

Legislative Highlights

Credit Card Legislation Would Create “Bill of Rights”

A subcommittee of the House Financial Services Committee heard testimony on March 13 that a number of credit card industry practices undermine consumer safety and should be curtailed or banned. The hearing was on H.R. 5244, the “Credit Cardholders Bill of Rights Act.” The bill is sponsored by the subcommittee chair, Rep. Carolyn Maloney (D-N.Y.). Four academics (**Elizabeth Warren, Adam Levitin, Lawrence Ausubel and Katie Porter**) testified in support of the bill, which they said would curb deceptive billing practices, such as the unilateral repricing of existing consumer debt, while curing inadequate disclosures and banning penalty interest rates and fees, among other provisions. Witnesses representing the consumer credit industry from Bank of America, JPMorgan Chase and Capital One testified that the legislation would undermine the consumer benefits of risk-based pricing and would lead to unintended consequences, such as a reduction in credit to marginal borrowers in need and higher prices for others. In a statement, Maloney said: “The playing field between credit card companies and cardholders has become very one-sided. A credit card agreement is supposed to be a contract, but what good is a contract when only one party has any power to make decisions? We need to level the playing field, and the balanced reforms in this legislation will help us do just that.”

A similar bill (S. 1395) introduced by Sen. Carl Levin (D-Mich.) is pending in the Senate. Several leading lenders in the industry have agreed to end practices such as double-cycle billing and universal default, under pressure from congressional oversight. The industry otherwise prefers a regulatory rather than legislative approach to changes in the national lending rules.

Payday Lending Bills Advance in Several States

Meanwhile, state legislatures continue to legislate in the area of payday lending. In March, Arkansas joined a growing number of states to effectively ban payday lending by enforcing a two-digit interest rate cap (in this case 17 percent). The two-digit interest rate cap is the only legislative reform deemed effective in preventing predatory payday lending. Oregon, New Hampshire and the District of Columbia have passed caps within the past year, following the lead of North Carolina, Georgia and South Carolina. Payday bills are also pending in Ohio, Colorado, California and Virginia.

Dodd Announces “Home for Homeowners Act”

Sen. Chris Dodd (D-Conn.), Chairman of the Senate Banking Committee, announced plans on March 13 to introduce legislation that would create a new \$20B voluntary program within the FHA to provide aid to distressed borrowers. Under the plan, new mortgages that are offered

by FHA-approved lenders will refinance unaffordable loans at a significant discount. Subordinate liens will be extinguished through negotiation with the first-lien holder. Servicers would be incentivized to participate in the program by a safe harbor against legal liability. The new loan program is based on the family’s ability to repay the loan. Investors and lenders will take significant losses in order to benefit from the proceeds of the loans refinanced with government insurance, paid for by the borrower. Borrowers will share their new equity and future appreciation equally with FHA. The new program would be led by a board made up of the Secretary of HUD, the Secretary of the Treasury and the Chairman of the FDIC, and the Board would have authority to develop standards and set criteria for loan eligibility.

Bear Rescue Prompts Renewal to Help Homeowners

After the federal government’s quick and decisive move to engineer an exit strategy for Bear Stearns on Wall Street, congressional Democrats are redoubling efforts to help distressed homeowners on Main Street. Plans include guarantees from the FHA to spur refinancing of underwater mortgages and the use of chapter 13 to strip down the amount owed to lenders. Though earlier efforts have failed to win enough Republican support to move legislation, some think the political calculus is trending toward more intervention, rather than reliance on voluntary measures. ■