



September 15, 2020

The Honorable Roger Wicker
Chairman
Committee on Commerce, Science, &
Transportation
U.S. Senate
512 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Maria Cantwell
Ranking Member
Committee on Commerce, Science, &
Transportation
U.S. Senate
420A Hart Senate Office Building
Washington, D.C., 20510

Dear Chairman Wicker and Ranking Member Cantwell:

On behalf of the Consumer Bankers Association (CBA), I write in support of S. 4159, the “E-SIGN Modernization Act of 2020.” Our members appreciate the committee’s consideration of this legislation to modernize the Electronic Signatures in Global and National Commerce Act (E-Sign Act) to better reflect current technologies and expectations of consumers. CBA is the voice of the retail banking industry whose products and services provide access to credit for consumers and small businesses. Our members operate in all 50 states, serve more than 150 million Americans, and collectively hold two-thirds of the country’s total depository assets.

CBA strongly supports ensuring consumers are protected and understand the details of receiving these items digitally; however, certain archaic requirements, including the need to “reasonably demonstrate” access, are cumbersome to the process and at odds with the expectations of consumers. Our members support the reforms made in the E-Sign Modernization Act to streamline the E-Sign process and better enable consumers to access their information digitally.

Additionally, the reforms made in this legislation will not alter the critical requirements and protections provided to consumers ensuring they have affirmatively consented to receiving electronic communications and are provided with any required legal documentation, such as disclosures, statements, record and other critical information, that would have been provided in paper form.

The E-Sign Act was passed in 2000 to encourage the growth and development of digital commerce by legitimizing the use of electronic signatures and contracts. In the two decades since the E-Sign Act was signed into law, technology and consumer accessibility to these technologies have advanced greatly. In 2000, only 52 percent of American adults had access to the internet, primarily through a dial-up modem.¹ As of last year, nine-in-ten American adults use the internet.² While consumer preference and adoption of technology has evolved during this time, the laws governing this medium have not.

¹ Pew Research Center, Internet, Science & Tech, Americans’ Internet Access: 2000-2015 (June 26, 2015), at <http://www.pewinternet.org/2015/06/26/americans-internet-access-2000-2015/>.

² Pew Research Center, Internet/Broadband Fact Sheet (June 12, 2019) at <https://www.pewresearch.org/internet/fact-sheet/internet-broadband/>

In today's digital society, the E-Sign Act's reasonable demonstration requirement is an unnecessary point of friction for consumers that slows the opening of an account at a branch. Customers can agree at a branch to receive communications from their bank electronically, but are still forced to follow additional, unnecessary steps online for them to be fully enrolled in the online banking experience. Today's consumer deserves a convenient, streamlined banking experience without being forced to meet a decades-old standard.

CBA applauds this thoughtful approach to modernizing the E-Sign Act. We remain eager to work with the committee and Congress to pass this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Hunt". The signature is written in a cursive, flowing style with a large initial "R".

Richard Hunt
President and CEO