



FedFin Client Report

Thursday, July 29, 2021

Senate Dems Press for Targeted Interest-Rate Caps

Client Report: **PREEMPT37**

Executive Summary

Senate Banking today held a hearing on new legislation (S. 2508) from Sen. Reed (D-RI) extending the Military Lending Act (MLA) interest-rate cap to certain consumer financial products to all consumers. Although it seems clear that Chairman Brown intends to mark up the bill, he will need to make some changes to the bill despite generally-strong Democratic support given the Republican opposition today. For example, Sen Tester (D-MT) worried about the bill's impact on Native American sovereignty and Sen. Cortez Masto (D-NV) questioned the credit-union exemption. Sen Warren (D-MA) also wants to preempt rates for small businesses, expanding the bill in ways that further complicate near-term Senate action should she stand firm on this proposal.

Analysis

Opening Statements

Chairman Brown urged passage of Sen. Reed's bill, arguing that the military's interest rate cap did not cut off access to credit for service members and credit unions and fintechs offer alternative short-term loans at much lower rates. On the other hand, Ranking Member Toomey (R-PA) opposed the measure, arguing that those most in need would lose access to credit and that the MLA has actually had an adverse effect on service members.

Testimony

Rep. Grothman (R-WI) supported Sen. Reed's bill, noting a history of usury caps and consumer demand for them. Rep. García (D-IL) also supported the bill, highlighting the danger of debt traps and predatory lending. Rep. Loudermilk (R-GA)

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opposed the bill, arguing that a national interest rate cap would eliminate short-term, small dollar consumer loans.

Hollister K. Patraeus, Former Assistant Director for Servicemember Affairs at the CFPB, supported S. 2508, citing the success of the MLA. Ashley Harrington, Federal Advocacy Director and Senior Counsel at the Center for Responsible Lending, urged Congress to pass the bill and close what she called the ILC loophole. Richard Williams, President and CEO of Essential Federal Credit Union, also supported the bill, noting that community development credit unions are ready to meet small dollar borrowing needs.

On the other side, William Himpler, President and CEO of the American Financial Services Association, argued that a national rate cap would eliminate important credit options that allow consumers to meet their financial needs. Thomas Miller, Professor of Finance at Mississippi State University, also argued that an interest rate cap would make loans less available instead of less expensive. David Pommerehn, General Counsel and Senior Vice President of the Consumer Bankers Association, argued that expanding rate caps to all consumers would disrupt the ability of banks to price risk, increase the cost of credit, and limit availability.

Q&A

- **Small Businesses:** Sen. Warren pressed to extend consumer credit protections to small business loans and enforce interest rate caps for small businesses, arguing that a lack of protections leaves small business owners vulnerable to predatory lenders. She did not make clear if she wants this done via the Reed bill or the [Durbin bill](#); Ms. Harrington agreed with the idea, although she also said that many small businesses now must rely on personal loans or loans from online/fintech lenders.
- **Sovereignty:** Sen. Tester suggested that Native Americans be put in a different category in the bill and that Indian tribes should come to the Committee to discuss S. 2508.
- **Credit Unions:** Chairman Brown asked about credit unions' alternative payday loans; Mr. Williams noted that his credit union focuses on building long-term relationships with consumers, providing alternative payday loans at 28% and offering financial counseling. Sen. Cortez Masto asked why federal credit unions should be exempted. Ms. Harrington said credit unions are appropriately regulated, but Sen. Cortez Masto still worried about "rent-a-credit-union" schemes.

- **Credit Cards:** Sen. Toomey noted that all-in APR calculations might have a negative impact on credit cards; Mr. Pommerehn noted that all-in calculations would have a large impact on credit card availability, also potentially ending rewards programs.
- **State Usury Caps:** Sens. Moran (R-KS) and Tillis (R-NC) worried about federal overreach; Mr. Miller agreed.
- **Disparate Impact:** Sens. Smith (D-MN) and Warnock (D-GA) noted that payday lenders disproportionately target minority communities, perpetuating the racial wealth gap.