

Consumer Advocates Criticize Credit Card “Relief” from CFPB and Warn Consumers to Avoid Unwanted Electronic Statements

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Washington, D.C. - Under the guise of allowing “relief” to consumers during the COVID-19 pandemic, the Consumer Financial Protection Bureau (CFPB) issued guidance yesterday that will undermine critical consumer protections in federal law that ensure that consumers receive important disclosures about credit card transactions in writing. The guidance, supposedly issued to provide consumers relief to enable credit cards to be provided more quickly during the COVID-19 pandemic, actually only provides relief to lenders while undermining protections for consumers. The guidance poses a serious risk to consumers’ right to receive important written disclosures, including their monthly credit card bills.

The new CFPB guidance allows lenders to take shortcuts when obtaining a consumer’s consent over the telephone to electronic disclosures in order open a new account, offer a balance transfer, or provide a temporary APR or fee reduction for an existing account. Yet, federal law (the E-Sign Act) requires that before a lender can replace a written disclosure with an electronic record, the lender *must* obtain proof that the consumer can actually receive and access electronic disclosures. This requirement, to ensure that consumers will actually be able to access and save electronic records containing important information through different electronic mechanisms, can be satisfied simply by having the consumer wait for an email and click on a link. Yet, the new CFPB guidance skips that legally mandated step and allows lenders to simply get the consumer’s agreement over the telephone to electronic disclosures. The guidance does not even ensure that the lender has not made a mistake in (or made up) the consumer’s email address. Consumers may not be able to see or confirm the terms they have been offered.

The reason given by the CFPB for this move was to allow consumers “to obtain relief quickly.” Consumer advocates question the need to skip written disclosures or email confirmations, especially in order to open a new account. “What lender is issuing a brand new credit card to a consumer who needs it so quickly that they can’t wait three days for a mailed disclosure, or even a few minutes to receive an email and click a link? *After all, the lender still needs to mail the actual credit card to the consumer,*” said **Chi Chi Wu, attorney at the National Consumer Law Center.**

Consumer advocates also expressed concern that the same shortcuts would be used to obtain a consumer’s consent to monthly credit card bills. While the CFPB guidance technically only applies to account opening, balance transfer, and APR or fee reductions, advocates are concerned lenders will exploit the same methods for monthly statements. Credit card issuers are extremely eager to switch consumers to electronic statements, and have engaged in aggressive (sometimes deceptive) tactics to do so. But electronic statements often harm consumers who prefer paper statements, causing them to accidentally miss payments and incur late fees. The requirement of the E-Sign Act are necessary to ensure that consumer actually receive important notices from their lenders.

“We strongly recommend that consumers not be coerced into giving up paper credit card statements,” **advised Lauren Saunders, associate director at National Consumer Law Center.** “For many people, paper statements are more convenient than remembering to log in and check an

online statement, are easier to save, and pose less risk of missed bills. If you find you've been switched to electronic statements without your consent, ask to be switched back."

Resource

NCLC report: *Paper Statements: An Important Consumer Protection*, March 2016