that do not allow the interest rates to go down from their current level likewise tend to cause the link between price and cost of funds to be weakened. Other trends explored, such as the expansion of international fees and late fee tier compression, likewise suggest inefficient pricing systems that do not reflect risks or costs.

These examples also show how seemingly minor—and largely unnoticed—changes in terms can have large negative effects for consumers. A \$20 minimum balance transfer fee, a \$2 minimum finance charge, or a hidden mechanism that raises the index APR by 0.3 percentage points all are seemingly minor changes that consumers are unlikely to notice, or complain about even if they realize the charge is affecting them. But the pick-a-rate practice alone already costs consumers \$720 million per year, with a potential future cost of \$2.5 billion per year and minimum finance charges already cost consumers \$430 million annually, with both of these costs rising.

## Policy Recommendation

None of the practices examined here were addressed by the Federal Reserve's UDAP rules, nor by the provisions of the Credit CARD Act of May 2009. In every case, the use of these practices has expanded while Congress and the Federal Reserve were occupied debating a legislative fix or the implementation of rules geared toward a completely different set of harmful practices. The need for a proactive consumer protection agency, a real-time monitor for the marketplace, is clearly demonstrated by the credit card industry's actions. As proposed, the Consumer Financial Protection Agency (CFPA) would have the capacity to quickly identify tactics adopted to evade existing rules, or otherwise undermine fair and transparent rules for a competitive market. It could then act to curb such abuses through enforcement, regulation, or education.

The Credit CARD Act was landmark legislation that put in place important basic protections for credit card customers. However, like almost all legislation, it requires vigilant oversight by a regulator to make sure that new abuses and tricks do not replace the ones that were just stopped. This report has highlighted eight practices that banks have recently begun or expanded to add unfair fees and interest to families' credit card bills. In addition, there are other areas where credit card banks may game the rules in an attempt to evade the provisions of the Credit CARD Act.

For example, credit limits can be reduced and accounts can be closed without notice. Minimum payments can be sharply increased, and if the cardholder is unable to stay current with the new higher payment and falls 60 days behind, the existing balance can be raised to a penalty rate. Minimum payments also may be used as a bargaining tool to get cardholders to accept a higher interest rate on their balance. These are just a few of the tricks that are possible even with the protections that go into effect in February 2010. In some cases, issuers have already actively started using these tactics. Effective protection from unfair practices ultimately depends upon a new regulator that will make safeguarding American consumers its top priority. Enactment of the proposed Consumer Financial Protection Agency is the best way to stop credit card banks from creating new tricks and traps.

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The rise of tiered late fees also has important implications for interpreting existing legislation. The Credit CARD Act requires penalty fees to be reasonable and proportional to the violation, with the exact limits on penalty fees determined by the Federal Reserve. The Federal Reserve should use its authority to hold issuers strictly accountable to this standard. Issuers may argue that they have already made late fees “proportional to the violation” by basing the fee on the balance, but the evidence here demonstrates the contrary. Late fee tiers have been moving in the opposite direction of proportionality. A top late fee tier typically starts for balances of \$250 and up. Roughly 9 in 10 consumers fall into this top tier, showing that issuers are not trying to create true proportionality in their late fee system. Instead they are creating a system that suggests a low fee, while charging almost everybody the highest fee.

## Recommendation for Borrowers

Monitoring the number of hidden tricks and traps discussed here would be very challenging for consumers. These practices often can only be detected by scouring the detailed terms and conditions of the credit card contract. Unfortunately, even if one reads and successfully interprets the subtle differences in language that define, for example, how the variable rate is calculated, it still is almost impossible to comparison shop. It is difficult to compare because how your rate will be increased by this practice is unknown in any future period.

Consumers should review both the terms and conditions on their credit card, and the actual charges they receive on each statement. However, until a robust regulatory regime is in place to curb abusive practices, consumers will have a difficult time tracking all the possible “gotcha” tactics issuers continue to use.

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# APPENDIX A: SAMPLE OF "PICK-A-RATE" AND LATE FEE TIER LANGUAGE IN ACCOUNT

DETAILS OF RATE, FEE, AND OTHER COST INFORMATION	
As required by law, rates, fees, and other costs of this credit card offer are disclosed here. All account terms are governed by the Credit Card Agreement. Account and Agreement terms are not guaranteed for any period of time, all terms, including the APRs and fees, may change in accordance with the Agreement and applicable law. We may change them based on information in your credit report, market conditions, business strategies, or for any reason.	
<b>1 Annual Percentage Rate (APR) for Purchases:</b>	0% introductory APR until the last day of your billing cycle that ends in April 2010. After that, the Standard Variable APR is between <b>12.74% and 22.74%</b> . The APR you receive is determined based on your creditworthiness. The introductory APR will end sooner if your payment is late or the account balance is over the credit limit. See <sup>1</sup> below for explanation.
<b>Other APRs:</b>	Balance Transfers: <b>0% or 2.99%</b> introductory APR until the last day of your billing cycle that ends in April 2010 for all Balance Transfers and Direct Deposits. After that, the APR for any balances that were subject to the introductory APR is between <b>12.74% and 22.74%</b> . The Standard Variable APR for Balance Transfers is between <b>12.74% and 22.74%</b> . The introductory APR will end sooner if your payment is late or the account balance is over the credit limit. See <sup>1</sup> and <sup>2</sup> below for explanation. Cash Advances: Standard Variable APR is <b>24.99%</b> for all Direct Deposits, Check Cash Advances, ATM Cash Advances, Bank Cash Advances, Overdraft Protection and Cash Equivalent transactions. See <sup>2</sup> below for explanation. Default APR: Variable APR is <b>27.99%</b> for all Purchase, Balance Transfer, and Cash Advance Balances if late or overlimit. See <sup>2</sup> below for explanation.
<b>Variable Rate Information:</b>	Your APRs may vary for each billing cycle, we determine each APR by adding a margin to the prevailing U.S. Prime Rate. The margin for the Standard Variable APR for Purchases and Balance Transfers is between 8.74% and 18.74%. The margin for the Standard Variable APR for Cash Advances is 20.99%. The margin for the Default APR is up to 23.99%. See <sup>2</sup> below for explanation.
<b>Grace Period for repayment of balance for Purchases:</b>	At least 20 days from the statement Closing Date provided you fully paid your New Balance Total from the previous statement by its Payment Due Date. See <sup>2</sup> below for explanation.
<b>Method of computing the balance for Purchases:</b>	Average Daily Balance (including new purchases)
<b>Minimum Finance Charge:</b>	\$1.50
<b>Annual Fee:</b>	None
<b>Transaction fee for Purchases:</b>	Transaction Fee for the purchase of wire transfers from a non-financial institution: 3% of each such transaction (minimum \$15). See <sup>2</sup> below for explanation.
<b>Foreign Transactions:</b>	Transaction Fee for any transaction made in a foreign currency and, as of June 1, 2009, any transaction made in U.S. Dollars that is processed outside the United States: 3% of the U.S. Dollar amount of each such transaction. The fee will be in addition to any other applicable fee.
<b>Fee for Balance Transfers and Direct Deposits that are subject to the introductory APR:</b>	3% of each such transaction (minimum \$10). See <sup>3</sup> and <sup>4</sup> below for explanation.
<b>Standard Balance Transfer Fee:</b>	4% of each such transaction (minimum \$10).
<b>Standard Cash Advance Fees:</b>	Direct Deposits and Check Cash Advances: 4% of each such transaction (minimum \$10). ATM Cash Advances, Bank Cash Advances, and Cash Equivalent transactions: 5% of each such transaction (minimum \$15). Overdraft Protection Cash Advances (if enrolled): 2% of each such cash advance (minimum \$10).
<b>Late Fee:</b>	Based on your balance as of the day the fee is assessed—\$15 if \$0-\$100; \$29 if between \$100.01 and \$250; \$39 if \$250.01 or over.
<b>Overlimit Fee:</b>	\$39.
<b>Tiered Late Fees</b>	
If your account has balances with different APRs, payments are applied to the balance with the lowest APR before any payments are applied to balances with higher APRs. This means that balances with higher APRs are not reduced until balances with lower APRs have been paid off.	
<sup>1</sup> The introductory APR does not apply to Cash Advances, other than Direct Deposits. When an introductory APR ends, the Standard Variable APR is calculated using the Variable Rate Information and is applied to new and outstanding balances (including Purchases and/or Balance Transfers, as applicable) if your payment is late or the account balance is over the credit limit. The Standard Variable APR will be applied to these balances as of the first day of the billing cycle in which the payment was late or the balance exceeded the credit limit. We reserve the right to change the APRs in our discretion including, for example, the margins.	
<sup>2</sup> When your minimum payment is not received by 5 p.m. E.T. on its Payment Due Date or the account balance is over the credit limit, on any fee accounts within 12 months thereafter, we may increase each of your account's Standard Variable APRs up to the Variable Default APR. The Variable Default APR will be applied to all new and outstanding balances. APRs will be reduced a minimum of two percentage points, possibly as low as the previously applicable Standard Variable APR, when you make a payment on time and the account balance is not over the credit limit.	
<sup>3</sup> The U.S. Prime Rate used to determine your APR for each billing cycle is the highest rate appearing in <i>The Wall Street Journal</i> at any time within the immediately preceding three months. On February 27, 2009, the U.S. Prime Rate applicable using this formula was 4.00%.	
<sup>4</sup> We include Transaction Fees when computing finance charges. Incurring Transaction Fees results in an APR exceeding 2% for the billing statement on which those fees appear. The Cash Periodic Rate will remain 0% for Purchases and for the accounts approved at the 0% introductory APR for Balance Transfers and Direct Deposits as disclosed.	
<sup>5</sup> For purposes of the Balance Transfer promotion, the three checks accompanying the Guide to Benefits materials we send to you will also be treated as Balance Transfers if they post to your account before the end of this Balance Transfer promotional offer. Any of these checks and Direct Deposits that post to your account after this promotional offer ends will be Cash Advances with a 24.99% Standard Variable APR.	
<sup>6</sup> Cash Equivalent Transactions are defined as money orders, foreign currency, and travelers checks from a non-financial institution, person-to-person money transfers, left, left by left.	
<b>Pick-a-Rate<sup>SM</sup> Language</b>	
<b>FEATURES</b>	
Earn 1 point per dollar of new net purchases (excluding cash advances, fees, returns, and adjustments) charged to the card each billing cycle. Points earnings are available to the account holder only. Points cannot be used for purchases, cash advances, including out-of-pocket expenses, or other cash equivalents, out-of-pocket payments, made through automatic bill payments, purchases made for a business or for a business purpose, fees, finance charges, unauthorized transactions, or certain other charges listed on your card. Points valid for 5 years. Rewards begin at 2,000 points for cash-back and 25,000 points for air. Air rewards subject to maximum dollar value and certain air arrangements require payment of additional points and processing fee. Air rewards from 25,000 to 250,000 require U.S. return flight to U.S. gateway. Points and/or rewards may not be combined with other discount or reward programs, unless specifically authorized by the program. Cash reward check requires 30-day after date of issue. Cash rewards not transferable. Other program terms apply. Program subject to change. For more information, visit <a href="#">www.aa.com</a> . Details accompany new account materials. All cardholders receive program benefits.	
<b>BALANCE TRANSFERS:</b> If the total amount you request exceeds your credit limit, we may allow you to make a partial payment to your creditor in the order you provide them first or we may bill you Home Checks. Allow at least 2 weeks from account opening for processing. Continue paying each creditor with the transfer appears as a credit. Balance Transfers incur finance charges from the transaction date. The Standard Balance Transfer fee is 4% of the amount of the transaction (min. \$10). For Balance Transfers subject to the introductory APR, the fee is 3% of the transaction (min. \$10). If you have a dispute with a creditor and pay that balance by transferring it to your new account, you may lose certain dispute rights. Balance Transfers may not be used to make off our any direct any account issued to <a href="#">www.aa.com</a> .	
<b>Cardholder benefits apply to each benefit.</b> <a href="#">www.aa.com</a> services available for personal use of the cardholder. No other spouse, and dependent under 21. Available to those or under 21 from a 180-day window. Significant terms and conditions apply. You are responsible for the cost of any items or services arranged on your behalf. The <a href="#">www.aa.com</a> Details accompany new account materials.	
<b>CONDITIONS</b>	
You have read the accompanying application, and everything you have stated is true. You are at least 21 years of age or you are at least 17 years of age if a permanent resident of Puerto Rico. You authorize <a href="#">www.aa.com</a> and its affiliates to review your credit and employment history and any other information in order to approve or decline this application, service your account, and manage our relationship with you. You consent to our sharing of information about you and your account with the organization, if any, including the credit card program. You authorize us to share with others, to the extent permitted by law, such information and our credit response with you. In addition, you may act as a consumer data subject in preference to design your account from inside of the information sharing with other companies ("opt-out"). If you accept or use an account, you do so subject to the terms of this application, the "Details of Rate, Fee, and Other Cost Information" and the Credit Card Agreement (which includes an arbitration provision) so it may be amended, you also agree to pay all charges incurred under such terms. Any changes you make to the terms of this application will have no effect. You understand that the Annual Percentage Rate you receive will be determined based on your creditworthiness. You accept that on a periodic basis your account may be considered for automatic upgrade at our discretion. You consent to and authorize us, any of our affiliates, or our marketing associates to monitor and/or record any of your phone conversations with any of our representatives.	

**TIERED LATE FEES**  
*[enlargement of text in red box]*

"Late Fee: Based on your balance as of the day the fee is assessed—\$15 if \$0-\$100; \$29 if between \$100.01 and \$250; \$39 if \$250.01 or over.  
 Overlimit Fee: \$39."

**"PICK-A-RATE" LANGUAGE**  
*[enlargement of text in yellow box]*

"The U.S. Prime Rate used to determine your APRs for each billing cycle is the highest rate appearing in *The Wall Street Journal* at any time within the immediately preceding three months. On February 27, 2009, the U.S. Prime Rate applicable using this formula was 4.00%."

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## ENDNOTES

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- 1 Using Mintel Comperemedia data from July 2009, at least 92% of credit card offers featured a variable rate.
- 2 Three months or 90 days is currently the most commonly used period. Although longer periods are not currently used, it is possible that just as issuers compete in a spiral of increasing fee levels, as more issuers adopt the 3-month window for calculating prime, some more aggressive issuers may push the window out to 4 months, 6 months, or even longer. However, whether they would actually do this is currently unknown and may depend on the scrutiny the practice receives from the public and regulators.
- 3 Number is based on the average impact on interest rates for the most recent period (2000-2009). The average impact since 1990 has been somewhat lower. However, the average impact using data since 1975 or 1980 would be higher.
- 4 Data used to determine issuer practices was obtained using a database of solicitations from Mintel Comperemedia.
- 5 This includes only active accounts affected by the practice using a 90-day period. The number affected by the 30-day period practice is larger.
- 6 Center for Responsible Lending calculation based on Mintel Comperemedia data. The average is weighted by issuer size and is for the Top 8 issuers.
- 7 Estimate is based on the weighted average (by issuer size for the Top 8 issuers and by the survey's weightings) impact for consumers in the 2007 Survey of Consumer Finances. Consumers with 0% interest rates who revolve a balance are assumed to be affected by the charge. Charges are annualized by multiplying the difference between what the customer actually incurred in finance charges that month and the minimum finance charge by twelve.
- 8 Based on \$900 in average monthly purchases and using issuer interchange revenue of 1.77% derived from dividing issuer interchange income by purchase volume in: Jeffrey Green, "Bankcard Profitability Study," *Cards & Payments Magazine*, (May 2008).
- 9 Nick Bourke & Ardie Hollifield, *Still Waiting: 'Unfair or Deceptive' Credit Card Practices Continue as Americans Wait for New Reforms to Take Effect*, The Pew Charitable Trusts, (October 2009), available at [www.pewtrusts.org/creditcards](http://www.pewtrusts.org/creditcards).
- 10 Late fee tiers each year for the Top 8 issuers were taken from mail samples in a database from Mintel Comperemedia. Estimates of how many people fall into each category are calculated based on data from the Survey of Consumer Finances (the survey from 2004 was used since this was approximately in the middle of the time period studied). Since late fees are based on balance at the end of a billing cycle, people who did not revolve a balance are assigned a balance equal to the amount of purchases they made on their credit card. The portion of people charged the highest tier late fee is likely to be somewhat underestimated here since this survey is known to underestimate average balances, and also because consumers charged a late fee probably have higher than average balances (some consumers are late by accident but others are late because of inadequate cash flow—the first group may be randomly distributed across balance size, but the latter group probably tends to have higher than average balances).
- 11 For each year, the correlation was calculated using Survey of Consumer of Finances data for the closest year. For each of the Top 8 issuers, the fee that would have been charged to each survey participant if they had been late was calculated. The correlation between this fee and the balance was then calculated for all issuers that used tiered late fees combined in one file (i.e., each observation in the Survey of Consumer Finances dataset is replicated up to 8 times—once for each hypothetical issuer to take into account their different fee structures). The observations were weighted by the Survey's internal weight amounts when calculating the statistic. In 2003, four issuers were used in the correlation statistic. In 2004, seven issuers were used. For 2005 and later years, all Top 8 issuers were used.
- 12 The Credit CARD Act may prohibit this, but there is some ambiguity here and therefore the issue is likely to only be finally resolved through regulation or litigation.
- 13 This figure is calculated by multiplying the monthly interest rate by 12. It excludes the effect of compounding. With compounding, the interest rate would be 1460%.
- 14 Based on a 3% balance transfer fee, the current fee charged by this product.
- 15 Robert H. Scott, III, *The Use of Credit Card Debt by New Firms*, Ewing Marion Kauffman Foundation (August 2009).
- 16 2009 *Small Business Credit Card Survey*, National Small Business Association, (2009).
- 17 Joshua M. Frank, *What's Draining Your Wallet? The Real Cost of Credit Card Cash Advances*, Center for Responsible Lending, (December 16, 2008).
- 18 While it is theoretically possible that there could be counter-cyclical pricing benefits relating to pricing high when charge-off rates are high for using this pricing method, this was tested using a bivariate regression and no such counter-cyclical relationship was found.

## ***About the Center for Responsible Lending***

The Center for Responsible Lending is a nonprofit, nonpartisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. CRL is affiliated with Self-Help, one of the nation's largest community development financial institutions.

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