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May 15, 2015

Ms. Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Submitted via email: FederalRegisterComments@cfpb.gov

Re: Docket No. CFPB-2015-0007; Request for Information Regarding the Credit Card Market

The [Merchant Advisory Group](#) (MAG) appreciates the opportunity to provide comments to the Consumer Financial Protection Bureau's Request for Information Regarding the Credit Card Market. The MAG is a payments-focused trade association representing over 90 of the largest US merchants across several industry verticals, including, but not limited to supermarkets, department stores, big box stores, petroleum and convenience stores, drug stores, airlines, hotels, movie theatres, and restaurants. The MAG is focused on driving positive change in payments.

The MAG membership represents hundreds of thousands of merchant locations, kiosks, and e-commerce websites across the country. In all of these business cases, the merchant is the main touch point with the customer and it is of the utmost importance to merchants and our brands that we provide a positive customer service experience. One of the most important customer interactions in any retail environment is the experience at the checkout or point-of-sale, as well as any cashier or customer service experience that involves a voided transaction or an item return. The MAG membership is committed to helping ensure point-of-sale processes are as seamless as possible for our customers and that customers have transparent and timely access to the funds and credit lines associated with any of their accounts.

We do not seek to address any specific question as outlined in the Bureau’s request for information; however, we encourage increased oversight and transparency of issuer and card company practices related to cardholder returned purchases, voided or canceled sales, and card pre-authorizations and holds on consumer funds. Delayed return of funds and release of holds can: 1) have a major impact on a cardholder’s ability to budget and reconcile their accounts; 2) can leave a consumer potentially vulnerable to over-the-limit or overdraft fees; and 3) can prevent a cardholder from immediately accessing their funds – sometimes in distressful situations.

Refunds, Voids, and Cancellations

Many merchants have robust return policies; whereby, merchants immediately submit real-time electronic credits to cardholders who return previously purchased items. The same is true for voided and cancelled card sales. However, many issuing banks are not processing these credits on a real-time basis limiting the customer’s availability to their funds for a time frame of approximately two to seven days. It is critically important to payment system stakeholders that both the card networks and issuers support transactions that increment available funds in real time. We strongly encourage the CFPB to explore these marketplace practices and whether or not systematic improvements could be made in the interest of consumers and retail businesses.

In some instances, failure to post timely account refund credits can leave consumers without access to necessary funds for several days potentially creating an undo financial burden on the cardholder. For example, a customer may have decided to return a home entertainment center because they had an emergency home repair and decided they could not afford the home entertainment center purchase that month. Upon returning the entertainment center purchase, the customer would still have to wait a few days or more for those funds to be credited back to their account. Meanwhile, they may infer or be told by their bank that the merchant is still holding the funds even though the merchant has processed the return and is just waiting for the issuer to post the credit. Failure by issuers to process returns in real time not only leaves customers without access to their funds for a few days or more, but also creates confusion about which entity – the retailer or issuer – needs to be contacted regarding release of the funds.

It is our understanding that there are no major technical impediments to issuers posting returns or reversed sales in real-time as the technology is essentially the same as that used to perform the immediate posting of a customer purchase, which reduces the funds available in the consumers account, and does occur in real-time. In other words, if card-issuing financial institutions have the technical wherewithal to lock & hold customer funds in real-time, it is our understanding that they should have the ability to release such holds in real-time as well.

Lack of real-time issuer credit or fund posting on voided and canceled sales also creates in-store or online shopping challenges for consumers and merchants. For example, a customer could purchase a brown couch, have the clerk ring up the sale, and then decide they actually want the same couch in tan instead. The clerk can easily void or cancel the sale real-time with the customer in the store, but the funds will not automatically post back to the customer’s financial account under some current issuer practices. The issuer practice of not crediting those funds in real-time can limit the ability of the customer to continue shopping if they don’t have enough

money in their account or on their credit limit to support the second purchase without return of the initial sale. This creates an inconvenience for the customer and the merchant, can sometimes lead to customer embarrassment, and overall detracts from the customer service experience in the store.

Pre-authorizations and Account Holds

Another practice that ties up customer funds is the process of pre-authorizing a transaction or the placing of a hold on funds in a cardholder's account. A card pre-authorization generally occurs in an environment when the merchant does not know the final total of a sale when the card is swiped or entered, such as in a restaurant where a tip is added to the final total, or for a rental car reservation or at a hotel stay where the total is unknown until the end of the stay and final card authorization. Pre-authorizations can be useful tools to help merchants ensure the availability of funds in a customer's account, but holds need to be released by issuers in a more timely fashion once a final authorization has been cleared. The merchant – under parameters dictated by the Visa and MasterCard operating rules (which would ideally be more flexible) - controls the **level** of the hold; however, the **length** of the hold is at the discretion of the issuer.

Visa operating rules do note that: "For a real-time clearing transaction, a US issuer must release any hold on available funds in its Cardholder's account as a result of an approved authorization request . . . [with] the receipt of a completion message." See Visa Operating Rules Section 7.3.9.1.¹ However, in practice, Visa does not appear to be enforcing this rule on its issuers, and that begs the question of whether or not the industry is doing enough self-policing to ensure industry practices are not creating undo harm for consumers and other payment system stakeholder participants. We believe that, on average, it is taking some issuers anywhere from three to five days to release holds.

It is also important that funds be released in a timely fashion if a merchant issues a reversal on the initial pre-authorization of a transaction. Pre-authorizations or partial authorizations are even required by Visa and MasterCard operating rules for some merchant environments, such as at unattended automated fuel pump dispenser (AFD) sales where the amount of gas is unknown until the customer is finished filling the tank. According to a compliance bulletin², MasterCard rules require "a release of excess holds from cardholder accounts within two hours of the authorization of an AFD transaction." However, again, it is unclear whether or not these parameters regarding the release of consumer account fund holds are being honored and we are unaware of any enforcement or audits being conducted to ensure rules are being followed by issuers.

¹ http://usa.visa.com/download/about_visa/15-April-2015-Visa-Rules-Public.pdf

² [http://www.pmaa.org/weeklyreview/attachments/Advisor%20Alert%20-%20AFD%20Compliance%20Program%20\(FINAL\)\(022613\).pdf](http://www.pmaa.org/weeklyreview/attachments/Advisor%20Alert%20-%20AFD%20Compliance%20Program%20(FINAL)(022613).pdf)

Conclusion

Consumer fund availability is a critical consumer protection issue for credit, debit and prepaid cards. The MAG and its members are committed to ensuring a seamless customer point-of-sale experience for item returns and refunds, voided or canceled sales and consumer account pre-authorizations and holds. It is critical that all payments system stakeholders proactively seek to ensure real-time account credits and funds availability, as well as immediate release of account holds.

Some issuing banks may argue that they are reluctant to implement real-time account credits or releases on holds because of the additional security implicit in delayed processing. However, we would note that the vast majority of credit card fraud involves the malicious acquisition of stolen cardholder data used for fraudulent purchases, and in the aforementioned examples, merchants are utilizing established payment channels, which typically involves referencing components of the original payment authorizations that no malicious individual is likely to know. As a result, the risk of fraud should not be particularly high on account hold releases and reversals. Merchants utilizing such established payment channels to release customer holds should have such requests honored by issuing banks in real-time.

One additional issue we would like to flag is related to ACH payments. As long as pricing and security remains efficient and transparent in the ACH market, many merchants are likely to explore ACH solutions for consumer-to-business payments. We have noticed on some accounts - primarily consumer and small business accounts - that ACH funds are deducted in real-time for purchases, but are not necessarily credited in real-time from payroll or other deposits. The same logic applies here as with the timely reversal of funds. If an issuer can deduct account funds real-time for a purchase, those funds should be given equal availability and access treatment on the deposit side to ensure seamless operations and funds availability for businesses and consumers.

Lastly, we encourage more consistency and transparency for consumers about what funds are truly available to them. Many issuers use third-party providers for their web services and mobile applications. To our knowledge, there is no underlying consistency in how the consumer's data is displayed by these third-party providers. Looking at the fuel pump example again, let's say the merchant pre-authorizes a sale for \$50, the cardholder's online banking applications may show a \$1 pre-authorization, a \$50 pre-authorization, a \$150 pre-authorization, or no pre-authorization at all so it becomes very unclear to the customer what funds are truly being held. Additionally, for customers who have accounts at multiple issuers or switch their accounts between issuing banks, this lack of consistency can easily create confusion. Often times the consumer does not know whether or not to call their bank or the merchant about releasing these account holds. MAG members report that such inconsistencies have lead to numerous calls to their call centers by confused customers.

The MAG appreciates the opportunity to raise these important consumer protection issues with the Consumer Financial Protection Bureau. Please feel free to contact me at liz.garner@merchantadvisorygroup.org with any follow up questions or concerns. Thank you in advance for your consideration on these important consumer card account issues.

Sincerely,

/s/

Liz Garner
Vice President
Merchant Advisory Group