THE PEW HEALTH GROUP

U.S. HOUSEHOLDS AT RISK FROM BUSINESS CREDIT CARDS

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Practices outlawed under the Credit CARD Act remain widespread on less-regulated card products marketed to millions of American households every month. Business credit cards may continue to jeopardize household finances unless policy makers enact new warnings or extend Credit CARD Act protections to all individuals and small business owners.

EXECUTIVE SUMMARY

Since passage of the Credit Card Accountability Responsibility and Disclosure (CARD) Act of 2009, most credit cards have become safer and more transparent. Practices deemed "unfair or deceptive" by federal regulators are now prohibited on consumer credit cards marketed primarily for personal, family or household transactions.[1] However, Credit CARD Act protections do not apply if a card is labeled for business or commercial use, regardless of whether the account holder is a large corporation, a small business owner, an employee or an ordinary consumer. Thus, while consumer credit cards in general no longer include unpredictable pricing structures and hair-trigger penalty interest rates, these and other potentially harmful practices remain common on business credit cards that millions of individuals use.

Pew analyzed business credit card application disclosures and household direct mail data in an effort to determine Americans' exposure to potentially harmful practices. This analysis shows that American households receive more than 10 million offers every month for business credit cards, and the majority of these cards have potentially harmful terms that would not be legal on those labeled for consumer use. The high volume of offers for less-regulated business credit cards represents a risk to millions of American families, particularly since business card products require applicants to be personally liable for all charges under the business account. Policy makers should extend the consumer protections of the Credit CARD Act to any credit card that requires an individual to be personally or jointly liable for account expenses. At a minimum, applicants should receive warnings whenever a credit card is not protected by the Credit CARD Act.

POTENTIALLY HARMFUL PRACTICES IN BUSINESS CREDIT CARD PRODUCTS

Business credit cards include those labeled for "corporate," "small business" or "professional" use. They function in most respects like consumer cards, but with key legal differences. Account agreements typically include language requiring cardholders to use the cards for "business" or "commercial" purposes only, though these terms are rarely defined and difficult to enforce.[2] Business cards also require applicants to be personally liable for all expenses on any card linked to the business account, yet consumer protection laws, including the Truth in Lending Act, generally do not apply to these products.[3] Nor does the Credit CARD Act, a 2009 law targeting practices that federal regulators deemed "harmful" and "unfair or deceptive" for consumers.[4] Consequently, individual business card applicants can face hundreds or thousands of dollars in unexpected charges if issuers raise rates on existing balances or impose hair-trigger penalties and other costs of the sort that are not permissible on consumer credit cards.[5]

Pew researchers found that the same potentially harmful practices previously applied to consumer credit cards remain widespread among business cards (see Table 1). This conclusion is based on an analysis of the 12 largest credit card issuers, which control an estimated 85 percent of the small business credit card market.[6]

A small number of issuers have voluntarily incorporated certain protections of the Credit CARD Act into their business card products. Bank of America, for example, has eliminated penalty interest rate increases, overlimit fees and late fees on its business cards. Both Bank of America and Capital One have adopted application of payments procedures that pay down higher-rate balances ahead of lower-rate balances, thus reducing finance charges on active accounts that carry cash advance or balance transfer debt. Overall, however, because the Credit CARD Act does not apply to business cards, households that use these products remain vulnerable to potentially harmful practices.[7]

TABLE 1

COMPARISON OF PRACTICES: BUSINESS CREDIT CARDS VS. CARDS PROTECTED BY THE CREDIT CARD ACT

	Business Credit Cards	Cards Protected by the Credit CARD Act of 2009
Changes to Account Terms	*Issuers may change any term at any time with little or no notice, including raising rates on existing balances.* 80% of business cards included an "any time" change in terms clause with no right to opt out.	*Terms cannot change during the first year; after this period, 45 days' notice is required and consumers generally may opt out. Existing balances are protected from arbitrary rate increases.*
Penalty Interest Rates	*Issuers may apply a penalty interest rate immediately and without notice for any violation, to last indefinitely on any balance.* 67% of business cards had penalty rates for late payments or overlimit transactions. The median penalty annual percentage rate (APR) was 29.4%.	*Penalty interest rates may not apply to existing balances unless an account becomes seriously delinquent (i.e., 60 days past due). Issuers must review all interest rate increases periodically and, in some cases, must return cardholders to lower rates after six months.*
Penalty Fees	*Penalty fees are virtually unrestricted.* 73% of business cards included a late fee (median amount: $39). 67% of business cards included an overlimit fee (median amount: $39).	*Penalty fees must be "reasonable and proportional," generally $25 for the first and $35 for additional violations within six months. Fees must not exceed the violation (e.g., the penalty for a $4 overlimit transaction must be $4 or less). Overlimit fees cannot apply unless the cardholder has opted in.*
Application of Payments	*Issuers can direct payments first to low-rate balances, such as balance transfers, while interest accrues on higher-rate balances.* 84% of business card disclosures gave issuers sole power to maximize finance charges by applying payments to low-rate balances first. 16% made no disclosure.	*Any payment amount above the minimum payment due each month must be applied to the highest-rate balance first, reducing interest charges to cardholders.*
Price Data	Median Purchase APR: 13.24 (lowest advertised) 18.12 (highest advertised) Annual Fee: 41% of cards* (median $67)	Median Purchase APR: 12.99 (lowest advertised) 20.99 (highest advertised) Annual Fee: 14% of cards (median $59)

Source: Pew analysis of business credit card disclosures collected in January 2011 from the largest 12 bank issuers controlling an estimated 85 percent of the small business card market. Consumer credit card price data is based on a similar analysis published in the Pew Safe Credit Cards Project report, *Two Steps Forward* (July 2010).
* Approximately half of the business cards that carried an annual fee included a one-year fee waiver promotion.

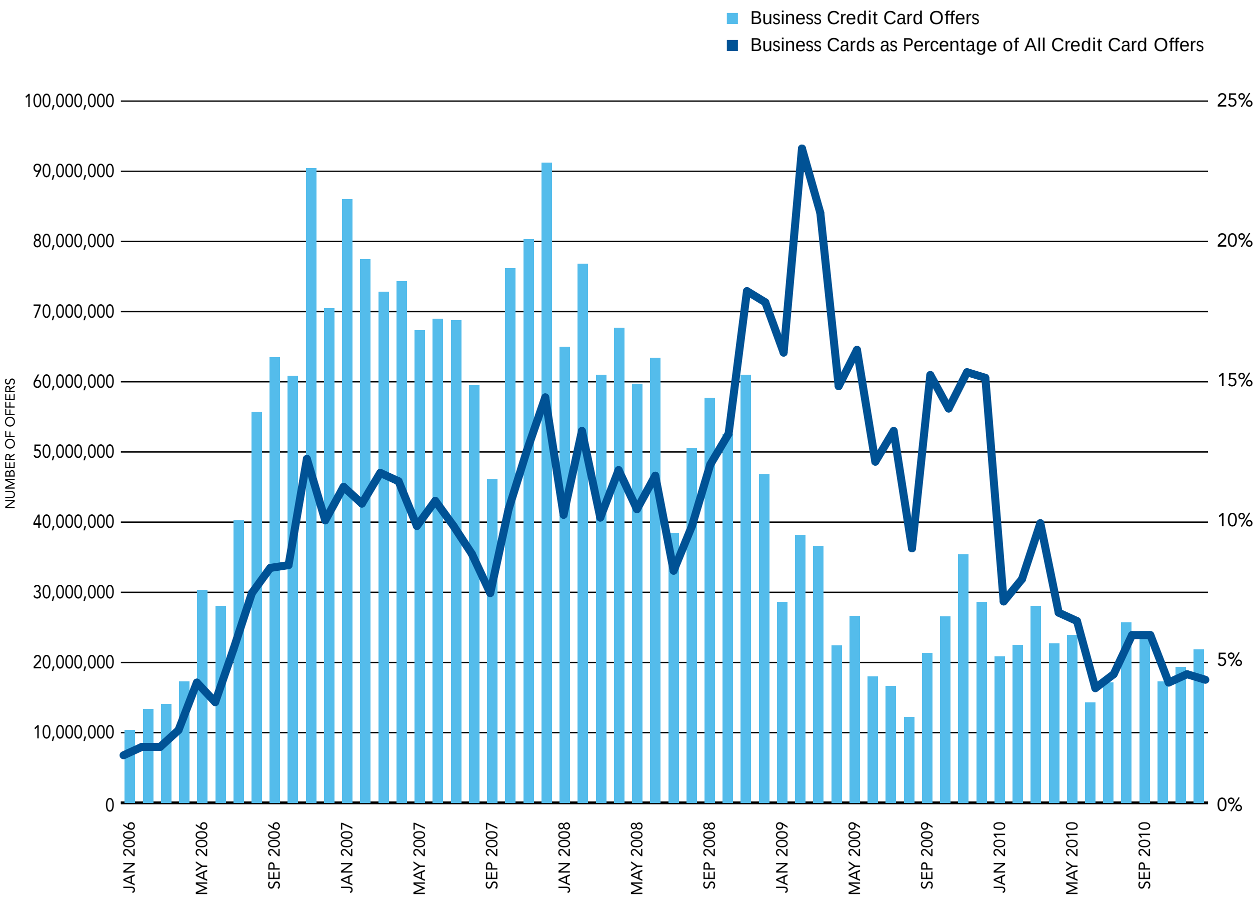
HOUSEHOLD EXPOSURE TO BUSINESS CREDIT CARD SOLICITATIONS

Pew's analysis shows that between January 2006 and December 2010, American households received over 2.6 billion business credit card solicitations. The monthly volume of direct mail solicitations during this period ranged from a low of 10.4 million in January 2006 to a high of over 91 million in December 2007. In an average month, card companies sent approximately 44 million direct mail business card offers to 12 million households—generating enough envelopes to create a trail of paper across the United States and back every month.[8]

During this five year period, business card offers comprised 9.1 percent of all direct mail marketing of credit cards to U.S. households.[9] The proportion ranged from a low of 1.7 percent in January 2006 to a high of 23.4 percent in February 2009 (see Figure 1). While the total number of individuals that actually hold business credit cards is unclear, there are at least 11 million "small business" credit card accounts, with an average of 1.4 cards per account.[10]

FIGURE 1

MONTHLY DIRECT MAIL SOLICITATIONS OF BUSINESS CREDIT CARDS TO CONSUMER HOUSEHOLDS



Source: Mintel Comperemedia's Consumer-Direct Mail Database, Pew Analysis.

Households at all income levels and in most age groups receive millions of business credit card solicitations every month (see Table 2). Over the last five years, households earning more than $100,000 annually received the largest proportion of business card offers; however, even those living near the federal poverty line received a significant volume of offers.[11] Among households with yearly incomes below $25,000, there were nearly five million business card solicitations per month (or 6.9 percent of all credit card offers to these households).

Older households received a higher proportion of business card offers compared to younger households. The highest percentage by age group went to those 65 and above (10.8 percent of all credit card offers to this age group were for business cards). Meanwhile, at the youngest households (ages 18–25), four percent of credit card solicitations advertised a business card.

TABLE 2

ESTIMATED MONTHLY DIRECT MAIL SOLICITATIONS OF CREDIT CARDS TO U.S. HOUSEHOLDS BY INCOME AND AGE

	Business Credit Card Offers	All Credit Card Offers	Business Cards as Percentage of All Credit Card Offers
Income			
Less than $25,000	4,784,400	69,761,100	6.9%
$25,000–$49,999	8,442,100	109,445,600	7.7%
$50,000–$99,999	17,886,400	196,646,400	9.1%
$100,000+	12,785,600	105,995,700	12.1%
Total	43,898,500	481,848,800	9.1%
Age			
18–25	308,100	7,662,200	4.0%
26–35	4,051,700	66,238,800	6.1%
36–45	7,948,400	90,595,400	8.8%
46–55	11,248,600	124,687,200	9.0%
56–64	13,602,000	130,112,000	10.5%
65+	6,739,600	62,553,200	10.8%
Total	43,898,400	481,848,800	9.1%

Source: Mintel Comperemedia's Consumer-Direct Mail Database (January 2006-December 2010), Pew analysis. Income and age characteristics are based on the head of household. Some totals differ because of rounding.

Though business credit card offers represented a historically high proportion of all credit card offers in 2009, this surge was mostly due to a drop in consumer card marketing rather than a spike in business card marketing. Overall, analysis of direct marketing trends provides no evidence that issuers are attempting to circumvent consumer safeguards by shifting households toward business credit cards. Still, every month millions of consumers are exposed to offers for less-regulated business card products that allow practices banned on consumer credit cards. Even the most vulnerable populations among low-income and elderly households are exposed to millions of solicitations for cards that operate outside of the Credit CARD Act protections. Yet marketing and application disclosures uniformly lack guidance to help individuals identify when a product does or does not include these important safeguards.

CONCLUSION AND RECOMMENDATIONS

More than 40 years ago, lawmakers excluded business credit cards from Truth in Lending Act protections based on a sense that "most businesses and corporations are in a good position to judge the relative worth of alternative credit plans and by and large do not require" the safeguards of consumer protection laws.[12] This exclusion now covers a variety of cards labeled for business or commercial use, whether the account holder is a large corporation, a sole proprietor or small business owner, or an individual employee trying to keep track of work-related expenses. Though issuers deserve fair compensation for the value they provide to business cardholders, this blanket exemption from consumer protection laws is no longer warranted. Individuals and small business owners have little bargaining power and receive inadequate information about the significant legal differences between consumer and business credit cards. At the same time, they are personally exposed to risks that cards provided strictly for consumer purposes cannot legally contain.

To better protect individuals, small business owners and their families, Pew encourages policy makers to extend the safeguards of the Credit CARD Act to any credit card product that requires an individual to be personally or jointly liable for account expenses. At a minimum, policy makers should require issuers to alert applicants whenever a credit card is not covered by the Credit CARD Act, specifically highlighting the risk of significant interest rate increases on existing balances and higher costs from penalties, payment processing and fees.

METHODOLOGY

To identify practices used in business credit card accounts, Pew researchers conducted an analysis of application disclosures provided by credit card issuers at the time a consumer applies for a card. During the week of January 3, 2011, Pew's research staff gathered these disclosures for all business credit cards offered online by American Express, Discover and the largest 10 Visa and MasterCard issuers that have small business credit card products (Bank of America, Barclays, Capital One, Citigroup, First National Bank of Omaha, HSBC, JPMorgan Chase, PNC, U.S. Bank and Wells Fargo).[13] The data set included 64 credit card products.

To estimate the volume of credit card solicitations directly mailed to U.S. consumer households, Pew researchers reviewed data from Mintel International Group's Comperemedia Consumer-Direct Mail Database. The database includes information from Mintel's U.S. Household Panel, a pool of 200,000 households from which administrators invite 9,500 participants every month.[14] Included households reflect key demographics of the U.S. population, based on household size and composition, age and education of the household head, geographic region, market size and total household income. Every month, cooperating households send all direct mail credit card correspondence to panel administrators, who record each mail piece along with demographic characteristics of the parcel's recipient. Panel administrators weigh responses based on participation to ensure estimated mail volume reflects U.S. demographics.

Pew researchers analyzed Mintel Household Panel data collected from January 2006 through December 2010, establishing monthly estimates of business card and total credit card direct mail solicitations to consumer households. Pew defines business credit cards as general purpose cards marketed to consumer households for non-consumer, commerce-oriented use.[15]

ENDNOTES

1. For a discussion of the Credit CARD Act and its impact on consumer credit cards, see: Nick Bourke and Ardie Hollifield, *Two Steps Forward: After the Credit CARD Act, Credit Cards are Safer and More Transparent—But Challenges Remain* (Washington, DC: The Pew Charitable Trusts, 2010).

2. In initial application disclosures, 10 of the 12 surveyed issuers included statements instructing applicants to use the cards for "business" or "commercial" use only. Issuers generally offer no guidance on what constitutes a business expense and there are no technical restrictions against using business cards for personal use. Marketing materials suggest that targeted audiences are small business owners, sole proprietors and individuals who wish to track their employment-related expenses. Some experts estimate that a significant percentage of business card charges are for personal expenses; however, data on this topic is not available.

3. Ten of the 12 surveyed card issuers explicitly required business credit card applicants to be personally liable for all business account expenses (including expenses charged to other cards on the account). Card issuers may underwrite using individual credit reports. Consumer protection laws generally do not apply to business credit cards. See: 15 U.S.C. 1603 (1); see also: Board of Governors of the Federal Reserve System, Report to the Congress on the Use of Credit Cards by Small Businesses and the Credit Card Market for Small Businesses (2010): 19.

4. For a discussion of "harmful" and "unfair or deceptive" practices, see: Federal Reserve Board rulemaking found at 74 FR 18 (January 29, 2009): 5512 et seq.

5. The Pew Safe Credit Cards Project has published several reports, issue briefs and regulatory comment letters discussing potentially harmful credit card practices, including analysis of potential cost impacts to consumers. See: www.pewtrusts.org/creditcards (regulatory comment letters are located under the "Summary" section of the page).

6. Pew estimates that the largest 12 credit card issuers control 85 percent or more of the small business credit card market, based on Small Business Credit Cards data published in Nilson Report #951 (June 2010).

7. Pew's research shows that business credit cards continue to include potentially harmful practices, including "any time, any reason" change in terms provisions. A Federal Reserve Board survey found that nearly one-quarter of small business owners actually experienced changes in terms to their business credit cards during 2009, including increased interest rates and decreased credit lines. Forty percent of these respondents characterized the changes as "harmful" or "very harmful." Report to the Congress on the Use of Credit Cards by Small Businesses and the Credit Card Market for Small Businesses (2010): 42.

8. Pew estimates that business card solicitations arrived at an average of approximately 12 million households per month from January 2006 to December 2010. The estimate is based on analysis of census data and review of household panel reach information provided by Mintel. Estimates of total "distance" derive from Mintel data on the width of envelopes in each direct mail campaign (total distance is the sum of the products of the volume of envelopes and the specified widths).

9. U.S. households received over 28.4 billion total credit card solicitations over this period.

10. Nilson Report #951 (June 2010).

11. The U.S. Census Bureau defines poverty thresholds based on family size and number of related children under 18 years old. In 2010, the poverty threshold for a family with three children was $26,080 (if two adults present) or $22,239 (if one adult present). Poverty thresholds are generally lower for smaller families.

12. 113 *Cong. Rec.* 18401 (1967).

13. Nilson Report #954 (August 2010). Researchers obtained Wells Fargo terms from a bank branch after failing to find them online.

14. Note that, although Mintel maintains a small business panel, included findings are based on their household panel as a way to determine household exposure to business card solicitations.

15. General Purpose Credit Cards include Visa, MasterCard, American Express or Discover brands and are not store-specific nor charge cards. "Business card" estimates are based on the Mintel Household Panel "corporate cards" category. "All credit cards" include Mintel-defined "affinity," "co-branded," "credit," "corporate" and "lifestyle" cards.

The analysis and recommendations included in this report are solely those of The Pew Charitable Trusts and do not necessarily reflect the views of outside reviewers.

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The Safe Credit Cards Project, a part of the Pew Health Group, is engaged in a multi-faceted strategy that combines raising public awareness, building partnerships with industry and advocating policies that better protect consumers. The initiative aims to educate the public and policy makers by assessing data on the true cost of credit.

For more information, see: www.pewtrusts.org/creditcards.

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