



March 24, 2020

The Honorable Clay Jenkins
Judge, Dallas County
Administration Building
411 Elm Street
Dallas, TX 75202

Re: March 23, 2020, Amended Stay Home Stay Safe Order

Dear Judge Jenkins:

I write on behalf of the American Financial Services Association (AFSA)¹ regarding your March 23 amended Stay Home Stay Safe order for Dallas County. While we appreciate your efforts to slow the spread of COVID-19 and ensure the health and safety of county residents, we are concerned that your amended order excludes non-depository lenders and other financial institutions from the definition of “essential businesses,” cutting off access to important sources of emergency credit for Dallas County consumers—and cutting off servicing for existing loans with non-depositories.

Importantly, your amended order defines “essential businesses” to include “Essential Critical Infrastructure,” as identified by the federal Department of Homeland Security’s Cybersecurity & Infrastructure Security Agency (CISA). As your order notes, CISA considers the financial services sector to be one of sixteen vital components of the nation’s critical infrastructure; however, CISA does not limit the financial services sector to financial institutions that hold deposits.² In fact, some of the nation’s largest creditors are non-depository financial institutions.

According to CISA, “the Financial Services Sector includes thousands of depository institutions, providers of investment products, insurance companies, other credit and financing organizations, and the providers of the critical financial utilities and services that support these functions.” (emphasis added)³ Recent guidance from CISA further reinforced the importance of non-depository lending functions, noting that the essential financial services workforce includes: “Workers who are needed to provide consumer access to banking and lending

¹ Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., 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.

² In addition to CISA, all of AFSA’s bank and non-bank members are “financial institutions” under the Gramm-Leach-Bliley Act. The Act says: “The term “financial institution” means any institution the business of which is engaging in financial activities as described in section 1843(k) of title 12” 15 U.S.C. § 6809 . . . For purposes of this subsection, the following activities shall be considered to be financial in nature:

(A) Lending, exchanging, transferring, investing for others, or safeguarding money or securities. 12 U.S.C. § 1843(k)(4).

³ See CISA *Financial Services Sector-Specific Plan 2015* at

<https://www.cisa.gov/sites/default/files/publications/nipp-ssp-financial-services-2015-508.pdf>.

services.” (emphasis added)⁴

At a time of national crisis and economic turmoil such as the COVID-19 pandemic, it is critical that all sections of society have access to emergency credit if widespread hardship is to be avoided, and both banks and non-depository financial institutions are a vital source of emergency credit. Installment loans are increasingly acknowledged as one of the safest and most affordable forms of credit and allow easy access to small sums at short notice. Payment cards provide borrowers with open-end credit lines immediately accessible as needed. Refinancing a mortgage or vehicle loan to lower monthly payments frees up money that can be put toward emergency expenses. Each of these credit options allows a consumer to access sums of money that help them to deal with unforeseen circumstances.

In addition to emergency credit, it is also essential that consumers have access to banks and non-depository financial institutions with which they have existing relationships in order to service those accounts, seek payment extensions, etc. While some financial institutions are set up to perform some functions from home, others need personnel in place in offices or local branches to ensure customer needs are met. Some very large national non-bank financial institutions are headquartered in the Dallas area, and though many of their functions can be performed by employees working at home, others cannot.

Thank you for your attention to this matter. If you have any questions about how AFSA can be of any further assistance to you as you move forward, please do not hesitate to contact me at 952-922-6500 or dfagre@afsamail.org.

Sincerely,



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⁴ See CISA *Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response* at https://www.cisa.gov/sites/default/files/publications/CISA_Guidance_on_the_Essential_Critical_Infrastructure_Workforce_508C_0.pdf