

Dissenting Views on H.R. 5244, "Credit Cardholders' Bill of Rights Act of 2008"

The way that consumers pay for products and services is dramatically changing, with electronic payments (credit and debit cards) now accounting for more than half of all transactions. Given the crucial role that credit cards have come to play for individual consumers and the economy, it is both timely and appropriate to consider new ways to protect consumers from unfair and deceptive credit card practices, and to ensure that they receive useful and complete disclosures about the terms and conditions governing their cards. But policymakers must realize that in endeavoring to protect consumers, they may end up imposing significant costs on the U.S. economy, because such measures might both raise the costs of credit for some and unfairly limit access to credit to others.

To protect consumers who use credit cards, the Federal Reserve proposed new rules on May 2, 2008. Utilizing its statutory authority under the Federal Trade Commission (FTC) Act to prevent 'unfair or deceptive acts or practices,' the Federal Reserve promulgated new rules that will address many of the practices that consumers find confusing. The Federal Reserve has also moved to require credit card issuers to make more effective and transparent disclosures so that cardholders will have a more complete understanding of their credit card terms. This extensive rule-writing process incorporates wide-ranging consumer testing conducted by the Federal Reserve staff to ensure that the new rules will be effective, and provides for a public comment period to evaluate the proposed rule. That comment period closed on August 4. But rather than await the results of the Federal Reserve's work, the Committee instead chose to mark up H.R. 5244, 'The Credit Cardholder's Bill of Rights Act,' on July 31.

Rather than allowing the Federal Reserve to finish the job we gave them by statute--and before the comment period on the Federal Reserve's proposed rules had even closed or the Federal Reserve had time to digest the more than 40,000 comment letters that it received from consumer advocates, industry representatives, and other regulators--this Committee interjected itself in the process. A far better course would have been the one suggested by the 14 Members of this Committee--seven Democrats and seven Republicans--who wrote to the Chairman to ask for hearings on the Federal Reserve's proposed rules before deciding whether passing legislation limiting credit card practices was necessary or appropriate.

The Majority cannot credibly contend that the powers granted by the FTC Act are inadequate or that the regulators are stalling. Nothing in this ill-conceived legislation strengthens the Federal Reserve's consumer protection mandate. The FTC Act is a sweeping statute that provides the Federal Reserve with the extensive authority to issue rules prohibiting banks from engaging in acts or practices that are unfair or deceptive. The FTC Act also provides the same authority to the Office of Thrift Supervision (OTS) for thrifts and the National Credit Union Administration (NCUA) for credit unions. Working jointly with the OTS and NCUA, the Federal Reserve has identified credit card practices that it believes are problematic and has developed uniform rules to address them. And these rules will soon take effect: Federal Reserve Board Chairman Bernanke has promised to implement them before the end of the year.

Further, it is not as if the Committee and the regulators were addressing different issues. 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 regulations cover these exact same concerns.

Because the regulators are so near the end of a careful, considered rulemaking process addressing the very same issues covered by this bill, passing H.R. 5244 was an unnecessary exercise in partisan political posturing. We can understand racing to beat the clock. We cannot understand racing to beat the Fed.

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Thaddeus McCotter.

Judy Biggert.

John Campbell.

Geoff Davis.

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