

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 (37 percent) of the small-business respondents to NSBA's 2012 Access to Capital Survey identified credit cards as a source of financing they had used in the previous 12 months, second only to a revolving line of credit from a bank. In 1993, only 16 percent of small-businesses owners identified credit cards as a source of funding they had used in the preceding 12 months.

NSBA data also shows that 50 percent of the small-business owners who use credit cards as a source of funding are carrying a balance month-to-month. This is actually up from 40 percent in NSBA's 2011 Year-End Economic Report. Nine percent of small-business owners are carrying a balance of more than \$25,000 (up from 6 percent), and 15 percent are carrying a balance of \$10,000 - \$25,000 (up from 10 percent).

Although they are decreasingly turning to credit cards to finance their business ventures, forty-four percent surveyed reported that the terms of their credit cards had worsened over the past year. NSBA data shows that 56 percent of small-business owners have an approximate interest rate of more than 15 percent, up from 49 percent just one year ago. The average small-business owner pays a 15.6 percent interest rate, up from 15.2 percent last year. Twenty-two percent have an interest rate of more than 20 percent. 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.

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. Legislation such as the *Small Business Credit Card Act of 2011*, introduced by Rep. Nita Lowey (D-N.Y.) would address many of NSBA's primary concerns.