

Credit Card Reform

Small-business owners remain at risk to egregious credit-card practices

With the ongoing small-business credit crunch, entrepreneurs increasingly have been forced to finance their start-up or growing firms with credit cards. More than a third (36 percent) of the small-business respondents to NSBA's 2010 Year-End Economic Report identified credit cards as a source of financing they had used in the previous 12 months. In 1993, only 16 percent of small-business owners identified credit cards as a source of funding they had used in the preceding 12 months.

NSBA data also shows that nearly three-quarters (71 percent) of the small-business owners who use credit cards as a source of funding are carrying a balance month-to-month. This is up from 64 percent in 2000. Twelve percent of small-business owners are carrying a balance of more than \$25,000, and 38 percent are carrying a balance of more than \$10,000.

Although they are increasingly turning to credit cards to finance their business ventures, fifty-eight percent surveyed report that the terms of their cards are worsening. This is bad news for America's economy, which is heavily reliant on a robust and thriving small-business community.

While the *Credit CARD Act of 2009 (H.R. 627/S. 414)* provided many of the safeguards sought by NSBA, it failed to guarantee explicitly that the safeguards codified by the bill would apply to the cards used by America's small-business owners.

Although the credit cards of many—if not most—small-business owners are based on the individual owner's personal credit history, it is conceivable that issuers could legally consider them exempt from the *Credit CARD Act's* vital protections. This is due to the law amending the *Truth in Lending Act (TILA)*, which for the most part applies only to “consumer” and not business credit cards.

TILA defines a “consumer” as a “natural person who seeks or acquires goods, services, or money for personal, family, household use other than for the purchase of real property.” While a small-business owner who opens a personal credit-card account and uses it occasionally for business should be covered under *TILA*, it is far from clear that a small-business owner who used his card exclusively or even primarily for business purposes would be protected. Eighty-six percent of the respondents to NSBA's 2009 Small Business Credit-Card Survey reported using their consumer or business credit-cards primarily or exclusively for business purposes.

While issuers historically have kept most of their small-business cards in compliance with *TILA*, there is no guarantee this convention will continue, especially when one considers that its basis appears to have been practicality and not legal obligation. Congress must correct this oversight and extend the protections of the *Credit CARD Act* to the small-business cards of employers with 50 or fewer employees. It is inconceivable that Congress would knowingly allow issuers to perpetuate—with impunity—practices recognized as “unfair” and “deceptive” against America's small-businesses.

NSBA also urges Congress to increase *TILA's* exemption of cards with credit limits of \$25,000 or more to cards with limits of \$50,000 or more. This applicability ceiling has not been changed in decades and would be around \$150,000 if it was merely adjusted for inflation. The need for increasing this exemption limit is underscored by the NSBA survey: 52 percent of its respondents reported having a credit card with a limit of \$25,000 or more—26 percent reported having a card with a limit of \$20,000 to \$29,000, 20 percent reported having a limit of \$30,000 to \$49,000, and 16 percent reported a limit of more than \$50,000.