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Prepared Remarks of CFPB Director Richard Cordray at the Consumer Federation of America

BY RICHARD CORDRAY

Let me say to the Consumer Federation of America, thank you for inviting me today. For more than 50 years, you have been doing great work on behalf of consumers. And since the creation of the Consumer Financial Protection Bureau, which you helped bring about, you have remained one of our foremost and fiercest allies. I want to extend a special thanks to Steve, Tom, Rachel, and all of your talented colleagues. You continue to take on a stunning array of issues on behalf of consumers, and we appreciate your strong leadership.

For all of us engaged in the important work of protecting consumers in the financial marketplace, we know that whenever we consider any new regulatory initiative, we can expect to hear that the ultimate effect will be to add costs that cause consumers to pay more. We are warned that consumers will be priced out of the market. And we routinely hear that the cost of protecting consumers will be to constrict the availability of credit and even to drive some financial service providers out of business altogether.

We heard these arguments when we issued our first regulation, which required new consumer protections for the first time for international money transfers. We heard these same arguments when we adopted our Ability-to-Pay mortgage rule, which defined a new universe of “Qualified Mortgages” to help ensure that consumers would not be put into loans that set them up to fail. Most recently, we have heard these arguments about the outline of proposals we currently have under consideration to rein in debt traps that cause harm to consumers in the market for payday loans and other small-dollar loan products.

Of course, we should and we will make sure that we are mindful of these concerns. We can draw up the greatest consumer protections ever devised, but if consumers cannot get access to credit, then there is nothing to protect. You cannot have responsible lending unless you have lending in the first place. But at the same time, we need to be wary of prophets of doom whose real agenda is to hamstring effective regulation in order to preserve predatory practices.

Even in our short life span, we have already seen how wrong these predictions can be. For example, some predicted that the mortgage market would be suffocated by the common-sense rules we put in place at the beginning of last year. On the contrary, the mortgage market is actually thriving. After our rules took effect last year, the number of home purchase mortgages was up by almost 5 percent over the prior year, and the trend appears to be accelerating this year. When our Know Before You Owe mortgage disclosure rule took effect two months ago, some again asserted that its implementation would paralyze the market. In fact, applications for home purchase mortgages were up 22 percent year-over-year in October. Reports from participants across the market seem to be indicating that implementation of the new rule is going fairly smoothly. So it seems that these anxieties were much like the errant predictions of technological disaster stemming from Y2K, which of course never materialized.

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Today I would like to talk to you about the credit card market, where many of you played key roles in bringing about reforms. In this market, notably, the impact of those reforms can be clearly studied.

Because of the efforts made by you and your consumer allies, the Credit Card Accountability Responsibility and Disclosure Act, widely known as the CARD Act, was passed in 2009. The specific goal of this legislation was to make the credit card market fairer and more transparent for consumers. The act requires the Bureau to conduct a biennial study of the credit card marketplace, which we have just completed. What we have found is that the protections you pushed for have had a positive impact on consumers and industry alike across the marketplace. According to the report we released today, since its enactment the CARD Act has helped consumers avoid at least $16 billion in “gotcha” credit card fees, such as back-end fees for exceeding an available credit limit. At the same time, we found that credit is now cheaper and more available and the credit card business has remained an attractive, profitable business for banks,

with default rates that are now at historic lows. In short, more effective regulation has created a safer, more affordable credit card market with more opportunities available to consumers. Responsible lenders are now able to do business on fair and transparent terms. That is a remarkable achievement.

As we can all recall, the economic landscape was quite bleak in 2009 when the CARD Act was being hotly debated. The housing market had crashed. Millions of people were out of work. As Ohio's Attorney General, I saw firsthand how much people were struggling just to stay afloat. Then, as now, consumers frequently used their credit cards to meet their monthly expenses. But as in the mortgage market, there were few guardrails in place to protect consumers from the kinds of predatory fees and practices that undermined their financial well-being. Credit cards came with so many unexpected fees and other back-end costs that consumers had no good way to assess the actual prices and terms upfront in order to manage their costs effectively.

When these reforms were being debated, many in the credit card industry reacted as if the sky were falling. They said that restricting back-end pricing would make it harder for consumers to get credit because companies would be forced to issue fewer credit cards at greater cost. They said that credit would thus become more expensive and less available. And they gave fire-and-brimstone warnings that the negative effects of the changes would expand over time and would likely not be fully known for several years.

Well, several years have now passed and we can clearly conclude that these predictions were dead wrong. The CARD Act has made the credit card market more predictable for consumers without reducing access to credit or hurting the profitability of the credit card companies. Indeed, it is striking that customer satisfaction has been steadily on the rise now that many of the predatory practices are gone, letting good business practices thrive. This is, in fact, just what one would expect to be the positive result of more effective regulation that enforces the law for all players in a reasonable and evenhanded way.

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The Bureau issued its first report on the CARD Act in October 2013, which found that the new changes in the law massively increased transparency for consumers. Today's report on the CARD Act finds that since our last report, market conditions have either remained steady or have further improved.

One of the biggest improvements made by the CARD Act was getting rid of the worst back-end pricing practices that were not understandable to the consumer. When people compare credit cards to find which is the most affordable, they often look at the interest rate. But before the CARD Act, companies could drive up the actual cost of credit cards by hitting consumers with expensive and unexpected fees after they were signed up. All too often, people did not know that these fees were coming, and they could not avoid them even if they did. Let me give you a few examples. When consumers went over their credit limit, companies charged a fee instead of declining the charges. Consumers could rack up late fees because their payment was due on a holiday when there was no mail delivery. If they paid their bill online on the due date, but after the payment cutoff time was set unexpectedly early in the day, they could be charged late fees.

After the law took effect, these hidden fees declined sharply. Take over-limit fees, which were typically set at $35 and usually were incurred without the consumer's explicit authorization. Consumers may have had no idea that they had spent past their credit limit, or may have assumed that the charges would be declined if they tried to overspend. The CARD Act effectively eliminated these fees by requiring companies to get an affirmative opt-in from consumers before such fees would be assessed. Today's report found that had these fees continued at their pre-CARD Act levels, consumers would have paid at least $9 billion more, and counting.

The CARD Act also required penalty fees, such as late fees, to be "reasonable and proportional" to the relevant violation of account terms. It set standards for when late fees can be assessed. It established that credit card bills must be due on the same date each month and that card issuers generally cannot charge a late fee unless consumers are given at least 21 days to pay their bill. The law also established limits on how much can be charged in late fees. Today's report found that the average late fee has declined by 20 percent since the CARD Act. Had these late fees continued at their pre-CARD Act levels, consumers would have paid nearly $7 billion more, and counting. For those keeping score, that $7 billion figure is in addition to the $9 billion figure just mentioned above.

Perhaps the most egregious form of back-end pricing that existed prior to the CARD Act was retroactive increases in interest rates. With universal default, consumers could have their interest rates jacked up because they may have been late on a payment to an entirely different creditor, even though they had faithfully paid all of their credit card bills on time. Consumers sometimes found their rates increased for no apparent reason

at all. The CARD Act placed strict limits on when interest rates can be retroactively adjusted, and our report today accordingly finds that the incidence of such adjustments has dropped dramatically since.

The CARD Act did not force anyone to issue credit cards for free; it just put in place common-sense guardrails to make these products more transparent to consumers. In the wake of these changes, the total cost of credit is about 2 percentage points lower than before the CARD Act. This is the same finding we made in our 2013 report and it is encouraging to see this number holding steady. The total cost of credit includes all fees and interest paid by the consumer to the card issuer. We found this trend to be true both for consumers generally and for consumers with different credit scores. Most importantly, while consumers are still paying for their credit cards, they are largely paying costs that are more predictable upfront. A market where people can better understand costs and pricing allows them to spend their money more appropriately.

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Despite industry's predictions of a tighter credit card market because of enhanced consumer protections, today's report found that credit is increasingly available to consumers and that more credit card accounts are being opened by consumers.

Available credit has increased 10 percent since 2012. In total, consumers had access to nearly $3.5 trillion in credit as of early 2015. This represents an increase of nearly $325 billion since early 2012.

Our report also found that new account openings are growing, with more than 100 million credit card accounts opened in 2014. The growth in all open accounts is outpacing population growth across all risk tiers, including consumers with a weak credit history. For the last two years, annual growth in credit card accounts has been around 3 percent, while the adult population in the U.S. has grown more slowly at around 1 percent. This is a sign of a healthy market – where credit card companies are making the decision to extend credit to responsible customers – and it is reinforced by unusually low consumer credit card defaults.

Another highlight of the market that we think worthy of note is that credit scores are now widely available to consumers at no cost to them. Instead of competing based on consumer confusion, companies are now competing by creating value for consumers and providing them with more information about their creditworthiness. Indeed, more

than 100 million accounts now have free access to their credit scores. These scores are one of the key determinants of whether consumers will have access to mainstream credit. At the Consumer Bureau, we think making customers' credit scores more readily available to them is great progress toward a more transparent consumer financial marketplace. We also think that various improvements in customer service techniques – such as broad use of customer satisfaction metrics that incentivize greater responsiveness to customer complaints – have played a role in producing steady increases in customer satisfaction with credit cards as shown in the recent J.D. Power surveys. We are glad to give such financial providers their deserved share of the credit for the improvements that are being made in customer service here.

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Although the CARD Act effectively addressed many problematic practices in the credit card market, we think certain risky practices still pose concerns.

One area of major risk is deferred-interest promotions. For example, a consumer may go to buy a new television at an electronics store. The store offers her a store credit card that promises no interest on the purchase – but there is a catch. If the balance is not paid in full by a certain time, then the company will assess interest retroactively. With annual interest rates of around 25 percent, these cards are much more expensive than general purpose credit cards. If the consumer misses the payment deadline, then the back-end pricing will kick in and a $500 TV can end up costing considerably more than the original price tag.

Our study shows that these costs are borne disproportionately by those consumers who are least able to afford them. Consumers with the strongest credit scores who utilize these deferred interest promotions manage to avoid paying any interest almost 90 percent of the time. In contrast, consumers with the weakest credit scores end up paying high retroactive interest rates nearly half the time. On average, these struggling consumers are paying almost five times the effective interest rate paid by "superprime" consumers on their purchases. Indeed, deferred interest products remain the most glaring exception to what has been the generally positive post-CARD Act trend toward upfront credit card pricing.

Another problematic practice occurs with certain credit card companies that specialize in offering cards to consumers with subprime scores. The average total cost of credit can

be twice as high when it is provided by a subprime specialist as compared to mass-market credit cards used by consumers with subprime credit scores. These subprime specialists derive over half their revenue from fees, with much of that revenue coming from application or origination fees. These cards put many consumers at risk by eating up their monthly payments with fees and interest charges that impede them from paying down their principal balance. Subprime specialists also tend to have longer, more complicated agreements that are less understandable for consumers.

We are also concerned about certain aspects of rewards programs. According to our research, over half of all consumers say they select credit cards based on the rewards they provide. They are lured by the promise of airline miles, hotel visits, points toward purchases, and a variety of other attractive offers. But the specific terms of rewards programs are often not available to consumers until after they have already applied for the card. Even then, the terms of rewards tend to be obscured by glossy program guides, which provide only partial information. Once people are enrolled, they may face detailed and confusing rules about how they can actually use their rewards. And if consumers were to find, read, and understand the terms, they would often discover that issuers retain the right to change those terms at any time and for any reason.

Debt collection practices also continue to concern us. When consumers fall behind on their bills, their accounts are moved into collections. Initially, these collections tend to be handled in-house and there are wide variations in how aggressively the collectors pursue consumers. For example, we found that some issuers we surveyed have policies that allow them to try to contact people as often as 15 times per day. Even after a consumer has been reached, they may start calling again the next day. These practices smack of harassment. Yet, other issuers may have much stricter limits on call frequency.

After a while, if the bank has been unable to collect payment on the account, it often will turn to third-party collectors. We found that even before an account is charged off, more than half of the large credit card banks we surveyed rely on third-party collectors. In the past, after accounts were charged off it was quite common for banks to sell the uncollected accounts to debt buyers who would then attempt to collect on their own behalf. That has become less common today. But we found that third-party collectors continue to play a large role in the credit card market. All the banks we surveyed turn over charged-off accounts to third-party collectors for a period of time. Indeed, some banks turn over more than 80 percent of their charged-off accounts to third-party collectors. Some attempt to oversee as many as 21 separate debt collectors at a time.

Third-party debt collectors are typically given a limited window to collect as much as they can. They usually are paid a percentage of the debts they succeed in collecting. And they compete with each other to see how much debt they can collect. These incentives can combine to create a “perfect storm” for consumers, marked by pressure tactics and various forms of harassment. Over the past several years, the Bureau has found numerous problems in the practices used by many of these debt collectors and debt buyers, including the inaccuracy and incompleteness of some of their information.

Finally, today’s report identifies opportunities for credit card issuers to improve the transparency and fairness of their products. For example, contractual agreements can range in length from 3,000 to 8,000 words. It would take the average reader 20 minutes to read an 8,000-word agreement, meaning many would take even longer. That is an onerous task to impose on consumers, especially when much of the language is not worded very plainly, with reading levels that may be well beyond the comprehension level of a daily newspaper.

We also found that over one in four consumers has now opted out of receiving paper statements, and at least half of these consumers are making their monthly payments without ever accessing their electronic statements. As a result, these consumers may not get the benefit of certain warnings and disclosures that are contained on such statements. As the market continues to evolve, online and mobile websites may offer new ways to deliver this information to boost transparency to consumers.

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In sum, the CARD Act has eliminated many unexpected fees, made some market practices more transparent, paved the way for easier comparison shopping, and allowed consumers to see more costs and fees upfront. These changes are critical to strengthening protections in the consumer financial marketplace and helping us rebuild our economy.

What may be most notable about this success story, however, is that it has been marked by good rates of return for credit card issuers that are generally in line with their prior profitability. This calls seriously into question the idea that regulatory effectiveness must come at the cost of lower returns for financial providers. What it suggests instead is that when consumer protections are generally effective and robust, they help markets function more efficiently and competitively for the benefit of all participants. Moreover,

when consumers see that the marketplace is working well, they have more confidence and trust in their ability to use such products responsibly. In other words, we conclude that the CARD Act is proving to be good for consumers, good for providers, and good for the economy as a whole.

Sophocles said, “Success is dependent on effort.” The Consumer Federation of America pushed hard for the CARD Act. You had a clear sense that it would be good for consumers and for the economy and you were right. In the end, the provisions of this law are making the marketplace better for everyone, including the credit card industry itself. And for that, we thank you.