



NATIONAL SHOOTING SPORTS FOUNDATION, INC.

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March 15, 2019

The Honorable Michael D. Crapo, Chairman
The Honorable Sherrod Brown, Ranking Member
Senate Committee on Banking, Housing and Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown,

Thank you for providing an opportunity for the National Shooting Sports Foundation® (NSSF®) to comment and provide feedback on your efforts to protect consumers' privacy as it relates to the collection and use of sensitive information by financial regulators and companies.

NSSF is the trade association for the firearms, ammunition, hunting, and shooting sports industry. Its mission is to promote, protect, and preserve hunting and the shooting sports. Formed in 1961, NSSF has a membership of about 10,000 manufacturers, distributors, firearms retailers, shooting ranges, sportsmen's organizations, and publishers. NSSF leads the way in advocating for the firearm industry, its businesses and jobs, keeping guns out of the wrong hands, encouraging enjoyment of recreational shooting and hunting, and helping people better understand the industry's constitutionally protected products.

Specifically, NSSF would like to focus its comments on the increasing and troubling trend of large financial institutions, credit card processors and others in the financial services sector who target, discriminate, and seek to financially damage legal and compliant businesses based solely on opposition to politically disfavored merchant categories, including the firearms and ammunition industry. Mega banks including Citigroup, Bank of America, and JPMorgan Chase are the leading advocates behind recent efforts to financially cripple or bankrupt the firearms, ammunition, and shooting sports industry, as well as other industries, based solely on the political or social views of their corporate leadership. Efforts to circumvent policy makers and the legislative process by unilaterally allowing corporate CEO's to determine which business should or should not succeed in the free market place is a very frightening and frankly un-American scenario.

The firearms, ammunition, hunting and sports shooting industry is an important part of America's economy. Companies in the United States that manufacture, distribute, and sell firearms, ammunition, and hunting equipment employ as many as 149,146 people and generate an additional 163,000 jobs in supplier and ancillary industries. These are good jobs paying an average of \$50,400 in wages and benefits. In today's highly competitive, global market, every job is important. Not only does the manufacture and sale of firearms and hunting supplies create good jobs in the United States, but the industry also contributes to the economy. In fact, in 2018 the firearms and ammunition industry was responsible for as much as \$52 billion in total economic activity in the country. The economic benefits provided by our industry are amplified in that a significant number of our member company jobs are in rural areas of the country where good paying jobs with good benefits are much harder to come by.

In Idaho, the firearms and ammunition industry is responsible for 3,610 directly related jobs, 3,826 indirect jobs with an average salary of \$43,000 and responsible for \$11,829,000 in federal excise taxes. In Ohio, the firearms industry is responsible for 6,407 directly related jobs, 11,981 indirect jobs with an average salary of \$41,700 and \$37,312,000 in federal excise taxes. I urge all members of the Committee to view the economic impact of the nation's firearms industry on their respective states found on our website under "[Economic Impact Data](#)".

Despite the Supreme Court's holding in *District of Columbia v. Heller* that the Second Amendment protects the right of individuals to own and use firearms for lawful purposes, there are many who would like to legislate, regulate, or shame the legal purchase and use of firearms out of existence. Unable to achieve their radical gun control agenda through the legislative process, ballot box, or government sanctioned programs like Operation Choke Point, those opposed to the Second Amendment have now turned to "Wall Street" to do their bidding.

It was only recently through efforts led by Chairman Crapo of the Senate Banking Committee and other likeminded Members of Congress that America was made aware of the insidious effort by various regulatory entities—the Department of Justice (DOJ), Office of the Comptroller of the Currency (OCC), and Federal Deposit Insurance Corporation (FDIC) to "choke off" financial and banking services to a list of politically unfavorable industries, including the firearms and ammunition industry. As a result of Chairman Crapo's oversight and persistence, the Department of Justice admitted Operation Choke Point was inappropriate and claims it has been terminated. Additionally, the DOJ stated businesses should not be targeted simply for lawfully operating in an industry that a particular administration might disfavor.

While the Obama Administration's Operation Choke Point seems to have failed in its mission to target and financially punish politically unfavorable businesses, the nation's largest financial institutions, credit card processors, and others have decided to take up the Obama Administration's mantle of financially discriminating against the nation's firearm industry. It needs to be noted, Congressional opposition to Operation Choke Point was bipartisan and bicameral as many elected officials understood the significant economic, privacy, and constitutional implications of having the federal government unilaterally decide which business was acceptable or unacceptable based on social policy considerations.

In what seems like a coordinated attack, on March 22, 2018, Citigroup instituted a new U.S. Commercial Firearms Policy which will require new retail sector clients or partners to adhere to these mandated policies that (1) they not sell firearms to any customer who hasn't passed a background check, (2) they restrict the sale of long guns to law abiding adults under 21 years of age, and (3) they not sell bump stocks or standard capacity magazines. On April 10, 2018, Bank of America Vice Chairman Anne Finucane told Bloomberg in an interview the loan company would not provide borrowers any funds to be used to manufacture so-called "military-style firearms for civilian use." NSSF nor any of our member companies received any advanced notice, instructions, or clarifications of the policy changes resulting in significant confusion throughout the industry.

NSSF has heard from numerous members stating their credit cards and checks were not being processed because their business had been labeled "Unacceptable Business Type" or "Reputation Risk". A credit card processor applied a "risk premium" on credit card transactions and insisted on an on-site inspection by an independent third party to affirm the inventory, sales practices, and licensing of the vender. Other firearms industry members had bank accounts frozen and assets confiscated even though in some instances the sales in question were non-firearm related. Citigroup, Bank of America and JPMorgan Chase's vague anti-firearm policy changes had the resulting effect of sowing turmoil, fear, and economic uncertainty in not only the legal sale of firearms and ammunition, but to firearm related businesses such as target ranges, self-defense instruction, and even sales of t-shirts at a firearms store.

While the threat of financial coercion is worrisome enough, of real concern to NSSF and its members is the financial services industry's desire to begin using Personally Identifiable Information (PII) or the creation of subcodes to Merchant Category Codes on credit card purchases and other financial transactions to identify firearms and ammunition at the point of sale. Securing access to this private information would constitute the creation of an illegal firearm registry. In the New York Times' March 22, 2018 article entitled "Citigroup Sets Restrictions on Gun Sales by Business Partners", Tiffany Hsu writes, "Citigroup said it did not have the technology nor the legal ability to monitor gun purchases at the payment processing level but said that the industry was discussing the possibility."

In reaction to these new policies, Chairman Crapo sent letters to Citigroup President Michael Corbat and Bank of America CEO Brian Moynihan expressing deep concerns with both institutions' new lending policies as well as requesting specific information regarding the financial institutions collection, possession, retention, use, and safeguards of PII as they related to its firearms policies.

Citigroup, Bank of America, and JPMorgan Chase have defended their discriminatory policies and practices by invoking that as private businesses, it is entirely their decision about whom they do business with or which services they provide. Citigroup, Bank of America, and JPMorgan Chase fail to acknowledge they rely on numerous agencies and programs of the federal government which allow them to survive and prosper including; (1) the Federal Reserve Discount Lending Window, which allows all banks to access overnight loans to ensure they meet reserve requirement each night, (2) the Federal Deposit Insurance Corporation (FDIC) insurance of financial institution's deposits and (3) the Automated Clearing House Network (ACH), which allows financial institutions to process the exchange of electronic transactions between participating financial institutions including direct deposit, payroll, retail payments, and vendor payments. Even more audacious, these banks seem to have quickly forgotten the generosity of the American taxpayers which lent Citigroup \$476.2 billion in cash and guarantees, Bank of America up to \$336.1 billion, and JPMorgan Chase \$12 billion in federal assistance during the 2009 financial crisis to keep them from insolvency.

In an effort to introduce some degree of accountability to the CEOs and boardrooms of these financial institutions, NSSF strongly recommends enactment of federal legislation prohibiting financial institutions from accessing the Federal Reserve Discount Lending Window Program, Federal Deposit Insurance Corporation, or the Automated Clearing House Network if an institution refuses to do business with a firearm, ammunition or shooting sports manufacturer or retailer based on concerns other than traditional underwriting and credit considerations.

If mega banks, credit card processors, or other financial services institutions discriminate against legal, constitutionally protected businesses, then they should not reap the direct or indirect benefits provided by the federal government or U.S. taxpayer, and taxes paid by member businesses of the firearms industry.

What could be done through legislation, regulation, or by implementing best practices to give citizens and consumers control over how financial regulators and private financial companies (including third-parties that share information with financial regulators and private financial companies) use consumer data?

- A. Enactment of federal legislation prohibiting access to the Federal Reserve Discount Window Lending Programs, Federal Deposit Insurance Company and Automated Clearing House Network to any financial institution which discriminates against the manufacturer and retailer of firearms, ammunition and shooting sports equipment.
- B. Enactment of federal prohibition of financial institutions accessing Personally Identifiable Information (PII) of consumer's individual purchases at the point of sale.

- C. Enactment of federal prohibition on creation of subgroups to Merchant Consumer Codes identify the purchase of firearms, ammunition and shooting sports equipment.

Thank you for the opportunity to submit feedback on behalf of the firearms and ammunition industry. If I can provide any additional information or answer any questions, please don't hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Lawrence G. Keane". The signature is written in black ink and is positioned above the printed name.

Lawrence G. Keane