TransUnion

Legislative Update

November 2008

Federal

Priorities and Outlook for the New Administration and 111th Congress

In ordinary times, the prospects for legislation that distinctly favors consumer interests and may be adverse to the interests of financial institutions and consumer reporting agencies would be expected to rise with the assumption of power by the Democrats, as will occur in January. These are obviously not ordinary times, however, making it more difficult to predict how Congress and the Obama Administration will treat consumer credit and consumer reporting agency issues. On one hand, it would appear inopportune to enact many of the initiatives championed by key Members of Congress and President-elect Obama that would increase the cost of credit and reduce credit availability. On the other hand, these issues have been longstanding priorities for many policymakers. There will undoubtedly be legislation addressing mortgage lending, intervention in the capital markets, and regulatory restructuring. Beyond that, it is too early to predict what else Congress may consider.

Specifically, in the new 111th Congress, which will convene in January 2009, preliminary statements about priorities made by the Committee Chairmen (Christopher Dodd, D-CT; Chairman of the Senate Committee on Banking, Housing and Urban Affairs, and Barney Frank, D-MA, Chairman of the House of Representatives' Committee on Financial Services) have both indicated that their priorities will include a focus on mitigating home foreclosures, improving liquidity and availability of loans, and, longer-term, making major revisions to the federal regulatory structure for financial services. Senator Dodd's statement of November 6, 2008 can be viewed at http://banking.senate.gov.

That said however, it is worth noting that, in the House of Representatives, in the 111th Congress, with Chairman Frank focused on the macro-economic issues, the subcommittee Chairmen may have more room to focus on their specific jurisdictional or personal issues. Specifically, Chairman Paul Kanjorski (D-PA), of the Subcommittee on Capital Markets, Insurance, and Government-Sponsored Entities may be given more latitude to craft legislation dealing with the federal regulation of insurance. Chairman Carolyn Maloney (D-NY), of the Subcommittee on Financial Institutions and Consumer Credit, may be able to advance restrictions on credit card billing and credit scoring practices. Finally, Chairman Maxine Waters (D-CA), of the Subcommittee on Housing and Community Opportunity, may be able to implement her concepts for predatory lending restrictions.

At present, the outlook for a lame-duck session of the 110th Congress (convened sometime before the end of the year) is that one will occur, in which a narrow 2nd stimulus package will be crafted which will include an extension of unemployment benefits and an earmark of $25 billion for GM, Ford and Chrysler (out of the existing $700 billion already authorized in the EESA—see below). Obviously, this is subject to change, but reflects our latest information as we publish this update.

Outlook for Federal Rulemaking

As reported in the last two editions of the *Legislative Update*, final rulemaking is still due on two important issues on which proposed rules have been published: 1) credit card billing practices, as promulgated by the Board of Governors, Federal Reserve System ("Board"), the Department of the Treasury, Office of Thrift Supervision ("OTS") and the National Credit Union Administration ("NCUA"); and 2) risk-based pricing notification, as promulgated by the Board and the Federal Trade Commission ("FTC"). See the September 2008 edition of *Legislative Update* for detail on these two issues. The latest information we have is that the Final Rule on credit card billing practices is still expected before the end of 2009. The Risk Based Pricing Notice Final Rule is now not expected until the first or second quarter of 2009.

The Emergency Economic Stabilization Act of 2008 ("EESA")

On October 3rd, in reaction to the September liquidity crisis in the financial markets, Congress enacted HR 1424, or the EESA. There is no direct impact on TransUnion from this new law. However, one of its key elements—the Troubled Asset Relief Program ("TARP")—provides, among other things, for the purchase of troubled assets. "Troubled Assets" is broadly defined but specifically includes residential and commercial mortgages. However, in a press release of November 12, 2008, Treasury Secretary Paulson stated that he no longer viewed the purchase of troubled mortgage loans as a helpful strategy. Specifically, he noted that "Over these past weeks we have continued to examine the relative benefits of purchasing illiquid mortgage-related assets. Our assessment at this time is that this is not the most effective way to use TARP funds, but we will continue to examine whether targeted forms of asset purchase can play a useful role, relative to other potential uses of TARP resources, in helping to strengthen our financial system and support lending." The full press release is at http://www.ustreas.gov/press/releases/hp1265.htm. There are many other events, rapidly unfolding, in connection with this legislation. What turns out to be the end result is anybody's guess right now. Those wishing to track these developments can sign up for Treasury Department updates on the EESA at http://www.treas.gov/initiatives/eesa/.

States

Governor Races

Given the results in the Presidential election, there is much debate about whether there is a mandate for change. A closer look at the state election results indicates that the country is still deeply divided. President-elect Obama did not carry as many local elections as Democrats would have hoped. Of the 11 Governorships decided, the Democrats increased their number by only a single governor's office, inching their total to 29, the highest number they have held since before the Republican Revolution of 1994. Eight incumbents were reelected, split evenly between the parties.

Missouri was the only state where party control changed hands; in this case Attorney General Jay Nixon (D) easily defeated Republican Congressman Kenny Hulshof, and this is likely because of the unpopularity of outgoing Republican Governor Matt Blunt, who chose not to seek a second term.

Washington Governor Christine Gregoire, garnered a much larger victory in her rematch with Republican Dino Rossi, with about 55 percent of the vote, as compared to her 2004 contest with Rossi, which was ultimately decided by 133 votes — the smallest margin for a governor's race in U.S. history — after two recounts and a Republican lawsuit.

Democrats also won in North Carolina, where voters chose Lt. Governor Beverly Perdue to be the first female governor for the Tar Heel State, defeating Charlotte mayor Pat McCrory. Montana Democrat Governor Brian Schweitzer easily won re-election, gaining more than 65 percent of the vote. Democrats also won in Delaware, where Democratic state treasurer Jack Markell defeated Republican Bill Lee; in West Virginia, where incumbent Governor Joe Manchin cruised to victory over former state senator, Russ Weeks; and in New Hampshire, where Gov. John Lynch easily won a third two-year term over a state senator, Joseph D. Kenney.

Despite Obama winning Indiana, Republicans enjoyed their biggest victory in that state, where incumbent Governor Mitch Daniels crushed Democrat Jill Long Thompson. North Dakota Governor John Hoeven and Utah Governor Jon Huntsman, Jr. were also re-elected by wide margins. Vermont Governor James Douglas also won a wide clear majority of 55 percent of the vote against two opponents, Democratic House Speaker Gaye Symington and independent Anthony Pollina.

Statehouse Races

In the state legislatures, the Democrats also picked up majority control of five statehouse chambers, the biggest catch being New York’s Senate, which had been in Republican control since 1966. The Democrats, who took 32 of the 62 seats, already controlled the House and governor's office, and the win gives them their first monopoly since 1935. This outcome could prove to be a problem, given New York State’s long history of proposing very difficult legislation, including recently seeking to regulate the use of inquiries in credit scores.

Democrats claimed the Delaware House for the first time since 1984, giving the party control of every legislative chamber in the northeast, except for the Pennsylvania Senate. Especially hard was the loss of Delaware Republican Delegate Donna Stone, who was the Chair of Economic Development Banking & Insurance Committee and a supporter of credit issues. Democrats also picked up Nevada’s Senate, the Ohio House, the Wisconsin Assembly and joint control of Alaska’s Senate.

Republicans had large victories in the South, claiming the House and Senate in Tennessee, which gave them total control over both legislatures for the first time in history. They also took control of the Senate in Oklahoma. Republicans also took back control of the Montana Senate from the Democrats, who controlled it for four years.

Florida Insurance Scoring

On October 27, the Florida Office of Insurance Regulation ("OIR") released a new 12 page draft of their proposed rule regulating consumer credit in insurance pricing and underwriting. This development is the latest in the multi-year battle between the Florida Insurance Council ("FIC"), the national trades, and other insurance groups on one side, and the OIR on the other side, over implementation of a law that specifically allows insurance scoring. A legal victory by FIC and the national trades against the original rules adopted by the OIR brought implementation of these new rules. The latest proposed rule does not require insurers to show no disparate impact on minorities and other groups. However, there are several new proposals establishing other requirements, including forcing insurers to provide to OIR the data used in building the scoring models. Along with these rules, Insurance Public Advocate Terry Butler proposed an amendment that would ban consideration of foreclosures and reductions in credit lines by credit card companies in insurance underwriting. It is now clear that the OIR is attempting to enforce these rules without going through proper administrative review. The insurance industry and TransUnion are currently working together to develop a strategy of how to approach this situation.

Arizona Identity Theft Ballot Measure

In the September *Update*, we informed you of a ballot measure that had been qualified in Arizona, which addressed identity theft in the context of immigration. If approved, the proposition would have had no direct negative impact on TransUnion or our financial services customers. However, Proposition 202, known as the Arizona Stop Illegal Hiring Act, would have increased penalties on cash-based businesses that bypass current laws as well as employees who engage in identity theft, as defined, to verify employment eligibility. The measure was soundly defeated 59 to 41 percent.

International

India

This month we are pleased to present an update on legislative and regulatory news affecting consumer credit in the Republic of India, courtesy of our associate in India, Vibha Visan. Welcome, Vibha, to *Legislative Update*!

Prevention of Money Laundering (Amendment) Bill, October 2008

Money changers and money transfer service providers such as Western Union and credit card payment gateways like VISA and MasterCard will now come under the ambit of India's anti-money laundering laws. A Bill to amend the Prevention ofoney Laundering Act was introduced in the Rajya Sabha in October by Minister of State for Finance, Shri. Pawan Kumar Bansal. After the Amendment Bill is passed by Parliament and comes into effect, businesses like casinos would also come under legal obligation to report their activities in the country. For fighting the menace of terrorism, the Bill introduces new category of offences which have cross-border implications.

The Reserve Bank of India (RBI) announces reduction in CRR (Cash Reserve Ratio) for Liquidity Management

On October 6, 2008 the Reserve Bank of India announced a reduction of the CRR for scheduled banks by 50 basis points to 8.5% of Net Demand and Time Liabilities (NDTL) with effect from the fortnight beginning October 11, 2008. This measure was undertaken with a view to injecting liquidity into domestic financial markets so as to alleviate the pressures brought on by the deterioration in the global financial environment. In the ensuing days, the global situation has worsened further.

International stock markets and money markets had been adversely affected in a significant manner. Central banks across the world have responded to these extraordinary developments by synchronized policy actions including measures for liquidity infusion.

In the context of the abrupt changes in the international financial environment, it is important to note that the macroeconomic fundamentals of the Indian economy are strong and resilient and that India's financial system is sound, well-capitalized and well-regulated. Money and FOREX markets in India have been operating in a relatively orderly manner. The current domestic market conditions are essentially a reflection of the adverse developments and extreme uncertainty in international financial markets.

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