

Statement of the U.S. Chamber of Commerce

ON: “Justice for All: Achieving Racial Equity Through Fair Access to Housing and Financial Services”

TO: U.S. House of Representatives Committee on Financial Services

BY: Center for Capital Markets Competitiveness, U.S. Chamber of Commerce

DATE: March 10, 2021

The U.S. Chamber of Commerce (“the Chamber”) is committed to addressing systemic racism in America and removing barriers that make it more difficult to move up the economic ladder. All Americans should have the opportunity to earn their success, rise on their merit, and live their own American Dream. But far too often, the opportunity to obtain an education, secure a job, start a business, and provide for your family is determined by your skin color. These systemic inequalities hurt individuals, communities, our economy, and our society.

Last year, the U.S. Chamber of Commerce launched the Equality of Opportunity Initiative to develop real, sustainable solutions to help close race-based opportunity gaps in six areas: education, employment, entrepreneurship, criminal justice, health, and wealth disparity. Systemic inequalities in these six areas perpetuate broader inequalities in our society, hold back individual and business success, and hinder economic growth.

Driven by data and informed by conversations with business, government, academic, and civic leaders, we developed the Equality of Opportunity Agenda to advance private sector solutions and best practices, scale impactful programs, and drive policy action at the federal, state, and local level. In early 2021, we launched task forces around our six main pillars: education, employment, entrepreneurship, criminal justice, health, and wealth disparity, as well as access to capital and supplier diversity. These conversations will bring together business, policy experts, and others to share and discuss strategies to advance progress on these issues and solutions in the years to come.

The Chamber has views on many of the bills being considered as part of the Financial Services Committee’s hearing on “*Justice for All: Achieving Racial Equity Through Fair Access to Housing and Financial Services.*” The Chamber supports some of these bills, especially those that shed a light on the lack of diversity in parts of our economy and has actively worked to advance them. The Chamber is concerned with some of the bills, especially those that impose new mandates on businesses and that we believe would have the unintended consequence of decreasing access to capital and credit for underserved communities. Finally, we have questions about the many new legislative proposals that have yet-to-be introduced, and we are eager to work with the Committee on these bills.

The Chamber supports the H.R. 1277, Improving Corporate Governance Through Diversity Act (Rep. Greg Meeks). This bill would require public companies to annually disclose the voluntarily, self-identified gender, race, ethnicity and veteran status of their board directors.

The U.S. Chamber of Commerce [supports](#) the Improving Corporate Governance Through Diversity Act (S. 347 / H.R. 1277). This legislation has a strong record of bipartisan support and is an important step for promoting board diversity. The legislation would establish a model to organically boost diversity on boards through disclosure, rather than the counterproductive quota-driven strategies and establish an advisory group to provide recommendations on private sector strategies to increase diversity on boards of directors.

The Chamber supports the following bills designed to strengthen Minority Depository Institutions

The Chamber strongly supports strengthening existing minority depository institutions and believes the creation of additional MDIs will contribute to increased economic opportunity for underserved communities. The Chamber underscored the importance of strengthening MDIs in a report released in November 2020, “[The Growth Engine](#),” which detailed dozens of proposals for strengthening America’s financial system.

MDIs are defined as any federally insured depository institution where 51% or more of the voting stock is owned by minority individuals. MDIs have a strong record of serving underprivileged communities given their commitments to increase economic opportunity. Support from both the public and private sector is critical to MDIs assisting their customers with access to the banking system and affordable access to credit.

The Chamber supports private sector initiatives designed to strengthen MDIs. The business community is stepping up with significant investments to strengthen these financial institutions including through major placements of deposits.¹ MDIs can then lend out these deposits to their customers at affordable rates.

The Chamber also appreciates steps taken by the Federal Deposit Insurance Corporation (FDIC) to coordinate further investment through the creation of a Mission Driven Fund.² This initiative will permit MDIs and CDFIs to receive equity investments, that can be leveraged into lending capacity, without foregoing any control of the financial institution. The FDIC is creating the framework for the initiative but will play no role in fund management or equity investments in MDIs and CDFIs. The fund will be capitalized by corporations, philanthropic organizations, and other financial institutions. We are pleased to state that many members of the Chamber have expressed initial support for participation in the FDIC’s Mission Driven Fund.

H.R. ____, Ensuring Diversity in Community Banking Act (Meeks). This bill would strengthen minority depository institutions through partnerships, technical assistance, and deposits.

The Chamber supports H.R. ____, the Ensuring Diversity in Community Banking Act (Meeks). This bill was introduced as HR 5322 in the 116th Congress. The legislation includes a number of important provisions for expanding the number of Minority Depository Institutions (MDIs) and providing them the tools they need to succeed. For example, the bill requires committees be established at the Federal Reserve Board, FDIC, and National Credit Union Administration, to provide advice regarding preservation of the number and character of MDIs. The legislation also provides support and flexibility for the financing of MDIs by giving them priority to hold deposits of the federal government, additional time to meet initial capital requirements, and a streamlined process for FDIC review of applications to serve as a CDFI.

H.R. ____, Expanding Opportunity for MDIs Act (Beatty). This bill would codify the Financial Agent Mentor-Protégé Program within the Department of the Treasury.

¹ <https://www.fdic.gov/regulations/resources/minority/mission-driven/attachment-a.pdf>

² <https://www.fdic.gov/regulations/resources/minority/mission-driven/infographic.pdf>

The Chamber supports H.R. ____, Expanding Opportunity for MDIs Act (Beatty). This bill was introduced as H.R. 5315 in the 116th Congress. The legislation would codify the Financial Agent Mentor Protégé Program within the Department of the Treasury. This will ensure that smaller financial institutions have greater opportunity to serve as a financial agent of the Treasury Department and otherwise increase their business opportunities.

The Chamber has concerns with the following bills:

H.R. ____, Home Loan Quality Transparency Act (Velazquez). This bill would reverse the rollback of the Home Mortgage Disclosure Act so that financial institutions provide adequate data on loans to minority borrowers.

We are concerned about this legislation given that it would expand reporting requirements under the Home Mortgage Disclosure Act (HMDA). The Dodd-Frank Act required the Consumer Financial Protection Bureau (CFPB) to issue a rule, with specifically enumerated data points, that would be reported under HMDA by covered financial institutions. The HMDA Rule issued by the CFPB in 2015 went beyond the number of reporting requirements stipulated under the Dodd-Frank Act, thus introducing compliance burdens on financial institutions not called for by Congress. These compliance burdens are especially challenging for community banks and credit unions.

The exemptions for smaller financial institutions received bipartisan support via inclusion in Economic Growth, Regulatory Relief, and Consumer Protection Act (S. 2155 – 115th) that was enacted into law. The bill also calls for a study by the Government Accountability Office “to evaluate the impact of the Amendments . . . on the amount of data available under the Home Mortgage Disclosure Act.” It would be premature to consider amending this law without the opportunity to review the GAO’s findings.

H.R. ____, Promoting Diversity and Inclusion in Banking Act (Green). This bill would require Federal banking regulators to include a diversity and inclusion component in the Uniform Financial Institutions Rating System and require mandatory reporting of diversity and inclusion assessments.

The Chamber agrees with the objective on increasing diversity and inclusion in the banking system but is concerned with the Information Financial Institutions Rating System (UFIRS) being used to accomplish this. Leveraging UFIRS for objectives other than achieving safety and soundness could have unintended consequences for the stability of the banking system by erroneously suggesting some banks could fail or opening the door to additional changes to UFIRS to achieve social objectives.

According to the FDIC, “Under this system, the supervisory agencies endeavor to ensure that all financial institutions are evaluated in a comprehensive and uniform manner, and that supervisory attention is appropriately focused on the financial institutions exhibiting financial and operational weaknesses or adverse trends. . . Further, the rating system assists Congress in

following safety and soundness trends and in assessing the aggregate strength and soundness of the financial industry.”

H.R. ____, the Federal Reserve Racial and Economic Equity Act (Waters), would require the Federal Reserve to carry out its duties in a manner that supports the elimination of racial and ethnic disparities in employment, income, wealth, and access to affordable credit. The Board would be required to report on disparities in labor force trends as well as on plans and activities of the Board to minimize and eliminate these disparities.

The Chamber supports the independence of the Federal Reserve from Congress as it relates to carrying out its responsibilities for conducting monetary policy. The monetary goals of the Federal Reserve are to foster economic conditions that achieve both stable prices and maximum sustainable employment.

The Chamber has opposed other efforts initiated by Congress that would exert undue influence on the conduct of monetary policy by the Federal Reserve. On May 1, 2017, the Chamber wrote a [letter](#) to the House Financial Services Committee which noted concern about monetary policy provisions in The Financial CHOICE Act (H.R. 10): “the Chamber strongly opposes the inclusion of any requirements that infringe upon the independent monetary powers of the Federal Reserve, specifically provisions that impose new procedures beyond the normal audit for financial statement and reporting purposes, and any rules that impede the independence and impartiality of the Federal Open Market Committee.”

H.J.Res. _____, Resolution of Disapproval on HUD’s Disparate Impact Rule (85 FR 60288). This bill would nullify HUD’s final Disparate Impact Rule (85 FR 60288) under the Fair Housing Act.

The business community strongly supports effective anti-discrimination policies in the housing market, including under the Fair Housing Act. Responsible companies work hard—and invest substantial resources in compliance systems—to ensure compliance with the law. Uncertainty about the availability of disparate impact claims under the Fair Housing Act and the contours of any such liability make it challenging for companies to understand their compliance obligations in this context.

The Chamber is opposed to Congress nullifying HUD’s recent clarifications to its Disparate Impact Rule (85 FR 60288) under the Fair Housing Act. Importantly, HUD’s Disparate Impact Rule aligns its interpretation of the Fair Housing Act with the Supreme Court decision on *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.* Additionally, HUD’s Disparate Impact Final Rule recognizes the McCarran-Ferguson Act, and the primacy of state regulation, by embracing existing state statutory standards of “unfairly discriminatory” rates and “unfair discrimination.”

Thank you for considering our views on this legislation. We look forward to working with the House Financial Services Committee on reducing barriers in our financial system.