FOR IMMEDIATE RELEASE: CONTACT: Meghan O'Shaughnessy
June 7, 2007 (202) 225-7944 (o)
(202) 225-3703 (c)

PREPARED REMARKS OF CONGRESSWOMAN MALONEY, FINANCIAL INSTITUTIONS SUBCOMMITTEE CHAIR

SUBCOMMITTEE HEARING: "IMPROVING CREDIT CARD CONSUMER PROTECTION: RECENT INDUSTRY AND REGULATORY INITIATIVES"

This hearing, called "Improving Credit Card Consumer Protection: Recent Industry and Regulatory Initiatives" is the second hearing in a series that this subcommittee is holding on credit card practices.

There is no question that credit cards are an essential part of American's lives today. In our increasingly electronic banking system, credit cards have replaced cash and checks for daily shopping, travel expenditures, business needs, and even paying big bills such as college tuition or taxes. The average American family has 5 credit cards for its 2.59 people. The availability of credit has proven good for our economy -- consumers spent over 1.8 trillion dollars in 2005 using credit cards. In our society a person without a credit card cannot rent a car, buy plane tickets at the Internet discount rate, get an advance movie ticket on line, make hotel reservations, or engage in many transactions that many of us take for granted. In many cases, the ability to pay with a credit card enables a consumer to make a purchase they would not otherwise have been able to make at that time, or pay an emergency bill they were not prepared for. As a New Yorker, I know that the credit card industry is a strong engine not only of our national economy but of local economies by providing jobs and financing businesses.

On the other hand, the use of credit cards has contributed to the increase in consumer debt to record levels. Among household that carry a balance, the average household carries over $13,000. That number is expected to rise dramatically as consumers confront the fact that in the falling housing market, they can no longer refinance their home to pay off their credit cards or other debt. I am concerned that we will see a Perfect Storm in consumer credit as these pressures converge on Americans, and that the ripple effect will be felt throughout our whole economy.

Even though credit cards are indispensable to most working Americans, credit card complaints far outnumber all other complaints about banks filed with federal regulators in recent years. In the wake of our first credit card hearing last month, this Subcommittee has received a flood of correspondence from individuals with credit card complaints. The complaints mostly center on what consumers see as arbitrary and unfairly high interest rates and penalty fees; confusing practices that constantly change in the issuer's favor; and impossible barriers to getting help to sort through a problem, even when the issuer has caused it.

Some believe that improved disclosure would help consumers avoid these pitfalls. For this reason, we set this hearing shortly after the Federal Reserve released its new Reg Z for public comment. As the first revision of Reg Z in over 25 years, it is long overdue and much awaited. I think it represents a considerable improvement over the present situation, in which a long outdated rule struggles to keep up with an electronic financial universe it was not designed for.

Among the major improvements are a 45 day notice period for increases in interest rates, display of the "Schumer box" not only at solicitation but at account opening and at changes in terms, prohibiting the use of the term “fixed rate’ for rates that aren’t fixed, and reorganization of the Schumer Box to be very useful to consumers. I personally like the new section that shows you all the interest and all the fees you have accrued for the month and gives you a running total for the year to date.

I welcome these improvements and look forward to hearing the analysis and comments of our witnesses on this big new development.

But I am not sure that even the best disclosure will be enough to resolve some of the issues that we are confronting. In our previous hearing, we explored some of the abusive practices that have attracted the most criticism: universal default, double cycle billing, trailing interest, retroactive rate increases, and limitless over-limit fees, among others. Some of these, such as double cycle billing, are just too complex for disclosure to make it fair – and if you doubt that, ask one of the issuer witnesses to explain it to you.

More systemically, I doubt that disclosure can be enough to protect consumers when the issuer can change any of the terms of the contract at any time and in any way. That is the case for a surprisingly large number of cards, in which consumers are completely at the mercy of issuers. Many issuers can and do change the interest rate, the penalties, overlimit fees, how rates are calculated, the payment date and many other features. Under the new rule, they will have to tell consumers about most of these changes in advance, but that really doesn’t help even the most savvy customer unless they move to a card whose terms are more secure.

Consumer advocates argue that some common practices – like “any time any reason” increases in rate -- are just unsafe at any speed and should be removed from the road. At our last hearing, industry participants pointed out that several of the large issuers have recently taken steps to eliminate some of these abuses from their own products, and I am happy to say that on our second panel we have several issuers who have announced such steps and will explain what they have done to develop best practices and get rid of bad ones. Several large issuers have announced they no longer use “universal default.” Other have announced reform of payment allocation so that payments are applied to higher rate accounts first. Some have said they will abandon “any time any reason” repricing.

As a supporter of market based solutions where possible, I welcome these steps. Perhaps the spotlight of Congressional attention has helped to produce these commendable reforms. Yet I worry that as competitive pressure grows, issuers will go back to the most profitable modes of doing business. Or issuers who adopt the best practices will simply lose business to those who do not.

To discuss these issues and others, I am planning a Credit Card summit. Among the results I want to achieve from this meeting is a way to use private forces to keep the spotlight on issuers and encourage best practices. For example, what if industry, working with consumer advocates, developed a Gold Standard for credit cards and certified that certain of their products met this standard. Cards with the Gold Standard might have easy to understand terms, a hotline to resolve complaints, no fees for paying on line, no use of universal default, only forward looking rate increases, or whatever features the group determined represent feasible best practices. Regulators could enforce the pledge that issuers had made.

Right now the Federal Reserve is the only regulator with power to issue regulations banning unfair and deceptive practices under the Truth in Lending Act. It hasn’t done much in that area. If other regulators had similar powers, perhaps we would see more regulatory monitoring of bad practices going on.

Even more basically, I would like to encourage the regulators to enforce the laws that already exist. For example, the regulations governing processing of payment are disregarded by issuers who process payments in a way that results in many payments being late even thought they were mailed a week ahead of time. We have regulations to deal with this but they are not adequately enforced, as the many letters complaining about unfair payment date practices attest to. The federal banking agencies, with their traditional focus on safety and soundness, are not adept at consumer protection but they need to ramp up their efforts.

This hearing offers a timely opportunity to explore these issues. We have two stellar panels and I look forward to the testimony.

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