



September 10, 2020

The Honorable James Comer,
Ranking Member
Committee on Oversight and Reform
2157 Rayburn House Office building
Washington DC 20515

Re: Examination of recent trends in regulation and regulatory reform

Dear Congressman Comer,

We are in receipt of your July 23, 2020 letter requesting information regarding the effects of regulatory expansion and relief initiatives. We are grateful for your efforts and hard work in pursuing this initiative.

The National Association of Industrial Bankers¹ (NAIB) appreciates the opportunity to submit the following comments and recommendations regarding regulatory expansion and relief.

COMMENTS AND RECOMMENDATIONS

On behalf of our member banks which include all types and sizes of bank charters, we respectfully submit the following recommendations:

- 1. Rules, regulations, and regulatory reform initiatives since 2008 that impacted your bank or financial service organization's ability to create jobs, provide the consumers with credit, compete fairly with other businesses, expand operations.**

Several of our members commented that the CREDIT CARD ACCOUNTABILITY RESPONSIBILITY AND DISCLOSURE ACT OF 2009 (CARD) had a significant

¹ First chartered in 1910, industrial banks operate under a number of titles – industrial banks, industrial loan banks, industrial loan corporations and thrift and loan companies. Industrial banks provide a broad array of products and services to customers and small businesses nationwide, including some of the most underserved segments of the U.S. economy. NAIB members are chartered in California, Nevada and Utah.

impact on their business operations. Also, CARD limited the population of people to whom they could provide credit.

Additional significant impacts included the inability to charge overlimit fees (you could only charge a fee if the customer had opted-in, and notice had to be provided to the customer before the fee could be assessed), rate restrictions (specifically, the ability to implement default rates or raise rates for risky customers was so limited as to be, essentially, eliminated).

Regulatory action also specified that if a lender with a variable rate product had a floor on the interest rate then the rate had to be fixed at that floor, and could not vary. This has impacted our members' ability to manage risk, including credit and interest rate risk, and profitability.

More importantly, the CARD act and regulations acted to reduce the population to whom we could provide credit.

Members also recommended that unfair, deceptive, or abusive acts and practices (UDAAP), provisions of the Dodd Frank Act, CARD, True Lender restrictions and Regulation Z (Truth in Lending Act of 1968) be modified to reflect and advances in technology and 21st century dynamics. This is especially necessary in light of the dramatic use of financial services through cell phones.

2. *Any regulations which impacted the ability of your organization to operate or grow during the pandemic.* The Equal Credit Opportunity Act (ECOA) and True Lender restrictions provided unnecessary and harmful barriers from several of our members in providing access to credit.

3. *Any regulations or programs that should be suspended or modified, temporarily, in order for your organization to recover from the pandemic.* Members suggest Congress and regulators can help consumers and lenders by clarifying UDAAP with specific requirements that are less subjective. Also, Current Expected Credit Losses (CECL) Methodology is creating massive problems throughout the entire financial services industry in helping consumers during this crisis. Members urge the implementation of CECL be postponed and eventually eliminated or appropriately altered.

4. *Which regulations or programs should be rescinded or expanded to help recover from the pandemic and grow the economy in future years.* Members universally agree CECL should be rescinded. Congress should examine regulations that are obsolete and outdated, especially in light of artificial intelligence and machine learning.

Many members also recommend that the recent and regulations promulgated by the OCC and FDIC regarding the Madden decision and True Lender should be codified into law.

5. Any other suggestions on how individual regulations, regulatory programs, regulatory reforms, the rulemaking process in general, or regulatory enforcement could be approved. Several members recommend that the FDIC and CFPB should actually do rule making rather than allowing the FDIC to rule by enforcement. Innovation and technology should be embraced by the FDIC and CFPB.

One member noted that in a recent bank examination, a FDIC examiner spent the entire exam looking for a way to force a sale of the cryptocurrency that it owns. This bank uses Blockchain for a tiny portion of its business. A large portion of the bank exam was spent repeatedly justifying the use of Blockchain because the examiners did not understand it.

This underscores the importance and of this initiative to re-examine rules and regulations in light of benefits to consumers, ability to offer choices by lenders and technology advances.

CONCLUSION

NAIB is grateful for the opportunity to provide our responses to these important questions. We commend the Ranking Member and other members of the committee for this important initiative. We support the activities of the HFSC that respond to the changing dynamics of financial services in the 21st Century, while maintaining its commitment to protecting Americans.

We appreciate the opportunity to provide perspectives and judgements based upon facts and practical experiences by our member banks. Please let us know how we can be of further assistance.

Sincerely,



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