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The National Defense Authorization Act (NDAA) text was released on Tuesday night, and the bill excludes the SAFE Banking Act and Senator Richard Durbin (D-Illinois)'s credit card bill. Supporters of both bills will try to add them to a year end spending bill, but odds are against them.

On Tuesday night, lawmakers released the text of a compromise NDAA. The new bill omitted several items that we have been tracking including the SAFE Banking Act and the Credit Card Competition Act of 2022 (aka the Durbin credit card bill). Supporters of both bills will try to attach their legislation to an omnibus spending bill that could pass before the end of 2022. Both face long odds.

The politics of passing an omnibus bill are complex, and this note will not go into detail about why. Suffice it to say that passing large, controversial spending bills at year end is difficult to start with. Then add in that control of the House will flip in 2023, so the situation gets even more complicated. In this environment, passing an omnibus bill will be like threading a needle, and adding extraneous items like the SAFE Act or the Durbin credit card bill complicates an already tricky situation.

The prospects for the Durbin bill are the worst of the two bills mentioned. The bill has limited bipartisan support and pits two private industry sectors against each other. Congress will likely punt on intervening in this dispute. Odds of the Durbin bill being attached to an omnibus bill are close to zero.

Prospects for the SAFE Act are better than the Durbin bill but still less than 50/50. If Congress can agree on a spending bill, it will probably take the path of least resistance given the late hour. That means omitting extraneous bills, like SAFE, which could upset a delicate compromise on the broader bill. The SAFE Act enjoys bipartisan support, but it also faces powerful opposition – notably Senate Minority Leader Mitch McConnell (R-Kentucky) who will probably work to keep the SAFE Act out of an omnibus. In order to pass an omnibus in the Senate, McConnell's support will be critical, and he can use his leverage to keep SAFE out of the bill. It is difficult to handicap the SAFE Act's chances with any precision, but the odds of it being added to an omnibus bill appear to be less than 50/50.

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