

Sept. 26, 2019

The Honorable James Inhofe
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510

The Honorable Jack Reed
Ranking Member
Committee on Armed Services
United States Senate
Washington, DC 20510

The Honorable Adam Smith
Chairman
Committee on Armed Services
House of Representatives
Washington, DC 20515

The Honorable Mac Thornberry
Ranking Member
Committee on Armed Services
House of Representatives
Washington, DC 20515

Dear Chairman Inhofe, Chairman Smith, Ranking Member Reed, and Ranking Member Thornberry:

The American Financial Services Association (AFSA)¹ appreciates your time and attention on two matters that are that are being considered in conference deliberations over the Fiscal Year 2020 National Defense Authorization Act (NDAA).

Section 550H (*To Resolve Controversies Under the Servicemembers Civil Relief Act*) of the House-passed bill would negatively affect servicemembers and their families by limiting their ability to settle disputes through arbitration, thereby subjecting them to far lengthier, burdensome, costly, and unpredictable dispute resolution methods. Enactment of this provision would have the practical effect of funneling these disputes into class action lawsuits that take years to be adjudicated and result in comparatively small payouts. Servicemembers deserve the option to settle disputes through arbitration, a more expedient process where data show that they would experience greater payouts. The courts, including the U.S. Supreme Court, have recognized arbitration as a fair and effective mode of settling disputes.

Section 550K (*Effective Date of Rule Regarding Payday Lending Protections*) of the House-passed bill would curtail access to small-dollar credit for members of the military, veterans, and surviving spouses. The mandatory underwriting provisions of the Consumer Financial Protection Bureau's (CFPB) rule were delayed by the CFPB until November 19, 2020. While the rule is currently stayed by the Western District Court in Texas, if Section 550K became law then the mandatory underwriting provisions could be effective immediately, giving financial institutions no time to comply.

Furthermore, these matters are best considered in the context and due course of the structure of bills and issues that are before the committees with overall jurisdiction of financial matters. Isolating and narrowing these matters to the NDAA could have unintended consequences that would reverberate with both members of the military and the financial services industry. Arbitration and the CFPB's rules are already being considered in committees with overall jurisdiction. With regard to Section 550H, the Senate Judiciary Committee held a hearing on arbitration

¹ Founded in 1916, the American Financial Services Association (AFSA) is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance. AFSA members do not provide payday or vehicle title loans.

in April. The House Judiciary Committee passed the Forced Arbitration Injustice Repeal Act (FAIR Act), which in turn passed the House on Sept. 20. With regard to Section 550K, the Senate Banking Committee and House Financial Services Committee have examined these matters and conducted CFPB hearings addressing these issues.

We respectfully request that you consider our views and are available to provide additional information to the conferees.

Sincerely,

A handwritten signature in black ink that reads "Bill Himpler". The signature is written in a cursive, flowing style.

Bill Himpler
President & CEO
American Financial Services Association