CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

April 24, 2009

S. 414
Credit Card Accountability Responsibility and Disclosure Act of 2009

As ordered reported by the Senate Committee on Banking, Housing, and Urban Affairs on March 31, 2009

SUMMARY

S. 414 would amend the Truth in Lending Act to restrict the use of a number of billing practices applied to consumer credit cards. S. 414 would direct the Board of Governors of the Federal Reserve System (Federal Reserve), in consultation with other financial regulatory agencies, to issue regulations implementing the new standards. The Federal Reserve also would be required to annually report to the Congress about certain profitability measures on the credit card operations of depository institutions. Finally, the bill would establish a commission to study the feasibility of instituting a rating system to reflect the riskiness of credit card agreements.

S. 414 also would make changes to the insurance funds administered by the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration (NCUA). The bill would increase the amounts that the FDIC and NCUA can borrow from the Treasury for their deposit insurance funds. S. 414 also would allow NCUA to lengthen the amount of time available to impose industry assessments for the purpose of replenishing its insurance fund.

CBO estimates that enacting S. 414 would increase direct spending by $1.4 billion over the 2010-2014 period and reduce direct spending by $500 million over the 2010-2019 period. We estimate that implementing S. 414 would increase discretionary spending by $9 million over the 2010-2014 period, assuming appropriation of the estimated amounts. CBO estimates that enacting the bill would not have a significant effect on revenues.

The effects on direct spending over the 2009-2013 and 2009-2018 periods are relevant for enforcing the Senate's pay-as-you-go rule under the current budget resolution. CBO estimates that enacting S. 414 would increase direct spending by $2.5 billion over the 2009-2013 period and reduce direct spending by $500 million over the 2009-2018 period. Enacting S. 414 would not have a significant effect on revenues over those time periods.

Pursuant to Section 311 of S. Con. Res. 70, CBO estimates that S. 414 would not cause a net increase in deficits in excess of $5 billion in any of the four 10-year periods beginning after fiscal year 2018.

S. 414 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

S. 414 contains several private-sector mandates, as defined in UMRA. The bill would require creditors to submit detailed information on a semiannual basis to the Federal Reserve and prohibit them from engaging in certain credit card billing and issuing practices. The bill also would prohibit issuers of gift cards from collecting certain fees or establishing expiration dates. Based on information from the Federal Reserve and industry sources, CBO estimates that the aggregate cost of those requirements would likely exceed the annual threshold established in UMRA for private-sector mandates ($139 million in 2009, adjusted annually for inflation) in at least one of the first five years the mandates are in effect.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated impact of enacting S. 414 is shown in the following table. The costs of this legislation fall within budget functions 370 (commerce and housing credit) and 800 (general government).

BASIS OF ESTIMATE

For this estimate, CBO assumes that S. 414 will be enacted near the end of fiscal year 2009.

Direct Spending

CBO estimates that enacting S. 414 would increase direct spending by $1.4 billion over the 2010-2014 period, but would reduce direct spending by $500 million over the 2010-2019 period as a result of changes related to federal deposit insurance programs.

	By Fiscal Year, in Millions of Dollars											
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2010-2014	2010-2019
CHANGES IN DIRECT SPENDING [a]												
Increase FDIC Borrowing Authority												
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	7,700	-2,160	-2,310	-1,330	-860	-820	-630	-30	0	0	1,040	-440
Lengthening Time to Restore the SIF												
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	1,460	-260	-280	-290	-310	-290	-90	0	0	0	320	-60
Total Changes												
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0
Estimate Outlays	9,160	-2,420	-2,590	-1,620	-1,170	-1,110	-720	-30	0	0	1,360	-500
CHANGES IN SPENDING SUBJECT TO APPROPRIATION												
Estimated Authorization Level	2	2	2	2	2	2	2	2	2	2	10	20
Estimated Outlays	1	2	2	2	2	2	2	2	2	2	9	19

Note: FDIC = Federal Deposit Insurance Corporation; SIF = Share Insurance Fund.

a. CBO estimates that enacting S. 414 would have an insignificant effect on revenues over the 2010-2019 period.

Higher Borrowing Limit for FDIC. The bill would provide a permanent increase in the FDIC's authority to borrow from $30 billion to $100 billion and would provide a temporary increase of up to $500 billion under certain conditions. Raising the FDIC's borrowing authority would give the agency more flexibility in setting the insurance premiums it charges depository institutions, managing the resolution of failed institutions, and providing alternative forms of assistance to financial institutions (for example, guaranteeing debt issued by banks). CBO estimates that such changes would increase net outlays by about $1 billion over the next five years, but would result in savings of $440 million over the 2010-2019 period. We assume that, if this bill is enacted, the FDIC would reduce certain special assessments on the financial industry that otherwise would take effect within the next 12 months, resolve certain cases more quickly, and reduce its reliance on loss-sharing methods to resolve failed institution in some situations.

Changes to National Credit Union Share Insurance Fund (SIF). The SIF normally provides insurance for deposits of $100,000 in individual credit unions. (Under Public Law 110-43, the SIF currently provides insurance up to $250,000 through December 31, 2009.) SIF is structured to be entirely self-supporting through the biannual premiums paid by credit unions.

Current law requires that, over the course of the year, the SIF balance total between 1.2 percent and 1.3 percent of insured deposits (including amounts credited to the fund from interest earned on its unspent balances). If the fund balance (including interest) falls below 1.2 percent of insured deposits, the NCUA must assess a premium on credit unions. As of March 2009, the SIF has about $8 billion in fund balances (1.3 percent of insured deposits).

CBO estimates that the SIF will incur losses totaling about $7 billion over the next three years. The majority of those losses will stem from an NCUA program created in January 2009 that provides a temporary guarantee of uninsured deposits at most corporate credit unions through December 31, 2010. The remaining losses will result from payments to a corporate credit union in January 2009 and from other anticipated credit union failures.

Lengthening the Time to Restore the SIF. S. 414 would lengthen the amount of time available to restore the fund balances of the SIF to at least 1.2 percent of insured deposits. Agency regulations state that the SIF balance must be restored to at least 1.2 percent of insured deposits within one year. Under the bill, the SIF balance would have to be at 1 percent within a year, but the restoration from 1 percent to at least 1.2 percent of insured deposits could be spread out for a period of up to five years (or longer under extraordinary circumstances as determined by NCUA).

Under the bill, CBO expects that future SIF premiums would be paid over seven years given the extraordinary losses the SIF is expected to incur. Accordingly, CBO estimates that the agency's net outlays would increase by $320 million over the 2010-2014 period, as losses would exceed premium collections, but would decrease by about $60 million over the 2010-2019 period, as the remaining premiums would be collected.

Higher Borrowing Limit for NCUA. The legislation also would increase the SIF's borrowing authority from $100 million to $6 billion and allow for additional borrowing of up to $18 billion under certain circumstances. Currently, NCUA is using its borrowing authority through the Central Liquidity Facility (CLF) to address certain liquidity needs. Based on information provided by the NCUA, the agency would likely substitute borrowing from the CLF with borrowing under the bill's authority. CBO therefore estimates that the increased borrowing authority would have no net effect on direct spending.

Revenues

The bill would provide more consumer protection for credit card holders through a number of requirements on credit card issuers. For example, the bill would require advance notification to consumers of any rate increases, limits on fees and interest charges on credit card accounts, longer time between the mailing of bills and the payment due dates, and enhanced disclosures regarding payoff timings and penalties. The bill also would provide more stringent requirements for the issuance of credit cards to individuals below age 21. The bill would impose some restrictions on fees charged for gift cards. The bill would require the Federal Reserve to issue any rules and model forms, as needed, to implement the requirements of the bill. To ensure the requirements are uniform for all financial institutions, the Federal Reserve would need to coordinate with other financial regulatory agencies.

According to the Federal Reserve and other agencies, the regulatory activities required by S. 414 would not have a significant effect on their workload or budgets. In May 2008, the Federal Reserve proposed a number of regulatory changes that covered some of the same issues addressed by S. 414 and issued those regulations in December 2008. The related changes are scheduled to become effective July 2010. CBO does not expect the additional data collection and reporting requirements of the Federal Reserve to have a significant effect on its workload, and we anticipate that existing resources would be used to comply with S. 414. The budgetary effects on the Federal Reserve are recorded as changes in revenues (governmental receipts). Costs incurred by the other financial regulatory agencies affect direct spending, but most of those expenses are offset by fees or income from insurance premiums. Thus, CBO estimates that enacting this bill would not significantly affect revenues, and that the regulatory requirements would have a negligible net effect on direct spending.

Spending Subject to Appropriation

S. 414 would establish a commission to determine whether a rating system for credit card agreements would benefit consumers, and if so, to recommend ways such a rating system could be devised. Based on historical spending for similar activities, CBO estimates that creating the commission would cost about $9 million over the 2010-2014 period and $19 million over the 2010-2019 period, assuming appropriation of the necessary amounts.

Other provisions of S. 414 would require the Federal Reserve and other financial regulatory agencies to consult with the Federal Trade Commission when developing regulations to implement the new standards and require the Government Accountability Office to undertake two studies and prepare reports of its findings. The first study, due six months after enactment of S. 414, would review interchange fees and their effects on consumers and merchants. The second, due 18 months after enactment of the bill, would report on the status of regulations adopted by the financial regulatory agencies regarding unfair and deceptive acts by depository institutions and federal credit unions. Taken together, CBO estimates that those consultation and reporting requirements would cost less than $1 million per year, assuming the availability of appropriated funds.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 414 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

The bill contains several private-sector mandates, as defined in UMRA, principally affecting creditors and institutions that issue gift cards. Mandates on creditors would:

- Impose additional reporting requirements;
- Place limits on fees and interest charges;
- Set standards for issuing credit cards to individuals under the age of 21; and
- Impose requirements on several features of credit accounts.

The bill also would impose private-sector mandates on issuers of gift cards by prohibiting them from collecting certain fees or establishing expiration dates, except as directed in the bill.

The aggregate costs to comply with those mandates would likely exceed the annual threshold established in UMRA for private-sector mandates ($139 million in 2009, adjusted annually for inflation) in at least one of the first five years the mandates are in effect.

The bill also would codify several requirements included in credit card regulations recently established by the Federal Reserve and other financial regulatory agencies. CBO believes that action would not constitute a new mandate.

Mandates on Creditors

Reporting Requirements. The bill would require the Federal Reserve to collect additional data from creditors on the profitability of their credit card operations, the percentages of income derived from different sources, fees on cardholders, fees on merchants, and any other specified material sources of income. Under current law, the Federal Reserve collects financial data semiannually from a large sample of creditors. Those data are readily compiled by creditors, and the cost of submitting the data is minimal. However, according to the Federal Reserve and industry sources, in order to comply with the new requirement, creditors would need to develop and implement new software programs and systems to compile the necessary data. Based on information from the Federal Reserve and industry sources, CBO estimates that the mandate would affect a large number of creditors, and the cost to set up the systems could be significant.

Limits on Credit Card Fees and Interest Charges. The bill would place limits on fees and interest charges creditors could collect. This includes over-the-limit fees, interest charges, and other fees. The industry currently collects billions of dollars in such fees and interest charges annually. According to the Federal Reserve and industry sources, the limits imposed by the bill could significantly affect the amount that creditors collect each year.

Over-the-Limit Fees. The bill would require creditors to allow cardholders to establish a credit limit that cannot be exceeded, which is known as a hard credit limit. As such, creditors would be prevented from completing any transaction that would put the cardholder in excess of their credit limit. Under current practice, most cardholders are allowed to exceed their credit limit and are charged a fee for doing so. Under the bill, creditors would be prohibited from charging over-the-limit fees on accounts for which the cardholder has requested a hard credit limit. In addition, the bill would limit the situations when creditors could charge over-the-limit fees. Because the bill also would require creditors to notify their cardholders of the option to establish a credit limit and provide the necessary tools for cardholders to do so, the Federal Reserve and industry representatives believe that many cardholders would elect to use the option.

Credit Card Interest Charges. The bill would impose several new requirements regarding a creditor's ability to collect interest charges from credit cards that have been cancelled and from certain credit card transaction fees. The bill also would require creditors to apply a cardholder's payment to the balance with the highest rate of interest to minimize finance charges.

Credit Card Fees. The bill also would impose limits on the fees charged to cardholders and when creditors could charge certain fees.

Standards for Issuing Credit Cards to Individuals Under the Age of 21. The bill also would require creditors, when soliciting to persons under the age of 21, to obtain a credit card application that contains either a guardian's signature, information indicating an independent income, or proof that the applicant has completed a certified financial education course. In addition, a creditor would be prohibited from increasing such a cardholder's line of credit unless a guardian approves in writing and assumes joint liability of such increase. A creditor also would be prohibited from soliciting prescreened credit offers to individuals under the age of 21. Similarly, credit-reporting agencies would be prohibited from furnishing credit-related information to creditors unless explicitly authorized by the individual. Even though only a small percentage of cardholders are under the age of 21, creditors collect hundreds of millions of dollars each year from cardholders between the ages of 18 and 21. CBO is uncertain whether the mandates would affect the number of persons under 21 who would acquire credit cards. Therefore, we cannot determine if the cost of complying with this mandate would be significant to creditors.

Requirements on Credit Account Features. S. 414 would impose several new requirements on creditors related to providing account disclosures, using certain terms, and activating credit cards. The bill would require creditors to disclose payment and interest information as well as termination procedures prominently as described in the bill. In addition, the bill would prohibit creditors from using the term "prime rate" unless its use is based on the definition provided in the bill and would prohibit creditors from informing credit bureaus of a cardholder's line of credit until the cardholder has activated his or her card. The cost for creditors to comply with those mandates would likely be minimal because compliance would involve only a small adjustment in current procedures.

Mandates on Issuers of Gift Cards

S. 414 would prohibit issuers of gift cards from collecting certain fees and establishing expiration dates for gift certificates, store gift cards, or general-use prepaid cards except as allowed by the bill. According to industry sources, those requirements could significantly affect the amount that issuers of gift cards collect in fees each year. Currently, those issuers collect more than $6 billion each year from fees and expired cards. Even if this provision affected only a small portion of those fees, the amount of forgone collections by card issuers could be substantial.

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