



May 3, 2023

Comment Intake 2023 NPRM Credit Card Late Fees  
c/o Legal Division Docket Manager  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, DC 20552

Re: Comment Letter - Credit Card Penalty Fees (Regulation Z) Docket No. CFPB-2023-0010; RIN 3170 AB15

To Whom It May Concern:

The Indiana Credit Union League (ICUL) appreciates the opportunity to submit comments to the Consumer Financial Protection Bureau (CFPB) on its proposed rule concerning credit card penalty fees. The ICUL member credit unions represent 99% of assets and members of Indiana's credit unions, with those memberships totaling more than 2.8 million consumers.

To begin, the ICUL and its member credit unions continue to be deeply troubled by the tone and approach that the CFPB is taking in its review of fees assessed by providers of consumer financial products and services. To categorically characterize a wide range of normal, well-disclosed, and voluntary credit union fees as "junk fees" is inflammatory, unfairly derogatory, and reveals a bias that indicates that the CFPB is not interested in a reasonable, equitable review of why fees are charged and how service providers use fees to provide products and services in the marketplace that consumers clearly choose to utilize. This proposal concerning credit card late fees is just one more attack on credit unions' legitimate and necessary efforts to provide products and services to their members. To constantly assert that providers are assessing excessive and exploitative fees for the use of products and services and are taking advantage of consumers to drive excess profits is particularly disturbing to credit unions. Credit unions continue to be not-for-profit cooperative financial institutions that are democratically owned and controlled by their members. At credit unions, profits are shared with members through higher savings returns, lower loan rates, and fewer fees. Credit unions are financial services partners that put the financial well-being of the people they serve ahead of the bottom line. Income earned from fees assessed for some of the products and services that credit union members want and need is a critical piece of the revenue puzzle as credit unions operate in a hyper-competitive financial services marketplace. It is not possible today for a financial institution to operate on income derived only from interest on loans or other investment earnings.

Credit unions' mission is to put their members' best interests first and to help them by offering safe and affordable financial products through a cooperative, member-owned banking model, not a for-profit model that benefits a separate group of shareholders. The best outcome of this model is evidenced by the difference that credit unions make in their communities by helping their members achieve their financial goals.

Indiana credit unions also are regulated financial cooperatives that have a proven track record of balancing safety and soundness, while helping their members achieve their financial goals. The ICUL strongly supports a balance between regulatory oversight that is aimed at consumer protection without sacrificing the vital financial services that are offered by credit unions.

Based on the above, the ICUL strongly opposes the arbitrary proposed limit on credit card penalty fees. The \$8 proposed cap is a price control tactic that is not based on any market driven metric which would quantify the optimal price of a fee from a supply and demand perspective. It also does not consider the associated costs that are included in the pricing model that encompasses offering credit cards, such as Information Security, servicing, staff, and compliance costs. This fee cap limit has the potential to diminish the number of card issuers in the marketplace, which in turn diminishes the number of financial choices for consumers. Also, there is no analysis or research on how such a change might affect smaller financial institutions, such as credit unions, that already have operational disadvantages compared to larger card issuers. We have concerns that the continual added regulations and restrictions will force credit unions out of the credit card market. That would not have the desired outcome that CFPB is trying to achieve, because credit unions generally offer lower interest rates and fees than other card

issuers. In addition, credit unions have a long history of working with their members/owners, especially low- and moderate-income individuals to help them navigate difficult circumstances and minimize the cost of their financial services.

A one-size fits all regulatory imposition will also indirectly promote unregulated providers of abusive lending products, such as payday lenders, by fill the gap in the market when those institutions that are often a safe lending alternative and often a lifeline for borrowers and their families cease to exist in the credit card market.

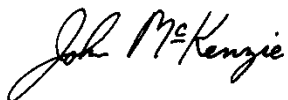
Fees, such as late fees, are a part of a pricing model that goes into offering credit cards. These fees are intended to support the financial service offered and to offset the cost of managing late payments and delinquent borrowers. More importantly, this fee is completely avoidable when borrowers make an on-time payment. Additionally, financial institutions are not hiding these fees. The disclosure of fees is heavily regulated by CFPB's Regulation Z in certain advertisements, initial disclosure, and periodic statements.

Another unintended consequence of setting this arbitrary fee cap is rooted in the fact that credit unions may be forced to make the hard decision to cease to offer these credit products to "more-risky" borrowers. That decision will have a more negative impact on low- to moderate-income individuals which are more likely individuals that are in need the most.

We also strongly oppose the CFPB setting a credit card late fee cap of not more than 25% of the required payment. First, this would create additional tracking and computer programming costs to manage such a cap on an individual borrower basis. Also, some card issues may increase minimum payment requirements so they can charge a higher fee. This could have the unintended consequence of making a minimum payment more difficult to achieve; thus, the borrower incurring late fees when they otherwise might not have.

The ICUL appreciates the opportunity to comment on the proposal and its potential harmful effects on credit unions and the communities they serve. If you have any questions about our letter, please do not hesitate to give me a call at (317) 594-5320.

Sincerely,

A handwritten signature in black ink that reads "John McKenzie". The signature is written in a cursive, flowing style.

John McKenzie, President  
Indiana Credit Union League