

September 15, 2020

The Honorable Roger Wicker
Chairman
Committee on Commerce, Science,
and Transportation
United States Senate
Washington, D.C. 20510

The Honorable Maria Cantwell
Ranking Member
Committee on Commerce, Science,
and Transportation
United States Senate
Washington, D.C. 20510

Dear Chairman Wicker and Ranking Member Cantwell:

The American Bankers Association (ABA) writes to express our strong support for S. 4159, the *E-SIGN Modernization Act of 2020*, scheduled for consideration before the Senate Commerce Committee on Wednesday, September 16. This narrowly drafted bill, sponsored by Senators John Thune (SD), Jerry Moran (KS) and Todd Young (IN), addresses a problematic provision of the Electronic Signatures in Global and National Commerce Act (“E-SIGN Act”)¹ while at the same time preserving consumers’ legal and financial rights.

Since the beginning of this year when the novel coronavirus crisis took hold of the lives of every American, banks across the nation have stepped up to work around the clock to meet the needs of all American families and small businesses. From opening new checking accounts for Americans seeking to receive their Economic Impact Payment, to working out repayment accommodations on mortgages, to processing an unprecedented volume of applications for small business credit through the Small Business Administration’s Paycheck Protection Program, banks are at ground-zero of this crisis helping every part of the US economy get back on its feet.

Moreover, because of temporary branch closures, concerns about postal mail, and other factors, more Americans are asking to use digital channels to work with their bank. Unfortunately, an outdated provision in the E-SIGN Act is impeding the ability of banks and other businesses to quickly fulfill these requests.

This outdated provision overburdens the use of common electronic communications, which have become mainstream. Financial institutions have faced hurdles as they work to speed up loan modifications and balance transfers, to complete service requests begun on paper or over the phone, or to fulfill requests from displaced customers for access to digital services.

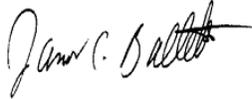
The *E-SIGN Modernization Act of 2020* updates our country’s laws, so that banks can better serve their customers in this unprecedented time. Most importantly, the legislation maintains the requirement in the current law that consumers affirmatively consent to receiving electronically those disclosures required to be delivered in writing. But once the consumer affirmatively consents their work will be complete, as the legislation would remove a clumsy, ambiguous, 20-year old requirement that consumers “reasonably demonstrate” that they can access the

¹ 15 U.S.C. § 7001(c)(1)(C)(ii)

disclosures that are the subject of the consent, through a website or e-mail, for example, after they've specifically asked to go paperless. This current law provision does not protect consumers; it creates complexity and confusion that frustrates consumers seeking to engage digitally with their bank.

The E-SIGN Modernization Act will bring the E-SIGN Act into the 21st Century with a straightforward, narrow update and will ensure efficient and timely access to financial services at a time when so many Americans are in need of immediate help. ABA thanks the Committee for considering this modest but high-impact piece of legislation and urges its members to approve S. 4159.

Sincerely,

A handwritten signature in black ink, appearing to read "James C. Ballentine", with a stylized flourish at the end.

James C. Ballentine

cc: Members of the Senate Commerce, Science, and Transportation Committee