

April 26, 2007

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*Testimony of*

Edward L. Yingling

*On Behalf of the*

AMERICAN **BANKERS** ASSOCIATION

*Before the*

Subcommittee on Financial Institutions and Consumer Credit

Financial Services Committee

United States House of Representatives



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Madame Chairwoman and members of the Subcommittee, my name is Edward L. Yingling. I am President and CEO of the American Bankers Association (ABA). ABA, on behalf of the more than two million men and women who work in the nation's banks, brings together all categories of banking institutions to best represent the interests of this rapidly changing industry. Its membership – which includes community, regional and money center banks and holding companies, as well as savings associations, trust companies and savings banks – makes ABA the largest banking trade association in the country.

I appreciate the opportunity to testify regarding the payment card industry, which is an amazing success story of the American consumer economy. While credit cards draw the most attention, the payment card industry is much broader, including increasingly popular products such as debit cards and pre-paid cards. Payment cards safely connect consumers instantly to a panoply of products and services. They provide merchants of all sizes with broad access to the buying public, funding for small

businesses, and billions of dollars in annual payment-processing savings. Retail commerce, including over the Internet, would not exist as we know it today without them.

Today, credit cards are responsible for more than \$2.5 trillion in transactions a year and are accepted at more than 24 million locations in more than 200 countries and territories. There are more than 6,000 U.S. credit card issuers.<sup>1</sup> In the last 20 years, the number of debit cards has grown from 60 million to nearly 420 million. Pre-paid cards have grown rapidly, with spending expected to exceed \$155 billion in 2006. Payment cards rely on a processing system that handles more than 10,000 transactions *every second* and has enough communications lines to encircle the globe nearly 400 times.

We recognize that members of this subcommittee and others have concerns about aspects of these payment cards, and in particular, credit cards. Very recently, the Government Accountability Office (GAO) produced a very important study on credit cards – a study that we believe does an excellent job in providing factual information and laying out critical issues.<sup>2</sup> An important point of that study is how the credit card industry has evolved, from one where almost every card charged a similar interest rate and required an annual fee to an industry with lower interest rates, in many cases no annual fees, and with more consumer benefits and choices. At the same time, the fee structure and other aspects of credit cards have become more complex – outstripping what once was, but is no more, an effective disclosure system.

The GAO report and members of this subcommittee have all raised legitimate questions that deserve active discussion. The ABA, on behalf of our membership (which includes all the major credit card issuers), wants to take this opportunity to state that we want to work with this subcommittee, our

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<sup>1</sup> Providers include banks and non-banks issuing MasterCard and Visa cards, as well as about two hundred retailers, 40 oil companies, 40 third-party issuers that offer “private label” cards with various store brands on them, plus Discover Card, Diners Club, and American Express.

<sup>2</sup> GAO Report, Credit Cards: Increased Complexity in Rates and Fees Heightens the Need for More for More Effective Disclosures to Consumers, September 2006.

regulators, and other interested parties to address these concerns. The significant changes that have occurred in recent years make this the ideal time to do so.

In my statement, I would like to focus on three points:

- **Payment cards play a vital role in our economy, stimulating growth, facilitating commerce, and bringing retailers and consumers together;**
  
- **The industry has evolved in response to consumer needs and competition among issuers. Payment card services have become more complex, with many more benefits and options for consumers;**
  
- **As complexity has increased new issues have arisen. Clearly, better disclosures are needed. ABA supports efforts underway to develop better disclosures.**

I will address each of these points in turn.

## **I. Payment Cards Play a Vital Role in Our Economy**

Economic performance depends upon a stable, efficient, and secure means of exchanging value. In the United States, payment cards make this exchange possible every minute of every day. Nearly two-thirds of American families use payment cards routinely, taking for granted their convenience, reliability, and security. But payment cards are not simply helping our economy along, they are driving it forward.

In its recent report, the GAO found that the number of credit cards currently in use has grown from less than 100 million in the mid-1980s, to over 690 million through 2005. Accounting for trillions of dollars in transactions every year, credit cards are responsible for a large and growing share of consumer spending in the United States. As consumer expenditures are the largest single component of our economy, accounting for more than 70 percent of our nation's Gross Domestic Product, it is difficult to overstate the vital role that credit cards play in propelling our economy.

Payment cards of all kinds provide the passkey to new sales channels in the 21st century. Unlike checks, or even cash, cards are accepted around the world as readily as around the corner. Payment card acceptance gives business owners access to the broadest possible customer base and helps to level the playing field between larger and smaller merchants. Credit cards also guarantee that merchants will be paid.

The majority of Internet purchases are made with payment cards. Because of the Internet, where consumers are located no longer prevents them from finding the best products and the best prices. Furthermore, even the smallest merchants worldwide can sell products by accepting cards as payment. In 2003, electronic payment methods, such as online bill paying, debit cards and credit cards, for the first time became more popular than the old-fashioned checkbook. Two-thirds of consumers pay at least one bill electronically.

Gift cards are expected to exceed \$80 billion in 2006, a 20 percent increase over 2005, according to Tower Group.<sup>3</sup> More than 65 percent of consumers purchased or received gift cards last year. It is easier and more secure to use gift cards than it is to use cash. Store gift cards promote brand loyalty. These benefits increase consumer confidence and facilitate commerce.

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<sup>3</sup> Gift cards are a subset of pre-paid cards which also include travel, payroll, incentive, insurance, teen, and money transfer cards, to name a few.

Payment cards not only open lines to more customers for businesses, they also provide small businesses – which are responsible for more than half of all new jobs created each year – with many additional benefits. For example, using cards to process business payments offers huge savings for small and large businesses alike. In 2003, RPMG Research Corp. concluded that companies save approximately \$23 billion annually by shifting from paper to electronic payment processing. Experts believe credit cards can save up to 70 percent of the cost involved in processing purchase orders. Lower money management costs for businesses mean lower costs for consumers.

Credit cards also give small businesses access to credit to help finance their operations. These small firms benefit from flexible terms and unrestricted uses to manage monthly expenses, track purchases, and weather short-term fluctuations in cash flow. Nearly half of all the small firms in the United States depend upon credit cards for their financing. For example, small businesses made more than \$100 billion in purchases using Visa Business cards last year.

Increasingly, small businesses are using payroll cards instead of traditional paychecks, providing employers greater security and flexibility. These payroll cards are particularly beneficial for employees who may be new to banking.

## **II. Payment Cards Have Evolved, Becoming More Complex With Many More Benefits and Options for Consumers**

Since the first charge card came on the market 56 years ago, the payment card industry has changed dramatically. It now reaches countless individuals and allows them to choose cards that best suit their financial needs and life styles. First developed as a perk for select businessmen, payment cards today are held by the great majority of American households and provide vital access to both

personal and global financial resources. As the payment card market has matured and consumer choices have expanded, payment cards themselves have become more complex.

The aforementioned GAO report found that the benefits credit cards offer consumers today are far greater than they were in the past. According to the GAO, 75 percent of families now hold at least one credit card, meaning that more and more people are able to take advantage of the many benefits of credit cards. They are a flexible and instant means of payment for purchases large and small, and they permit access to bank accounts and cash from automatic teller machines (ATMs) twenty-four hours a day year-round. Furthermore, they are safer than cash, accepted more places than checks, and can be used almost anywhere in the world.

Payment cards provide confidence and convenience when traveling, are a means of identification, and entitle consumers to many popular and valuable enhancements, such as rebates and awards tailored to their purchasing habits and special interests. The GAO found that rewards programs, such as cash-back and airline travel, and other benefits such as rental insurance or lost luggage protection, have become standard. These enhancements are a result of the intense competition issuers engage in as they fight for consumer loyalty.

For many customers, credit cards are also the point of entry into the world of credit. Using credit cards, consumers can pay for items on schedules that suit their budgets and needs. Credit card use establishes credit histories, which people use to obtain jobs, rent and buy homes, or purchase cars and other big-ticket items. Credit histories permit individuals to demonstrate their creditworthiness and have dramatically expanded access to credit to all members of society in the most efficient, non-discriminatory way possible. As former Chairman Alan Greenspan noted in 2005: “Improved access to credit for consumers...has had significant benefits. Unquestionably, innovation and deregulation

have vastly expanded credit availability to virtually all income classes. Access to credit has enabled families to purchase homes, deal with emergencies, and obtain goods and services.”

Credit cards give consumers increased control over their finances and provide tools for effective money management. With the help of customized monthly statements or via up-to-the-minute account access over the Internet, card accounts help households keep track of exactly how much and where their money is spent. Short-term credit is also a proven means by which average consumers can weather unexpected financial disruptions or pay for unexpected expenses. Americans participate fully in today’s world economy largely because of the access that a spectrum of card products provides.

Innovations in the payments card industry have resulted in strong protections against fraud, including state-of-the-art technology that protects consumers from unauthorized access to their accounts. For example, credit card issuers notify consumers if it seems likely their account security has been violated and can automatically suspend account access until the status of the account is verified. Consumers face little if any liability for unauthorized or unlawful use of their credit cards. Generally, consumers’ liability is limited to \$50 under federal law and, in many cases, cardholders pay nothing for credit card losses as issuers waive the \$50. It is hard to imagine a more powerful, flexible tool that offers so many protections against loss or fraud.

### ***Profitability, Risk, and Pricing***

With such an important and universal product like payments cards, many questions arise about issuers’ profitability, risk, pricing and disclosures. Take credit cards, for example. Credit card loans are the riskiest form of consumer lending for banks. When a bank issues a credit card, it is extending a line of credit to a borrower whom it may never have met and who can tap the line of credit day or night, for



any reason, over a long period of time. Furthermore, unlike a car or mortgage loan, a credit card loan is unsecured, meaning the bank would suffer a greater loss if the loan is not repaid. Moreover, borrowers generally have an incentive to pay the secured loans first so as not to put the collateral, such as a car, at risk.

Credit cards are profitable in large part because of careful management of the risks involved. The average return on assets for credit card issuers is about three percent, according to the GAO report. To illustrate this point, this means that if a credit card issuer lends \$100, at the end of the year, if all goes well, it receives on average about \$3 in return plus the original \$100. Then consider that some individuals never pay back their debt, there are fraudsters who constantly try to game the system, and there's a huge infrastructure of technology and staffing that allows someone to use his or her credit card anywhere in the world, at any time, and have all the processing and accounting done with near perfection. It's mind-boggling to consider the computer network, communications system, billing and processing facilities, fraud protection programs, and customer service requirements needed to handle the 10,000 transactions per second around the world. It's an enormous, complicated and expensive structure – all dedicated to delivering the efficient, safe and easy payment vehicle we've all come to enjoy.

The GAO report found that credit card pricing has evolved – largely as a result of strong competition and innovation. ***Interest rates have declined.*** Up until about 1990, card issuers commonly charged a single, fixed interest rate around 20 percent, with credit cards available only to a smaller subset of American consumers. However, the GAO found that between 1990 and 2004, the average interest rate declined by 6 percent. For the 28 popular cards reviewed by the GAO, the average interest rate assessed for purchases was 12.3 percent in 2005.

It is also notable that *credit card annual fees have largely disappeared*. According to the GAO report, up until about 1990, card issuers charged annual fees ranging between \$20 and \$50. By 2005, roughly 75 percent of credit cards no longer carried an annual fee.

Competition, innovation, and consumer needs have caused the industry to evolve, and in a way that fits the classic model for new products. Early offerings were relatively simple, with few features and similar pricing for interest rates and fees. Over time, competitors offered additional services and features as they sought new customers. Markets were segmented and targeted. Very significantly, millions of Americans that would not have been eligible for cards became eligible. As part of this development, the terms and pricing became more complex, which has led to the new concerns. In addition, the challenge of clear disclosures became more difficult, as there was more to disclose.

It is true that credit cards today include higher and more complex fees for things such as late and returned payments, and exceeding credit limits. But it should be noted that the GAO also concluded that the profits of credit issuing banks have been stable over the last seven years. In fact, aside from some wide fluctuations in the mid-1990s, profits remained relatively stable between 1986 and 2004, with an average return on assets of 3.12 percent. Furthermore, the GAO found that the vast majority of card issuers' revenue stems from interest income, not fees. Indeed, the GAO concluded that interest revenues comprise between 69 and 71 percent of total card issuer revenues.

Many customers pay nothing at all for the benefits of credit cards. In fact, the GAO – reflecting similar findings of the Federal Reserve in its Survey of Consumer Finances – found that nearly half of all cardholders avoid paying any significant interest charges because they pay their balance in full each month. These convenience users “availed themselves of the benefits of their cards without incurring any direct expenses.” Others take advantage of low-interest, or even zero-interest, introductory periods offered by card issuers.

As computers and analytical techniques became more sophisticated, lenders became better able to use credit scores to help predict future performance on loans and then price those loans accordingly. This risk-based pricing helps banks manage risk better and is a sound lending practice encouraged by bank regulators.

This was not always the case. As previously noted, twenty-five years ago, credit cards often had one fixed interest rate for all borrowers, regardless of their credit ratings. That meant the best borrowers were paying rates higher than the risk they posed, and riskier borrowers were paying less than the risk they posed – in essence, the best borrowers were subsidizing the high-risk ones. That is not the case today with risk-based pricing. Risk-based pricing gives the best rates to the most creditworthy individuals.

More importantly, risk-based pricing enables many deserving individuals to get a credit card who previously could not. Individuals that do not have perfect credit histories may nonetheless be deserving of access to credit. With pricing according to risk, these individuals are able to share in the benefits and convenience a credit card provides. As George Washington University professor Michael Staten said in his article entitled *Risk-based Pricing in Consumer Lending*: “It is no coincidence that the dramatic expansion of credit to consumers in the United States over the last two decades occurred simultaneously with the widespread adoption of risk-based pricing by bank credit card issuers (beginning around 1988), automobile lenders (by 1990) and eventually mortgage lenders (since the mid-1990s).”<sup>4</sup>

Pricing according to risk is not just a tool used solely by lenders. Auto insurers give careful drivers with a clean driving record the best rates for insurance and will raise rates for those that get speeding tickets or have caused accidents. Home insurers give discounts for smoke detectors or set

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<sup>4</sup> Staten, Michael, “Risk-based Pricing in Consumer Lending,” Credit Research Center, McDonough School of Business, Georgetown University, March 2005.

higher rates for homes with building materials that are more susceptible to fire, such as shake-shingle roofs.

Importantly, federal law requires issuers to disclose all the terms and conditions associated with a card, including when and for what reason the terms may be changed. For example, every credit card solicitation and application must disclose and highlight the most important terms. Ten point font is the minimum font size for these disclosures; some must use 18-point font. In fact, credit card issuers are subject to thorough and far-reaching government oversight that addresses everything from fair billing to consumer disclosures to data security. Unlike other businesses, the credit card industry is routinely examined and evaluated by full-time state and federal banking regulators, which have sweeping investigative authority. A sample of the major federal laws that govern the credit card industry is attached as an appendix. Regulations and mandatory guidance implementing these laws are backed up by severe legal and financial penalties to ensure strict and consistent compliance.

Another area of concern has been the overall debt burden of consumers, including credit card, mortgage and other debt. It is certainly true that over the last 25 years, consumer use of debt financing has grown as more people rely on it to purchase everything from homes to everyday goods. Today, debt for all purposes is near \$12 trillion. At the same time, income and wealth have also increased and consumers' ability to manage the debt has not changed significantly. In this regard, the GAO report provides important information. For example, GAO found that:<sup>5</sup>

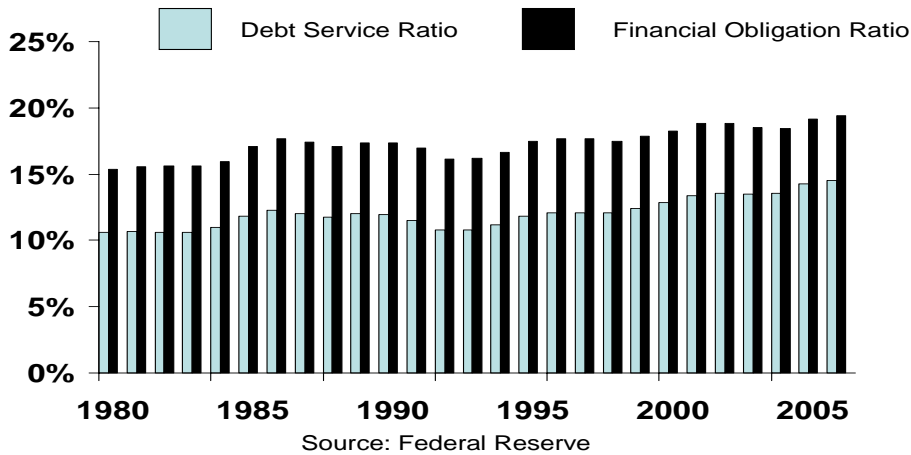
- Total household debt levels as a percentage of income has remained relatively constant since the 1980s, according to the Federal Reserve data on aggregate debt burdens. The monthly debt service payments required on all household debt (including mortgage debt and revolving and

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<sup>5</sup> GAO Report, page 58.

non-revolving consumer loans) generally fluctuated between 11 percent and 14 percent from 1990 to 2005, similar to the levels observed during the 1980s.

## U.S. Household Debt Burden and Financial Obligation Ratios



- Credit card debt remains a small portion of overall household debt, even among households with the lowest income levels. According to the Federal Reserve, credit card balances as a percentage of total household debt have declined from 3.9 percent of total household debt in 1995 to just 3.0 percent as of 2004.
- The proportion of households that could be considered to be in financial distress does not appear to be increasing significantly. According to the Federal Reserve Board's Survey of Consumer Finances, the proportion of households that could be considered to be in financial distress – those that report debt-to-income ratios exceeding 40 percent and that have had at least one delinquent payment within the last 60 days – was relatively stable between 1995 and

2004. Furthermore, the proportion of the lowest-income households exhibiting greater levels of distress was lower in 2004 than it was in the 1990s.<sup>6</sup>

Expanded use of credit cards is often cited as a cause of rising debt levels. However, about half of credit card users pay their balance in full each month. Thus, the reported rise in debt overstates the actual debt because many people use credit cards as a *method of payment*, rather than as a *revolving debt instrument*. As former Federal Reserve Chairman Alan Greenspan noted in 2004: “The convenience of credit cards has caused homeowners to shift the way they pay for various expenditures to credit card debt. In short, credit card debt-to-income ratios have risen to some extent because households prefer credit cards as a method of payment, and hence, the increase does not necessarily indicate greater financial stress.”

I want to also address the concerns that the rising trends in delinquencies and default rates on mortgages might spill over to credit cards. Typically, one would expect to see credit card delinquencies rise *before* mortgage delinquencies, as people generally choose to be late on unsecured loans before putting at risk the security that backs loans, such as cars or homes. We have not seen this trend and fortunately do not see evidence of this in the most recent data. The ABA tracks the number and dollar amount of non-mortgage consumer loans delinquencies every quarter. These are loans that are 30 days or more past due (seasonally adjusted), which provides an early indicator of problems. Late payments on credit cards accounts were basically unchanged from the third quarter through the fourth quarter of 2006 (4.57 percent and 4.56 percent, respectively). These rates are well below the highs recorded in July of 2005 when delinquency rates were just under 5 percent.

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<sup>6</sup> The GAO report uses the latest Federal Reserve survey on consumer finances and it is likely that rapid growth in mortgage debt and the recent problems with subprime mortgages has pushed these ratios higher since 2004. The basic point with respect to credit cards, however, remains valid.

Those 2005 credit card delinquencies were more likely a result of fast-rising gas prices and continuous increases in short-term interest rates by the Federal Reserve which squeezed consumers' budgets.

In the dollar terms, credit card delinquencies declined to 3.45 percent (seasonally adjusted) and are near the lowest levels we have seen since 1995. Given these numbers, we are cautiously optimistic that the spillover from mortgage delinquencies to credit cards will be small, particularly given continued job growth and a still expanding economy.

Of course, we recognize that these ratios have probably moved up as a result of recent problems in the mortgage markets, but the basic point remains valid relative to credit cards.

### **III. As Complexity Has Increased, New Issues Have Arisen. Better Disclosures and More Financial Education Are Needed**

Credit cards are so easy to use that people often take them for granted. Borrowing money, through any channel, is a significant obligation that should be taken very seriously. Like any bank loan, credit cards are governed by a specific contract, and disclosures must be consistent with existing law and regulation.

As the features and options expanded, credit and other payment cards became more complex; as a result, disclosures became more complicated and lengthy, often reflecting the legal requirements of fully and accurately explaining the lending terms and conditions. Clearly, these largely legal documents do not lend themselves to simple explanations.

The recent GAO study confirmed the fact that disclosures have not kept up with the complexity of payment cards. In fact, GAO's sole recommendation was for better disclosure standards

in order to provide consumers with a greater understanding of card usage. The banking industry agrees with the GAO that better disclosures are needed.

The GAO report indicated that disclosures required by law, such as under the Truth in Lending Act and its attendant Regulation Z, are often written at an education level that is too high and sometimes contain design features that make them difficult to read. Moreover, the report found many existing disclosure requirements to be less useful for the more complicated structures of today's credit cards, and that issuers are further challenged to provide complete disclosure of account terms in a manner that complies with detailed and rigorous legal standards. The GAO report also recognized the efforts of many large card issuers to improve their current disclosures by highlighting existing "effective" disclosures that are more consumer-friendly. Moreover, the GAO report noted the SEC best practices for creating clear disclosures that "disclosure documents are more effective when they adhere to the rule that less is more."

ABA fully supports the comprehensive review of credit card disclosures by the Federal Reserve. Updating and simplifying should be the focus. In our comments to the Federal Reserve on modernizing disclosures, we have laid out several key themes:

- **Disclosures should be reviewed with an eye toward making them more concise, readable, and understandable.** "Summary" disclosures should avoid information overload and be limited to those most consumers will find most important. As there is no typical borrower or account holder, an attempt to provide comprehensive notices of all terms will not succeed in simplifying the notices. The summary disclosures should advise consumers to review the agreement for additional, important information.



- **Uniform formatting in summary disclosures and model terminology should be considered to promote uniformity and consistency.** Consumers will be more likely to use and understand disclosures if terminology and the summary format is consistent, particularly for solicitations and initial disclosures. Flexibility should be retained for periodic statements in order to permit innovation and encourage competition.
  
- **Focus groups should be used as a resource to determine which terms should be disclosed and how they should be written.** It is also important to perform tests so that the program measures what consumers actually look at and absorb, rather than what they think they will read and understand.
  
- **The Federal Reserve and the banking industry should also develop a credit card users' manual to assist consumers in understanding credit cards and credit card offers.** This should be provided to improve consumers' understanding of credit card practices and pricing and help them to shop for and select the best payment card to meet their individual needs. Such a document would complement specific product disclosures that the lender would provide.

The ABA and major credit card companies submitted detailed comments to the Federal Reserve early in the regulatory process. We anticipate that a specific proposal will be put out for comment shortly, and we urge the Federal Reserve to move as quickly as possible on this important issue.

In anticipation of this proposal, ABA and the major credit card issuers are working together to develop ideas for the most-user friendly possible disclosures, as well as other information on credit

cards that will be helpful to consumers. We are committed to this effort and would be pleased to work with members of the Financial Services Committee on ways to provide consumers with the information they need.

I would also like to stress the importance of financial education. Like all financial commitments, credit cards carry important obligations. Understanding this commitment is vital for smart financial planning. As payment cards have become more complex, financial literacy is essential.

Sound financial knowledge is essential to manage all of one's credit commitments well. Congress has repeatedly recognized the importance of financial literacy in helping Americans exercise good judgment, most recently in the Fair and Accurate Credit Transactions (FACT) Act of 2003. In addition to providing greater consumer access to credit information, the FACT Act established the Financial Literacy and Education Commission with the purpose of improving financial literacy. The Federal Reserve and Federal Trade Commission are required, on an ongoing basis, to review the effectiveness of card disclosures and to address all other consumer concerns regarding credit fairness.

The banking industry is actively engaged in providing financial education. Nearly 90 percent of financial institutions are involved in public school education and 90 percent offer some kind of credit counseling. The ABA Education Foundation provides leadership and resources to help increase financial literacy. Just this past Tuesday, April 24, bankers across the country celebrated the Foundation's 11<sup>th</sup> annual National Teach Children to Save Day. As part of the Teach Children to Save program, over 10,000 bankers go into classrooms each spring and teach lessons on savings, budgeting and money management. We were pleased, Madame Chairwoman, that you will be participating in this program in New York on April 30 with bankers, and we want to thank Representatives Pryce, Green, Drake, Costa, and Wynn for participating with bankers earlier this month in Teach Children to Save

programs in their districts. SEC Commissioner Paul Atkins, FDIC Chair Sheila Bair, and over a dozen Treasury officials also participated in the Foundation's event.

On October 18, 2007 is the fifth annual ABA Education Foundation Get Smart About Credit Day. This program is designed to raise awareness among teens and young adults about credit and the importance of using it wisely. This past year, Treasury Secretary Paulsen and several members of Congress joined bankers in classrooms as part of this program. The Foundation would be very happy to work with any member of this subcommittee who would like to participate in our Get Smart About Credit Program in this fall.

The ABA and the major credit card companies are also working together on a way to improve consumer education about credit cards. As a result of our discussions with Members of Congress, a particular focus will be on college-age individuals. Our first step was to scan what individual institutions were doing. It is clear from that scan that, in fact, every major credit card company, as well as the ABA, has developed a significant program for education and is working to provide that information to consumers, often with a focus on students. Nevertheless, we believe more can be done to deliver this education to consumers, and we are working together to that end.

Americans should receive the credit they deserve. Most fulfill their commitments and use credit as a means to live a full and diverse financial life in which credit cards play an important part. Making sure consumers understand the important obligations they assume each time they use their credit cards is critical to effective management of personal finances.

We also fully recognize that there are other issues relating to credit card practices that are of concern to Members of Congress. As the GAO study effectively pointed out, for millions of Americans credit cards provide more services and greater convenience, at lower interest rates, than they did a few years ago. In many cases, consumers paid nothing for the use of the card; in fact, they may be

paid – through rebates, points, or mileage – to use the card. However, for others the increasing complexity of the offerings has led to real concerns and some individuals have ended up in a very difficult financial situation.

The industry takes these concerns very seriously. Members of Congress have asked the ABA and the industry to address these concerns, and I want to assure the members of this Subcommittee that we are working to do just that. Individual institutions have recently made significant announcements of changes in their policies. I have been in numerous discussions in recent months with the major credit card companies, and there is a true recognition of the need to address practices that result in consumers sometimes ending up in difficulty. With the recent announcements, what we are seeing is another manifestation of the competitiveness of the credit card industry. Frankly, that competitiveness, which led to great innovation, lower interest rates, and lower or no annual fees, also led to the complexity which has sometimes caused problems. Now that competition is driving individual institutions to streamline and simplify the credit card products.

## **Conclusion**

The story of payment cards is one of ever-broadening access and great technological advances. They make today's rapid, efficient economy possible. They provide consumers with a wide variety of choices, allowing them to choose the card best suited to their financial needs and way of life. The simplicity of use is a result of decades of innovation and behind-the-scenes global networks.

Just as an example, a consumer could have a credit card that enables him or her to buy goods and services all over the world in a matter of seconds. The consumer could pay nothing for this card – in fact, the consumer could get a one percent rebate on everything charged and the card company might even make a small contribution to the consumer's favorite charity when the card is used (through

an affinity card for that charity). The consumer has the option to pay off the balance, after a 30-day or so free loan, with no interest, or can choose to take out a loan with flexible payments. The card also provides security and convenience. This is a truly remarkable product.

Having said that, we recognize that the market has evolved considerably in recent years and that there are legitimate issues and concerns. There is a strong base from which to address those concerns. First, there is a solid basic regulatory structure that can be used. Second, the highly competitive nature of the card market puts consumers in the driver's seat. For example, we have seen that features that are unpopular with consumers often are competed away.

The pricing of the card products has evolved. Interest rates are lower and annual fees are rare. More services, including rebates and rewards, are offered. But some fees have gone up. In addition, a broad consensus has developed that disclosures are inadequate and confusing. The industry recognizes these concerns and wants to work with you, Madame Chairwoman, other Members of Congress and our regulators to address them, while maintaining the competitive and innovative market for payment cards.

## Appendix

### Regulations Imposed on the Card Industry

**Truth in Lending Act (TILA)** – TILA establishes uniform methods of computing the cost of credit, disclosure of credit terms, and procedures for resolving errors on certain credit accounts. Major provisions of the TILA regulations require lenders to provide borrowers with meaningful, written information on essential credit terms, including the cost of credit expressed as an annual percentage rate (APR); respond to consumer complaints of billing errors on certain credit accounts within a specific period; identify credit transactions on periodic statements of open-end credit accounts; provide certain rights regarding credit cards; and comply with special requirements when advertising credit.

**Fair Credit Reporting Act (FCRA)** – FCRA defines a credit reporting agency and adopts procedures for maintaining fair use of consumer credit information. The Act establishes procedures for correcting mistakes on a consumer's credit report and requires that a consumer's record be provided only for legitimate business purposes. It also requires that the record be kept confidential. A credit record may be retained seven years for judgments, liens, suits, and other information. Bankruptcies may be retained for 10 years. If a consumer is denied credit, a free credit report may be requested within 30 days of denial. The **Fair and Accurate Credit Transactions (FACT) Act** of 2003 renewed FCRA with new consumer protections, including free annual credit reports and tools against identity theft.

**The Equal Credit Opportunity Act (ECOA)** – The Act's regulations establish guidelines for gathering and evaluating credit information, and require written notification when credit is denied. Regulations prohibit creditors from discriminating against applicants on the basis of age, race, color, religion, national origin, sex, marital status, or receipt of income from public assistance programs. Regulations also require creditors to give applicants a written notification of rejection of an application, a statement of the applicant's rights under the Equal Credit Opportunity Act, and a statement either of the reasons for the rejection or of the applicant's right to request the reasons. Creditors who furnish credit information on married borrowers must report information in the names of both spouses.

**Electronic Funds Transfer Act (EFTA)** – The Act establishes the rights, liabilities, and responsibilities of parties in electronic funds transfers (EFTs) and protects consumers using EFT systems, such as ATMs and debit cards. Regulations establish the rules for solicitation and issuance of EFT cards; govern consumers' liability for unauthorized electronic funds transfers (resulting, for example, from lost or stolen cards); require institutions to disclose certain terms and conditions of EFT services; provide for documentation of electronic transfers; set up resolution procedures for errors; and cover notice of crediting and stoppage of pre-authorized payments from a customer's account. Stored-value cards and home banking by computer are also subject to regulation under this Act.

**Gramm-Leach-Bliley Act (GLBA)** – Regulations require financial institutions to provide notice to their customers about their privacy policies and practices. Regulation provides consumers with the right to prevent a financial institution from disclosing nonpublic personal information to nonaffiliated third parties, by providing a means to "opt out."

**Unfair or Deceptive Acts or Practices (UDAP)** – Regulations establish consumer complaint procedures and define unfair or deceptive acts or practices of banks in connection with extensions of credit to consumers. Under these regulations, a consumer complaint concerning either an alleged unfair or deceptive practice or an alleged violation of law or regulation will be investigated by the appropriate federal agency.

**Fair Debt Collection Practices Act (FDCPA)** – This Act explicitly prohibits abusive, deceptive, and unfair debt collection practices. It applies to third-party debt collectors or to those who use a name other than their own in collecting debts. Complaints regarding debt collection practices should generally be filed with the Federal Trade Commission.

Source: Federal Reserve