



November 28, 2023

The Honorable Mark Warner  
United States Senate  
703 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Warner:

On behalf of Virginia Credit Union League (VACUL), I am writing regarding the Consumer Financial Protection Bureau's Semi-Annual Report to Congress. VACUL represents Virginia's 103 member-owned not-for-profit credit unions and their more than 18 million worldwide members.

The nation's credit unions are the original consumer protectors, created to ensure Americans had access to safe and affordable financial services. This mission of consumer protection continues today, as the industry's not-for-profit, member-owned cooperative structure insulates credit unions from the motives held by many for-profit financial services providers. Our mission, structure, and century-old record of placing people over profits remain key differences between credit unions and for-profit banks. These differences are why credit unions should not be lumped into one-size-fits-all rules and regulations created to curtail anti-consumer practices and actions taken by for-profit financial institutions.

The Consumer Financial Protection Bureau (CFPB) has continuously failed to recognize these structural and philosophical differences. This failed recognition ultimately hurts both credit unions and their members by enacting overly burdensome regulations. Many of these one-size-fits-all regulations hurt credit union members by forcing credit unions to scale back consumer friendly products and services and tighten access to affordable credit.

Earlier this year, the CFPB proposed a Credit Card Penalty Fees Rule amending Regulation Z. The proposed rule makes three major changes to the current regulation:

1. Lowers the safe harbor dollar amount for credit card late fees from \$30 to \$8 and eliminates a higher safe harbor dollar amount for late fees for subsequent violations of the same type, currently set at \$41.
2. Prevents the provision allowing for annual inflation adjustments for the safe harbor dollar amounts from applying to the late fee safe harbor amount.
3. Reduces the allowed credit card late fee amounts from not exceeding 100 percent of the required payment to not exceeding 25 percent of the required payment.

This proposed rule is an example of the one-size-fits-all regulation that will ultimately harm consumers mentioned above. The proposed rule targets profit-motivated fee practices of big banks and applies one set of rules to all credit card issuers, regardless of size or model. Unlike other financial institutions, and unlike what the CFPB assumes, credit unions do not set fees to maximize profits. If the CFPB's intent is to craft a rule to curtail the use of fees to maximize profits, that rule should be tailored to for-profit card issuers, not to not-for-profit credit unions.

This proposed rule will also cause unintended negative consequences which will harm more consumers than it will benefit. In its proposed rule, the CFPB found many potential negative consequences of this proposed rule, including higher interest rates, annual fees, and minimum payments on credit cards.

The CFPB rightly identifies that many consumers will be harmed by these changes without experiencing any of the benefits the proposed rule seeks to provide. Higher interest rates will affect all credit card users that carry a balance, not just those who make late payments. Similarly, higher annual fees affect all credit card users, regardless of whether they carry a balance or make late payments. Higher minimum payments – a likely consequence of lowering the credit card penalty cap from 100% of the minimum payment to 25% of the minimum payment – will hit low-income consumers who are living paycheck-to-paycheck the hardest. This could lead to increased delinquency and default rates, lower credit scores, and increased future borrowing costs for many consumers.

Another consequence of the proposed rule would be the further tightening of credit standards by issuers. Restrictions like those in the proposal limit the ability of issuers to appropriately price risk into their products. When this happens, products are often not made available to the riskiest users – in this case, subprime consumers. This will drive these consumers to alternative credit channels, such as payday lenders or buy-now-pay-later offerings and will hurt their financial health.

While we agree with the CFPB that credit card penalties should represent a reasonable proportion of the costs incurred by the issuer, we feel this proposed rule is overly restrictive and should be more narrowly tailored to target for-profit issuers who use late fees to maximize profits. We urge you to ask Director Chopra to re-examine the cost/benefit balance of this proposed rule and recognize that it will ultimately cause more harm to more consumers than the benefits to those it will favor.

We thank you for your support of Virginia's credit unions. Should you have any questions regarding our concerns please do not hesitate to reach out to me.

Sincerely,



Carrie R. Hunt  
President/CEO  
Virginia Credit Union League