

**CONSUMER FINANCIAL PROTECTION BUREAU**  
**INFORMATION COLLECTION REQUEST – SUPPORTING STATEMENT**  
**CREDIT CARD AGREEMENT TESTING SURVEY**  
**(OMB CONTROL NUMBER: 3170-0029)**

**TERMS OF CLEARANCE:** None

**EMERGENCY JUSTIFICATION**

The Bureau of Consumer Financial Protection (“CFPB”) respectfully requests emergency processing and approval of the collection of information discussed below because the proposed information collection is essential to the mission of the agency and the use of normal clearance procedures is reasonably likely to prevent collection.

The CFPB requests approval to conduct research related to a shortened credit card agreement Pentagon Federal Credit Union (“Pentagon Federal”) is piloting this fall. The research will result in recommendations for development of and revisions to the Bureau’s approach to improving the readability of credit card agreements. The research activities will be conducted by phone surveys of consumers who will have received the agreements from Pentagon Federal. The feasibility and value of this approach has been demonstrated by other agencies in developing disclosures and other forms. The survey will provide illustrative information only. Survey results will not be used to make statistically-valid assessments for the purposes of extrapolating to the broader US population.

The planned research activities will be conducted during calendar Q1 2013 and calendar Q2 2013. Pentagon Federal began distributing the test agreement to consumers in October, 2012. The test agreement will continue being distributed until the requisite number of respondents have agreed to participate, at which point Pentagon Federal will return to distributing the long-form agreement. As the survey includes questions that ask a consumer to recall their impression of the cardholder agreement, the survey must be administered shortly after initial receipt of the agreement, when those impressions remain fresh. The CFPB thus requests emergency processing and approval of the following information collection request as the normal clearance process would disrupt the collection.

**A. JUSTIFICATION**

**1. Circumstances Necessitating the Data Collection**

One of the first projects undertaken by the Consumer Financial Protection Bureau (CFPB) was to develop and make publicly available a prototype model shortened and simplified consumer credit card agreement. While the Truth in Lending Act, 15 U.S.C. 1601 *et seq.* (“TILA”) provides a set of formatting requirements that govern credit card agreements, consumer groups and consumer media

reported that the agreements themselves were too difficult to understand.<sup>1</sup>

In December 2011, the CFPB publicly announced its initiative to simplify credit card agreements. As part of this initiative, the CFPB developed a proof-of-concept credit card agreement that was displayed to the public for comment ([www.consumerfinance.gov/credit-cards/knowbeforeyouowe](http://www.consumerfinance.gov/credit-cards/knowbeforeyouowe)). The CFPB also announced a partnership with Pentagon Federal Credit Union to launch a pilot of the shortened agreement with Pentagon Federal customers. Frank Pollack, the CEO of Pentagon Federal, spoke at the public event and expressed strong support for the initiative.

Pentagon Federal is one of the largest credit unions in the country, with over \$15 billion in assets. It primarily serves active-duty and retired military personnel, as well as civilians employed by defense agencies. In addition to traditional credit union share accounts, Pentagon Federal has a portfolio of credit card products that it offers to its members.

Pentagon Federal adapted CFPB's proof-of-concept agreement to fit one of their credit card offerings. Pentagon Federal began distributing this simplified short-form agreement for newly opened accounts and renewed accounts in October, 2012. Pentagon Federal has agreed to survey its members in order to learn more about the impact of the new credit card agreement. The CFPB has designed the survey instrument (included as Attachment A), and Pentagon Federal will administer the survey through a third-party contractor of its choosing.

Pentagon Federal will administer the survey to each of its members that opens or renews a Travel Rewards American Express credit card during the survey period. One group, the test group, will receive the shortened agreement. The other group, the control group, will receive the standard credit card agreement that Pentagon Federal has been using up until this point. Due to operational limitations at Pentagon Federal's fulfillment processing provider, the organization can only actively distribute one agreement at a time. As a result, the test group that receives the treatment (simplified agreement) will be selected based on the timing of when they apply for the card.

Pentagon Federal is currently sending the short-form test agreement to new and renewing cardholders, and will continue doing so until 250 customers agree to participate in the survey.<sup>2</sup> The control group will consist of customers who apply for the card in the months following the test; Pentagon Federal will continue distributing the control agreement until at least until 250 customers agree to participate. The Bureau does not anticipate that the likelihood of participating will differ systematically based on which agreement the customer received, and participants in each group will be selected and interviewed at roughly the same interval following their receipt of the agreement.

Pentagon Federal's survey administrator will contact customers approximately 2 weeks after receipt of the agreement. Respondents who do not pick up will be called once per week until 4 weeks after

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<sup>1</sup> See, for instance: Prater, Connie. "U.S. Credit Card Agreements Unreadable to 4 Out of 5 Adults". *CreditCards.com*. July 22, 2010. <http://www.creditcards.com/credit-card-news/credit-card-agreement-readability-1282.php>. (Last accessed July 24, 2012). This article is included as Attachment C.

<sup>2</sup> Respondents are counted as having agreed to participate when they answer "Yes" to survey question C1. Any participant who indicates that they do not recall receiving the agreement and do not intend to activate the credit card will not be counted as a participant. The survey is included as Attachment A.

receipt of the agreement, at which point the survey administrator will move on to a new case. The survey administrator will attempt to contact customers a maximum of 3 times before moving on to the next case. To increase the likelihood of response, the survey administrator will vary the day of the week and time of day for each call.

The survey will provide illustrative information only that will allow Pentagon Federal to gather information about the strengths and weaknesses of both the simplified test agreement as well as their standard existing agreement. This will inform Pentagon Federal's decision on whether to expand the pilot program to other credit card offerings. This survey will not be used to make statistically-valid assessments for the purposes of extrapolating to a broader population.

This partnership represents a unique opportunity for the CFPB to learn how Pentagon Federal customers reacted to the short-form agreement. The CFPB has a significant interest in Pentagon Federal undertaking this survey because it believes the survey may provide suggestive evidence on whether a short-form credit card agreement can, in certain environments, lead to a demonstrable impact on consumers. The outcome of this research will help the CFPB decide whether to continue to dedicate resources to pursuing a short-form credit card agreement.

Customers whose applications for this specific credit card are approved by Pentagon Federal during the relevant period will have the opportunity to participate in the survey. Pentagon Federal will invite all such customers to participate, regardless of whether a consumer activates the card. Information collected is not meant to be, and will not be treated as, a sample that is statistically generalizable to the overall American population.

## **2. Use of the Information**

The CFPB has created a telephone questionnaire (included as Attachment A) that assesses the extent to which Pentagon Federal's customers used short form and long form agreements differently. In order to determine whether to adapt the short-form agreement being piloted, Pentagon Federal is contracting with a telephone survey administration service to administer the questionnaire to its customers. A detailed description of the survey process is included in Section B.2. of this request.

Pentagon Federal will share anonymous, unidentified survey results with the CFPB. At no point will personally identifiable information (PII) be sent to or accessed by the CFPB. Individuals' responses will be shared with the Bureau after all PII fields have been removed and all open-ended narrative fields have been stripped of PII and any other information that may pose a disclosure risk.

The CFPB will analyze the frequency of various responses for each question asked. Within the open-ended narrative questions, the CFPB will analyze which sentiments are expressed by Pentagon Federal customers most frequently. The data will not be treated as generalizable to any population beyond those Pentagon Federal customers whose applications for this specific credit card were approved during the data-collection period and who chose to participate in the survey.

Survey results will inform the CFPB's future efforts to simplify and shorten credit card agreements in order to improve consumer understanding of key terms. The Bureau may elect to publish a report

explaining the methodology and aggregated results of the survey.

### **3. Use of Information Technology**

The survey will be administered exclusively by phone. Participation in the survey will be entirely voluntary and will take approximately 15 minutes on average.

### **4. Efforts to Identify Duplication**

This will be the CFPB's first attempt to collect the information sought in this survey. There are no comparable efforts to shorten agreements currently being undertaken within the CFPB. There have been no similar surveys undertaken by the federal government. In 2010, the CFPB Office of Card and Payment Markets performed a survey on the CARD Act. There is not significant duplication of questions asked in that survey.

### **5. Efforts to Minimize Burdens on Small Entities**

Not applicable. The reported results of the survey will have no direct impact on any small entity. The survey is designed to elicit responses from individuals, not entities.

### **6. Consequences of Less Frequent Collection and Obstacles to Burden Reduction**

If this information is not collected, it will not be possible to assess the perceived utility of Pentagon Federal's short form credit card agreement pilot. As a result, the CFPB will not be able to learn from Pentagon Federal's pilot shortened credit card agreement when undertaking future efforts to simplify and shorten credit card agreements.

The frequency of collection is not applicable because the survey is a one-time event and participation is entirely voluntary. There is no need to collect information from an individual more than once.

### **7. Circumstances Requiring Special Information Collection**

No special circumstances require the collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.6.

### **8. Consultation Outside the Agency**

The CFPB has worked closely with Pentagon Federal to best understand their customer base and how to appropriately communicate with their consumers. On Pentagon Federal's behalf, the CFPB has authored a phone questionnaire (included as Attachment A). Pentagon Federal will administer the survey through a contractor, and will shoulder all costs associated with survey implementation.

Pentagon Federal has contracted with Dr. Robert Morgan, a professor at the University of Alabama's Culverhouse College of Commerce and Business Administration (curriculum vitae included as Attachment B). Dr. Morgan will administer the survey through Culverhouse College's Center for

Business and Economic Research, which houses a permanent call center for social science research.

Before any surveys are conducted, Dr. Morgan will conduct an orientation for all call center employees. During this meeting, Dr. Morgan will discuss the project's context and explain PII control practices. Upon receiving the survey questionnaire from Pentagon Federal, Dr. Morgan will conduct mock calls with call center employees to ensure that the estimated time for a cardholder to complete the survey is accurate.

Dr. Morgan and his staff will then offer each cardholder (as identified by Pentagon Federal) the opportunity to respond to the survey. After administering the survey, Dr. Morgan will compile the data, destroy all records containing PII and any other information that may pose a disclosure risk, and transmit the results to Pentagon Federal and the CFPB. Dr. Morgan and his staff will scrub all open-ended narrative fields of PII and any other information that may pose a disclosure risk before transmitting the file to Pentagon Federal and the CFPB.

## **9. Payments or Gifts to Respondents**

No payments or gifts are provided to respondents.

## **10. Assurances of Confidentiality**

At no point will personally identifiable information (PII) be sent to or accessed by the CFPB. Respondents will be assured that their answers will not be attributed to them individually. The survey itself will not capture PII. Individuals' responses will be shared with the Bureau only after all open-ended narrative fields, in which a respondent may share PII, have been stripped of PII.

The information that Pentagon Federal provides to the CFPB will be subject to the protections of the Bureau's rules on the disclosure of information and records found in 12 CFR Part 1070 et seq., particularly 12 CFR 1070.2(i)(1)(iv) and 1070.41(a), which generally bar the disclosure of confidential business information of the kind that Pentagon Federal will provide the Bureau.

Through Pentagon Federal's standard credit card application process, personally identifiable information (PII) is shared with Pentagon Federal. Pentagon Federal will share certain portions of that PII with the survey administrator for the sole purpose of contacting potential respondents. At no point will unnecessary sensitive information (such as account number, credit card number, or social security number) be shared with the survey administrator.

Each of the cardholder agreements – the standard agreement and the shortened agreement – notifies consumers that Pentagon Federal may share their data with third party vendors for approved purposes. This data will be stored on a server dedicated to the University of Alabama's call center. Shortly following project completion, the data will be destroyed.

In addition, all information collection activities will be conducted in full compliance with the requirements of the Privacy Act, 5 U.S.C. § 552a, and all collection instruments will contain a Privacy

Act statement consistent with the Privacy Act, which will be read to the respondents during the telephone survey. (See Attachment A).

#### **11. Justification for Sensitive Questions**

The survey does not pose any sensitive questions. No demographic information will be collected.

#### **12. Estimated Burden of Information Collection**

The full survey will be administered to 500 people whose applications for this specific credit card are approved by Pentagon Federal and who voluntarily agree to participate in the survey. Based on Pentagon Federal's experiences conducting phone surveys of its customers in the past, we estimate that roughly 1000 people will be called and that 500 will agree to participate. The survey will take approximately 15 minutes on average to complete; this will be validated by testing the survey before calling begins.

<u>Process:</u>	<u>Number of Respondents:</u>	<u>Average Burden Per Response:</u>	<u>Total Burden Hours:</u>
Telephone questionnaire – agree to participate	500	15 minutes	125 hours
Telephone questionnaire – decline to participate	500	1 minute	8.3 hours
<b>TOTAL</b>			<b>133.3 hours</b>

#### **13. Estimated Total Annual Cost Burden to Respondents or Recordkeepers**

There will be no annualized capital or start-up costs for the respondents to collect and submit this information. Thus, the total burden will be approximately 133.3 hours, as shown above.

The survey will be conducted only once, so there will be no recurring burden.

#### **14. Estimated Cost to the Federal Government**

There are no additional costs to the Federal Government.

#### **15. Program Changes or Adjustments**

Not applicable. This is a new collection.

#### **16. Plans for Tabulation, Statistical Analysis, and Publication**

The results of this study will be used only to inform the design of future iterations of the simplified disclosure. No statistical analysis will be conducted, and the results will not be extrapolated beyond the

survey respondents.

The Bureau may elect to publish a report explaining the methodology and aggregated results of the survey.

## **17. Display of Expiration Date**

Because the survey will be conducted by phone, the OMB control number and the OMB expiration date cannot be visibly displayed. The call center employees will be notified of and required to adhere to the OMB expiration date. The OMB control number will be provided to each respondent during the call.

## **18. Exceptions to the Certification Requirement**

There are no exceptions to the certification statement in item 19 of Form 83-I.

## **19. Public Comments Received and Actions Taken**

In response to Federal Register notice 77 FR 57560, the CFPB received three comment letters regarding the proposed survey. A summary of these comments as well as the Bureau's response is included below.

### **Short-form Agreement Purpose**

- *Comment:* The CFPB's efforts to improve consumer understanding through mandated contract forms undermines decades of focus by Congress and federal regulatory agencies on disclosure documents that are separate from the contract between an issuer and a consumer.
  - *Response:* The CFPB is not proposing to make any credit card agreements mandatory. Pentagon Federal's survey of its customers is one of several information sources the Bureau will assess in determining whether to continue dedicating resources to short-form credit card agreements.

### **Survey Design Comments**

- *Comment:* Given the unique nature of credit union customers, it would be improper to apply the survey results to other credit card issuers.
  - *Response:* The Bureau acknowledges that this collection is not generalizable beyond the sample. Results from this survey will not be viewed as representing the experiences or sentiments of other issuers' customers.
- *Comment:* The survey tests consumers' understanding of key credit card terms, but does not control for the other channels through which consumers are notified of terms. As a result, the test cannot lead to a complete view of how the short-form agreement impacts consumer understanding because it does not evaluate the effectiveness of the agreement against the effectiveness of existing disclosures, particularly the Schumer box. The survey should be redesigned to ask questions that can only be answered by someone who has read and understood the agreement, such as explaining how a grace period works or the process to dispute a charge.

- *Response:* While information gleaned from other sources is not specifically addressed in the questionnaire, the design of the test controls for the impact of other information sources. Survey recipients are divided into two groups: the test group (who receive PenFed's short-form agreement) and the control group (who receive PenFed's existing long-form agreement). Testing processes are identical for both groups; the difference between groups is which agreement the subject received. As a result, we expect that meaningful differences between the test populations are attributable to the agreements themselves rather than external factors.
- *Comment:* Including existing customers in the survey may skew the results. Existing customers may be more or less likely to read the short-form agreement than new customers. Existing customers may be less likely to read the short-form agreement as they are already familiar with the features and benefits of these accounts. Conversely, existing customers who notice the short-form agreement appears different than their earlier agreement may scrutinize the document more closely.
  - *Response:* Survey administrators will log whether each respondent is a new or renewing customer. Pentagon Federal and the Bureau will have the ability to analyze whether there are differences between the populations. Additionally, as stated throughout the justification document, this survey will not be treated as generalizable beyond the population being surveyed.
- *Comment:* The survey does not address the critical question of whether customers feel it is necessary or useful to understand the entire agreement or whether there are better ways and times for customers to learn than by reading the contract.
  - *Response:* One of the Bureau's primary objectives as written in the Dodd-Frank statute that created the Bureau is to ensure "consumers are provided with timely and understandable information to make responsible decisions about financial transactions."<sup>3</sup> This implies that Congress believes it to be crucial that consumers understand the contractual terms of financial products. We believe that a short-form Cardholder Agreement may improve the understandability of consumer credit card products.
- *Comment:* Survey recipients are invited to make several comparisons between a short-form agreement and other credit card agreements. However, recipients will only have received one form of the agreement or the other, but not both, making comparisons impossible.
  - *Response:* The survey instrument has been modified to eliminate comparisons across documents.
- *Comment:* The short-form agreement includes a series of definitions that are hosted on the internet by reference. The survey should, at a minimum, assess whether customers accessed these definitions.
  - *Response:* For respondents who receive the short-form agreement, the survey instrument has been modified to include a section about the definitions document.
- *Comment:* The survey assumes that a consumer's ability to recall certain information is a proper proxy for enhanced understanding of an agreement. This assumption should be proven before the survey proceeds.

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<sup>3</sup> See §1021 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203.

- *Response:* While it is plausible that recall does not equate to understanding, recall suggests that a consumer has read their Cardholder Agreement. The Bureau is interested both in whether a consumer reads and whether a consumer understands their agreement. As a result, and given that we acknowledge this survey is not generalizable beyond the responding population, we feel that questions assessing customers' recall are helpful. By examining the difference in responses between the control and test groups, the Bureau and Pentagon Federal may, at the very least, assess whether customers were more likely to read the short-form or long-form agreement.
- *Comment:* While the CFPB indicates that the survey will be used for qualitative purposes, the testing size of 500 respondents and the multiple-choice survey questionnaire are formats more commonly associated with quantitative testing. Actual qualitative testing, on the other hand, is typically conducted in-person or online, commonly involves sample sizes no larger than 40 and invites each participant to share his or her views and experiences through more in-depth open-ended questions.
  - *Response:* As stated throughout the justification document, we believe that the survey's results are suggestive and cannot be generalized to any population beyond the respondents. The word qualitative, which was being used as an acknowledgement of these limitations, has been removed from the justification document.
- *Comment:* In order to decrease the likelihood of selection bias from disengaged customers, the multiple choice questions must be presented in a manner that rotates the order of answers.
  - *Response:* To decrease the likelihood of selection bias, survey administrators will be instructed to vary the order in which multiple choice answers are presented.

### **Question-Specific Comments**

- *Comment:* The survey refers to and asks questions about the Cardholder Agreement without clearly defining which document is the Cardholder Agreement. Consumers may confuse the agreement with numerous other documents they receive upon opening an account.
  - *Response:* Question C.1 in the survey instrument has been modified to ensure that consumers understand which document the administrator references.
- *Comment:* Question B.4 ("If you have a problem with your card, what would you do?"). The examples of potential problems that the survey administrator is prompted to deliver all involve emergency situations in which the customer is likely to call the issuer for support. As a result, the survey fails to elicit a complete view of customer experiences.
  - *Response:* The survey instrument has been modified so that the prompt includes non-emergency situations.
- *Comment:* Question D.1 ("Do you normally read Cardholder Agreements?"). This question presupposes that the survey respondent has received credit cards prior to this one, but the customer may be receiving their first card.
  - *Response:* The survey instrument has been modified so that first time cardholders are identified.
- *Comment:* Question D.1 ("Do you normally read Cardholder Agreements?"). If consumers answer that they do not normally read Cardholder Agreements, the survey caller is prompted to "encourage them to elaborate on their answer." Such open-ended prodding by survey callers invites the introduction of multiple unintended variables into the survey results, particularly if

survey callers use their own views or experiences to "encourage" Pentagon Federal customers to elaborate on their answers.

- *Response:* We believe that including open-ended questions will allow Pentagon Federal and the Bureau to collect illustrative though non-generalizable data on users' perceptions of cardholder agreements.
- *Comment:* Question D.3 ("Do you look for information on your credit card terms from sources other than the paper Cardholder Agreement?"). This suggests that the question is focusing on a time other than the time of agreement receipt. However, Question E.1 follows up with a question asking what information you "were" looking for, suggesting that Questions D.3 was referring to the time of agreement receipt. The questions that follow D.3 support that interpretation. Customers will be confused and will answer inconsistently.
  - *Response:* The survey instrument has been modified to clarify that Question D.3 refers to moments when cardholders encounter problems with their card.
- *Comment:* Question F.1 ("The layout of this agreement makes it easier for me to find and understand the content of the agreement"). This question does not clarify to what the consumer should compare his or her agreement. The question may lead consumers to state that the agreement being tested is easier. Additionally, the question includes two very different attributes: finding the content of the agreement and understanding the content of the agreement.
  - *Response:* The comparative component of this question has been removed. The question has been broken into two separate prompts: one that asks respondents about their ability to find content and another that asks about their perceived understanding of the content.
- *Comment:* Question G.5 ("Does PenFed need to give you a reason for increasing or decreasing your credit limit?"). This question is not an accurate reflection of the contents of the Cardholder Agreement. The Cardholder Agreement states "We may increase or decrease your credit limits at any time and for any reason. There will be no advance notice." The question, as written, implies that PenFed is not required to give justifications for these changes, when in fact PenFed is required to do so in certain circumstances.
  - *Response:* The survey instrument has been modified so that it asks whether PenFed is required to give the customer advanced notice of a line increase or decrease.

## **Emergency Clearance**

- *Comment:* The CFPB does not demonstrate that emergency clearance is warranted as the justification does not prove that the survey is "essential" to the mission of the agency.
  - *Response:* One of the Bureau's primary objectives as written in the Dodd-Frank statute that created the Bureau is to ensure "consumers are provided with timely and understandable information to make responsible decisions about financial transactions."<sup>4</sup> We believe that investigating whether short-form agreements improve the understandability of credit card agreements is essential to the mission of our agency.

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<sup>4</sup> See §1021 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203.

## **B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

### **1. Respondent Universe and Selection Methods**

Each customer whose application for the Travel Rewards American Express credit card is approved by Pentagon Federal during the survey period will be called and given the opportunity to participate in the survey. The survey will run until 500 cardholders (250 who received the existing agreement and 250 who received the shortened pilot) have agreed to participate in the survey. Respondents will consist solely of individual persons seeking personal credit cards and will not include any commercial or business card accounts.

Based on experience conducting phone surveys of their membership in the past, Pentagon Federal anticipates a 50% response rate. To survey 500 of its customers, Pentagon Federal estimates that it will call 1,000 cardholders, and 500 will decline to participate. Pentagon Federal has found that its membership is highly responsive to this type of request and that additional measures to encourage a high-response rate are unnecessary. Correspondence will not be used to boost response rates. During each call, the survey administrator will offer to call at another time if more convenient for the respondent.

### **2. Information Collection Procedures**

Upon approving an application for a new Travel Rewards American Express credit card or reissuing an existing card, Pentagon Federal will mail card origination materials to the customer. In these materials, the consumer will receive either of the following: 1) Pentagon Federal's existing, long-form agreement, or 2) the simplified agreement that has been jointly developed by Pentagon Federal and the CFPB.

Pentagon Federal will administer the survey to each of its members that opens or renews a Travel Rewards American Express credit card during the survey period. Due to operational limitations at Pentagon Federal's fulfillment processing provider, the organization can only actively distribute one agreement at a time. As a result, the test group that receives the treatment (simplified agreement) will be selected based on the timing of when they apply for the card.

Pentagon Federal is currently sending the test agreement to new and renewing cardholders, and will continue doing so until 250 customers agree to participate in the survey.<sup>5</sup> The control group will consist of customers who apply for the card in the months following the test; Pentagon Federal will continue distributing the control agreement until at least until 250 customers agree to participate. The Bureau does not anticipate that the likelihood of participating will differ systematically based on which agreement the customer received, and participants in each group will be selected and interviewed at roughly the same interval following their receipt of the agreement.

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<sup>5</sup> Respondents are counted as having agreed to participate when they answer "Yes" to survey question C1. Any participant who indicates that they do not recall receiving the agreement and do not intend to activate the credit card will not be counted as a respondent. The survey is included as Attachment A.

Approximately two weeks after receiving the credit card agreement, the customer will receive a telephone call inviting the customer to participate in a survey. At this point, the customer will have the option to complete the survey, schedule a call for another time, or decline to participate in the survey. For customers who agree to participate in the survey, the caller will proceed through the questionnaire (included as Attachment A).

Pentagon Federal's survey administrator will contact customers approximately 2 weeks after receipt of the agreement. Respondents who do not pick up will be called until 4 weeks after receipt of the agreement, at which point the survey administrator will move on to a new case. The survey administrator will attempt to contact customers a maximum of 3 times before moving on to the next case. To increase the likelihood of response, the survey administrator will vary the day of the week and time of day for each call.

Once the survey has been completed, the survey administrator will compile the survey responses, remove all PII and any other information that may pose a disclosure risk, and transmit the data to Pentagon Federal and the CFPB. As stated above, the survey results are not meant to be, and will not be treated as, a sample that is statistically generalizable to the overall American population.

### **3. Methods to Maximize Response Rates and Address Issues of Non-Response**

Pentagon Federal has found that its membership is highly responsive to this type of request and that additional measures to encourage a high-response rate are unnecessary. To ensure that the respondent is being called at a convenient time, call center employees will offer to call all respondents at another time.

This test will not be treated as statistically generalizable data. Information gathered will be used only to inform Pentagon Federal's commercial uses for its shortened agreement and the CFPB's future simplified agreement efforts. The outcome of this research will help the CFPB decide whether to continue to dedicate resources to pursuing a shorter credit card agreement.

### **4. Testing of Procedures or Methods**

After receiving the questionnaire from Pentagon Federal, Dr. Morgan will run mock surveys with less than 10 Culverhouse College call center employees who are unfamiliar with the project. During these mock calls, Dr. Morgan's team will verify that the survey takes approximately 15 minutes to administer and that all questions are worded clearly.

### **5. Contact Information for Statistical Aspects of the Design**

Telephone surveys will be conducted by Dr. Robert Morgan, whose contact information is below.

Dr. Robert Morgan  
Culverhouse College of Commerce and Business Administration  
University of Alabama

(205) 348-9557

Administrative questions regarding the CFPB use of this clearance should be directed to:

Sean O'Meara  
Card and Payment Markets  
Consumer Financial Protection Bureau  
(202) 435-7118

## **Attachment A**

### Cardholder Agreement Survey Phone Questionnaire

Goals of the Survey are to find out:

- 1) Are consumers likely to read the agreement?
- 2) Are consumers likely to understand what they read?
- 3) Are consumers likely to find the information they receive meaningful and useful?

#### **A. Intro**

Hello, my name is [ ] and I'm calling from Pentagon Federal Credit Union. Can I speak with [customer name]?

Hello [customer name], my name is [ ] and I am calling from Pentagon Federal Credit Union. We're conducting a survey to learn more about our customers' use of our Cardholder Agreement. We're partnering with the Consumer Financial Protection Bureau to learn how credit card terms can best be presented to consumers.

This survey is being conducted through the joint efforts of PenFed and the Consumer Financial Protection Bureau (CFPB). The information that you provide will permit the CFPB to receive feedback on its efforts to simplify credit card agreements and make them more understandable. As required by federal law, the Office of Management of Budget has approved these questions under the Paperwork Reduction Act. The OMB control number for this collection is 3170-XXXX.

Also, a federal law called the Privacy Act directs how the federal government treats the information contained in your answers to these questions. To understand how and when your information may be shared, you can read the Privacy Act Statement on the CFPB's website at [www.consumerfinance.gov](http://www.consumerfinance.gov). We anticipate this survey taking about 15 minutes of your time.

Is this a convenient time for you?

*IF YES: [continue]*

*IF NO: When would be a good time for me to call back? [record callback date and time, thank and terminate]*

OK, let's get started. Are you the person responsible for your PenFed Premium Travel Rewards American Express credit card?

*IF YES: [continue]*

*IF NO: Can I speak with the person that is?*

*IF YES: Thank you. [Wait for them, reread A and then continue]*

*IF NO: When would be a good time for me to call back to speak with them? [record callback date and time, thank and terminate].*

Before we proceed, I need to make sure I've dialed correctly, is this your phone number [ ]?

We will only share your responses with the CFPB. We will not share your identity with them. The CFPB's rules require them to keep any information we share with them confidential to the maximum extent permitted by law. No sales calls are made as a result of participation. Your participation is voluntary, and if there are any questions you feel you can't answer, please let me know. Now, if I have your permission, I'll begin.

## B. Experience with Credit Cards

1. How many years ago did you get your first credit card?
2. Would you say that you almost always, sometimes or hardly ever pay the full balance at the end of the month?
3. Did you comparison shop before choosing to open your PenFed credit card?
4. If you have a problem with your card, what would you do? *[Example of problems: adding an authorized user, card is declined, unknown charge or fee]*
  - a. Call customer service / contact PenFed
  - b. Consult your cardholder agreement
  - c. Consult PenFed's website
  - d. Seek information elsewhere (internet, financial information sources)
  - e. Do something else? What?

## C. Experience with PenFed Agreement

1. Do you recall receiving the Cardholder Agreement with your PenFed Premium Travel Rewards American Express credit card?
  - a. *For respondents who received the short-form agreement:* The Cardholder Agreement has the PenFed logo at the top left hand corner of the first page. Underneath that logo, the first sentence reads "This is your account agreement for your PenFed Premium Travel Rewards American Express card."
  - b. *For respondents who received the long-form agreement:* The Cardholder Agreement has a black box across the top of the first page with the following white text "Important: please read and retain for your records." The phrase "Cardholder Agreement and Disclosure Statement" is underneath that box.
    - i. *IF YES:* *[continue]*
    - ii. *IF NO:* Have you activated this card?
      1. *IF YES:* *[Proceed to D]*
      2. *IF NO:* *Do you plan to activate this card?*
        - a. *If YES:* *[ Proceed to D]*
        - b. *IF NO:* *[Proceed to Outro]*
2. Which of the following best describes your review of the Cardholder Agreement?
  - a. Didn't even look at it
  - b. Saw it but didn't read it;
  - c. Looked for specific information;
  - d. Skimmed it for general information; or
  - e. Read it in full

- i. *IF a or b: [Proceed to D]*
- ii. *IF c: In minutes, approximately how long do you think you spent reviewing the Cardholder Agreement? [Proceed to E]*
- iii. *IF d or e: In minutes, approximately how long do you think you spent reviewing the Cardholder Agreement?*
  - 1. What do you recall about the contents of the Cardholder Agreement? Did any terms or aspects stand out to you? *[Proceed to F]*

#### **D. Questions for those that didn't read the agreement**

1. Do you normally read Cardholder Agreements? *[Do not ask if respondent indicated this is their first credit card in Section B]*
  - a. *IF NO: Why not? [Encourage them to elaborate on their answer]*
  - b. *IF YES: Why not this time?*
2. If you have a problem with your card, would you
  - a. Call customer service / contact PenFed
  - b. Consult your cardholder agreement
  - c. Consult PenFed's website
  - d. Seek information elsewhere (internet, financial information sources)
3. If you have a problem with your card, do you look for information on your credit card terms from sources other than the paper Cardholder Agreement?
  - a. *IF NO: [Proceed to H]*
  - b. *IF YES:*
    - i) Which sources did you use?
    - ii) Which terms or aspects of your agreement did you consider?
4. Did you keep the agreement?

*[Proceed to G]*

#### **E. Questions for those looking for specific information**

1. What specific information were you looking for?
2. Why did you look for specific information rather than reading the Cardholder Agreement in full?
3. What do you recall about the other contents of the Cardholder Agreement? Did anything else stand out to you?

*[Proceed to F]*

#### **F. Affective Questions**

1. The layout of this agreement makes it easy for me to find the content of the agreement.
  - a. Agree
  - b. Neither agree nor disagree
  - c. Disagree
2. The layout of this agreement makes it easy for me to understand the content of the agreement.
  - a. Agree
  - b. Neither agree nor disagree
  - c. Disagree
3. Was there any information that you wished was easier to find?

4. Was there any information that you wished was explained better?
5. Did you review the agreement multiple times, or just once?
6. Did you benefit from reading the agreement before using the card?
  - a. *IF the person implies that they got little to no benefit:* Did you only read the agreement because you felt like you “should”?
7. How does this agreement compare to other agreements you have received?
8. When reading the agreement, which best describes how you felt?
  - a. Confident that I understood the agreement as a whole
  - b. Comfortable with most of the agreement
  - c. Confused by most of the agreement
  - d. Overwhelmed by the agreement as a whole
9. Can you elaborate on why you felt that way?
10. Did you keep the agreement?

#### **G. Questions about the terms of the agreement**

Now I'm going to ask you about some of the specific terms of your credit card. It's ok if you can't recall some of the specifics. [Interviewers should not disclose the bracketed information in items 1-6 unless specifically asked by the customer]

1. What is the interest rate on purchases? [*9.99% APR*]
2. Does the card have a fixed or variable interest rate? [*Variable*]
3. Does the card have an annual fee? [*No*]
4. If you don't pay at least the minimum payment by the due date, what are the consequences?
  - a. *IF they answer: "I get charged a late payment fee" then ask:* What is the maximum late payment fee? [*\$25*]
5. Does PenFed need to give advance notice for increasing or decreasing your credit limit? [*No*]

[For respondents who received the short-form agreement, proceed to **H**]

[For respondents who received the long-form agreement, proceed to **I**]

#### **H. Incorporation of Definitions**

In your Cardholder Agreement, several terms are underlined. This signifies that the definition for that term can be found in a separate definitions document that can be accessed online at PenFed's website. I'm going to ask you a few questions about that definitions document.

1. Were you aware of the existence of this separate definitions document prior to being asked this question?
2. [if Yes]: Do you have Internet access?
  - a. *[IF Yes]:* Did you go to PenFed's website to access the definitions document?
  - b. *[If No]:* Did you call PenFed to request a copy of the definitions document?
    - i. *[IF respondent answers 1.a or 1.b Yes, proceed to question H.2]*
    - ii. *[IF respondent answers 1.a or 1.b No, proceed to section I]*
3. Did you find the definitions easy to understand? Please elaborate on your answer.

#### **I. Outro**

On behalf of Pentagon Federal Credit Union, thank you for your time. It's been a pleasure speaking

with you, and I know that PenFed looks forward to serving you in the future. Goodbye.

## Attachment B

### **ROBERT M. MORGAN**

Manderson Graduate School of Business  
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### **ACADEMIC INTERESTS**

Research and Teaching Interests: marketing strategy, relationship marketing, innovation, global marketing strategy, services marketing, industrial marketing, and supply chain management.

### **EDUCATION**

Ph.D., Business Administration, Texas Tech University, Lubbock, Texas, 1991.

Major Field: Marketing; Supporting Fields: Law, Political Science, Finance.

Dissertation: "Relationship Commitment and Trust in Marketing"

M.B.A., University of Dallas, Irving, Texas, 1987.

B.S., University of Kansas, Lawrence, Kansas, 1983.

Major: Pharmacy

B.S., Wichita State University, Wichita, Kansas, 1981.

Major: Biology; Minor: Chemistry

### **TEACHING EXPERIENCE**

2004-Present      Professor of Marketing and J. Reese Phifer Faculty Fellow of Marketing, University of Alabama

1997-2004      Associate Professor of Marketing and J. Reese Phifer Faculty Fellow of Marketing, University of Alabama

1991-1997      Assistant Professor of Marketing, University of Alabama.

1987-1991      Graduate Instructor, Texas Tech University

1986-1987      Lecturer, Texas Womens' University,  
Graduate School of Physical Therapy

### **CONSULTING EXPERIENCE**

*Current and Past Clients:* Visa International, AT&T, Citi, Ford Motor Company, Mazda North America, Regions, AmSouth, BBVA Compass, Shell Oil, Prudential Financial, Pentagon

Federal Credit Union, SouthTrust, Carlson Marketing, BASF, Adobe, Radisson Hotels, Hallmark, American Express, Military Officers Association of America, St. Vincent's Medical Center

## ADMINISTRATIVE EXPERIENCE

August 2011 – Present	Executive Director, Innovation Initiatives Culverhouse College of Commerce & Business Administration
August 2010 – August 2011	Associate Dean, Manderson Graduate School of Business
August 2005 – August 2010	Head, Department of Management and Marketing
September 2003 - August 2005	Marketing Area Coordinator

## PRACTITIONER EXPERIENCE

1987-1991	Clinical Specialist, Methodist Hospital, Lubbock, Texas.
1984-1987	Director, Clinical Pharmacy Services, Presbyterian Hospital of Dallas, Dallas, Texas.

## RESEARCH AND PUBLICATIONS

### Refereed Articles

- Vivek, Shiri, Sharon E. Beatty, and Robert M. Morgan (2012), "Customer Engagement: Exploring Customer Relationships Beyond Purchase," *Journal of Marketing Theory and Practice*, 20 (2).
- Deitz, George D. and Robert M. Morgan (forthcoming), "A Resource-Advantage Model of Firm Value Creation," *European Business Review*.
- Park, Jeong E., Sungho Lee and Robert M. Morgan (2011), "A Negative Side of Outsourcing Marketing Functions and Market-Based Learning Process," Journal of Strategic Marketing, 19 (5), 471-487.
- Richey, Glenn R., M. Tokman, G. Deitz, and Robert M. Morgan (2010), "Joint Venture Stability and Cooperation: Direct, Indirect, and Contingent Effects on Resource Complementarity and Trust," *Industrial Marketing Management*, 39 (5), 862-873.
- Hansen, John D., George D. Deitz, and Robert M. Morgan (2010), "Taxonomy of Service-Based Loyalty Program Members," *Journal of Services Marketing*, 24 (4), 271-282.
- Crutchfield, Tammy N. and Robert M. Morgan, (2010), "Building Long-Term Patient-Physician

- Relationships," ***Health Marketing Quarterly***, 27, 1-29.
- Lacey, Russell and Robert M. Morgan, (2009), "Customer Advocacy and the Impact of B2B Loyalty Programs," ***Journal of Business and Industrial Marketing***, 24 (1&2), 3-13.
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- Lacey, Russell W., Jaebeom Suh, and Robert M. Morgan, (2007), "Differential Effects of Preferential Treatment Levels on Relational Outcomes," ***Journal of Service Research***, 9 (3), 241-256.
- Brockman, Beverly K. and Robert M. Morgan, (2006), "The Moderating Effect of Organizational Cohesiveness in Knowledge Use and New Product Development," ***Journal of the Academy of Marketing Science***, 34 (3), 295-308.
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- Brockman, Beverly K. and Robert M. Morgan (2003), "The Role of Existing Knowledge in New Product Innovativeness and Performance," ***Decision Sciences***, 34 (2), 385-419.
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- Spake, Deborah F., Giles D'Souza, Tammy N. Crutchfield, and Robert M. Morgan (1999), "Advertising Agency Compensation: An Agency Theory Explanation," ***Journal of Advertising***, 28 (3), 53-72.
- Morgan, Robert M. and Shelby D. Hunt (1999), "Relationship-Based Competitive Advantage: The Role of Relationship Marketing in Marketing Strategy," ***Journal of Business Research***, 46 (3), 281-290.
- Hunt, Shelby D. and Robert M. Morgan (1997), "Resource-Advantage Theory: A Snake Swallowing Its Tail or a General Theory of Competition?" ***Journal of Marketing***, 61 (October), 74-82.
- Hunt, Shelby D. and Robert M. Morgan (1996), "The Resource-Advantage Theory of Competition: Dynamics, Path Dependencies, and Evolutionary Dimensions," ***Journal of Marketing***, 60 (October), 107-114.
- Hunt, Shelby D. and Robert M. Morgan (1995), "The Comparative Advantage Theory of Competition," ***Journal of Marketing***, 59 (April), 1-15.

\* This article was selected for the Harold H. Maynard Award for 1995, chosen

*by the members of the **Journal of Marketing** Editorial Review Board “for its significant contribution to marketing theory and thought.”*

\* *This article was selected for the Sheth Foundation/Journal of Marketing Award in 2004, which honors “articles that have made long-term contributions in the field of marketing and marketing theory.”*

Morgan, Robert M. and Shelby D. Hunt (1994), "The Commitment-Trust Theory of Relationship Marketing," **Journal of Marketing**, 58 (July): 20-38.

\* *In 2004 this article was identified by ISI Web of Knowledge as the most frequently cited article in the Economics and Business literatures for the past decade.*

Hunt, Shelby D. and Robert M. Morgan (1994), "Organizational Commitment: One of Many Commitments or Key Mediating Construct?" **Academy of Management Journal**, (December).

Hunt, Shelby D. and Robert M. Morgan (1994), "Relationship Marketing in the Era of Network Competition," **Marketing Management**, 3 (1): 19-28.

### **Book Chapters**

Hunt, Shelby D. and Robert M. Morgan (2004), "The Resource-Advantage Theory of Competition: A Review," in **Review of Marketing Research**, Naresh Malhotra, ed., Armonk, NY: M. E. Sharpe.

Morgan, Robert M, Tammy N. Crutchfield, and Russell Lacey (2000), "Patronage and Loyalty Strategies: Understanding the Behavioral and Attitudinal Outcomes of Customer Retention Programs," in **Relationship Marketing: Gaining Competitive Advantage Through Customer Satisfaction and Customer Retention**, T. Hennig-Thurau and U. Hansen, eds., Berlin: Springer Verlag.

Morgan, Robert M. (1999), "Relationship Marketing And Marketing Strategy: the Evolution of Relationship Marketing Strategy Within the Organization," in **Handbook of Relationship Marketing**, J. Sheth and A. Parvatiyar, eds., San Diego: Sage Publications.

### **Invited Conference Presentations**

Morgan, Robert M, Michael Ehret, Torsten Oltmanns (2008), "The Impact of Culture on Relationships in Global Marketing Organizations: Academic and Industry Perspectives" Winter Educators Conference, American Marketing Association, Austin, TX, February 16.

Bagozzi, Richard, Kjell Gronhaug, Robert M. Morgan, and Klaus-Peter Wiedman (2006), "Is It Time for a General Theory of Marketing?" Summer Educators Conference, American Marketing Association, Chicago, IL, August 4-7.

Hunt, Shelby D. and Robert M. Morgan (2005), "The Comparative Advantage Theory of Competition: Perspectives," Winter Educators Conference, American Marketing Association, San Antonio, TX, February 11-12.

Morgan, Robert M., and R. Shane Sharpe (1999), "Electronic Retailing: The Promising New Opportunities," at University of Alabama 1999 Retailing Day, R. Robicheaux, chair, Tuscaloosa, AL, October 22.

Morgan, Robert M. (1998), "Electronic Commerce and Retailing in the New Millennium," at 1998 International Conference on Japanese Distribution Strategy, M. R. Czinkota and M. Kotabe chairs, Honolulu, HI, November 22-24.

Morgan, Robert M. (1996), "Relationships as Resources: Relationship Marketing in Marketing Strategy," at 1996 International Conference on Relationship Marketing: Development, Management, and Enhancement of Relationships, Jagdish N. Sheth and Albrecht Söllner, eds., Berlin, March 29-31.

## **TEACHING**

### **Undergraduate Courses**

Business of Engineering  
Marketing Principles  
Marketing Channels  
Industrial Marketing  
Strategic Marketing  
Field Project in Marketing  
Principles of Electronic Commerce

### **Graduate Courses**

Global Marketing Strategy  
Advanced Market Analysis  
Special Topics: Marketing Strategy in a Digital Age  
Project Management in Marketing  
Interorganizational Relationships in Marketing (Doctoral Seminar)  
Marketing Theory (Doctoral Seminar)  
Marketing Strategy (Doctoral Seminar)

### **Doctoral Committees**

**Committee Chair**  
Woojung Chang  
Mert Tokman  
John Hansen  
George Deitz  
John Park

Russell Lacey  
Janet Parish  
Jaeboem Suh  
Beverly Brockman  
Tammy Crutchfield  
Zachary Finney

**Committee Member**

Lauren Skinner  
Andy Turner  
James Coleman  
Junki Lee  
Darin White  
Seungoog Weun  
Sean Dwyer  
Rusty Henley  
Robert Culpepper  
Deborah Spake  
Nicole Hoffman  
Jason Lueg  
Betsy Holloway

**Foreign Dissertations Reviewed**

Meng, Malvin Yeo Wei (2005), "An Experimental Approach Towards the Investigation of the Process of Trust Formation in an Online Environment," unpublished dissertation completed at Monash University, Clayton, Victoria, Australia.

Lim, Su Kiat (2004), "The Relationship Between Organisational Resources, Capabilities, Agility, and Organisational Performance," unpublished dissertation completed at Monash University, Clayton, Victoria, Australia.

**UNIVERSITY SERVICE**

University Committee on Instructional Technology, 2011/2012  
College of Commerce and Business Administration, MBA Programs Committee, Chair, 2004/2005

College of Commerce and Business Administration, MA/PhD Committee, Chair, 2002/2003

College of Commerce and Business Administration, Computer Advisory Committee, 2003/2004

Department of Management and Marketing, Marketing Area Doctoral Admissions Committee, Member, 2000 to present.

Department of Management and Marketing, Marketing Area Doctoral Preliminary Examination

Committee, Member, 1994 to 1997, chair 1997 to 2000.

Department of Management and Marketing, Marketing Area Doctoral Evaluation Committee, Member. May 1992 to December 1993..

College of Commerce and Business Administration, Computer Advisory Committee. May 1992 to August 1995.

## **PROFESSIONAL SERVICE**

### **Journal Editorial Review Activities**

Member, Editorial Review Board, Journal of Marketing, August 1996 - July 2002

Member, Editorial Review Board, Journal of the Academy of Marketing Science, 1998 – 2006, 2009 - Present

Ad Hoc reviewer, Journal of Marketing, May 1995 - August 1996

Ad Hoc reviewer, Journal of Marketing Research, May 1995 - present

Ad Hoc reviewer, Academy of Management Journal, May 1995 - present

Ad Hoc reviewer, Journal of the Academy of Marketing Science, May 1995 - 1998

Ad Hoc reviewer, Journal of Strategic Marketing, July 1995 - present

### **Conference Review Activities**

Reviewer, 1997 American Marketing Association Winter Educator's Conference.

Reviewer, 1996 American Marketing Association Summer Educator's Conference.

Discussant, 1996 International Conference on Relationship Marketing: Development, Management, and Enhancement of Relationships, Berlin, March 29-31.

Reviewer, June 1996 Annual Meeting of the Academy of Marketing Science.

Reviewer, 1993, 1994 Annual Meetings of the Southern Marketing Association

### **Other Professional Activities**

Track Co-Chair, Marketing Strategy, 2008 American Marketing Association Summer Educators' Conference.

Track Co-Chair, Distribution Channels, 1997 American Marketing Association Summer

Educator's Conference.

Track Chair, Relationship Marketing Theory, 1996 Conference on Relationship Marketing,  
Emory University, Atlanta, GA, June 14-17, 1996.

## HONORS AND AWARDS

- 2004 Sheth Foundation/Journal of Marketing Award, honoring articles that have made long-term contributions in the field of marketing and marketing theory, for "The Comparative Advantage Theory of Competition," published in 1995.
- 2004 Thomas D. Moore Endowed Undergraduate Teaching Award, Culverhouse College of Commerce and Business Administration, University of Alabama.
- 2004 Recognized by ISI Web of Science as among the 20 most cited authors in indexed economics and business journals.
- 2004 Recognized by ISI Web of Science as co-author of single most cited article in indexed economics and business journals for the previous decade for "The Commitment-Trust Theory of Relationship Marketing," published in the *Journal of Marketing*, 1994.
- 1995 Harold H. Maynard Award for "best article on marketing theory and thought to appear in the *Journal of Marketing* during 1995" for "The Comparative-Advantage Theory of Competition," with Shelby D. Hunt.
- 1990 Fellow, American Marketing Association Doctoral Consortium.

## PROFESSIONAL MEMBERSHIPS

American Marketing Association

Academy of Marketing Science

Academy of Management

Strategic Management Society

## Attachment C

### **U.S. Credit Card Agreements Unreadable to 4 Out of 5 Adults: Contracts Written at a Reading Level Most Can't Understand<sup>6</sup>**

*Connie Prater, July 22, 2010*

Credit card agreements are written on average at a 12th grade reading level, making them not understandable to four out of five adults, according to a CreditCards.com analysis of all the agreements offered by major card issuers in the United States.

The average American adult reads at a ninth-grade level and readability experts recommend important information -- such as credit card agreements -- be written at that level. Only one in five adults reads above a 12th-grade level.

"It is clear from your study that something must be done to make these agreements easier to read," says Lauren Z. Bowne, staff attorney for Consumers Union, the nonprofit owner of Consumer Reports magazine.

"Credit card contracts and other such documents are written in dense prose for a reason: So that the customer will NOT be able to understand it," notes Roy Peter Clark, a national expert on writing and a senior scholar at the Poynter Institute in St. Petersburg, Fla. "I may be cynical, but I don't think their writing strategies are accidental, the collateral damage of a bureaucratic mindset. I think those writers know exactly what they are doing."

#### **Readability poses Catch-22**

Bowne points out what has become a Catch-22 for many credit cardholders. Told to read their agreements, they can't. Financial advisers strongly urge card users to read their credit card agreements carefully to understand the deal they have with their card issuer. It has become even more important since a 2009 federal credit card reform law led to multiple changes in terms. In the new world of credit card use, they say, an informed consumer is better protected against "gotcha" fine print and surprise penalties.

However, as the CreditCards.com analysis shows, most adults are unlikely to comprehend what they are reading.

"That's easy to say, but sometimes difficult to do," says Andrew Bernstein, a certified credit counselor for DebtHelper.com in West Palm Beach, Fla. He gives seminars on reading the small print of credit card terms. Clients often turn to credit counselors to help them decipher the fine print. Says Bernstein: "Credit counselors struggle reading it, too."

#### **Researchers analyze more than 1,200 contracts**

CreditCards.com hired a team of researchers who, using computer software, downloaded and

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<sup>6</sup> <http://www.creditcards.com/credit-card-news/credit-card-agreement-readability-1282.php>

analyzed every word of the majority of credit card agreements offered in America. More than 1,200 contracts were included in the analysis.

This became possible for the first time in May 2010, when the agreements were publicly posted in a new Federal Reserve database; large card issuers were required to give the Fed their agreements, and the Fed was required to post them online, by the Credit CARD Act of 2009.

CreditCards.com graded every statement using a standard common in the teaching and textbook industries: the FOG Index. Readability formulas have been widely used by textbook and novel publishers for decades to ensure they weren't writing above the reading levels of their target audiences.

FOG stands for "Frequency of Gobbledygook" -- and it gives a numeric grade for any document. The higher the grade level, the more difficult it is to read.

Gobbledygook? We encountered it frequently.

### **Can you read this?**

The CreditCards.com analysis found:

- The average U.S. credit card agreement is written at a 12.37 grade level. Note: Reading levels do not correspond to the number of years of school a person has received. Some people with high school diplomas read at the ninth grade level even though they received 12 years of education.
- The toughest read: GTE Federal Credit Union's agreement, which required an 18.5 reading level -- the equivalent of someone who has spent more than six years in college.
- The wordiest agreement -- for MasterCard and Visa cards issued by Fifth Third Bancorp -- contained 20,799 words. It was written on a 14.5 reading level, according to the analysis. For comparison, the original U.S. Constitution contains only 4,018 words. William Shakespeare's shortest play, "The Comedy of Errors," has 17,858 words. The average agreement runs 3,771 words.
- The easiest reads, according to the analysis, required only sixth grade reading proficiency. They included credit card agreements from the University of Illinois Employees Credit Union, ESL Federal Credit Union and Affinity Federal Credit Union.
- The analysis found it's easier for the average American to read a California real estate purchase agreement or a chapter in the King James Bible than to plow through the average credit card agreement.
- Among the top 20 credit card issuers, those that issue more than 95 percent of all credit cards in the United States, two divisions of Wells Fargo & Company showed dramatically different results. The average agreement from Wells Fargo Financial National Bank required a 15.7 reading level. The larger and more well-known Wells Fargo Bank NA hit the readability mark: Its agreements had average reading levels of 9.3 -- exactly what readability experts recommend. Wells Fargo announced July 7 it was merging the smaller banks' operations into the larger one. Expect a rewrite on the more difficult contracts. "We anticipate that card products, terms and agreements will be

further standardized in the near future. We want to help our customers succeed financially and we understand clear communications are fundamental to achieving that objective," a spokeswoman said in an e-mailed statement. First National Bank of Omaha's 15.8 average reading level makes it a virtual tie with Wells Fargo Financial for the most unreadable contracts among large issuers.

- Other large banks, on average, provide easy-to-read agreements: U.S. Bancorp (8.9), Bank of America (9.0), Barclays Bank Delaware (8.1) Citibank South Dakota, NA (8.2), American Express Bank, FSB (8.1) and Capital One Bank, NA (7.3). Consumer advocates say if these banks can produce more understandable agreements, other issuers can, too.

### **Deliberate confusion?**

Consumers and others accuse the banks of deliberately writing unintelligible agreements to confuse cardholders.

"I got lost in the first sentence," Ron DeLa Rosa, an attorney in Austin, Texas, says after reading GTE Federal Credit Union's agreement.

"I'm sure all those legal minds came up with all those words to make things as confusing as possible for whoever the credit cardholder is 'cause that way when they get sued they'll always have a way out," DeLa Rosa says, adding: "That's the way attorneys do it."

Bankers deny deliberate deception and defend the densely worded fine print, blaming all the federal and state laws that require disclosure of terms. "It's unfair to say that these are deliberately made complicated," countered Nessa Feddis, a spokeswoman for the American Bankers Association. "They try to make them simple, but there are legal requirements for disclosures."

A new Consumer Financial Protection Bureau -- signed into law by President Obama on July 21 as part of the 2010 Wall Street reform package -- may offer some relief. Among other things, the agency will have the power to mandate that credit card contracts be written in plain English so a majority of Americans can understand them.

"Americans need adequate information about the benefits and costs of complex consumer financial products such as credit cards to make the personal choices that are best for them," Michael Barr, assistant U.S. Treasury Secretary for financial institutions, said in a statement responding to written questions. "Improving basic financial awareness is also critical to helping consumers process information and avoid abusive products. These are just some of the reasons we need to establish a federal bureau of consumer financial protection."

Ohio Attorney General Richard Cordray, who has been an outspoken advocate for more credit card regulations to protect Ohio residents from abuse, said credit card lenders should make their agreements more consumer friendly.

"While it is true that much of the content for agreements is mandated by federal statute, it is clear from the breakdown here that some institutions meet the requirements at a reasonable reading level. All others should do the same," Cordray said in a statement.

### **When something goes wrong**

Credit card agreements contain the fine print of the credit card terms and dictate how millions of credit cards issued in the United States may be used.

Banks and credit unions mail them when card users first open their accounts or when customers request copies. They are often put away in a drawer or tossed with the junk mail. Credit counselors and consumer advocates say the truth is that very few cardholders ever read their agreements -- until something goes wrong.

"If people don't read these things when they open the account, they sure as hell need to read them if they have a problem," says John Cogan Jr., executive assistant for policy and program review and executive counsel to the Rhode Island Health Insurance Commissioner. Rhode Island is one of a handful of states (including Colorado and Minnesota) that have adopted laws or rules requiring health insurance policies to be written at seventh, eighth or 10th grade reading levels.

"If you have a problem with your credit card company or your health insurance company, even if you don't take the time to read it at the outset, you really do need to read it if something happens. So, if you can't read it then, then you're really in a tough spot."

Erica K. Jackson, director of the Center for Financial & Consumer Outreach at Penn State Erie, recommends consumers call their card issuers' customer service representative and ask for explanations of confusing terms or provisions. She acknowledged, however, that customer service representatives may give conflicting or inaccurate information at times.

"Consumers need to ask questions," Jackson says. "If you don't understand what is included in your documentation, be proactive, make sure that they call and get the answers that they need."

### **Content more important than readability?**

Ed Mierzwinski, consumer program director for U.S. Public Interest Research Group (PIRG), is all for readability, but is more concerned about what the contracts say and any "tricks and traps" contained in them than how they say it.

"What good does being able to read a contract mean if the contract says, 'We win, you lose'?" Mierzwinski points out.

Linda Sherry, national priorities director for Consumer Action, a San Francisco-based consumer group, says credit card agreements should be written at the ninth grade level.

She added: "The agreements tell you little about your so-called 'rights' and focus solely on your responsibilities under the one-sided agreement. Since these are contracts of adhesion, and consumers can't amend the terms, they are useless in that regard, no matter how simply they are written.

"If they can still -- mostly with notice but sometimes without -- change the terms at any time for any reason, consumers have no power except to vote with their feet, and given the similarity across the six largest companies, that is not much of a choice."

### **Banks: Wordy contracts unavoidable**

Banking industry spokeswoman Feddis says lengthy, complicated agreements are unavoidable because credit card companies must obey the laws governing what they must disclose to card users.

"Information like what happens when your card is lost or stolen, that has to be in the agreement. The privacy notice took up a third of the space on one contract. There's no choice," says Feddis, vice president and senior counsel of the American Bankers Association trade group.

"If you're married and living in Wisconsin, you get this disclosure, and if you're in Maryland, you get another one," Feddis adds. "It's just stuff that has to be in there for legal reasons."

William DuBay, an author and readability consultant whose clients have included the Los Angeles County Consumer Affairs Department, argues that if consumers can't understand what they are reading, they can't give informed consent to the terms. Informed consent is a term often used in the medical field. It means you understand what you are agreeing to and signing.

The two points of view highlight a debate that has developed among attorneys who specialize in contracts law.

Feddis says there's a limit to how simple the credit card agreements can be. "Then you don't have a contract -- or you have a contract that can be challenged. Then it goes to an extensive lawsuit."

Says DuBay: "People say you can't get everything in one page. But it's not rocket science. You just have to find out what's essential. You have to force their hand."

### **Clearer communications**

A few banks took steps to make their credit card terms easier to understand and accessible to customers. Chase, which had credit card agreements that averaged 12.7 in reading level in the analysis, introduced its Clear and Simple program in 2007. Bank of America launched a campaign -- the Credit Card Clarity Commitment -- to make its credit card terms clearer in 2009.

"We listen to our customers and are always looking at ways we can improve our card agreements to ensure that we're providing customers with clear, easy to understand information," BofA spokeswoman Betty Riess said in an e-mailed response.

Wells Fargo Bank's ninth grade average reading level was no accident, according to Lisa Westermann, assistant vice president of public relations.

"The Wells Fargo Bank Credit Card agreements are among the briefest in the industry and are rated at a ninth grade comprehension level; consistent with the level reading experts recommend.

We continually work to make our letters as clear as possible using 'customer friendly' terminology. We began an initiative several years ago to ensure our customer communications are clear, concise, consistent and customer friendly," according to Westermann.

Leslie E. Linfield, executive director of the Institute for Financial Literacy in Portland, Maine, and a national authority on adult financial literacy education, says offering plain English credit card agreements may give one bank a competitive advantage over other issuers.

Linfield says issuers with easy-to-understand terms send the message: "We want to be your financial institution of choice. We speak in plain English. There's nothing complex. You don't have to go to graduate school to understand what it means to do business with us."

### **Too hard for most adult readers**

"The average adult in the U.S. reads at the ninth grade level," says DuBay, the readability consultant who advocates the use of "plain language" when writing for the general public. A 2003 U.S. Department of Education study of adult literacy found that 87 percent of people older than 16 were rated "less than proficient" at reading lengthy, complex texts. Research based on the federal literacy survey shows only one in five adults read above the 12th grade level, according to DuBay.

"Experts advise that anything for the public should be written at the ninth grade level," he says. "If it's about health and safety, it should be written on the fifth grade level."

He adds: "People can identify a text that's too difficult almost instantaneously ... They're very good at recognizing it."

As for credit card agreements, "The average reader is not able to read them ... A credit card contract should not be more than a page long. It should be written in easy-to-read type," DuBay says.

### **Fed now requires one-page summary tables**

The Federal Reserve took steps to help confused consumers by requiring credit card issuers to produce a one-page summary table of some of the key terms of their contracts. That requirement took effect July 1, 2010, as part of a slew of other beefed up disclosure requirements included in Regulation Z of the Truth in Lending Act.

Now, when consumers get new credit cards, they will also receive a new one-page summary table of the terms. However, this table is not the credit card agreement. In disputes, the legalese-filled long form governs.

Feddiss, from the bankers trade group, says the new summary will help simplify the long agreements. "They are more likely to read that than they are an agreement even if the agreement is shortened and simplified," she says.

Sherry from Consumer Action is skeptical of summary tables that will condense the key terms into one page. "I am afraid people will focus only on some superficial level stuff and not really understand all 'traps' that may await them."

**This story's FOG index**

By the way, congratulations. You have finished reading a story whose FOG readability is 14.3.

*Contributing to this report: Researchers Dava Caballero, Chris Friedrich, Avi Ghosh, Emily Heckroth, Matt Houston, Lisa Jones and Carole W. Thorp. Database analyst John Stansbury and videographer Angela Grant also contributed.*