

May 12, 2022

The Honorable Maxine Waters  
Chairwoman  
Committee on Financial Services  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Patrick McHenry  
Ranking Member  
Committee on Financial Services  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairwoman Waters and Ranking Member McHenry:

On behalf of the American Financial Services Association (AFSA),<sup>1</sup> I write to you today to oppose H.R. 5912 - *The Close the ILC Loophole Act*. We appreciate the Committee's interest surrounding the regulatory oversight of industrial banks and hope to provide clarity regarding these types of sound financial institutions. This legislation would undoubtedly hinder financial innovation that provides unique solutions for many niche types of businesses in the banking system.

As know you, industrial banks (also referred to as industrial loan companies or ILCs) are Federal Deposit Insurance Corporation (FDIC)-regulated depository institutions chartered under the laws of California, Colorado, Hawaii, Indiana, Minnesota, Nevada, and Utah. As of the end of Q1 of 2020, ILCs collectively held almost \$165 billion in assets and \$135 billion in deposits; both amounts are less than 1% of the total amount held by all insured depositories.<sup>2</sup>

Industrial banks are subject to the same banking laws and are regulated in the same manner as other depository institutions. The Congressional Research Service has noted, "ILCs are subject to the same laws and regulations as all state banks."<sup>3</sup> Additionally, industrial banks are subject to the same restrictions and requirements, regulatory oversight, and safety and soundness exams as any other kind of FDIC-insured depository institution, including consumer protection, deposit insurance, Community Reinvestment Act, and other requirements.<sup>4</sup>

Though not required to be regulated as federal bank holding companies, owners of industrial banks are not "unregulated." Indeed, they are subject to many of the same requirements as bank holding companies, such as strict restrictions on transactions with their bank affiliates. They are regulated under state law, they are subject to examination by the FDIC, and to "prompt corrective action" and capital guarantee requirements if the banks they control encounter financial difficulties.

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<sup>1</sup> Founded in 1916, AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance

<sup>2</sup> Congressional Research Service, [Industrial Loan Companies \(ILCs\)](#), (2020).

<sup>3</sup> *Id.*

<sup>4</sup> FDIC, Final Rule: [Parent Companies of Industrial Banks and Industrial Loan Companies \(86 FR 10703\)](#), (2021)

Currently, the Bank Holding Company Act exemptions apply to many financial institutions, including major auto manufacturers and other nonbank entities. These exemptions benefit bank customers by introducing additional competition into the marketplace, without increased risk to the deposit insurance system. Unfortunately, the draft bill does the opposite and decreases competition within the banking industry by banning any future company from receiving industrial bank charter approval.

For decades, anti-industrial bank advocates have argued that if certain types of companies received an industrial bank charter, the banking system could collapse. However, ILCs have outperformed all other FDIC-insured institutions for over 20 years.<sup>5</sup> According to the FDIC, “industrial banks have been assigned examination ratings for the capital and earnings components that, on average, were very similar to those of other insured institutions.”

During the past five decades, industrial banks have compiled among the best records of capitalization and profitability of any group of banks in the nation, and they represent a sector of the financial services industry that should be encouraged to grow, not eliminated.

We appreciate your time and the opportunity to provide insight into the regulatory oversight of industrial banks under your committee’s jurisdiction. Should you need additional information or have any questions, please feel free to contact me at [cwinslow@afsamail.org](mailto:cwinslow@afsamail.org) or (202) 776-7300.

Sincerely,



Celia Winslow  
Senior Vice President  
American Financial Services Association

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<sup>5</sup> NAIB, [Industrial Banks: A history of Stability & Strength](#)