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IN FOCUS

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Interest Rate Caps on Credit Cards

The 118th Congress has paid attention to the costs associated with credit cards, one of the most popular payment options for consumers today. For example, Congress has debated whether to reform the way credit card swipe fees are processed (S. 1838/H.R. 3881) and to what extent the liability for fraudulent payments should be borne by the customer or the financial institution (H.R. 9303/S. 4943). Another policy discussion pertains to proposed limitations to the interest rates that financial institutions charge for credit card purchases. Interest rates are typically regulated at the state level, but in some circumstances, federal law caps the interest a financial institution can charge.

Usury is a term that can refer to charging perceived unreasonably high interest rates or rates in excess of legal limits in cases where such limits are in place. Some policymakers apply this term to rates they think should be capped. Currently, there is no general national cap on interest rates, and a national usury cap would require an act of Congress.

Policymakers have previously considered imposing a usury cap that financial institutions can charge on credit cards and other financial products, which would set maximum interest rates or annual percentage rates (APRs). In the 118th Congress, legislation has been introduced that would impose new usury caps on certain products (S. 3549, S. 2730, S. 2760, and S. 1934). President-elect Trump has proposed a temporary cap on credit card interest rates.

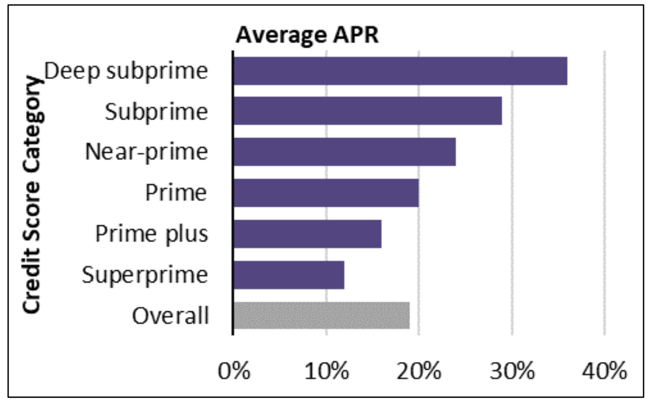
This In Focus briefly describes the state of the consumer credit card market and discusses policy issues related to credit card interest rates.

The Consumer Credit Card Market

According to the Federal Reserve, as of 2023, 82% of Americans had credit cards. Americans hold a collective $1.2 trillion of outstanding credit card debt, the fourth-highest category of household debt. On average, cardholders held $5,300 in credit card debt at the end of 2022. In 2022, Americans paid $130 billion in interest and fees toward their credit cards. The top 10 largest credit card companies hold 81% of total credit card outstanding balances.

Figure 1 shows the distribution of APRs, by credit score as of 2022 for general purpose credit cards. Consumers with lower creditworthiness generally have higher APRs, while the overall average APR is 19%.

Figure 1. Average APRs by Credit Score: 2022
General Purpose Credit Cards



Source: Consumer Financial Protection Bureau (CFPB).

Legislative Framework for Interest Rate Regulation

The Truth in Lending Act (TILA, 15 U.S.C. §§1601 et seq) requires creditors to disclose terms and costs of consumer credit. Currently, there is no provision in TILA that caps APRs for most consumer lending. For more on TILA, see CRS In Focus IF12769, *Overview of the Truth in Lending Act*, by Karl E. Schneider.

The Military Lending Act caps APRs at 36% on many consumer credit products for active-duty servicemembers, their spouses, and dependents (10 U.S.C. §987(b)). The Service Civil Relief Act enables active-duty servicemembers to have the interest rates on their credit cards and other forms of consumer debt reduced to 6% during their tours of duty (50 U.S.C. §50). Federal credit unions are typically statutorily restricted to an APR cap of 15%, but such a percentage can be increased in certain circumstances if prevailing interest rate levels threaten the safety and soundness of credit unions (12 U.S.C. §1757).

Some proposals in the 118th Congress, outlined in **Table 1**, aim to create federal APR pricing caps for different consumer products, with two adopting the Military Lending Act standard of 36% and another adopting an APR cap of 18%.

Table 1. Selected Congressional Proposals for APR Caps: 118th Congress

Bill	Credit Type	APR Cap
S. 3549	All consumer credit	36%
S. 2730	Open-end credit	36%
S. 2760	Credit cards	18%

Alternatively, S. 1934 would modify TILA to empower states to set maximum APRs for consumer credit that apply to the state where a consumer resides as opposed to the location of the financial institution's headquarters, which generally determines applicable interest limits (if any) under currently law. Currently, many credit card companies are based in either Delaware or South Dakota due to their specific usury laws. This applies to banks as well as nonbanks as a result of a recent Office of the Comptroller of the Currency rule. For more on this rule, see CRS Legal Sidebar LSB10512, *Federal Banking Regulator Finalizes Rule on State Usury Laws*, by Jay B. Sykes.

Policy Issues

Consequences of Usury Caps on Credit Cards

There are a range of consequences that a usury cap could—but may not necessarily—have on financial markets. Imposing a usury cap could affect access to credit from traditional sources or the way lenders price risk for riskier borrowers. Some researchers have separately argued that a usury cap would result in a large swathe of less creditworthy borrowers being denied credit. Research from economists at the World Bank on interest rate caps across the globe argued they were a "blunt instrument" and resulted in a decline in access to credit and increased commission or other fees. Further, research from economists on payday loans in Illinois and evidence from 19th-century state interest rate cap laws found declines in lending in response to usury laws. For short-term credit, borrowers might increasingly rely on potentially riskier credit sources outside of the banking system. Usury caps may also likely reduce profits for certain financial institutions as a result of decreased number of loans and lower APRs on some underwritten loans.

At the same time, some research points to the benefits, which could act as a form of social insurance, protecting those that receive negative income shocks from the negative sides of credit. Some economists argue that reducing credit availability as a result of a usury cap could benefit some consumers by preventing them from taking out costly forms of credit. Similar arguments are made for overdraft and payday loans. Researchers argued that in response to the usury cap imposed by the Military Lending Act (36%), lending to servicemembers from "mainstream credit products" has not declined, meaning broader usury cap legislation may be advisable.

Related Regulatory and Legislative Activity

In June 2024, the CFPB finalized a rule that would impose a new credit card late fee cap of $8 and eliminate inflation adjustments for that amount. Currently this final rule is stayed by a federal court order as a result of ongoing litigation in *Chamber of Commerce vs. CFPB*. H.J.Res. 122/S.J.Res. 70 would use the Congressional Review Act to disapprove this rule. A new CFPB director may reconsider this rule and attempt to rescind it through the rulemaking process.

The policy goal associated with usury caps is presumably to lower the cost of borrowing funds. Another potential way to do this could be to facilitate alternatives to credit cards, allowing consumers to access cash cheaper. For example, small dollar loans, overdraft, earned-wage access (EWA), and buy-now pay-later (BNPL) are among different products that could be considered alternatives to credit cards, with some potential advantages. For example, employer-integrated EWA enables employees to use money that they have already earned. BNPL products generally do not roll over with interest and are often limited to four payments.

The CFPB has recently taken steps to further regulate some of these products, possibly constraining their further growth. These products are not without their criticisms, some of which state that they encourage a cycle of indebtedness. The CFPB has issued a proposed interpretative rule and an interpretative rule that EWA products and BNPL, respectively, constituted credit and that these companies must offer protections and disclosures associated with TILA. Additionally, the CFPB proposed a rule in January 2024 that capped overdraft fees at $3 or a higher level if financial institutions justify additional expense. In general, overdraft fees from large institutions declined from 2020 to 2022. Critics of these policy changes argue that they may increase the cost of compliance and reduce consumer access to these products. Other stakeholders contend that such changes might improve consumer welfare through additional protections. A new CFPB director could reconsider these rulemakings.

In the 118th Congress, H.R. 7428 would exempt EWA from being classified as credit subject to TILA disclosures, mandate other disclosure requirements, and require EWA firms to provide fee-free versions of their services. On BNPL, legislation introduced in the 118th Congress would overturn the rule using the Congressional Review Act (H.J.Res. 190 and H.J.Res. 195) or mandate further study before rule finalization (H.R. 8628). H.R. 8356 would provide safe harbor from TILA enforcement actions for small dollar loan products (under $3,500) pending certain underwriting and other requirements.

For more on these alternative credit products, see:

- CRS In Focus IF11460, *Overdraft: Payment Service or Small-Dollar Credit?*, by Andrew P. Scott,
- CRS In Focus IF12727, *Earned Wage Access Products*, by Paul Tierno and Karl E. Schneider, and
- CRS In Focus IF12734, *Rapidly Growing "Buy Now, Pay Later" (BNPL) Financing: Market Developments and Policy Issues*, by Karl E. Schneider and Paul Tierno.

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