Consumer Action
Consumer Federation of America
National Consumer Law Center
U.S. PIRG

For Immediate Release
November 20, 2009

Contact:
Linda Sherry, Consumer Action, (202) 544-3088
Travis Plunkett, Consumer Federation of America, (202) 939-1004
Lauren Saunders, National Consumer Law Center, 202-452-6252 x 105
Ed Mierzwinski, U.S. PIRG, (202) 546-9707

CONSUMER ADVOCATES TO FED: STOP EVASIONS BY CREDIT CARD COMPANIES

Schemes to Avoid New Laws Rampant Before the Laws Even Go Into Effect

Advocates from national consumer groups today will urge the Federal Reserve Board to close loopholes in its proposed rules to prohibit credit card companies from using new tricks and traps to get around the protections of the Credit Card Accountability, Responsibility, and Disclosures Act (Credit CARD Act). In comments to be filed on the proposed regulations, advocates cite several examples of new tactics designed to drain consumers' wallets and avoid the protections Congress passed this year:

- *Retroactive rate increases:* The Credit CARD Act prohibits rate increases on existing balances unless the consumer is over 60 days late. Citi is evading that rule by purporting to charge 29% APR, but promising to refund 10% of the interest charges the next month if customer pays on time. In effect, this allows a retroactive rate hike if the consumer pays even one day late.
- *Over limit fees:* The Act prohibits over limit fees unless consumers agree to have over limit transactions approved. But companies are continuing to approve over-limit purchases without the consumer's opt in, are demanding that the over limit amount be paid in full, and then are charging an over limit fee but calling it a late fee. This tactic can also push the consumer into becoming 60 days late and subject to a retroactive rate increase.
- *Up-Only Variable rates:* The Act allows retroactive rate increases caused by changes in a variable index outside the company's control. But Barclays, Wells Fargo and US Bank, among others, are using variable rates that only go in one direction – up – or are picking the highest rate in the previous 90 days.
- *Double-cycle billing:* Bloomingdale's has purportedly eliminated its "grace period" and charges interest from the date of the purchase, but it will refund that interest the next month if the consumer consistently pays in full. There are no refunds if the consumer pays only part of the balance, avoiding the Act's rules

against “double cycle” billing and against imposing interest on the portion of a balance that was paid off.

- *Marketing to College Students.* The Fed’s proposed rules would allow banks to evade congressional intent to restrict credit card marketing to college students, who often sign up for over-priced credit cards after being enticed by free gifts. The proposed rule would allow continued distribution of free gifts, provided that the gift wasn't conditioned on filling out an application.
- *Minimum payment and opt out protections:* The Act protects consumers who get rate increases from big changes in the minimum payment and gives them the right to close the account and pay it off over time. Yet companies are evading these protections by changing the minimum payment first and then seeking a rate increase. Chase has jacked up minimum payments for customers with favorable low APRs, in part to entice them to switch to higher APR accounts.
- *Right to earn back non-penalty rate:* The Act gives consumers who have been 60 days late and who are subject to a penalty rate the right to earn back the lower rate by making minimum payments on time for 6 months. But companies are reserving the right to first demand payment in full and then impose the penalty rate, defeating the protections.

“The ink hadn’t even dried on the President’s signature on the CARD Act when we began seeing runarounds by the credit card companies,” noted Lauren Saunders, Managing Attorney of the National Consumer Law Center’s Washington DC office.

“Even if you read all the new changes in terms that are coming stuffed in credit card bills, chances are the disclosures will not reveal the tricks hidden inside” said Linda Sherry, Director of National Priorities for Consumer Action.

"Incredibly, the Fed even proposes to allow banks to perpetuate unfair marketing to college students, even though Congress said to stop," said U.S. PIRG Consumer Program Director Ed Mierzwinski. "The Fed will allow banks to keep enticing students with free pizza at campus tables, so long as all the students who stop get free pizza, even if they don't sign up for a card."

Consumer advocates cited these evasions as another reason for the need for a new agency to regulate consumer financial products. “These types of sleazy business practices are what has brought about the need for credit card reform and what confirms the need for continued oversight and enforcement by a financial watchdog agency like the Consumer Financial Protection Agency,” said Travis Plunkett, Legislative Director of the Consumer Federation of America.

“These underhanded tactics are precisely what Congress has worked so hard to clean up in the Credit CARD Act of 2009. Card issuers attempts to outwit consumers must be reined in by a financial watchdog whose job it is to crack down on evasion, abuse and unfairness,” agreed Chi Chi Wu, Staff Attorney with the National Consumer Law Center.

Several groups, including the National Consumer Law Center, the Center for Responsible Lending, the Consumer Federation of America, Consumer Action, the National Association of Consumer Advocates, and U.S. PIRG joined the comments to be filed later today urging the Fed to tighten its proposed rules and to adopt a general anti-evasion rule to stop credit card companies from outmaneuvering Congress's intent to curb credit card abuses.

A copy of the consumer advocates' comments to the Fed will be posted later today at www.nclc.org.