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Interest Rate Caps on Credit Cards

Congress has paid attention to the costs associated with credit cards, one of the most popular payment options for consumers today. For example, the 118th Congress 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. In the 119th Congress, bicameral legislation, S. 381 and H.R. 1944, would cap credit card annual percentage rates at 10%. 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.

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

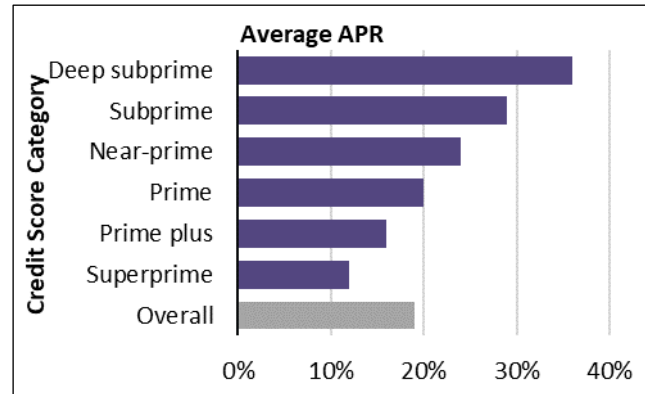
The Consumer Credit Card Market

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. The share of balance 90-plus days delinquent for credit cards has increased from a recent low of 7.6% in third quarter 2022 to 11.4% in fourth quarter 2024, the highest rate since 2014. This statistic includes severely derogatory debt, such as charge-offs. These delinquencies were concentrated among subprime borrowers. In response to these delinquencies, a Federal Reserve survey indicated that more banks tightened their underwriting standards for credit cards.

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. Part of Dodd-Frank (12 U.S.C. §5517) limits the CFPB from imposing “usury limits ... unless explicitly authorized by law.” 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 cap can be increased in certain circumstances if prevailing interest rate levels threaten the safety and soundness of credit unions (12 U.S.C. §1757).

State laws determine any applicable interest rate limits on bank credit cards based on financial institutions’ headquarters, and it does not matter where a consumer resides. 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.

S. 381 and H.R. 1944 would cap credit card APRs at 10%. If a credit card company violates these provisions, it would

have to forfeit the payment from those violations and potentially be subject to additional enforcement action. These provisions would be in effect until January 2031. S.Amdt. 2239 to the GENIUS Act (S. 1582) would enact similar provisions as these previously discussed bills.

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.

Related Regulatory and Legislative Activity

In March 2024, the CFPB finalized a rule that would cap credit card late fees at \$8 and eliminate inflation adjustments for that amount. This rule was recently vacated by a federal court in *Chamber of Commerce vs. CFPB*, as the CFPB under new leadership filed a joint motion to vacate, arguing that the rule violated the CARD Act. This action reflected a reported broader policy position by new acting CFPB leadership that the CFPB “shall not engage in attempts to create price controls.”

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 potentially access cash cheaper. For example, small dollar personal 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. Certain BNPL “Pay in 4” products generally do not roll over with interest and are often limited to four payments. Despite their purported convenience and other potential benefits, some argue that these products encourage a cycle of debt.

During the Biden Administration, the CFPB took steps to further regulate some of these products, which possibly constrained their further growth. 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 finalized a rule in December 2024 that mandated that financial institutions either cap overdraft fees at \$5 (or a higher level to cover costs and losses) or follow certain provisions in Regulations E and Z for overdraft. 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. The future of these policy changes is uncertain. The proposed EWA interpretative rule was never finalized, and currently EWA disclosures and most other protections are regulated by states. New CFPB leadership has stated in a recent court filing that it is planning to revoke the BNPL interpretative rule, which is being challenged by the Financial Technology Association in court. S.J.Res. 18, which Congress passed and President Trump signed, used the Congressional Review Act to overturn the CFPB overdraft rule.

In the 118th Congress, H.R. 7428 would have exempted EWA from being classified as credit subject to TILA disclosures, mandated other disclosure requirements, and required EWA firms to provide fee-free versions of their services. H.R. 8356 would have provided 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 financial 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.

Karl E. Schneider, Analyst in Financial Economics

Andrew P. Scott, Specialist in Financial Economics

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