

February 1, 2022

The Honorable Nancy Pelosi  
Speaker of the House  
United States House of Representatives  
Washington, DC 20515

The Honorable Kevin McCarthy  
Minority Leader  
United States House of Representatives  
Washington, DC 20515

The Honorable Steny Hoyer  
Majority Leader  
United States House of Representatives  
Washington, DC 20515

The Honorable Steve Scalise  
Minority Whip  
United States House of Representatives  
Washington, DC 20515

**RE: Provisions in the America COMPETES Act**

Dear Speaker Pelosi, Leader McCarthy, Majority Leader Hoyer, and Minority Whip Scalise:

On behalf of the Electronic Transactions Association (ETA), I write to express our thoughts on a few specific provisions within the America COMPETES Act of 2022.

ETA is the world's leading advocacy and trade association for the payments industry. Our members span the breadth of significant payments and fintech companies, from the largest incumbent players to the emerging disruptors in the U.S and in more than a dozen countries around the world. ETA members make commerce possible by processing more than \$21 trillion in purchases worldwide and deploying payments innovation to merchants and consumers.

**Sec. 20213 – Collection, Verification, and Disclosure of Information by Online Marketplaces to Inform Consumers (INFORM Consumers Act)**

While we applaud the goal of stopping harm to consumers, Congress should consider legislation that applies to all business models not just online small businesses. The legislation imposes significant burdens and harms legitimate small businesses and entrepreneurs who sell on online marketplaces.

As more Americans utilize online shopping options, e-commerce marketplaces are helping connect consumers with online small businesses and internet enabled entrepreneurs to drive sales domestically and around the globe. This surge of e-commerce businesses has helped the country's economic recovery from the COVID-19 pandemic, and we cannot afford to stifle economic growth when we need it most.

Specifically, we are concerned with payment processors providing financial information. ETA is concerned that this legislation would require payment processors to provide marketplaces with sensitive financial information, which may be prohibited by contract, and could increase the risk of fraud.



### **Sec. 60201 – Prohibitions or Conditions on Certain Transmittals of Funds**

Under the proposed framework, the Treasury Secretary would be able to employ the Bank Secrecy Act to require certain financial institutions to report information around transactions potentially connected to money laundering, as well as prohibit them from serving account holders with alleged ties to illicit funds.

Currently, the law requires that Treasury engage in a public rulemaking before instituting a prohibition and the Secretary can impose a surveillance special measure through a simple order, but its duration is limited to 120 days and must be accompanied by public rulemaking.

ETA is concerned that the proposed language in the America COMPETES Act would remove all formal controls, time limits, and public notice requirements from the imposition of these measures. It eliminates the notice and comment process, and it allows the Secretary to impose these measures “by order, regulation, or otherwise as permitted by law” permanently and secretly with no obligation to engage in a public process.

### **Sec. 103002 – Additional Exceptions to Exemptions for De Minimis Treatment Under the Tariff Act of 1930**

Restrictions on the use of de minimis would impose sweeping costs on American businesses and consumers, add new inflationary pressures on the U.S. economy, and exacerbate ongoing supply chain disruptions at U.S. ports.

Eliminating the de minimis exemption, which this bill effectively does, would significantly raise costs, imposing a de facto tax on low-income Americans. As we continue to recover from the pandemic and the recent economic challenges posed by the Omicron variant, as well as navigate a period of accelerating inflation not seen since 2001, the elimination of de minimis would be the wrong policy at the wrong time, as the increased tariffs would be passed on directly to consumers and potentially worsen inflation.

We welcome Congress’ interest in addressing some of the enforcement challenges posed by bad actors and those misusing de minimis, but this proposal will only exacerbate such challenges. Given the clear challenges the Import Security and Fairness Act poses for businesses, consumers, the supply chain, and the U.S. economy, we ask that you take our concerns into consideration and work to remove this harmful legislation from the America COMPETES Act.

### **SAFE Banking Act as an Amendment**

ETA takes no position on the legalization or decriminalizing cannabis at the state or federal level for medicinal or recreational uses. However, ETA does support legislation, such as the SAFE Banking Act, that would resolve the conflict between state and federal laws to allow financial institutions to serve cannabis related businesses in states where these businesses are legal under state law.



The SAFE Banking Act would solve the conflict between state and federal laws, which forces businesses to operate on a cash-only basis and has created significant legal and compliance concerns for financial institutions that wish to provide banking services to cannabis related businesses in states where it is currently legal. It would also allow legitimate cannabis businesses to access the safety and security of the banking ecosystem in states that have legalized cannabis.

We look forward to working with you and your staff to address these provisions. If you have any questions, please contact me or ETA's Senior Vice President of Government Affairs, Scott Talbott at [stalbott@electran.org](mailto:stalbott@electran.org).

Sincerely,



Jeff Patchen  
Senior Manager of Government Affairs  
Electronic Transactions Association

