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CARD ACT REPORT: THE CFPB DEPARTS FROM PRECEDENT

The authors discuss the 2017 CFPB Card Act report with regard to balance transfers, deferred interest products, loyalty and rewards programs, debt collection and late fees, and third-party comparison sites. They conclude that the tone of the report suggests that the CFPB is pivoting away from using the report as a platform to identify problematic practices in the card industry.

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On December 27, 2017, as required by law, the Consumer Financial Protection Bureau released its third biennial report evaluating the state of the consumer credit card market.¹ The Report provides important data about the credit card market, including the use, costs, and availability of credit cards across the credit score spectrum. The Bureau compiled the data from responses to its March 2017 public request for information. The Report updates data from the 2015 report and seeks to broadly assess the credit card market, including various issuer practices and consumer experiences.

The Bureau's post-Richard Cordray outlook on the credit card market overall was optimistic. Unlike the

CFPB's prior credit card market reports in 2013² and 2015,³ the Report did not specifically list any "areas of concern" that in the past have hinted at areas of increased regulatory scrutiny and served as a roadmap for the agency's focus in its supervisory and enforcement activities. That said, the Report, like past reports, identifies areas where the Bureau staff appears to believe there are regressive subsidies (i.e., subsidies flowing from less creditworthy to more creditworthy consumers) and holes in the current regulatory scheme.

¹ "The Consumer Credit Card Market," Dec. 2017, *available at* http://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-card-market-report_2017.pdf.

² "CARD Act Report," October 1, 2013, *available at*: http://files.consumerfinance.gov/f/201309_cfpb_card-act-report.pdf.

³ "The Consumer Credit Card Market," Dec. 2015, *available at* http://files.consumerfinance.gov/f/201512_cfpb_report-the-consumer-credit-card-market.pdf.

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