

Via Electronic Mail – 2023-NPRM-CreditCardLateFees@cfpb.gov

May 1, 2023

Comment Intake
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Re: Docket No. CFPB-2023-0010 – Second Request for Extension of Comment Period for NPRM on Credit Card Penalty Fees (Regulation Z)

Dear Director Chopra:

The American Bankers Association, Bank Policy Institute, Credit Union National Association, Independent Community Bankers of America, and National Association of Federally-Insured Credit Unions, representing banks and credit unions across the regulated financial system, write again with respect to the comment deadline for the Consumer Financial Protection Bureau’s (“CFPB”) Notice of Proposed Rulemaking regarding Credit Card Penalty Fees (Regulation Z) (“NPRM”).¹ For the reasons discussed below, we respectfully request a 45-day extension of the current comment period for the NPRM to June 18, 2023.²

As stated in our February 28, 2023, comment deadline extension request,³ the NPRM proposes, and requests comment on, novel and unanticipated amendments to Regulation Z, including, for example, a late payment fee cap of 25 percent of the minimum periodic payment. The proposed amendments would affect provisions of Regulation Z that have not been substantively amended since 2010. We have not heard back from the CFPB regarding our February 2023 Extension Request, nor have we heard back from the CFPB on our request concerning the non-public nature of the Y-14 data.⁴

Determining the impact of the NPRM – particularly to quantify the impact on consumer cardholders and smaller issuers – requires time. Repeatedly in the NPRM, the CFPB requests that commenters provide data and cites the failure of industry to provide data to inform the CFPB’s rulemaking proceeding in response to the late fee Advance Notice of Proposed

¹ 88 Fed. Reg. 18,906 (Mar. 29, 2023).

² We understand that it is typical for the Bureau to extend the deadline to a weekday when it would otherwise occur on a weekend or federal holiday.

³ ABA *et al.* Joint Letter to the CFPB Requesting an Extension of Comment Period on the NPRM on Credit Card Penalty Fees (Feb. 28, 2023), <https://www.aba.com/advocacy/policy-analysis/letter-ext-nprm-credit-card-penalty-fees> (“February 2023 Extension Request”).

⁴ We reviewed the CFPB’s April 17, 2023, [blog post](#), in which the Bureau claims that they “extended the comment period on the proposed credit card late fees rule to give the public 90 days to provide feedback.” We respectfully disagree with the assertion that a delay in publication in the *Federal Register* is a comment deadline extension by the CFPB. The comment deadline remains the same as it was when the CFPB posted the NPRM to the CFPB’s website; i.e., the later of April 3, 2023, or 30 days after the date of publication in the *Federal Register*.

Rulemaking (“ANPR”).⁵ Many of us requested an extension of the ANPR comment deadline in order to be responsive to that request for data.⁶ Five days before the original ANPR comment deadline, the CFPB provided only an additional 10 days to respond. This comment deadline extension was inadequate.

The institutions represented by the above-listed trade associations intend to provide the CFPB with data in response to the agency’s requests in the NPRM; however, the CFPB has requested comment and data on nearly every aspect of the extensive proposal.⁷ Collecting data from affected issuers requires substantially more time than is being provided.⁸

As mentioned in other communications, a rush to finalize significant changes to a long-standing rule that has endured through CFPB leadership appointed by both political parties, without providing sufficient time for commenters to provide data and other information on consumer and market impacts, would invite scrutiny and the likelihood of future revision, which would not benefit consumers or the market. This risk is compounded by the fact that, despite industry feedback and data to the contrary,⁹ the CFPB did not convene a small business review panel for this proceeding. We again respectfully request that the CFPB give industry and the public sufficient time to provide data-driven comments that will promote sound and durable policy decisions.

For the reasons stated above, we respectfully request a 45-day extension of the current comment period for the NPRM, to June 18, 2023. We continue to believe that there is no reason to rush a rulemaking that will have a significant impact on the daily financial lives of the consumers the CFPB is charged with protecting.

Thank you again for your consideration of this request.

Sincerely,

AMERICAN BANKERS ASSOCIATION

BANK POLICY INSTITUTE

CREDIT UNION NATIONAL ASSOCIATION

INDEPENDENT COMMUNITY BANKERS OF AMERICA

NATIONAL ASSOCIATION OF FEDERALLY-INSURED CREDIT UNIONS

⁵ See, e.g., 88 Fed. Reg. at 18,918-19.

⁶ See ABA *et al.* Request for Extension of ANPR on Credit Card Late Fees and Late Payments (June 24, 2022), <https://www.regulations.gov/comment/CFPB-2022-0039-0002>.

⁷ See also BPI *et al.* Joint Letter to CFPB regarding NPR on Credit Card Penalty Fees (Regulation Z) (March 16, 2023), <https://bpi.com/wp-content/uploads/2023/03/CFPB-CC-Late-Fees-NPR-Data-Publication-3-16-23-final-for-transmission.pdf> (requesting transparency with respect to the data used by the CFPB to develop the NPRM and a comment deadline extension to provide data responsive to the CFPB’s requests).

⁸ See February 2023 Extension Request and ABA *et al.* Comment Letter in response to ANPR on Credit Card Late Fees and Late Payments (Aug. 1, 2022), <https://www.regulations.gov/comment/CFPB-2022-0039-0043>.

⁹ See ABA *et al.* Letter to CFPB on SBREFA Credit Card Late Fee Rulemaking (Jan. 20, 2022), <https://www.aba.com/advocacy/policy-analysis/sbrefa-ltr-2023>.