



# FedFin Client Report

Thursday, April 30, 2009

## Credit Card Consumer Protections Advance

Client Report: **CREDITCARD34**

### Executive Summary

Today, the House passed the Credit Cardholders' Bill of Rights (H.R. 627, see FSM Report **CREDITCARD26**) by a vote of 357-70, a considerably wider margin than in the last Congress. Democrats emphasized the need for swift enactment of consumer protections while Republicans warned that the bill would eliminate risk-based pricing, contract credit further and precipitate the return of annual fees. Member opposition to the bill was not strong and two amendments by Rep. Hensarling (R-TX) were defeated on voice votes while all other amendments were adopted. House action followed endorsement for tough credit-card reform from President Obama and Secretary Geithner, with Treasury yesterday convening a consumer roundtable to push its goals.

House FinServ Chairman Frank (MA) warned issuers that, if they raise rates and fees on consumers before the legislation is enacted, a fear Rep. Watt raised in the mark-up (see Client Report **CREDITCARD33**), he will urge the Senate to hasten its consideration of the bill. Sen. Dodd's (CT) competing credit card measure did not garner wide support as it passed the Senate Banking Committee by one vote (see Client Report **CREDITCARD32**). Sen. Dodd (D-CT) has repeatedly pledged not only to push his bill, but also not to make any of the compromises on it likely necessary to avoid significant obstacles to action by the GOP. Thus, despite strong House action, prospects for final legislation remain uncertain. This report analyzes today's House floor proceedings.

### Analysis

#### ***Amendments Adopted***

Unless otherwise noted, all amendments were accepted by voice vote:

FinServ Consumer Credit Subcommittee Chairman Luis Gutierrez (D-IL)

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offered an amendment that would prohibit issuers from charging pay-to-pay fees. However, issuers would be allowed to charge for expedited payments made on the due date or the following day. It also requires issuers to warn consumers that submitting an excessive number of credit card applications can adversely affect their credit score. Additionally, the Fed would be required to develop guidelines for issuers to give consumers information on obtaining accredited credit counseling.

Chairman Frank offered an amendment to require the Fed to study the card industry, reporting to Congress every two years. The amendment also requires the banking regulators and the FTC to report to the Fed on their credit card consumer protection enforcement activities for inclusion in the Fed's annual report to Congress. While Republicans did not want to wait two years for results, they supported the amendment. It will likely add pressure for enforcement actions because of the requisite disclosure of regulatory activities.

Reps. Slaughter (D-NY), Duncan (R-TN), Hastings (D-FL), Johnson (D-GA) and Del. Christensen (D-VI) offered an amendment to limit the credit line offered to students without a co-signer to the greater of \$500 or twenty percent of the student's annual income. Additionally, issuers would be required to obtain proof of income and credit histories from students before approving an application. The sponsors stressed that students are often forced to leave school because of card debt and are forced into bankruptcy. Republican opponents argued that \$500 is an insufficient credit line for students and that the amendment is paternalistic. The amendment was adopted on a vote of 276 to 154.

Reps. Gutierrez, Peters (D-MI), and Edwards (D-MD) offered an amendment to require issuers to apply payments in excess of the minimum to the card balances with the highest APR first. Democrats argued that applying payments to the balances with the highest interest rates first would be most beneficial to consumers while Republicans contended that the amendment would likely end introductory rates and move responsible borrowers into subsidizing irresponsible ones.

Rep. Chellie Pingree (D-ME) added language to require the Fed to report to Congress every ninety days on the implementation of the bill until it is fully implemented. Rep. Polis (D-CO) offered an amendment to clarify that minors are allowed to have a card in their name under their parents' accounts. Rep. Jones (R-NC) added language to direct the FRB to consult with all agencies enforcing TILA in establishing regulations requiring creditors to develop procedures for the swift settlement of outstanding card balances with estate administrators.

Reps. Maloney (D-NY), the bill's sponsor and the former Chair of the FinServ Consumer Credit Subcommittee, and Watson (D-CA) offered an amendment to prevent issuers from allowing over-the-limit transactions unless a consumer has agreed to such transactions and the consumer has been informed that fees would apply. If the consumer does not opt in to over-the-limit transactions, the issuer

may not charge over-the-limit fees. The sponsors argued that consumers should be protected from high fees while Rep. Hensarling contended that Congress is micromanaging card terms. The amendment was adopted by a vote of 284 to 149.

Rep. Minnick (D-ID) offered an amendment to require issuers, after sending notice of an APR increase, to use the consumer's balance seven days after the notice as the existing balance rather than fourteen days as the underlying bill required. Mr. Minnick expressed concern that consumers would "game the system" and inflate their balances under the lower rate before the higher rate took effect.

Reps. Price (D-NC), Miller (D-NC), Moran (D-VA), Quigley (D-IL), Lowey (D-NY), Stupak (D-MI) and Sutton (D-OH) introduced an amendment to require issuers to warn consumers in every monthly statement that making the minimum payment will increase the interest that consumers pay and the time it takes to pay off their balances. On a quarterly basis, issuers would be required to inform consumers how long it would take to pay off their balances by making only minimum payments, the total cost to the consumer for paying off the existing balance while paying only minimum payments, and information on paying off the debt in 12, 24, and 36 months. The Republicans did not offer any opposition to the amendment.

Reps. Davis (D-CA) and Carney (D-PA) offered an amendment to require issuers to notify consumers thirty days in advance of account closures. Issuers would have to notify consumers why their accounts are closed, about options for keeping the account open and of the impact on their credit score. Rep. Hensarling expressed fears that the amendment would require that accounts be kept open for thirty days even if identity thieves have gained access to the account. The sponsors were willing to work with Rep. Hensarling on the issue when conferencing the bill with the Senate.

In another account closure-related amendment, Rep. Schock (R-IL) offered language to allow consumers to close cards that have not been activated within forty-five days of their date of issue and have the cards removed from their credit histories. Rep. Maloney did not oppose the amendment but stated that consumers should be notified of this right and she suggested the amendment should be improved in conference.

Rep. Perriello (D-VA) offered an amendment to require that all promotional interest rates last six months or more and that consumers be given 45 days notice before the promotional rate ends. Mr. Perriello contended that six months is a reasonable time for a teaser rate to last. Rep. Hensarling argued that the required disclosures under the FRB's credit card rules (see FSM Report **UDAP4**) would prevent consumers from being tricked by teaser rates and that Congress is arbitrarily setting the duration of such rates. Chairman Frank disagreed that disclosure alone would protect consumers.

Rep. Schauer (D-MI) offered an amendment to require issuers to post their card agreements on their websites and the FRB to compile all card agreements on its website. While Rep. Hensarling did not oppose the amendment, he expressed concerns that consumers would be overwhelmed with disclosures and would not bother to read them. He also said the amendment may impose a great burden on small community banks. Rep. Gutierrez was willing to address any concerns that the amendment would be costly to smaller banks.

Reps. Teague (D-NM), Nye (D-VA), Boccieri (D-OH), and Kissell (D-NC) offered an amendment to prohibit issuers from reporting negative credit information to the consumer credit rating agencies on deployed servicemembers and disabled veterans during the first two years of their disability.

### ***Amendments Rejected***

Rep. Hensarling offered an amendment to allow issuers to raise interest rates on existing balances if the issuer notifies the consumer ninety days in advance, the term was included in the card agreement and the issuer has notified the consumer of the term every year. Rep. Maloney noted that the same amendment had been defeated in the mark-up and characterized it as gutting the bill's consumer protections. She also noted that the FRB has characterized rate increases as unfair and deceptive.

Mr. Hensarling also offered an amendment to allow issuers to use double-cycle billing, universal default, and retroactive rate increases as long as the issuers also offer a card without these features to all their existing consumers. He argued that the bill strips choice from consumers and limits the extension of credit during a contraction. Rep. Gutierrez argued that the amendment would allow issuers to offer cards without prohibited practices to borrowers with greater incomes while those with lower incomes would be given the cards with double-cycle billing and universal default. Rep. Maloney noted that Mr. Hensarling offered the same amendments during the Subcommittee and full Committee mark-ups and was defeated twice before. She argued that the amendment would allow issuers to continue to offer "toxic" cards. Both amendments were rejected on voice votes.