

116TH CONGRESS
1ST SESSION

S. 821

To amend the Federal Reserve Act to prohibit certain member banks from using discount window lending programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 14, 2019

Mr. CRAMER (for himself and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Federal Reserve Act to prohibit certain member banks from using discount window lending programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Freedom Financing
5 Act”.

6 SEC. 2. FINDINGS.

7 Congress finds that—

8 (1) article I of the Constitution of the United
9 States guarantees the people of the United States

1 the right to enact policy reforms through the free
2 and fair election of representatives; and

3 (2) member banks leveraging their power and
4 position to effectively illegalize legal commerce by re-
5 fusing to do business with certain industries and in-
6 dividuals due to their differing political beliefs from
7 the member bank violates and usurps the people of
8 the United States and the right of their elected rep-
9 resentatives to determine public policy.

10 **SEC. 3. ADVANCES TO INDIVIDUAL MEMBER BANKS.**

11 (a) MEMBER BANKS.—Section 10B of the Federal
12 Reserve Act (12 U.S.C. 347b) is amended by adding at
13 the end the following:

14 “(c) PROHIBITION ON USE OF DISCOUNT WINDOW
15 LENDING PROGRAMS.—

16 “(1) DEFINITION.—In this subsection, the term
17 ‘traditional underwriting and credit consider-
18 ations’—

19 “(A) includes a good-faith determination
20 by a member bank that the member bank lacks
21 sufficient familiarity with a line of business or
22 geographic region to do business with a person
23 in that line of business or geographic region;
24 and

25 “(B) does not include reputational risks.

1 “(2) PROHIBITION.—No member bank with
2 more than \$10,000,000,000 in total consolidated as-
3 sets may use a discount window lending program if
4 the member bank refuses to do business with any
5 person licensed under section 923 of title 18, United
6 States Code, who is in compliance with the law,
7 based on concerns other than traditional under-
8 writing and credit considerations.”.

9 (b) INSURED DEPOSITORY INSTITUTIONS.—Section
10 8(a)(2)(A) of the Federal Deposit Insurance Act (12
11 U.S.C. 1818(a)(2)(A)) is amended—

12 (1) in clause (ii), by striking “or” at the end;
13 (2) in clause (iii), by striking the comma at the
14 end and inserting “; or”; and
15 (3) by adding at the end the following:

16 “(iv) an insured depository institution
17 with more than \$10,000,000,000 in total
18 consolidated assets that refuses to do with
19 any person licensed under section 923 of
20 title 18, United States Code, who is in
21 compliance with the law, based on concerns
22 other than traditional underwriting and
23 credit considerations, as defined in section
24 10B(c) of the Federal Reserve Act (12
25 U.S.C. 347b(c)).”.

1 **SEC. 4. PAYMENT CARD NETWORK.**

2 (a) DEFINITION.—In this section, the term “payment
3 card network” has the meaning given the term in section
4 921(c) of the Electronic Fund Transfer Act (15 U.S.C.
5 1693o–2(c)).

6 (b) PROHIBITION.—No payment card network may,
7 directly or through any agent, processor, or licensed mem-
8 ber of the network, by contract, requirement, condition,
9 penalty, or otherwise, prohibit or inhibit the ability of any
10 person licensed under section 923 of title 18, United
11 States Code, who is in compliance with the law, to obtain
12 access to services or products of the payment card network
13 because of political or reputational considerations.

14 (c) CIVIL PENALTY.—Any payment card network
15 that violates subsection (b) shall be assessed a civil penalty
16 of not more than 10 percent of the value of the services
17 or products described in that subsection, not to exceed
18 \$10,000 per violation.

19 **SEC. 5. CREDIT UNIONS.**

20 (a) ADVANCES TO CREDIT UNIONS.—Section 13 of
21 the Federal Reserve Act (12 U.S.C. 342) is amended by
22 inserting “*Provided further*, That no such nonmember
23 bank or trust company with more than \$10,000,000,000
24 in total consolidated assets may refuse to do business with
25 any person licensed under section 923 of title 18, United
26 States Code, who is in compliance with the law, based on

1 concerns other than traditional underwriting and credit
2 considerations, as defined in section 10B(c):” after “ap-
3 propriate:”.

4 (b) REVOCATION OF NCUA INSURANCE.—Section
5 206(b)(1) of the Federal Credit Union Act (12 U.S.C.
6 1786) is amended by inserting “or is refusing or has re-
7 fused to do business with any person licensed under sec-
8 tion 923 of title 18, United States Code, who is in compli-
9 ance with the law, based on concerns other than tradi-
10 tional underwriting and credit considerations, as defined
11 in section 10B(c) of the Federal Reserve Act (12 U.S.C.
12 347b(c)),” after “as an insured credit union.”.

13 **SEC. 6. USE OF AUTOMATED CLEARING HOUSE NETWORK.**

14 (a) DEFINITIONS.—In this section:

15 (1) COVERED CREDIT UNION.—The term “cov-
16 ered credit union” means—

17 (A) any insured credit union, as defined in
18 section 101 of the Federal Credit Union Act
19 (12 U.S.C. 1752); or

20 (B) any credit union that is eligible to
21 make application to become an insured credit
22 union under section 201 of the Federal Credit
23 Union Act (12 U.S.C. 1781).

24 (2) MEMBER BANK.—The term “member bank”
25 has the meaning given the term in the third undesign-

1 nated paragraph of the first section of the Federal
2 Reserve Act (12 U.S.C. 221).

3 (b) PROHIBITION.—No covered credit union or mem-
4 ber bank with more than \$10,000,000,000 in total consoli-
5 dated assets may use the Automated Clearing House Net-
6 work if that member bank refuses to do business with any
7 person licensed under section 923 of title 18, United
8 States Code, who is in compliance with the law, based on
9 concerns other than traditional underwriting and credit
10 considerations, as defined in section 10B(c) of the Federal
11 Reserve Act (12 U.S.C. 347b(c)), as added by section 3(a)
12 of this Act.

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