SAFE CREDIT CARD STANDARDS

Policy Recommendations for Protecting Credit Cardholders and Promoting a Functional Marketplace

EXECUTIVE SUMMARY

Credit card companies have powers unique in the world of retail lending. After a consumer has agreed to the terms of a credit card account and used the card to make purchases or obtain cash advances, the card issuer may lawfully rewrite the agreement or demand a higher rate of interest, even on funds previously advanced. In a one-year period between 2007 and 2008, issuers used these powers to raise interest rates on nearly one quarter of cardholder accounts. These added charges are not reflected in the advertised annual interest rate, which is the key price point consumers use when choosing credit cards. By rewriting agreements, and by giving themselves broad contractual rights to impose fees and rate increases automatically—practices that the Federal Reserve and other regulators have called "unfair and deceptive"—credit card issuers have rapidly expanded their businesses and billed cardholders tens of billions of dollars more per year.

In 2007, The Pew Charitable Trusts launched an effort, in partnership with the Sandler Foundation, to address growing concerns about abuses in the credit card industry. The project team, led by a former credit card company chief executive officer, researched consumer use of credit cards, conducted economic analyses of credit card practices and revenues, and closely reviewed hundreds of credit card products. In addition to this research and analysis, our team spent more than a year in discussions with over 20 credit card providers and consumer groups, with the goal of identifying balanced approaches to improving the safety of credit cards used by millions of Americans. As part of our research, we looked at all general purpose consumer credit cards offered online by the largest 12 issuers, which control more than 88 percent of outstanding credit card debt in America. As of December, 2008, this assessment covered more than 400 credit cards.

Our survey found that each credit card included one or more practices that qualify as "unfair and deceptive" under recently announced Federal Reserve guidelines. For example:

- 100 percent of cards allowed the issuer to apply payments in a manner which, according to the Federal Reserve, is likely to cause substantial monetary injury to consumers.
- 93 percent of cards allowed the issuer to raise any interest rate at any time by changing the account agreement.
- 87 percent of cards allowed the issuer to impose automatic penalty interest rate increases on all balances, even if the account is not 30 days or more past due. The median allowable penalty interest rate was 27.99 percent per year.
- 72 percent of cards included offers of low promotional rates which issuers could revoke after a single late payment.

The Pew Charitable Trusts will be producing a series of reports in the near future detailing our research and ongoing trends of credit card practices.

Our process of research, analysis and outreach led to several key conclusions, including:

- Current credit card practices place American cardholders at risk of sudden, potentially drastic price increases which can seriously impair a household's stability and spending power.
- Credit card issuers' profitability can be sustained with the adoption of transparent and predictable pricing practices.

Nick Bourke
Project Manager
Pew Safe Credit Cards Project

- Strong, universally applicable laws provide the surest means of protecting cardholders and eliminating pressures for issuers to compete through unfair and deceptive practices.

In response, Pew offers a set of Safe Credit Card Standards that are designed to protect cardholders and promote a functional marketplace. The Standards are intended to support policy makers as they evaluate legislative responses to deceptive and dangerous industry practices. Several of the protections identified in our Safe Credit Card Standards are similar to new rules announced by the Federal Reserve and other regulators, but issuers will not be required to adhere to these rules until July 2010. Meanwhile, Pew's research indicates that the overwhelming majority of credit cardholders are vulnerable to unfair and deceptive practices now, which can add hundreds or thousands of dollars per year to the cost of an account.

This report summarizes the research, analysis and outreach which led to the development of the Standards and concludes with a set of recommendations urging immediate passage of the Credit Cardholders' Bill of Rights or similar legislation currently under debate in Congress. In future reports, the Pew Safe Credit Cards Project will provide additional data and analysis to help inform this important discourse.

INTRODUCTION

Most of us would have trouble imagining daily life without the use of credit cards. Yet credit cards can have downsides which are often not apparent to those who carry them. Credit card issuers routinely use their cardholder contracts to reserve the power to impose punitive fees, raise interest rates or change any account term at any time. As a result, the cost of using a credit card can far exceed users' expectations.

In the fast-growing economy of the 1990s and early 2000s, credit card issuers sought ways to expand their businesses. By reserving the power to adjust the terms of credit after an account is opened, card issuers were able to extend more credit to a broad range of customers, including those with minimal or poor credit histories. While some have benefited from these events, many have not. In a one-year period between 2007 and 2008, issuers used their contractual powers to raise interest rates on nearly one quarter of all cardholder accounts, or approximately 70 million accounts.[1] As a result, cardholders incurred at least $10 billion in additional interest charges on top of standard rates and fees.[2]

At the same time, Americans also accumulated record levels of credit card debt under increasingly difficult economic circumstances. By the end of 2008, consumer credit card debt exceeded $900 billion.[3] With nearly 1.8 million jobs lost just in the final three months of 2008, credit card delinquencies are on the rise.[4] Meanwhile, news reports indicate that a growing number of credit card issuers are raising rates and changing terms, even on accounts in good standing.[5] When issuers raise rates, individual cardholders will pay hundreds or thousands of dollars per year in additional costs.[6]

In these difficult financial times, strong policy responses are needed to ensure that consumers have access to safe credit based on fair and transparent agreements.

For more than a year, The Pew Charitable Trusts, in partnership with the Sandler Foundation, studied credit card practices and conducted extensive discussions with more than 20 leading credit card providers and consumer advocacy groups. Our independent, nonpartisan research has confirmed that the vast majority of credit cards come with contracts which give issuers nearly unlimited power to raise interest rates, impose significant penalties and fees, process payments in ways which maximize interest charges and otherwise control the terms of credit, regardless of what was stated in previous disclosures. These practices can produce serious consequences, including rapid increases in household debt, unforeseen by most consumers.

Our findings led to the development of the Safe Credit Card Standards, guidelines designed to protect consumers and preserve banks' ability to manage risk. When implemented, the Standards will help make credit cards safer by ensuring that issuers charge cardholders only the interest rates they agreed to pay, impose fees fairly and transparently, and end certain practices which maximize interest charges to cardholders.

The Safe Credit Card Standards are intended to provide support for policy makers who are evaluating ways to promote safe and economically viable credit cards. Federal regulators recently announced that they will enforce new rules, starting in mid-2010, banning a number of current practices which they deemed "unfair and deceptive."[7] These rules, once enforced, will provide several of the protections contained in the Safe Credit Card Standards. But consumers should not be left vulnerable to unfair and deceptive practices for nearly a year-and-a-half while regulators prepare to enforce their rules. Only Congress can help the tens of millions of Americans who are affected by these practices now. Lawmakers should seize this critical opportunity by enacting the Credit Cardholders' Bill of Rights or one of the strong alternatives under consideration in the Senate. These bills align closely with the guidelines identified in the Safe Credit Card Standards.

The following pages present the Safe Credit Card Standards as well as an overview of how the Standards were developed and lessons learned. The document concludes with a set of recommendations for lawmakers and companies which provide credit cards to consumers.

DEVELOPMENT OF THE STANDARDS AND CONCLUSIONS DRAWN

In 2007, The Pew Charitable Trusts and the Sandler Foundation launched an effort to address growing concerns about abuses in the credit card industry. The project team, led by a former credit card company chief executive officer and supported by leading industry consultants, researched consumer use of credit cards, conducted economic analyses of credit card practices and revenues, and closely reviewed more than 400 credit cards. Backed by this research and analysis, the team engaged in extensive discussions with over 20 credit card providers and consumer groups, with the goal of identifying balanced approaches to improving the safety of credit cards used by millions of Americans. This process led to the creation of the Safe Credit Card Standards.

The following sections summarize our efforts to develop the Standards.

RESEARCH

To evaluate the need and opportunity for credit card reform, project staff surveyed third-party research and conducted interviews with knowledgeable stakeholders from industry, advocacy, academic and policy backgrounds. This initial inquiry suggested that consumers had little understanding of the costs and other implications of entering into a credit card agreement. Better disclosures, though helpful, could not fully address this problem, particularly since leading card issuers had claimed the power to change pricing and other terms in those disclosures at any time.[8] Online surveys and consumer interviews commissioned by the project explored how consumers make decisions when choosing credit cards and probed how deeply consumers understood product attributes such as promotional rate offers, late payment penalties and binding arbitration clauses. This research supported the finding that consumers make decisions largely based on up-front interest rates and rewards disclosures, and tend not to understand the potential for follow-on costs allowed under cardholder contracts.

ANALYSIS OF HOW INDUSTRY PRACTICES AFFECT CARDHOLDERS

We also created several analytical tools to explore the problems and costs cardholders may experience under current industry practices. These tools included a model to estimate actual fee and interest charges based on a cardholder's balance, payment history and type of credit card. For example, the model can calculate total interest and fees for a given period of time based on scenarios including the user being a day late on a payment, the user being 30 days past due or exceeding the credit limit, or the issuer changing the contract to raise interest rates on accounts in good standing. The model showed that even cards with similar advertised interest rates can vary in cost by hundreds or thousands of dollars per year depending solely on how an issuer uses its powers to impose penalties or change interest rate agreements.[9]

To determine how widespread these practices are, we reviewed credit card terms of the country's 12 largest issuers, which together hold more than 88 percent of outstanding credit card debt.[10] Researchers gathered available online disclosures for all of the more than 400 Visa®, MasterCard®, American Express® and Discover® branded consumer credit card products offered by these top issuers. This review showed that:

- **All card products surveyed included one or more practices which would violate federal regulators' rules against unfair and deceptive acts or practices.[11] These rules will not take effect until July 2010.**

- **100 percent of cards allowed the issuer to apply payments in a manner which, according to the Federal Reserve, "causes or is likely to cause substantial monetary injury to consumers."[12]**

  Issuers could apply payments to low-rate balances before paying down high-rate balances. For example, while payments would be applied to reduce promotional rate balances accruing interest at a zero percent annual rate, purchase balances accruing interest at a 15 percent rate would not be reduced. This practice maximizes interest charges to the cardholder.

- **93 percent of cards allowed the issuer to raise any interest rate at any time by changing the account agreement.**

- **87 percent of cards allowed the issuer to impose automatic penalty interest rate increases on all balances, even if the account is less than 30 days past due.**

  The median allowable penalty interest rate was 27.99 percent per year, compared to median advertised purchase rates of 9.99 percent to 17.99 percent (issuers advertise a range of interest rates which may apply depending on a consumer's credit profile). This penalty would add charges of between $100 and $180 annually for every $1,000 in revolving purchase debt.

  Most cards allowed issuers to impose penalty rate increases indefinitely. Only eight percent of cards with penalty rate conditions offered to restore the original rate terms when payments are made on-time, usually after 12 months.

- **72 percent of cards included offers of low promotional rates which issuers could revoke after a single late payment.**

- **92 percent of cards included a fee for exceeding the credit limit, including 100 percent of all student cards. The amount of the overlimit fee is $39 on most accounts.**

- **84 percent of cards included binding arbitration agreements, limiting cardholders' legal rights to settle disputes with the issuer in court.**

The above results are based on a survey of credit cards conducted on December 15 and 16, 2008. Our analysis focused on the contractual powers of card issuers based on the written disclosures that issuers are required by law to provide to consumers who apply for a card. Expanded and updated findings will be available in future reports.

ANALYSIS OF HOW REFORMS COULD IMPACT INDUSTRY REVENUE STREAMS

A key objective of our analysis was to identify credit card lending practices which would protect consumers and be viable from a business perspective. Accordingly, we engaged a leading industry consulting firm to develop models which project how eliminating or curbing certain practices, such as raising interest rates as a penalty for exceeding the credit limit, would affect mainstream credit card portfolios. The models dynamically calculated bottom line revenues based on multiple fee and interest inputs. This approach allowed project staff to engage credit card issuers in numbers-driven discussions about specific practices and proposed reforms.

The portfolio models showed that reforms such as those recommended in the Safe Credit Card Standards would have revenue impacts which could be offset with modest up-front pricing adjustments. For example, prohibiting penalty rate increases except when an account is 30 days past due would represent the most significant revenue impact of the Standards, reducing card portfolio revenues by approximately 4.7 percent. However, this impact would be fully offset by adjusting up-front interest rates by less than one percentage point or applying annual fees in the range of $15 per year.[13]

STAKEHOLDER OUTREACH.

Outreach to stakeholders formed the core of the project's efforts to develop the Safe Credit Card Standards. Over the course of a year, the project team met frequently with more than 20 credit card providers and consumer groups to identify a set of strong, workable reform proposals. To foster open dialogue, it was agreed that all conversations would be held confidential.

More than 10 credit card issuers, including some of the largest bank and credit union issuers, actively participated in the dialogue. Consumer advocacy groups, including a number of the groups most active in consumer financial services reform, also contributed greatly to the project's efforts. In addition, staff discussed the Standards with several major retail and membership organizations. (These groups sponsor credit cards for their customers and members in conjunction with credit card issuers, an arrangement known as "co-branding.")

During this process, we engaged industry executives to discuss practices which critics had identified as deceptive, and to evaluate a number of proposed alternatives. Using the project's analytical models and information gathered from consumer groups and co-branders, staff identified a number of specific reforms which several issuers agreed were appropriate. Some controversial areas emerged, however, including overlimit fees and penalty rate increases. On these topics, some issuers supported principles reflected in the Standards (such as eliminating the overlimit fee or ensuring that penalty rates are limited in size and duration), but others did not.

In the course of these discussions we explored creating a program to certify credit cards which meet the Safe Credit Card Standards. Most issuers stated that it would be difficult to commit to the proposed reforms, however, citing a variety of economic or competitive pressures. Project staff found that a key obstacle to voluntary credit card reform is that it would require a market player to take the risk of sacrificing revenue-generating practices while their competitors did not. Almost all of the issuers contacted mentioned this challenge, with the added threat of being undercut by less scrupulous competitors advertising low up-front rates. More than one credit card executive concluded that their company would not significantly change their practices unless government policies made all competitors subject to the same rules.

KEY CONCLUSIONS

Our research and consultation with industry and consumer groups led to the following key conclusions:

- **Credit cards contain hidden dangers which require substantive changes to how these products are designed.**

  Though consumers focus on up-front pricing disclosures when making their purchasing decisions, current practices allow numerous and potentially significant follow-on costs which cannot be reflected definitively in these disclosures. Two cards that look identical on the front end can have vastly different costs on the back end.

- **Current credit card practices place American cardholders at risk of sudden, potentially drastic price increases which can seriously impair a household's stability and spending power.**

  The vast majority of credit card accounts give issuers broad powers to impose penalties or change interest rate agreements, adding hundreds or thousands of dollars per year to the cost of the account. These practices are difficult to understand and ultimately impossible to predict; and each year, millions of accounts are negatively affected by them. For many low and moderate income families, the hidden costs of credit cards can significantly reduce the amount of income available for spending and saving.

- **Credit card issuers' profitability can be sustained with the adoption of transparent and predictable pricing practices.**

  Revenue impacts of reforms such as those proposed in the Safe Credit Card Standards could be offset with relatively modest up-front pricing adjustments.

- **Strong, universally applicable laws provide the surest means of protecting cardholders and eliminating pressures for issuers to compete through unfair and deceptive practices.**

  A number of economically viable options exist for credit card reform. However, revenue expectations and competitive pressures make it difficult for individual companies to discontinue profitable practices, even if those practices can confuse or harm their customers. As long as some companies can use these practices to attract customers with the perception of lower costs, few companies will be motivated to adopt more transparent practices.

GUIDING PRINCIPLES

The Safe Credit Card Standards are guided by the following principles:

- **Simplicity**. Cardholder relationships should be based on simple and easily understood rules.
- **Transparency**. Agreements should clearly indicate the costs, rights and responsibilities of cardholders.
- **Predictability**. The terms of borrowing money should be established beforehand and should not change once the money has been advanced.
- **Responsibility**. Issuers should help cardholders make good decisions, and cardholders should manage their debts carefully.

SAFE CREDIT CARD STANDARDS

A safe credit card will meet or exceed the following standards:

1. **Cardholders will be charged only the interest rates they agreed to pay.**

- Interest rates for existing balances will not increase, except upon expiration of a temporary promotional rate or changes in a market index such as the Federal Reserve bank prime rate.
- The interest rate agreement for new charges will not change for at least one year from when the agreement was made.
- If an account becomes 30 days past due, a temporary penalty interest rate may apply. The penalty will be limited to seven percentage points and the original rate terms will resume after six months of on-time payment by the cardholder.
- Deferred interest arrangements, which charge interest retroactively for months or years if the balance is not paid in full by a certain date, will not be offered.

2. **Fees will be imposed responsibly and will be transparent to the cardholder.**

- Other than late payment or returned payment fees, there will be no penalty fees.
- Other than an annual fee, there will be no account opening/closing or maintenance fees.
- There will be no overlimit fees. Issuers may decide to allow transactions which exceed the credit limit but will not charge fees for doing so.
- There will be no fees for making or expediting a payment.

3. **Cardholders will have sufficient time to review and pay their bills.**

- Periodic billing statements will be sent 21 days or more before the payment due date.
- Applicable grace periods will not expire before the regular payment due date.
- No payment will be considered late if received at the payment center by 5 p.m. local time on the due date, or the next business day if the due date falls on a holiday.

4. **Payments will be applied first to balances carrying the highest interest rate.**

5. **"Double cycle" billing methods, which allow issuers to charge interest on balances the cardholder has already paid, will not be used.**

6. **Cardholders will receive adequate opportunities to evaluate proposals to change the account agreement.**

- There will be at least 45 days notice before changes in account terms, including price increases and changes in the minimum payment due formula, become effective.
- Notices will include an opportunity to opt-out of any proposed change by closing the account and repaying it under the unaltered terms.
- Cardholders will receive access to a complete copy of the updated cardholder agreement.

7. **Account contracts will not limit a cardholder's legal rights to settle disputes in court. Pre-dispute binding arbitration agreements will not be used.**

8. **Cardholder relationships will be based on simple and easily understood rules. All key information about the account will be provided in short, plain language statements highlighting important information and possible actions to be taken.**

RECOMMENDATIONS

To help make credit cards more safe, fair and transparent, we call for the following actions:

1. Congress should act now to protect American consumers from practices which federal regulators have identified as "unfair and deceptive."

- The Federal Reserve and other regulators recently announced new rules against a number of credit card practices they identified as "unfair and deceptive," including unfair interest rate increases, payment allocation techniques and balance computation methods. Unfortunately, the regulators will not begin enforcing these rules until mid-2010. In the meantime, American consumers will be vulnerable to billions of dollars in unfair and unpredictable credit card charges. Only Congress can correct this problem by acting now to stop these practices.

- The Credit Cardholders' Bill of Rights will stop the "unsafe and deceptive" practices identified by regulators quickly rather than leaving consumers unprotected for nearly a year-and-a-half. This legislation will give consumers fast relief while providing banks with ample time to make their practices safe and fair. It includes many of the provisions contained in the Safe Credit Card Standards, including restricting unfair interest rate increases, prohibiting allocation of payments to lowest-rate balances first and ensuring that cardholders do not pay interest on balances they have already paid.

2. Congress should also act to prevent abuses the regulators will not address, by amending the Credit Cardholders' Bill of Rights or enacting strong companion legislation currently under evaluation in the Senate.

- **Prohibit penalty interest rate hikes entirely, or require issuers to limit the size and duration of the penalty.** Issuers today can impose interest rate penalties when accounts become late or for other reasons. The Safe Credit Card Standards call for limiting penalty rate hikes to seven percentage points and reinstating the originally agreed rates after no more than six months of on-time payments.

- **Require responsible and transparent fee structures.** The Safe Credit Card Standards call for elimination of overlimit fees and other penalty fees other than a late fee; elimination of fees for making or expediting a payment; and combining all maintenance fees into a single annual fee.

- **Require issuers to apply payments to the most expensive balances first.** The Safe Credit Card Standards call for all payments to be applied first to the balance carrying the highest interest rate.

- **Preserve cardholders' legal rights.** The Safe Credit Card Standards call for the elimination of pre-dispute, binding arbitration agreements which can prevent cardholders from accessing courts to challenge unfair and deceptive practices.

3. Credit card companies should commit to providing safe, fair and transparent products.

- Issue cards which meet the Safe Credit Card Standards.

- Comply with new regulatory rules against unfair and deceptive practices now, before the July 1, 2010 enforcement date.

4. Sponsors of co-branded credit card programs—such as membership organizations, retailers and other businesses—should ensure that the cards they help provide to members and customers are designed to be safe, fair and transparent.

- Ask Congress to pass strong legislation to protect members and customers from harmful credit card practices.

- Ask the card issuer to meet the Safe Credit Card Standards.
- Ask whether accounts in the program meet the recently announced federal rules against unfair and deceptive acts and practices. If not, ask the issuer to begin complying with the rules immediately.

CONCLUSION

Credit cards have evolved into complex products which can surprise consumers with unexpectedly high costs. Though federal regulators have labeled many common practices in the credit card industry as "unfair and deceptive," they will not act to stop those practices until the middle of 2010. Meanwhile, millions of American families will pay hundreds or thousands of dollars each in unanticipated fees and charges as a result of these unfair practices.

Only Congress can prevent these burdens from straining household budgets. Our goal in announcing the Safe Credit Card Standards is to help guide and support efforts in Congress to enact prudent credit card reforms which provide urgently needed protection to American consumers.

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Though we developed the Safe Credit Card Standards in close consultation with knowledgeable stakeholders from industry, advocacy, academic and policy backgrounds, Pew has not asked for endorsements from any third party. We may update these Standards from time to time to reflect emerging trends in the credit card industry or new data as it becomes available. For more information on the Safe Credit Cards Project or these Standards, see www.pewtrusts.org/creditcards.

NOTES

1 See: Ireland, Oliver, Letter to the Federal Reserve, et. al. (Morrison & Foerster LLP, August 7, 2008) at Exhibit 6, Tables 1a and 3a (totaling percentage of accounts repriced for penalty or change in terms reasons from March 2007 through February 2008, a total of 22.3 percent of all accounts). Note that these figures may include a number of accounts which entered penalty status or were repriced more than once during the period (this number is not determinable from the data presented). The letter is available at http://files.ots.treas.gov/comments/bdc5cc5c-1e0b-8562-eb23-ff7159e49505.pdf. Overall, we estimate that 70 million accounts were affected based on approximately 315 million total active credit card accounts in 2007 (Nilson Report, Issue 902, May 2008).

2 Actual charges were likely far higher. The repricing events on the affected accounts generated at least $10 billion in additional interest charges from a sample of accounts representing only 70 percent of outstanding balances. See: Ireland, Oliver (supra footnote 1) at Exhibit 1, Table 1. The table indicates revenues generated when issuers raised interest rates on accounts including at least $2.7 billion annually due to "change in terms" interest rate increases, and at least $7.4 billion annually from interest rate increases due to certain types of penalties. The full value of penalty interest rate increases is not provided. See also: Ireland, Oliver at p.1 (sampled data covered approximately 70 percent of outstanding industry balances).

3 Author's estimate based on Federal Reserve G.19 Statistical Release, February 6, 2009 (Total consumer revolving credit was $963.5 billion in 2008). Credit card debt makes up the vast majority of revolving credit.

4 See: Bureau of Labor Statistics (http://www.bls.gov/news.release/empsit.nr0.htm); See also: Federal Reserve (http://www.federalreserve.gov/releases/chargeoff/delallsa.htm).

5 See, e.g., Chu, Kathy, "Credit Card Reform Gets Another Look; Rising Rates, Fees Anger Lawmakers, Consumers," USA Today (February 17, 2009). See also: Terris, Harry, "In Cards, A Complex Dance on Rates," American Banker (March 10, 2009); Berner, Robert, "A Credit Card You Want to Toss," BusinessWeek.com (February 8, 2008) (Discussing rate increases on Bank of America accounts that were in good standing and held by customers whose credit scores had not declined. When customers complained of experiencing rate increases of 100 percent or more for reasons the bank could not explain to them, some industry analysts concluded that the bank's move was aimed at shoring up profits); and Kimes, Mina, "Credit Cards' Carte Blanche," Fortune (October 13, 2008).

6 The amount of additional interest can vary widely depending on a cardholder's balance, the size of the issuer's rate increase and how long the rate increase applies. For accounts that were repriced between 2007 and 2008, the average rate increase exceeded eight percentage points (Oliver Ireland, supra footnote 1, at p.7). The median balance for all credit card borrowers was $3,000 (Bucks, Brian K., Arthur B. Kennickell, Traci L. Mach and Kevin B. Moore, "Changes in U.S. Family Finances from 2004 to 2007: Evidence from the Survey of Consumer Finances," Federal Reserve Bulletin, vol. 95, February 12, 2009, at p.A45). An eight percentage point increase on a median balance of $3,000 would add $240 per year to the cost of a credit card. For further examples of our analysis, demonstrating how penalty interest rate increases may add hundreds or thousands of dollars a year to a cardholder's debt, see our comments to the Federal Reserve, dated October 3, 2008. The letter is available at http://www.federalreserve.gov/SECRS/2008/October/20081029/R-1314/R-1314_29314_1.pdf.

7 The Federal Reserve, Office of Thrift Supervision and National Credit Union Administration jointly published the regulations on Unfair or Deceptive Acts or Practices. See: Federal Register, Volume 74, Number 18 (January 29, 2009).

8 For a useful overview of the complex credit card pricing structures that have been devised since the early 1990s and the increases in total charges that cardholders are paying, see: "Credit Cards: Increased Complexity in Rates and Fees Heightens Need for More Effective Disclosures to Consumers" (GAO 06-929, September 2006). The

GAO reported that "disclosures have serious weaknesses that likely reduced consumers' ability to understand the costs of using credit cards." The report called in part for enhanced disclosures to help consumers make better, more informed choices. However, other observers noted that no amount of disclosure could address the risks inherent in the design of credit card contracts. See, e.g. "The Plastic Safety Net, The Reality Behind Debt in America, Findings from a National Household Survey of Credit Card Debt Among Low- and Middle-Income Households" (Demos and the Center for Responsible Lending, 2005). ("Shopping for reasonable terms or comparison shopping for credit cards is almost an exercise in futility, since all credit card issuers now reserve the right to unilaterally change the terms at any time.")

[9] For an example of our analysis, demonstrating how penalty interest rate increases may add hundreds or thousands of dollars a year to a cardholder's debt, see our comments to the Federal Reserve, dated October 3, 2008. The letter is available at http://www.federalreserve.gov/SECRS/2008/October/20081029/R-1314/R-1314_29314_1.pdf.

[10] The largest 12 issuers include the top-10 Visa / MasterCard issuers, American Express and Discover. (Issuer size is measured by outstanding balances based on data available as of December, 2008.) See: The Nilson Report, Issue 895 (January 2008) and Issue 902 (May 2008).

[11] See: Federal Reserve, et. al., supra footnote 7.

[12] Federal Reserve, et. al., supra footnote 7, at p. 5515.

[13] For an example of our analysis of potential revenue impacts to issuers and possible up-front pricing adjustments, see our comments to the Federal Reserve, dated October 3, 2008. The letter is available at http://www.federalreserve.gov/SECRS/2008/October/20081029/R-1314/R-1314_29314_1.pdf.