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PUBLIC INTEREST COMMENT

SUBMISSION OF CREDIT CARD AGREEMENTS UNDER THE TRUTH IN LENDING ACT (REGULATION Z)

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Submitted: March 12, 2015
Attention: Ms. Monica Jackson, Office of the Executive Secretary, Bureau of Consumer Financial Protection

Dear Ms. Jackson:

Thank you for the opportunity to comment on the proposed policy statement regarding the Submission of Credit Card Agreements Under the Truth in Lending Act, implemented under Regulation Z.[1] At the Mercatus Center at George Mason University, we apply academic ideas to solve real-world problems, especially concerning the economic effects of regulation. As an economist, my comments do not reflect the views of any affected party or special interest group, but they do reflect my concerns about the economic effects of data collection requirements—such as the one at issue here—that impose costs without evidence of concomitant benefits.

BACKGROUND

Following the recent financial crisis, the Congress attempted in 2009 to enhance protections for credit card users through the Credit Card Accountability Responsibility and Disclosure

1. Bureau of Consumer Financial Protection, Truth in Lending Act, Pub. L. No. 90-321, 82 Stat. 146 (1969).

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Act.[2] Implementation of the Truth in Lending Act (TILA) has fallen to the Bureau of Consumer Financial Protection ("Bureau") since July 21, 2011, pursuant to the Dodd-Frank Wall Street Reform Consumer Protection Act ("Dodd Frank Act").[3] TILA requires credit card issuers to post credit card agreements on their web sites and provide them to the Bureau.[4] It does not specify the frequency or timing of the submissions, but the implementing regulations require credit card issuers to report their agreements with customers on a quarterly basis, namely the first business day on or after April 30, July 31, October 31, and January 31 of each year.[5]

COSTS WITHOUT EVIDENCE OF BENEFITS

Since the regulations have been in place, both the Bureau and the credit card issuers have discovered how cumbersome this data collection process is. The Bureau accordingly proposes to suspend collection of the data from April 30, 2015, through January 31, 2016, during which time it will develop an automated system to more efficiently collect the information. While the Bureau acknowledges the costly nature of this data collection, the Bureau assumes—without evidence—that the problem can be addressed by simply improving the collection process. The Bureau acknowledges that the credit card agreement submission requirement creates compliance costs but does not make a strong case that the requirement benefits consumers.

Few Benefits

Consumers are unlikely to benefit from a centralized database. They are unlikely to read the fine print of credit card agreements in shopping for credit cards. If they choose to do so, as the Bureau acknowledges in its notice, "terms and conditions will remain readily available to consumers on the issuers' Web sites."

The Bureau seeks comment on whether other "entities may use the information in the repository to develop more competitive products or extract information that they could sell or otherwise provide to consumers or third parties." Just as consumers can, these entities will be able to find the information they need on issuers' websites. Alternatively, they can employ data scraping technology to recreate the Bureau's repository. Indeed, the Bureau acknowledges in the notice that the database would be of limited use to such entities.[6]

2. Credit Card Accountability Responsibility and Disclosure Act of 2009, Pub. L. No. 111-24, 123 Stat. 1734 (2009).
3. Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat 1376 (2010).
4. 15 U.S.C. 1632(d)(2).
5.12 CFR 1026.58 (c).
6. Bureau of Consumer Financial Protection, Submission of Credit Card Agreements Under the Truth in Lending Act (Regulation Z), 80 Fed. Reg. 10420 (February 26, 2015).

High Costs

Compliance costs likely vary across issuers and favor those that have fewer agreements. The Bureau reports that in Q3 2014, 446 issuers had 1,833 agreements in the Bureau's database; 169 issuers one agreement, the median number of agreements per issuer was two and the average was four. Four issuers had more than 50 agreements. Even minimal costs should be avoided if there is no net social gain. The Bureau has not demonstrated that it has done the requisite analysis to demonstrate that there is a net social gain associated with building and maintaining the credit card agreement database.

CONCLUSION

Finally, the Bureau also seeks comment on whether issuers should be required to report information they would have reported if not for the suspension. Since consumers and entities that might be interested in seeing credit card agreements can expect to gain little from the repository, compelling credit card issuers to report the information that they would have without this proposed rule makes little sense.

A better alternative to a temporary suspension would be a permanent exemption. The Truth in Lending Act provides the Bureau with the authority to "establish exceptions . . . in any case in which the administrative burden outweighs the benefit of increased transparency."[7] Here, the benefit of increased transparency is small, while the administrative burden—as the Bureau has discovered—is substantial. The Bureau should notify Congress that the burdens of this requirement outweigh the benefits so that Congress can consider whether to modify the requirement.

The Bureau should employ its statutory authority to make exceptions to suspend the credit card database program so that it can inform Congress that the costs of such programs outweigh the benefits.

7. 15 U.S.C. 1632(d)(5).