

July 11, 2022

The Honorable James McGovern  
Chairman  
Rules Committee  
House of Representatives  
Washington, DC 20515

The Honorable Tom Cole  
Ranking Member  
Rules Committee  
House of Representatives  
Washington, DC 20515

Dear Chairman McGovern and Ranking Member Cole:

As the House Committee on Rules meets to debate H.R. 7900 - National Defense Authorization Act for Fiscal Year 2023 (NDAA), I write to you to commend your bipartisan efforts and collaboration to our nation's servicemembers and their families. We would also like to provide the American Financial Services Association's (AFSA) perspectives on several amendments under consideration before the Rules Committee this week.

***Amendment #107:** Submitted by Representative Ed Perlmutter (D-CO), adds the bipartisan SAFE Banking Act which allows state-legal cannabis businesses to access the banking system and ends Operation Choke Point.*

The amendment would prohibit a federal banking agency from terminating a banking relationship with a legal business unless there is a valid reason that is not based solely on reputational risk. No highly regulated business, such as state-licensed consumer finance companies, should be unfairly targeted solely based on the political bias of a particular administration.

Last year, the House of Representatives overwhelmingly passed similar legislation introduced by Rep. Perlmutter - H.R. 1996 - SAFE Banking Act.

- **AFSA Supports the Perlmutter #107 Amendment.**

***Amendment #209:** Submitted by Representative David Cicilline (D-RI), prevents the enforcement of pre-dispute forced arbitration clauses in any dispute covered under the Servicemembers Civil Relief Act.*

This amendment limits arbitration for servicemembers and would favor class-action lawsuits that take years to be adjudicated, clog the court system, and result in comparatively small payouts. Servicemembers deserve the ability to settle disputes through arbitration, a more expedient process that yields greater payouts for consumers.

Arbitration is already governed by the Federal Arbitration Act and has been approved by the Supreme Court, which recognized arbitration as a fair and effective mode of settling disputes

between borrowers and creditors. In fact, the American Arbitration Association (AAA), the country's largest arbitration provider, imposes stringent rules in consumer arbitration cases to ensure fairness and maintain arbitrator independence. Cases are not accepted if they fail to meet these standards.

AFSA strongly supports the use of arbitration as a timely, low-cost dispute resolution option for servicemembers and everyone alike. In 2015, the Consumer Financial Protection Bureau's own study on arbitration found that:

1. Arbitration costs consumers less. Consumers paid an average of \$206 in total fees in arbitration cases reviewed by the Bureau, compared to the several thousand dollars consumers face in attorney fees in civil court.
2. Arbitration is quick. Telephone arbitrations are generally resolved within five months while in-person arbitration is generally settled within seven. Class-action settlements, on average, do not receive final court approval for 690 days, or more than two years.
3. Arbitration results in higher monetary relief. The average amount received by consumers through arbitration is \$5,389. The average received by consumers through class-action lawsuits is \$32.

- **AFSA Opposes the Cicilline #209 Amendment.**

*Amendment #543: Submitted by Representative Madeleine Dean (D-PA), authorizes every notary to use remote online notarization (RON) and creates national standards and protections on its use.*

This amendment would expand the usage of RON technology nationally and enable the notarization process to be completed with the notary and signer in different physical locations, using two-way audiovisual communication. The immediate nationwide use of RON will create more access to notarization, allow for flexible accommodation and afford consumers time to review documents.

Earlier this year, the Consumer Protection and Commerce Subcommittee of the House Energy & Commerce Committee unanimously passed similar legislation introduced by Rep. Dean - H.R. 3962, the Securing and Enabling Commerce Using Remote and Electronic Notarization Act. The bill currently has over 100 bipartisan cosponsors.

- **AFSA Supports the Dean # 543 Amendment.**

*Amendment #372: Submitted by Representative Josh Gottheimer (D-NJ), establishes a credit reporting ombudsman at the CFPB to assist servicemen and veterans in resolving credit reporting errors not resolved in a timely manner by a credit reporting agency as well as to enhance oversight of consumer reporting agencies and reporting any violations of the law in relation to servicemen and veterans.*

The United States has the best and most robust credit reporting system in the world. The Fair Credit Reporting Act (FCRA) ensures Americans the right to an accurate, fair, and private credit report. Additionally, the FCRA gives any individual – at no cost – the ability to submit a legitimate dispute (and investigate) to credit reporting agencies and directly with the lender or servicer that provided the credit information.

We agree that the credit reporting industry plays an integral role in deciding individuals', especially servicemembers', access to credit and that accurate information is crucial. We also agree that any errors should be addressed as quickly as possible. While improvements and system modifications can always be implemented, this amendment as drafted is duplicative and likely unnecessary for servicemembers.

While the Dodd-Frank Act created the Ombudsman's Office within the CFPB as an independent, impartial, and confidential resource to informally assist individuals in resolving process issues, the CFPB also created an Office of Servicemember Affairs (OSA). This department supports servicemembers, veterans, and military families to address financial challenges, including monitoring complaints and providing free resources for those who need them.

As highly regulated financial institutions providing millions of customers access to affordable loans, including motor vehicles, credit cards, and mortgages, AFSA's members know and understand how imperative that servicemember credit reports are accurate. The availability of convenient forms of consumer credit allows Americans to spread the costs of important household items over time. These benefits have opened the door to great prosperity.

We would also appreciate the opportunity for additional dialogue on this topic as you work to develop new legislation to enable all Americans to access affordable credit nationwide.

- **AFSA Opposes the Gottheimer #372 Amendment.**

*Amendment #760: Submitted by Representative Ritchie Torres (D-NY), requires financial institutions to report certain credit application data to the Consumer Financial Protection Bureau (CFPB) for the purposes to enforcing fair lending laws. Specifically, financial institutions must report this data regarding lesbian-, gay-, bisexual-, transgender-, or queer-owned businesses.*

Small businesses are the cornerstone of the American economy. They are local restaurants, retailers, auto repair shops, construction companies, manufacturers, real estate, agriculture businesses, and many others. These main street businesses are in every town across the country and provide employment opportunities and drive economic growth for communities.

To collect and report demographic data about small businesses to the CFPB, covered financial institutions would be required to compile, maintain, and report information concerning credit applications made by a variety of small businesses with unique financial circumstances.

Implementing a small business data collection system of this magnitude, which may apply to multiple credit products and loan operation systems within each financial institution, will require the development of new data privacy policies and procedures, systems acquisitions and changes,

and extensive training. System modifications require not only time for development, but also for appropriate testing before being implemented. It is unclear if the massive effort and expense to collect this information will result in any useful data.

- **AFSA Opposes the Torres #760 Amendment.**

*Amendment # 808: Submitted by Representative Linda Sánchez (D-CA), to extend consumer credit protections to active duty armed and uniformed consumers to dispute adverse actions or inaction on their credit report that occurred while they were in a combat zone, aboard a U.S. vessel, or away from their usual duty stations.*

AFSA has supported members of the military and their families by providing affordable financial services and access to responsible credit products, including vehicle financing and other consumer lending needs, for over 100 years.

Undoubtedly, AFSA supports the desire of servicemembers, their spouses, and all Americans to build credit histories that provide individuals financial choice and the chance of economic mobility. However, amendment #808 as drafted would restrict servicemembers and their spouses from reaching their full creditworthiness by incorporating unnecessary risk associated with less accurate credit data. Moreover, servicemembers and their spouses would be negatively impacted and forced to borrow at higher costs with less financial flexibility under regulations that alter accurate credit information.

Historically, an accurate credit reporting system lowers borrowing costs and facilitates appropriate underwriting safeguards, including the ability to repay standards afforded to all consumers.

- **AFSA Opposes the Sanchez # 808 Amendment.**

Thank you for the opportunity to comment on the FY23 NDAA legislation before the Rules Committee. AFSA hopes to continue to work with Congress on policies that help ensure access to consumer credit and regulated financial services remains safe and affordable for millions of hard-working families, including those serving in the military.

Sincerely,



Celia Winslow  
Senior Vice President  
American Financial Services Association