

May 26, 2022

The Honorable James Sanders, Jr.
New York Senate
Legislative Office Building, Room 711
Albany, NY 12247

The Honorable Catalina Cruz
New York Assembly
Legislative Office Building, Room 652
Albany, NY 12248

Re: SB 5190/AB 9811 – relating to prohibiting retail establishments from refusing to accept payment in cash

Dear Senator Sanders and Assemblymember Cruz:

I write on behalf of the American Financial Services Association (AFSA)¹ regarding Senate Bill 5190, its companion Assembly Bill 9811, and similar bills SB 4134 and AB 9733. These bills would prohibit retail establishments from refusing to accept cash payments from a consumer. We appreciate the legislation's goals of financial inclusion and ensuring consumers have access to vital retail services, however, we are concerned that the legislation's broad definition of what qualifies as a retail establishment will sweep in unintended and unsuspecting businesses, including professional financial service providers, creating significant compliance and additional burdens.

Financial services providers are highly regulated and subject to a variety of anti-money laundering, know-your-customer, and other restrictions regarding accepting and processing funds from customers and non-customers. Distinct from typical retail outlets, many professional financial service providers rarely, if ever, deal in cash, because no goods or money changes hands during the provision of services. For example, local branch offices of a loan provider may not accept payments from consumers in cash. For this, among other reasons, we respectfully request your support for an amendment explicitly clarifying that these businesses are outside the scope of "retail establishment."

Specifically, New York City has a similar prohibition on cashless retailers that includes language explicitly clarifying that certain financial institutions are not retail establishments for the purposes of the law's restrictions. We respectfully request your support for an amendment modeled after New York City's language for the avoidance of doubt that the definition of retail establishment would not include certain professional financial service providers. We propose adding to the definition of retail establishment: "*This definition does not include banks, trust companies, or licensed lenders as those terms are defined in section 2 of article 1 of the banking law.*"

Thank you in advance for your consideration of our comments. We continue to support innovations in banking and payment technologies that will allow those who currently do not have direct access to noncash forms of payment to take advantage of all the protections and conveniences afforded to those

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.

who do and look forward to future opportunities to work with the legislature to advance these goals. If you have any questions or would like to discuss this further, please do not hesitate to contact me at (202) 469-3181 or mkownacki@afsamail.org.

Sincerely,

A handwritten signature in blue ink that reads "Matthew Kownacki". The signature is written in a cursive, flowing style.

Matthew Kownacki
Director, State Research and Policy
American Financial Services Association
919 Eighteenth Street, NW, Suite 300
Washington, DC 20006-5517

cc: Senator Andrew Gounardes
Assemblymember Nader Sayegh