

Legislative Highlights

May Congress Agenda Highlights Subprime Lending, Credit Card Practices and Identity Theft

The House Judiciary Committee held a hearing on May 1 to mark developments since the second anniversary of BAPCPA's (P.L. 109-8) passage. While a witness for the Financial Services Roundtable testified that the early returns demonstrate that the law is working as expected, a consumer advocate criticized BAPCPA for its higher filing fees, increased paperwork and document requirements, burdens associated with credit counseling and debtor education, and the 50 percent rise in attorney fees. Henry Sommer also proposed that Congress permit chapter 13 debtors to modify a home mortgage in cases where an ARM has spiked upward.

Subprime Mortgages

Leading players in the subprime mortgage industry have agreed to a set

of principles aimed at reducing the risk of foreclosure, according to Sen. Chris Dodd (D-Conn.). The principles call upon loan servicers to warn borrowers facing upward interest rate adjustments and to modify loan rates before they reset at higher levels. Dodd, the chairman of the Senate Banking Committee, urged voluntary industry action as a way to avoid having to pass legislation so as to minimize home foreclosure.

The House Financial Services Committee is also addressing concerns in the secondary market for subprime loans. The focus is on nonbank lenders that market a variety of products to securitizers, who then offer the package to institutional investors. The House panel is considering possible liability for those who purchase mortgages or invest

in mortgage-backed securities considered predatory. Some states, including Georgia and New Jersey, have already passed laws in this area, with mixed effect. Mortgage brokers are not currently supervised by federal regulatory agencies.

Senate Democrats, led by Sen. Chuck Schumer (D-N.Y.) have introduced a bill (S. 1299) to bring these mortgage brokers under the federal Truth in Lending Act. The "Borrower Protection Act" would also provide some \$300 million in federal money as an emergency fund to prevent foreclosure of subprime mortgages. Sen. Schumer said his initiative is aimed at lenders who don't voluntarily follow the principles outlined by Sen. Dodd.

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Credit Card Reform

Rep. Keith Ellison (D-Minn.) has introduced legislation (H.R. 2146) to forbid credit card companies from raising interest rates on cardholders who are late on payments to other creditors. The practice, known as universal default, has come under fire from consumer advocates in both House and Senate hearings.

Sen. Carl Levin (D-Mich.) introduced the “Stop Unfair Practices in

Credit Cards Act” (S. 1395) on May 15. The bill would outlaw several current practices, such as interest charges for debts paid on time, trailing interest charges, unilateral changes in interest rates, interest charges on fees, pay-to-pay fees and more. The bill was referred to the Senate Banking Committee.

Identity theft, along with related data security issues in both the public and private sectors, is a growing concern in Congress, with some 32 bills

introduced already. The Senate Judiciary Committee approved a wide-ranging bill (S. 495) on May 3 that includes a new provision to exempt debtors from means testing under BAPCPA if their financial problems were caused by identity theft. The amendment by Sen. Sheldon Whitehouse (D-R.I.) was adopted on a voice vote. It is similar to a proposal offered by Sen. Bill Nelson (D-Fla.) and rejected during the Senate floor consideration of BAPCPA more than two years ago. ■