

August 4, 2020

Molly Dillon
Deputy Commissioner of Banking
Department of Financial Regulation
89 Main Street
Montpelier, VT 05620-3101

Re: Licensee operations conducted via telework

Dear Commissioner Dillon:

I write on behalf of the American Financial Services Association (AFSA)¹ regarding the ability of licensees to conduct operational and licensable activities remotely through a licensed business location without being physically present at that location. We appreciate the steps your department has taken to clearly authorize such activities for mortgage loan originators throughout the emergency. It will continue to be in the best interest of consumers and employees for all financial institutions to continue remote work well beyond the initial phases of reopening. As licensees have conducted these activities safely and effectively at home during the crisis, we request that you permanently extend your authorization beyond the pandemic and allow employees of all license types to work from home without the need to obtain branch licenses for employee homes.

AFSA's 350+ member companies provide consumers with many types of credit, including traditional installment loans, direct and indirect vehicle financing, mortgages, leases and payment cards. They serve the entire credit spectrum, from non-prime to super-prime consumers. Among your state's licensees, AFSA members include traditional installment lenders, sales finance companies, and mortgage lenders and servicers.

AFSA members remain committed to safeguarding employees and customers, mitigating risks to the continuity of operations, and ensuring credit remains available to consumers who need it, and this must continue to be accomplished through remote work. Technology advancements have made working remotely more effective than ever and mostly indistinguishable from on-site operations. For instance, loans may be closed remotely with electronic signatures and employees have secure remote access to company systems through virtual private networks (VPNs). Prior to the pandemic, many of our members had already implemented the ability to use these technologies and then increased their capabilities to safely continue operations during the pandemic-related state of emergency. For many members, adopting these new technologies has been a costly and time-consuming endeavor, but customers have greatly appreciated both the convenience and health benefits of remote operations. Our members are prepared and desire to continue work from home strategies to optimize future operations.

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.

Remote work is the best way to maintain continuity of operations for customers and ensure the safety of employees and customers. With states reopening at different paces, companies face a patchwork of state and local laws affecting in-person interactions, which may mean significant differences in operational guidelines between locations. Moreover, companies are taking steps to implement facility changes necessary to create workspaces that meet new health guidelines to allow for increased spacing between employees. Not only do these changes take time to implement, but they also include key recommendations for limiting in-person operations, with telework available where feasible. Most importantly, remote work allows businesses to make critical safety accommodations for employees who may be higher-risk or those who care for higher-risk individuals.

Employees working from home are not setting up a separate place of business. These employees are not meeting customers in their homes. They are not keeping records in their homes. They are performing the same telephone/internet-based functions they would have performed if they were sitting in the licensed location. Importantly, employees are supervised as they would be at the licensed location, and the licensee's records are not kept at the remote location. Allowing employees to perform telephone/internet-based functions from home merely allows a licensee to be more flexible in its employment practices, while still providing the same secure services to the public.

Protection of sensitive information remains a priority for our members, and the pandemic provided an opportunity for financial institutions to successfully test the use of technology to ensure data protection and transition to remote work. In that time, licensees have demonstrated—out of necessity—that nearly all critical operational functions can take place through teleworking, and it is of critical importance that they be able to do so. We recognize that you may believe the existing licensing framework may not address permanent remote telework from a licensed business location for all licensees; however, we believe remote work would be consistent with existing requirements, as the remote location will not be put out to the public as a place of business or share other characteristics of a traditional place of business and thus should not be treated as a separate business location requiring a separate license.

We believe that employees should be allowed to telework through a licensed location of the financial institution without being physically present at that location. These employees should be permitted to conduct operational and licensable activities—including loan servicing, credit decisioning, funding and collections—that can be safely accomplished by teleworking, provided that the licensee fulfills certain conditions to ensure the protection of consumers and to preserve regulatory supervisory authority. We believe the following best practices would achieve these goals and allow licensees to maintain operations:

- 1) In-person customer interactions will not be conducted at the remote location;
- 2) Sensitive customer information will be protected consistent with the licensee's existing cybersecurity protocols for on-site operations;
- 3) Risk-based monitoring and oversight processes will be followed; and
- 4) Physical records will not be maintained at the remote location, and information

regarding the specific activities conducted via telework will be maintained and available upon request.

With that in mind, we respectfully request confirmation that employees of licensees may permanently continue to utilize the technology investments made to support telework during the pandemic so long as the standards outlined above are followed. We also request clear guidance from your department that licensable activities—including, but not limited to, loan servicing, credit decisioning, and collections—can permanently take place remotely under the applicable laws and regulations with appropriate safeguards.

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,

A handwritten signature in black ink, appearing to read 'Danielle Fagre Arlowe', written in a cursive style.

Danielle Fagre Arlowe
Senior Vice President
American Financial Services Association
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Washington, DC 20006-5517