



May 3, 2018

The Honorable Nita M. Lowey  
United States House of Representatives  
2365 Rayburn House Office Building  
Washington, D.C. 20515

Dear Representative Lowey:

On behalf of the National Small Business Association, the nation's oldest nonpartisan small-business advocacy organization, representing more than 65,000 small businesses nationwide, thank you for your leadership in crafting the *Small Business Credit Card Act (H.R. 5660)* to further protect small-business owners' credit cards from unfair and deceptive practices of credit card companies. NSBA appreciates your tireless efforts for ending many unscrupulous practices of the credit card industry as they impact individuals and small businesses, and NSBA is pleased to support H.R. 5660.

In 2009, Congress passed the *Credit Card Accountability, Responsibility and Disclosure (CARD) Act* which provided many of the safeguards sought by NSBA. Unfortunately, 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, the cards are exempt from the *Credit CARD Act* 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.

While a small-business owner who opens a personal credit-card account and uses it occasionally for business should be covered under TILA, a small-business owner who used their card exclusively or even primarily for business purposes may not be protected. This is because 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." As a result, many small-business owners are left unprotected against unfair and deceptive credit card practices such as double-cycle billing and universal defaults on small-business cards.

This is quite alarming because according to according to NSBA survey results, 27 percent of small businesses say they cannot access adequate financing and are being pushed into using credit cards to meet capital needs but only 31 percent say those credit cards meet their capital needs. In comparison, in

1993 only 16 percent of small businesses used credit cards as a source of financing. The average interest rate charged on small business credit cards is 14.16 percent.

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 Small Business Credit Card Act, by including small businesses in the same set of protections currently covering consumers that use credit card products.

One-in-three small-business owners look to credit cards as a critical source of financing, yet these cards typically are not protected against the most unfair and deceptive credit card practices. NSBA applauds you for her continued advocacy on this issue and is pleased that H.R. 5660 addresses this by preventing credit card companies from arbitrarily raising interest rates on small businesses without proper notice, prohibiting them from raising interest rates on existing balances, charging interest on debt paid on time and requiring card companies to apply payments over the minimum to apply to balances with the highest interest rate.

America's economy is dependent on a thriving small-business community and small-business owners increasingly are reliant on credit cards, which are one of the most common sources of financing for America's entrepreneurs. Thus, on behalf of NSBA, thank you for your diligent and indispensable efforts to extend the protections included under your bill to the cards used by small businesses. We look forward to working with you to enact this critical piece of legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd McCracken", with a long horizontal line extending to the right.

Todd McCracken  
President & CEO