

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

February 28, 2023

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

Re: Docket No. CFPB-2023-0010 – 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, Consumer Bankers Association, Credit Union National Association, Independent Community Bankers of America, National Association of Federally-Insured Credit Unions, and National Bankers Association, representing banks and credit unions across the regulated financial system, write 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”). For the reasons stated below, we respectfully request a 60-day extension of the current comment period for the NPRM, to the later of June 3, 2023, or 90 days after the date of publication in the *Federal Register*.

The Regulation Z penalty fee provisions have not been substantively amended since 2010, when the Board of Governors of the Federal Reserve System promulgated rules implementing the Credit Card Accountability Responsibility and Disclosure Act of 2009. 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.

Determining the impact of the proposed amendments to Regulation Z on consumer cardholders using data and models – information lacking from the NPRM – will require considerable time to attempt to gather and analyze relevant information to respond meaningfully to the proposal. Failure to provide sufficient time for industry to consider the proposed rule’s impact on consumers would result in an incomplete administrative record and arbitrary agency action, and likely would result in unintended consequences, adverse consumer and small business impact, and ultimately create flawed public policy. This risk is compounded by the fact that, despite industry feedback and data to the contrary, the CFPB did not convene a small business review panel for this proceeding.

Moreover, repeatedly in the NPRM, the CFPB cites the failure of industry to provide data to inform the CFPB's rulemaking proceeding in response to the advance notice of proposed rulemaking on credit card late fees (87 Fed. Reg. 38,679 (June 29, 2022)), for which several trades also requested an extension yet were provided only a 10-day extension near the end of the 30-day comment period (87 Fed. Reg. 42,662 (July 18, 2022)). Industry intends to provide the CFPB with data in response to the agency's requests; however, the CFPB has requested comment and data on nearly every aspect of the extensive NPRM. Collecting data from large and small issuers, as well as from consumers, and performing the requisite analysis, will require substantially more time than is being provided, as we previously noted in response to the advance notice of proposed rulemaking on this topic.

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 anyone. We 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 60-day extension of the current comment period for the NPRM, to the later of June 3, 2023, or 90 days after the date of publication in the *Federal Register*. There simply 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 for your consideration of this request.

Sincerely,

AMERICAN BANKERS ASSOCIATION

BANK POLICY INSTITUTE

CONSUMER BANKERS ASSOCIATION

CREDIT UNION NATIONAL ASSOCIATION

INDEPENDENT COMMUNITY BANKERS OF AMERICA

NATIONAL ASSOCIATION OF FEDERALLY-INSURED CREDIT UNIONS

NATIONAL BANKERS ASSOCIATION