MAY 20, 2024

CFPB Considering Increased Regulation of Credit Card Rewards Programs

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On May 9, 2024, the CFPB released a comprehensive report detailing its findings on challenges reported by consumers regarding their credit card rewards programs. This report, as well as remarks made by CFPB Director Rohit Chopra at a recent hearing on credit card and airline rewards programs, suggest that the Bureau is considering increased regulation and/or enforcement activity with respect to such rewards programs.

According to the report, for many consumers, the benefits offered by credit card rewards programs play a significant role in deciding which credit card they choose. However, in recent years, consumers have made a series of complaints regarding the administration and marketing of these programs, suggesting that they may engage in practices that are potentially harmful and deceptive. Consequently, the CFPB has turned its regulatory lens towards the credit card industry, particularly scrutinizing the practices surrounding credit card rewards programs.

During a joint hearing with the U.S. Department of Transportation, CFPB Director Chopra asserted that rewards programs have evolved into "major assets and competitive weapons" for credit card issuers, adding that while consumers assign a monetary value to the points they accumulate, making the rewards programs attractive, credit card companies and airlines possess the power to devalue those points dramatically and without warning. Director Chopra expressed concern that rewards programs can increase the number of points needed to be redeemed to make a purchase, make it more challenging for consumers to redeem points, impose limits on what may be purchased using rewards points, or revoking earned rewards, without adequate disclosure to consumers.

Director Chopra also criticized the industry for its lack of transparency regarding the higher interest rates on rewards cards compared to non-rewards cards, suggesting that companies avoid informing cardholders about opportunities to save on interest with a lower-rate card.

CFPB Report on Credit Card Rewards

The CFPB's report analyzed several hundred consumer complaints relating to the administration of credit card rewards programs, identifying four main areas of concern:

- Unexpected Promotional Conditions
- Devaluation
- Redemption Problems
- Revocation

Each of these topics is described further below to inform credit card issuers and rewards program administrators on what aspects of rewards programs are likely to attract regulatory scrutiny, and to provide a roadmap for updating reward program policies, terms & conditions, and marketing materials to mitigate the risk of potential enforcement action.

1. **Unexpected Promotional Conditions**

   The CFPB found that advertising materials for credit card rewards programs often failed to clearly reflect the requirements imposed on consumers' ability to utilize rewards that are contained within the programs terms and conditions. According to the report, this had resulted in consumers not receiving the benefits that were advertised to them. The CFPB asserts that this practice "turn[s] sign-up offers or other promotional rewards into a bait-and-switch." The report details instances where customers applied for credit cards based on certain rewards offers but were subsequently subjected to different terms or lesser bonuses. This discrepancy is attributed to the various channels through which credit cards are promoted, with each channel potentially offering different terms or sign-up bonuses.

   The report also describes consumers' negative experiences with sign-up bonus limitations, where unclear or hidden conditions prevent them from receiving promotional offers for which they believed they were eligible. This includes restrictions on the number of times a sign-up bonus can be earned and confusion over which purchases count towards spending minimums for bonuses. The report notes that issuers often do not count cash equivalents like gift cards towards these minimums and may reverse rewards earnings in cases of returns or disputes, further complicating the process of earning of promotional rewards.

2. **Devaluation of Rewards**

   Another issue outlined in the report was consumer complaints regarding so-called "rewards inflation" - the perceived devaluation of credit card reward points. Many credit card issuers reserve the right to change their rewards program in a way that effectively lessens the value of the points consumers already earned. For example, issuers can increase the number of points required for certain redemptions. Further, the report suggests that card issuers are not adequately protecting consumers from actions taken by their rewards partners. For instance, according to the report, rewards partners can decide to remove their benefits from the rewards programs or increase the requirements for rewards, which can create an effective devaluation in consumers' reward points.

3. **Redemption Problems**

   Consumers have also complained of difficulty redeeming their rewards due to technological issues and poor customer service. The CFPB report highlights a case where a reward redemption portal was down for maintenance for weeks, leaving consumers unable to use their rewards. Moreover, the report found that when consumers have an issue with their rewards, they are often faced with poor customer service and excessive wait times. According to the CFPB, such technical glitches and customer service issues have created barriers to redemption, with consumers describing being redirected between banks and merchant partners without resolution. The report indicates that

some issuers failed to reinstate rewards when cardholders are unable to redeem them through no fault of their own.

4. **Revocation of Earned Rewards**

Finally, the CFPB report noted that the sudden forfeiture of earned rewards upon account closure, or due to expiration policies, has been a source of significant frustration for consumers. The report found that issuers revoke hundreds of millions of dollars in earned rewards each year, with four percent of accountholders losing access to a portion of their earned rewards each quarter. Consumers who experience revocation of their rewards complained that they were misled, claiming the credit card issuers were not adequately communicating with the consumers regarding upcoming account closures and reward expiration dates.

Takeaways for Credit Card Issuers and Rewards Program Administrators

Though it is unclear whether and to what extent the CFPB will seek to impose regulations pertaining to credit card rewards program practices, or what form such regulations would take, credit card issuers currently designing or restructuring their rewards programs should be aware of several key points highlighted by the CFPB report and Director Chopra's remarks:

1. **Regulatory Scrutiny**: The CFPB is closely examining credit card rewards programs for practices that may be deemed unfair, deceptive, or abusive to consumers, and credit card issuers should expect increased scrutiny and potential regulatory actions in this area. The CFPB's approach is consistent with the broader governmental focus on consumer protection and reducing consumer costs with respect to credit card fees and charges. To mitigate the impact of such scrutiny, credit card rewards programs should be designed not only attract consumers but also provide genuine value without hidden costs or misleading practices.

2. **Transparency and Fairness**: The CFPB report places a strong emphasis on transparency and fairness in the administration of rewards programs. The CFPB has identified patterns in consumer complaints regarding vague or hidden conditions in rewards programs, the devaluation of points, challenges in redeeming rewards, and the revocation of earned rewards. Programs should be designed with clear terms and conditions to avoid these issues. Credit card issuers should ensure that changes to rewards, such as devaluation or expiration policies, are communicated clearly and in advance to consumers.

3. **Competitive Practices**: The CFPB expressed concern about exclusivity deals and practices that may hinder competition, such as higher interest rates on rewards cards compared to non-rewards cards. Credit card issuers should consider how their rewards programs impact the broader market and whether they maintain a level playing field against competing brands and within their own

credit card lineup.

4. **Potential Legislative Change**: The legal landscape surrounding credit card rewards programs may evolve as the CFPB and other governmental partners consider taking action. Credit card issuers should stay informed about potential changes and be prepared to adapt their programs accordingly.

In light of these points, credit card issuers should carefully evaluate the policies and procedures underlying their rewards programs, as well as reward program terms & conditions and marketing materials, to ensure they align with the regulatory expectations and consumer protection standards described in the CFPB report. Legal counsel may be necessary to navigate the complexities of compliance and to mitigate the risk of future enforcement actions.