



# Protecting Consumers Five Years After Credit Card Reform

By Joe Valenti May 22, 2014

---

## Introduction

In 2009, President Barack Obama signed into law the Credit Card Accountability, Responsibility, and Disclosure Act, or Credit CARD Act.<sup>1</sup> This law ended credit card industry practices in which interest rates could change at any time and in which hidden provisions enabled companies to charge significant fees without justification. The act also limited credit card marketing directed at college students and added consistency to store gift cards to ensure predictable fees and expiration dates. One year later, the Dodd-Frank Wall Street Reform and Consumer Protection Act greatly extended the Credit CARD Act's reach by creating the Consumer Financial Protection Bureau, or CFPB, an independent federal agency that monitors banks' practices in the interest of consumers.

These changes have created a clearer, fairer, and more competitive marketplace for consumers and have given them new tools to understand the terms of credit card offers and to pay off their debts responsibly. A recent analysis by four economists found that consumers have saved \$12.6 billion in fees annually since the Credit CARD Act's passage, based on a comparison of 160 million credit cards—including personal credit cards that were subject to the new rules, as well as small-business credit cards that were not.<sup>2</sup>

Yet while these laws were significant victories for consumers, some regulatory gaps remain. The new provisions did not anticipate the significant growth in prepaid cards over the past five years. In addition, college campuses have seen high-cost debit cards that erode the value of students' money take the place of credit cards as a predatory financial instrument. Furthermore, the act's transparency provisions are often out of reach for consumers who use online and mobile tools, and consumers are not always able to view credit scores for free. Also, their credit records can prevent them from getting a job.

This issue brief highlights the specific accomplishments of the Credit CARD Act and notes additional provisions that would better protect consumers in the financial marketplace moving forward.

---

## What the Credit CARD Act did

Among other provisions, the Credit CARD Act, sponsored by Rep. Carolyn Maloney (D-NY) and Sen. Chris Dodd (D-CT), made progress in the following five areas:

1. **Stopped arbitrary interest rate increases.** Before the act's passage, banks could raise rates at any time and for any reason. In fact, in early 2008, one major national bank increased borrower interest rates from 15 percent or less to as high as 28 percent without justification—and gave consumers less than a month to respond, in writing, if they wanted to close their accounts instead.<sup>3</sup> A credit card's interest rate could even go up if the borrower was late on another, unrelated bill—a practice known as universal default. In 2005, it was estimated that 45 percent of credit cards had universal default policies—86 percent of which could see rates increase if a mortgage, car loan, or other payment was late, and 33 percent of which could see an interest rate go up simply for opening another credit card.<sup>4</sup>

Under the new law, rates can only go up if they are pegged to another rate, if an introductory period ends, or if the borrower is more than 60 days delinquent.<sup>5</sup> If delinquent borrowers make satisfactory payments for six months, then the penalty rate they are charged must be lowered. All other interest rate increases and future changes in credit card terms require consumers to be notified 45 days in advance. Borrowers who do not agree to changes still have the option of canceling the account and continuing to pay it off over five years at the existing rate. Notably, there is no evidence that these changes have led to higher interest rates for new borrowers or other types of fee increases.<sup>6</sup>

2. **Prohibited abusive practices.** Prior to the Credit CARD Act, cards had varying policies about when and how payments could be made. Now, customers' monthly statements must be mailed at least 21 days before payment is due.<sup>7</sup> Fees cannot be charged when making payments, regardless of whether credit card bills are paid electronically, by phone, or by mail. Consumers can now choose whether they want the option of exceeding their credit limits and paying a penalty, and this penalty cannot be imposed if an interest charge or other fee pushes the customer over his or her credit limit. So-called "fee-harvester" cards that combine high fees and low credit limits are also banned: Fees can no longer exceed one-quarter of the card's credit limit.

3. **Gave consumers new transparency to better manage their accounts.** The Credit CARD Act consistently defined terms, such as "fixed rate," in order to provide truth in advertising and directed credit card issuers to determine borrowers' ability to repay before extending credit. As a result, actual credit card rates now closely resemble advertised rates, instead of the teaser rates common in advertising before.<sup>8</sup> Monthly

statement information has also changed. Customers are now notified on each statement how long it would take them to pay off the card if they made only minimum payments—and how much interest they would be charged. They are also notified of how much they would need to pay per month to completely pay off the card in three years. It is estimated that this nudge alone may have saved consumers as much as \$71 million annually in interest payments since 2011.<sup>9</sup> Statements now include clear language about when late payments would trigger a penalty, as well as what that penalty would be. Consumers must also be provided a toll-free number to find an approved credit counselor if needed.

4. **Provided consistency to store gift cards.** About \$41 billion in gift cards went unspent between 2005 and 2011, and penalty fees could easily erode the value of these cards.<sup>10</sup> Under the act, cards that can only be used in one store or a set of related stores cannot have any fees placed on them in the first year. After the first year, a service fee can be imposed once a month, provided that this fee was disclosed when the card was purchased. Finally, cards cannot expire in fewer than five years. In response, some gift cards now charge an upfront fee instead.<sup>11</sup>

5. **Removed credit cards from college campuses.** In the 2000s, credit card marketing was commonplace on college campuses, with companies frequently offering T-shirts and food—and sometimes, even iPods—to students who would apply for credit.<sup>12</sup> A 2003 University of Oklahoma study commissioned after two debt-related student suicides found that three-quarters of college students statewide held credit cards and that the majority of them did not need co-signers, deposits, or even proof of student status to obtain credit.<sup>13</sup> As a result of the Credit CARD Act, Americans under age 21 are eligible for credit cards only if they can demonstrate their own earned income or have a parental co-signer who would be eligible. Promotional credit card marketing on campuses is now restricted.

---

## What still needs to be done

The Credit CARD Act reined in many of the worst abuses in the credit card industry. Yet growing products such as prepaid cards and college debit cards are now coming under scrutiny for similar concerns. If regulators and policymakers take the following steps, they can help protect millions of consumers:

1. **Mandating greater prepaid transparency and regulation.** While credit cards and store gift cards have extensive, new consumer protections as a result of the Credit CARD Act, general-purpose reloadable, or GPR, prepaid cards that are not subject to these regulations have grown significantly in recent years. In 2012, there were approximately 3.1 billion GPR transactions in the United States, according to the

Federal Reserve—10 times as many as in 2006.<sup>14</sup> When they are safe, affordable, and transparent, these cards have the potential to improve outcomes for consumers who do not like traditional bank accounts or credit cards or want an easy way to manage their spending.<sup>15</sup> But these cards do not have the same standards for transparency, and there are no limits on their fees, even though the standard gift cards that may exist alongside them on store shelves are largely fee-free after purchase. To close this regulatory gap, prepaid cards should have standardized disclosures and comparable consumer protections to bank accounts.<sup>16</sup>

- 2. Cracking down on college debit cards.** Removing excessive credit card marketing from college campuses has helped reduce college students' financial vulnerability. But college debit cards are a new concern. The Government Accountability Office recently reported that about 40 percent of college students attend institutions that offer them debit cards to pay for books and living expenses, which often draw from their own grant or loan dollars. Students may be charged \$2 to \$3 for cash withdrawals of their own funds at out-of-network ATMs, as in-network ATMs may not be numerous or convenient near campus. Two large providers even charge for point-of-sale, or POS, transactions in stores, while most other debit cards in the general marketplace do not.<sup>17</sup> While students are not required to accept these institution-sponsored debit cards, they enable students to get funds several days earlier than if they were to have funds transferred to an account of their choice. Cards may also be co-branded as college or university IDs, encouraging students to use one card as both a student ID for on-campus services and as a debit card.

Prepaid debit cards have become increasingly popular for payments by governments, employers, and others, and when they are safe, affordable, and transparent, they can benefit consumers who may not have bank accounts.<sup>18</sup> But the track record of debit cards on college campuses does not appear to meet this standard. As part of the Department of Education's negotiated rulemaking, students should have easy access to timely direct deposit as an alternative to these cards, and they should not be charged excessive fees to access their own student aid dollars when getting cash at ATMs or making purchases. Furthermore, colleges' relationships with banks should be in students' financial interest—not the interest of the institution.

- 3. Offering printed statement tools online.** As noted above, the simple explanation of how much it would cost to repay credit cards in three years led to significant cost savings for consumers. However, these tools on printed statements may miss at least one-third of credit card users who only receive bills online.<sup>19</sup> As part of its growing focus on product disclosures, the Consumer Financial Protection Bureau should examine the relationship between paper, online, and mobile disclosure forms, ensuring that comparable financial tools exist across these platforms.

4. **Providing free access to credit scores.** The Credit CARD Act has empowered borrowers to better understand the terms in credit card offers and to more easily repay outstanding loans. But borrowers lack one key piece of information that would help them determine the interest rates and terms of future credit offers—their credit scores. The main three credit reporting bureaus, TransUnion, Experian, and Equifax, are required by the Fair and Accurate Credit Transactions Act of 2003 to make free credit reports available,<sup>20</sup> but credit scores do not need to be included. The CFPB recently suggested that credit card issuers make scores available to consumers.<sup>21</sup> Credit score reporting should be mandatory to provide all consumers with additional information to examine credit offers and make informed decisions. Notably, the CFPB received more complaints last year about credit reports than it did about credit cards themselves.<sup>22</sup>

5. **Limiting the credit-employment connection.** Forty-seven percent of employers surveyed by the Society for Human Resource Management in 2012 reported that they reviewed credit reports for at least some candidates as part of a background check.<sup>23</sup> This is a decline from 2010, when about 60 percent of employers reported using credit reports. But among employers who do use credit reports, the majority examined potential employees' records over the past four to seven years. Given the millions of Americans who have lost their jobs and/or homes during the Great Recession, this can be a double penalty: Unable to pay their bills, these families may be kept out of jobs that would enable them to better deal with their debts. Credit report reviews also reinforce existing racial disparities, as people of color frequently have poorer credit records than whites.<sup>24</sup> Defenders of these credit checks argue that for some jobs, a poor credit report should be a limiting factor to prevent fraud; nevertheless, this should not apply to all jobs. Ten states currently limit the use of credit checks for employment purposes except for certain categories of jobs, such as finance and law enforcement.<sup>25</sup> Congress and the remaining state legislatures should follow suit.

---

## Conclusion

On the fifth anniversary of the Credit CARD Act's passage into law, the predatory practices that marked the credit card market in the past decade have largely faded. Consumers have saved billions of dollars in interest and fees. As regulators and policymakers look forward, they should address the new regulatory gaps in prepaid cards and college debit cards, ensure that print disclosures carry over into online and mobile tools, and address the use of credit scores and reports in ways that will empower and protect consumers.

*Joe Valenti is the Director of Asset Building at the Center for American Progress.*

---

## Endnotes

- 1 *Credit Card Accountability, Responsibility, and Disclosure Act of 2009*, Public Law 111-24, 111th Cong., 1st sess. (May 22, 2009).
- 2 Sumit Agarwal and others, "Regulating Consumer Financial Products: Evidence from Credit Cards." Working Paper 19484 (National Bureau of Economic Research, 2013), available at <http://www.nber.org/papers/w19484>.
- 3 Robert Berner, "A Credit Card You Want to Toss," *Bloomberg Businessweek*, February 7, 2008, available at <http://www.businessweek.com/stories/2008-02-07/a-credit-card-you-want-to-tossbusinessweek-business-news-stock-market-and-financial-advice>.
- 4 Consumer Action, "2005 Credit Card Survey" (2005), available at [http://www.consumer-action.org/news/articles/2005\\_credit\\_card\\_survey/#Topic\\_01](http://www.consumer-action.org/news/articles/2005_credit_card_survey/#Topic_01).
- 5 Center for Responsible Lending, "Highlights of the New Credit Card Rules: What They Do and Don't Do," available at <http://www.responsiblelending.org/credit-cards/policy-legislation/congress/Highlights-of-the-New-Credit-Card-Rules-What-They-Do-and-Don-t-Do.html> (last accessed May 2014).
- 6 Agarwal and others, "Regulating Consumer Financial Products."
- 7 Ibid.
- 8 Center for Responsible Lending, "CARD Act Continues to Make Pricing Clearer Without Raising Rates" (2011), available at <http://www.responsiblelending.org/credit-cards/research-analysis/Credit-CARD-Reform-Works.pdf>.
- 9 Agarwal and others, "Regulating Consumer Financial Products."
- 10 Phil Izzo, "Number of the Week: Billions of Gift Cards Go Unspent," *The Wall Street Journal Real Time Economics Blog*, December 24, 2011, available at <http://blogs.wsj.com/economics/2011/12/24/number-of-the-week-billions-in-gift-cards-go-unspent/>.
- 11 David Lazarus, "Big banks resisting changes to overdraft fee policies," *The Los Angeles Times*, August 13, 2010, available at <http://articles.latimes.com/2010/aug/13/business/la-fi-lazarus-20100813>.
- 12 Edmund Mierzwinski and others, "The Campus Credit Card Trap: A Survey of College Students and Credit Card Marketing" (Washington: U.S. Public Interest Research Group Education Fund, 2008), available at [http://www.uspirg.org/sites/pirg/files/reports/Campus\\_Credit\\_Card\\_Trap\\_2008\\_USPIRG.pdf](http://www.uspirg.org/sites/pirg/files/reports/Campus_Credit_Card_Trap_2008_USPIRG.pdf).
- 13 David L. Tan, "Oklahoma College Student Credit Card Study" (Norman, OK: Center for the Student Affairs Research, University of Oklahoma, 2003), available at [http://www.ou.edu/jrcoe/csar/credit\\_card/credit\\_card\\_report.pdf](http://www.ou.edu/jrcoe/csar/credit_card/credit_card_report.pdf).
- 14 Federal Reserve System, "The 2013 Federal Reserve Payments Study: Recent and Long-Term Payment Trends in the United States: 2003-2012" (2013), available at [http://www.frbservices.org/files/communications/pdf/research/2013\\_payments\\_study\\_summary.pdf](http://www.frbservices.org/files/communications/pdf/research/2013_payments_study_summary.pdf).
- 15 Joe Valenti, "The End of Cash: The Rise of Prepaid Cards, Their Potential, and Their Pitfalls" (Washington: Center for American Progress, 2013), available at <http://www.americanprogress.org/issues/economy/report/2013/04/04/59277/the-end-of-cash-the-rise-of-prepaid-cards-their-potential-and-their-pitfalls/>.
- 16 Ibid.
- 17 U.S. Government Accountability Office, "College Debit Cards: Actions Needed to Address ATM Access, Student Choice, and Transparency" (2014), available at <http://www.gao.gov/assets/670/660919.pdf>.
- 18 Joe Valenti and Deirdre Heiss, "Financial Access in a Brave New Banking World" (Washington: Center for American Progress, 2013), available at <http://www.americanprogress.org/issues/economy/report/2013/10/16/77016/financial-access-in-a-brave-new-banking-world/>.
- 19 National Automated Clearing House Association, "Key Takeaways from PayltGreen 2010 Survey" (2010), available at [http://multivu.prnewswire.com/mnr/payitgreen/43756/docs/43756-PayltGreenSurvey\\_2010.pdf](http://multivu.prnewswire.com/mnr/payitgreen/43756/docs/43756-PayltGreenSurvey_2010.pdf).
- 20 *Fair and Accurate Credit Transactions Act of 2003*, Public Law 108-159, 108th Cong., 1st sess. (December 4, 2003).
- 21 Consumer Financial Protection Bureau, "CFPB Calls on Top Credit Card Companies to Make Credit Scores Available to Consumers," Press release, February 27, 2014, available at <http://www.consumerfinance.gov/newsroom/cfpb-calls-on-top-credit-card-companies-to-make-credit-scores-available-to-consumers/>.
- 22 U.S. Consumer Financial Protection Bureau, "Consumer Response Annual Report" (2014), available at [http://files.consumerfinance.gov/f/201403\\_cfpb\\_consumer-response-annual-report-complaints.pdf](http://files.consumerfinance.gov/f/201403_cfpb_consumer-response-annual-report-complaints.pdf).
- 23 Society for Human Resource Management, "Background Checking—The Use of Credit Background Checks in Hiring Decisions," available at <http://www.shrm.org/Research/SurveyFindings/Articles/Pages/CreditBackgroundChecks.aspx> (last accessed May 2014).
- 24 Federal Reserve System, "Report to the Congress on Credit Scoring and Its Effects on the Availability and Affordability of Credit" (2007), available at <http://www.federalreserve.gov/boarddocs/rptcongress/creditscore/creditscore.pdf>.
- 25 National Conference of State Legislatures, "Use of Credit Information in Employment 2013 Legislation," available at <http://www.ncsl.org/research/financial-services-and-commerce/use-of-credit-info-in-employ-2013-legis.aspx> (last accessed May 2014).