



May 3, 2016

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, I write to thank you for your leadership in crafting the *Small Business Credit Card Act of 2016* 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. 5156.

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 alarming because according to NSBA's 2015 Year-End Economic Report, small business reliance on credit cards has skyrocketed: today, 31 percent of small-business owners identified credit cards as a source of funding they had used in the preceding 12 months—in 1993 that number was just 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 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 is pleased that H.R. 5156 addresses this key deficiency in the Credit CARD Act by extending critical protections to small businesses that use business credit cards or personal credit cards to finance their businesses, prevent layoffs and encourage growth.

On behalf of NSBA and our more than 65,000 members, I would like to thank you for your diligent and indispensable efforts to extend the protections included under the Credit CARD Act 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