American Bankers Association

Memo

Date: April 17, 2024

To: Members of the House Committee on Financial Services

From: Kirsten Sutton, Executive Vice President, Congressional Relations & Legislative Affairs

Re: ABA Views on Legislation for the April 17, 2024 Full Committee Markup

On behalf of the members of the American Bankers Association (ABA),[1] please see below our views on several measures scheduled for consideration by the Committee on April 17, 2024. Thank you for the opportunity to express our views on these measures.

H.J.Res.122 – CFPB Credit Card Late Fee Rule

The ABA supports H.J. Res. 122,[2] sponsored by Rep. Andy Barr (R-KY), which would overturn the Consumer Financial Protection Bureau's (CFPB) final rule on credit card late fees. In joint letters to Senate and House lawmakers,[3] ABA and other financial services trade associations pointed out that the rule to reduce the safe harbor amount for credit card late fees will create long-term harm for the consumers the CFPB purports to help:

> "The CFPB's final rule would, by definition, make it easier for consumers to miss their credit card payments," the associations said. "As more consumers pay late, there is a higher chance they will become delinquent. Ultimately, consumers experiencing delinquency will have this information reported to credit bureaus, leading to higher credit card balances carried month-to-month and lower credit scores, which can lead to far worse outcomes for consumers such as difficulty obtaining credit, or higher financing costs for housing, cars, and other necessary purchases."

[1] ABA is the voice of the nation's $23.7 trillion banking industry, which is composed of small, regional, and large banks that together employ more than 2.1 million people, safeguard $18.8 trillion in deposits, and extend $12.5 trillion in loans.

[2] "Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Bureau of Consumer Financial Protection relating to "Credit Card Penalty Fees (Regulation Z)".

[3] See, House Joint Resolution 122.

H.R. 5535 – Insurance Data Protection Act

ABA supports H.R. 5535, sponsored by Rep. Scott Fitzgerald (R-WI), which would prohibit the Federal Insurance Office (FIO), Treasury, and other financial regulators from collecting market data directly from an insurance company.

Insurance is regulated by the states and not federal agencies, and much of the data in question is already collected by state insurance commissioners. In a recent letter to the Treasury Department, The National Association of Insurance Commissioners (NAIC) said that it is duplicative and unnecessary for the Treasury and federal regulators to try to collect the data directly from insurers:[4]

> "We believe FIO should honor the time-tested and well-settled fact that regulation of the insurance industry is best performed at the state level. We are willing to work with FIO within a mutually agreed to, reasonable timeframe to identify pertinent data and develop appropriate analyses suitable to a credible assessment of climate risk. However, in light of our concerns with the current proposal and our shared interest in the issue, we urge you to reconsider this proposal and instead engage with state regulators and the NAIC in good faith and a collaborative spirit on a path forward."

H.R. 7437 – The Fostering the Use of Technology to Uphold Regulatory Effectiveness in Supervision (FUTURES) Act

ABA supports H.R. 7437, sponsored by Rep. Erin Houchin (R-IN), which would require the financial regulatory agencies to assess how their existing technological systems prevent them from conducting real time supervision of financial entities; to identify any challenges created by procurement rules; and to report to Congress on what technological improvements they intend to make and the cost. The technological capabilities of the banking agencies are outdated, leading to unnecessary burden and inefficiencies in the examination process. Our members support legislative efforts to upgrade the technological capabilities of the financial regulators and create efficiency in examinations.

H.R. 4206 – Bank Safety Act of 2023

The Bank Safety Act would amend the Financial Stability Act of 2010 to require a bank holding company or insured depository institution to include elements of accumulated other comprehensive income (AOCI) when calculating capital for purposes of meeting capital requirements. The implications of this AOCI treatment would increase capital requirements on certain covered institutions, lead to shortened maturities in securities portfolios and less active hedging for these companies.

[4] See, https://content.naic.org/sites/default/files/government-affairs-letter-fio-climate-related-financial-risk-data-comments-221122.pdf

ABA appreciates the interest of the Committee and the sponsor of this legislation, Rep. Brad Sherman (D-CA), in addressing the significant problems inherent in the recent advanced notice of proposed rulemaking by the Federal Reserve System, Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation titled "Regulatory Capital Rule: Large Banking Organizations With Significant Trading Activity," also known as the Basel capital proposal. The misguided Basel proposal, which has been met with strong bipartisan opposition, would substantially revise the capital requirements applicable to large banks by heavily altering the calculation of risk-based capital requirements. The AOCI requirements included in H.R. 4206 relate to one part of this much larger and still open Basel capital rulemaking, and it is our concern that advancing H.R. 4206 before finalizing the Basel rulemaking process complicates regulatory compliance for covered institutions. It is our hope that the Basel capital rulemaking process and regulatory review of liquidity requirements can be resolved by the Fed, OCC, and FDIC before Congress advances H.R. 4206 or similar legislation.

Further, ABA has long supported regulatory tailoring based upon a bank's business model, sophistication, and other factors rather than setting arbitrary asset thresholds. The original bill's greater than $100 billion asset threshold eliminates the regulatory agencies' ability to tailor an important element of capital requirements for some institutions. In addition, the amendment in the nature of a substitute (ANS) empowers the financial regulators to place these additional AOCI requirements on institutions below the $100 billion asset threshold based on an analysis of financial-risk related factors. Finally, the short length of the transition period in the bill (compliance is required no later than July 1, 2028) further complicates effective compliance among covered institutions.