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Memo

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November 3, 2009

To: Members of the U.S. House of Representatives

From: Floyd Stoner, Executive Vice President, Congressional Relations and Public Policy

Re: H.R. 3639, the Expedited CARD Reform for Consumers Act of 2009

On behalf of the Members of the American Bankers Association (ABA), I am writing to express our opposition to H.R. 3639, the Expedited CARD Reform for Consumers Act of 2009. H.R. 3639 would dramatically move up the effective dates for the vast majority of provisions included in the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act), legislation that was signed into law a mere five months ago on May 22, 2009.

The ABA remains deeply concerned that the practical impossibilities of complying with H.R. 3639's requirements would lead to significant consumer confusion, enormous litigation risk, and unnecessary compliance costs. More importantly, it would lead to substantially increased costs and reduced access to credit for millions of consumers and small businesses in this country, to the detriment of our broader economy.

The CARD Act requires comprehensive and fundamental changes to the way credit cards are provided in the United States. All card lenders – whether they are the largest financial institutions in the country or the smallest community banks – are working hard to implement the CARD Act as soon as possible. Yet, implementation of that Act is an enormous task, requiring the complete reworking of internal operations, risk management models, funding calculations, employee training, and computer coding necessary to service hundreds of millions of accounts every day. To do this right requires an investment of hundreds of millions of dollars, thousands upon thousands of manpower hours, and perhaps most significantly, sufficient time.

Importantly, full compliance with the law also requires that comprehensive regulations be established pursuant to the notice and comment requirements established under the Administrative Procedures Act. The Federal Reserve Board (Fed) just recently issued an 800-page proposal seeking public comment on some, but not all, of the provisions in the CARD Act. Comments are due in late November. There is not sufficient time for the Fed to review the comments, revise the rule to incorporate appropriate changes, issue a final rule before the bill's effective date of December 1, and expect institutions to *immediately* change their systems to fully comply with the new rules. It becomes even more difficult when you consider that in some instances proposed rules do not yet exist, and that technological solutions to the various challenges posed by the new rules will take time to develop.

In short, lenders will not be able to comply with the requirements of the CARD Act if H.R. 3639 were adopted and the effective dates of the underlying provisions are, for all practical purposes, immediately effective. Lenders will thus be subject immediately to class action lawsuits for non-compliance, significant operational challenges that could lead to mistakes in monthly statements for millions of Americans, and the diversion of millions of dollars of resources to dealing with the revised regulatory timetable. The potential risk of broader unintended consequences, such as systems failures at retailers during the peak holiday season, would also be significantly elevated.

The industry is very sensitive to the concerns that policymakers have raised over increased rates in the marketplace and their impact on consumers. Importantly, the CARD Act includes a provision requiring 45-day advance notice for any rate increase, with the right of the consumer to say “no.” That provision *has already been implemented and went into effect on August 20, 2009*. Thus, consumers are already protected in this area.

In sum, moving up the effective date of the CARD Act would increase the likelihood of systems failures, expensive litigation, and underwriting problems, adding to the pressure to increase rates and cut available credit. We believe that consumers, small businesses, and the U.S. economy will suffer if such a result comes to pass. We urge you to oppose passage of H.R. 3639.