LEGISLATIVE DIGEST
HOUSE REPUBLICAN CONFERENCE | CHAIRMAN ADAM PUTNAM
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H.R. 5244 – Credit Cardholders' Bill of Rights Act of 2008

EXECUTIVE SUMMARY

This legislation was introduced by Representative Carolyn Maloney (D-NY) on February 7, 2008. The Committee on Financial Services ordered the bill to be reported on July 31, 2008, by a vote of 39-27.

The bill prohibits certain unfair and deceptive credit practices. H.R. 5244 prohibits retroactive rate increase on existing balances, requires creditors to provide written notice of any rate increase 45 days before, prohibits double cycle billing, limits overlimit fees, and bans fees on interest-only balances. The Congressional Budget Office (CBO) estimates that the costs of implementing H.R. 5244 "would not be significant."

According to Financial Services Republicans, "H.R. 5244 has been designed to address consumer concerns about card companies... Proposed [Federal Reserve] regulations cover these *exact same* concerns. Because the regulators are so near the end of a careful, considered rule-making process addressing the very same issues covered by this bill, passing H.R. 5244 was an unnecessary exercise in partisan political posturing."

H.R. 5244 is expected to be considered by the House on September 23, 2008, under a closed rule.

FLOOR SITUATION

This legislation was introduced by Representative Carolyn Maloney (D-NY) on February 7, 2008. The Committee on Financial Services ordered the bill to be reported on July 31, 2008, by a vote of 39-27. H.R. 5244 is being considered on the floor under a closed rule. The rule:

- Provides one hour of debate in the House equally divided and controlled by the Chairman and Ranking Member of the Committee on Financial Services;
- Waives all points of order against consideration of the bill except for clauses 9 (earmarks) and 10 (PAYGO) of rule XXI;
- Provides that the amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill shall be considered as adopted and the bill, as amended, shall be considered as read;
- Waives all points of order against provisions of the bill, as amended. This waiver does not affect the point of order available under clause 9 (earmarks) of rule XXI;
- Provides one motion to recommit with or without instructions;
- Provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker; and
- Allows the Chairman of the Committee on Armed Services to insert into the *Congressional Record* at any time during the remainder of the second session of the 110th Congress such material as he may deem explanatory of defense authorization measures for the fiscal year 2009.

H.R. 5244 is expected to be considered on the floor of the House on September 23, 2008.

BACKGROUND

In May 2008, the Federal Reserve, Office of Thrift Supervision, and the National Credit Union Administration proposed rules prohibiting certain unfair credit card practices. The proposed rules would have prohibited banks from increasing the rate charged on a pre-existing credit card balance, as well as requiring banks to provide consumers with a reasonable amount of time to make payments. In addition, the proposed rules also would have banned "double-cycle" billing and would require banks to apply

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payments in excess of the minimum toward high interest balance first, thus giving consumers the full benefit of discounted promotional rates.

Approximately 145 million Americans, or half the population, own credit cards. According to some estimates, the average household carries about $8,000 in credit card debt. Such personal debt can have significant implications on consumers and the larger economy. In 2007, personal bankruptcies jumped 40 percent, which is attributed in part to high consumer debt levels.

Credit card pricing and billing practices have evolved dramatically over the past 20 years. Before 1990, credit cards were only given to individuals with high credit, and these cards carried few fees. In the early 1990s, however, credit card issuers began "risk-based" pricing to ensure that cardholders were charged rates reflective of their default risks. Issuers also began charging increased penalty fees. Credit card issuers argue that these practices enable them to provide more consumers with credit cards and charge lower rates to those with high credit. Some consumer advocates contend that many credit card fees are simply meant to increase income and that many credit cards offer unfair, low "teaser rates."

SUMMARY

Credit Card Rates: H.R. 5244 prohibits credit card issuers from raising rates retroactively on existing balances and specifies acceptable arrangements for the consumer to pay back the existing balance. The bill allows issuers to raise the annual percentage rate (APR) on an existing balance if the minimum payment is not received within 30 days of the due date, if a promotional rate expires, or if the rate is pegged to a variable index. Consumers must be given at least 45 days prior notice of any rate increase.

Billing: The bill would prohibit issuers from billing on balances for any days not included in the most recent billing cycle (double-cycle billing). Issuers are banned from assessing fees on an existing balance which is protected from a rate increase. H.R. 5244 prohibits fees on interest-only balances and states that failure to pay interest-only balances is not a default on the account.

Credit card issuers must provide a phone or Internet contact on each statement for balance payments. The bill provides that payments received by 5 p.m. local time at the payment center will be considered timely for all purposes. Issuers must provide consumers with periodic statements at least 25 days before the due date.

H.R. 5244 requires creditors to allocate payments on a pro-rata basis, reflecting the proportion each balance comprises of the total account balance. Creditors must give the same grace period for promotional rate and deferred interest rate accounts as they do for other accounts.

Overlimit Transactions: H.R. 5244 requires creditors to offer cardholders the ability to prevent any overlimit transactions on their card, known as a "hard credit limit." No overlimit fees may be charged if a consumer has elected a hard limit.

Other Provisions: This legislation prohibits credit cards from being issued to persons under the age of 18 who are not emancipated minors. A report must be submitted to Congress regarding fees and rates charged by credit card issuers. This Act becomes effective one year after enactment.

COST

The Congressional Budget Office (CBO) estimates that the costs of implementing H.R. 5244 "would not be significant." (Full CBO Cost Estimate)

ADDITIONAL VIEWS

Committee on Financial Services Republicans:

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"H.R. 5244 has been designed to address consumer concerns about card companies accruing finance charges because of two-cycle billing computation methods; increasing interest rates retroactively; allocating payments to maximize interest rate charges; and providing inadequate time to make payments. The proposed [Federal Reserve] regulations cover these *exact same* concerns. Because the regulators are so near the end of a careful, considered rule-making process addressing the very same issues covered by this bill, passing H.R. 5244 was an unnecessary exercise in partisan political posturing."

(Dissenting Views, House Report 110-857)

Statement of Administration Policy:
"The Administration opposes H.R. 5244, particularly section 2 of the bill, because it would broadly constrain the ability of financial institutions to price risk, likely resulting in less access to credit and in higher interest rates for consumers. For the credit market to operate efficiently, creditors must have the flexibility to react to changes in customer risk and market conditions. Section 2 would restrict when lenders may change terms of the credit agreement, significantly constraining the ability of financial institutions to adapt to changing credit risks and market conditions."
(Statement of Administration Policy, 9/22/08)

STAFF CONTACT

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