THE DEPOSITORY INSTITUTIONS DEREGULATION AND MONETARY CONTROL ACT (DIDMCA)

FACT SHEET

The Depository Institutions Deregulation and Monetary Control Act (DIDMCA) focuses on two areas of concern for the federal government of the late 1970s: improving the control of monetary policy by the Federal Reserve and deregulation of financial institutions that accept deposits.

Title I of the act is known as the Monetary Control Act of 1980. It was instituted because of high inflation and tight monetary controls and encouraged all depository institutions to opt-in to the federal reserve system. Title II of the act, known as the Depository Institutions Deregulation Act of 1980, phased out restrictions on interest rates that state depository institutions could offer to customers. Before the enactment of Title II, the maximum interest rate that state banks could pay on deposits was regulated by the federal government under what was known as Regulation Q. Banks were not allowed to pay more than 5.25 percent at the time of Title II's passage, even though market interest rates were in the double digits. Consumers began to avoid state banks and put their savings elsewhere.

For the consumer credit industry, the most consequential changes came in Title V—State Usury Laws. With sections related to mortgages, business and agricultural loans, and other loans, Title V preempts state usury laws by allowing FDIC-insured state-chartered banks to contract for (i) the interest rate permitted by the state where the bank is located or (ii) a variable federal rate on loans to "any borrower", regardless of the borrower's location (known as "rate exportation" when applied to borrowers in other states). DIDMCA passed a little over one year following the U.S. Supreme Court's decision in *Marquette v. First of Omaha Service Corp*., which held that the National Bank Act permits national banks to export interest rates across state lines. In enacting Title V of DIDMCA, Congress intended to level the playing field between state and national banks and provide state-chartered banks with the same alternative rate privileges as national banks, including rate exportation. In fact, Section 521 of DIDMCA starts: *"In order to prevent discrimination against State-chartered insured banks…with respect to interest rates."*

DIDMCA also allowed states to opt out of the new law, and in short order seven states did. However, by 1998 six of those states opted back in. Only Iowa, a state with deregulated rates for almost all consumer credit products, remained an opt-out state from the original opt-outs. In 2023, Colorado became the first state in 40 years to opt out of DIDMCA, and the only state to opt out, opt back in, and opt out again. Colorado's law has been challenged in federal court and is currently enjoined from going into effect.

AFSA'S POSITION

For more than 40 years, DIDMCA has had a positive impact on consumer credit by maintaining a level playing field between national and state-chartered banks. AFSA opposes states opting out of DIDMCA as it risks limiting consumers' financial options and competition at a time when it is increasingly crucial for credit to be available to as many consumers as can qualify. This is as important now as it was when it passed in 1980. AFSA believes that current efforts to opt out of DIDMCA are based on a misreading of what the law means, and the legal effect of opting out on state-chartereed banks inside and outside the state that exercises its opt-out right.