

Statement for the Record

ON: “Access Denied: Eliminating Barriers and Increasing Economic Opportunity
for Justice-Involved Individuals.”

TO: U.S. House of Representatives Committee on Financial Services

BY: U.S. Chamber of Commerce

DATE: September 28, 2021

The U.S. Chamber of Commerce (“the Chamber”) is committed to addressing systemic racism in America and removing barriers that make it more difficult to move up the economic ladder. All Americans should have the opportunity to earn their success, rise on their merit, and live their own American Dream. Far too often, the opportunity to obtain an education, secure a job, start a business, and provide for your family is determined by your skin color. These systemic inequalities hurt individuals, communities, our economy, and our society.

Last year, the U.S. Chamber of Commerce launched the Equality of [Opportunity Initiative](#) to develop real, sustainable solutions to help close race-based opportunity gaps in six areas: education, employment, entrepreneurship, criminal justice, health, and wealth disparity. Systemic inequalities in these six areas perpetuate broader inequalities in our society, hold back individual and business success, and hinder economic growth.

Driven by data and informed by conversations with business, government, academic, and civic leaders, we developed the [Equality of Opportunity Agenda](#) to advance private sector solutions and best practices, scale impactful programs, and drive policy action at the federal, state, and local level. In early 2021, we launched task forces around our six main pillars: education, employment, entrepreneurship, criminal justice, health, and wealth disparity, as well as access to capital and supplier diversity. These conversations will bring together business, policy experts, and others to share and discuss strategies to advance progress on these issues and solutions in the years to come.

We appreciate the House Committee on Financial Services holding a hearing on “Access Denied: Eliminating Barriers and Increasing Economic Opportunity for Justice-Involved Individuals.” The hearing seeks to explore important policy issues related to second chance hiring that are critical to a strong workforce and closing the racial wealth gap.

Importance of Expanding Second Chance Hiring

The Chamber appreciates the draft bills noticed for the hearing that seek to eliminate regulatory barriers for hiring individuals in the banking industry and securities industry. The Federal Deposit Insurance Act and the Federal Credit Union Act should be appropriately updated to permit for expanded second chance hiring by insured depository institutions. Similar updates should be made to the Securities and Exchange Act of 1934.

Last month, the Chamber released a report, “*The Business Case for Criminal Justice Reform: Second Chance Hiring.*”¹ At the national level, economists estimate that the Gross Domestic Product (G.D.P.) is reduced between \$78 billion and \$87 billion due to excluding formerly incarcerated job seekers from the workforce. Increased income from reliable employment leads to greater purchasing power, increased sales and payroll taxes, and improved public safety.

New surveys and federal data analysis published in June by the U.S. Chamber show that employers are still struggling with a labor shortage.²

¹ <https://www.uschamber.com/report/the-business-case-criminal-justice-reform-second-chance-hiring>

² <https://www.uschamber.com/press-release/us-chamber-launches-nationwide-initiative-address-national-worker-shortage-crisis-and>

- There are now half as many available workers for every open job across the country (1.4 available workers per opening) as there have been on average over the past 20 years (2.8).
- In several states and industries—especially hard-hit sectors like education and health services as well as professional and business services—there are currently fewer job seekers than the total number of jobs open.
- Ninety-one (91) percent of state and local chambers of commerce say worker shortages are holding back their economies. Eighty-three (83) percent of industry association economists say employers in their sectors are finding it more difficult to fill jobs than they were five years ago.

An estimated 70 million people in the U.S. have an arrest or conviction record, and over 600,000 men and women are released from jail each year. Successfully reintegrating these individuals brings many advantages. First, there are advantages to these individuals who can get a fresh start supporting and taking care of themselves and their families. Second, employers can benefit by tapping into a talented labor force to meet their workforce needs. And, third, society as a whole benefits when ex-offenders are connected to employment opportunities and their communities in terms of reduced recidivism and development of human capital.

Connecting the formerly incarcerated with employment is critical, providing a secure income, stability, and a connection with other members of society. When employers align their interests with social service work—supporting housing agencies, health care providers, nonprofits, and the criminal justice system—the chances of successful reintegration are even greater.

Legislative Proposals

H.R. _____, the “Expanding Opportunities in Banking Act. The draft bill would amend the Federal Deposit Insurance Act and the Federal Credit Union Act to expand employment opportunities for those with a previous minor criminal offense, and for other purposes. This draft bill is similar to legislation that has been previously supported by the Chamber.³

The Federal Deposit Insurance Corporation (FDIC) recently issued an interpretive rule updating Section 19 of the Federal Deposit Insurance Act (Sec 19).⁴ Sec. 19 prohibits a person from participating in the affairs of an FDIC-insured institution if he or she has been convicted of a crime involving dishonesty, breach of trust, or money laundering, or has entered into a pretrial diversion or similar program in connection with a prosecution for such an offense, without the prior written consent of the FDIC. The rule interpretive makes important reforms such as excluding covered offenses that have been expunged or sealed and expanding the *de minimis* offenses. However, Congressional action could permit for more second chance hiring.

Senators Jones (D-AL) and Tillis (R-NC) introduced S. 3441, the “Fair Hiring in Banking Act” in the 116th Congress. The Fair Hiring in Banking Act would empower the FDIC to make further reforms. Importantly, the legislation would replace the lifetime ban for certain offenses

³ https://www.uschamber.com/sites/default/files/200903_s_3441_fairhiringinbankingact_senatebanking.pdf

⁴ <https://www.fdic.gov/news/financial-institution-letters/2020/fil20072.html>

with an approach that recognizes our criminal justice system is intended to rehabilitate individuals and reintegrate them into all parts of our society. Specifically, it would allow individuals to be eligible for employment, subject to an FDIC application process, if they have met all sentencing requirements for at least seven years.

H.R. _____, to amend the Securities Exchange Act of 1934. The draft bill would amend the Securities Exchange Act of 1934 to prohibit the consideration of convictions older than 5 years when making certain determinations under the securities laws, and for other purposes.

In principle, we support the discussion draft's objective to expand second chance hiring in the securities industry. It is essential to carefully weigh the importance of investor protection as the Committee moves forward with this legislation, however. For the purposes of this bill, it could be inappropriate to treat all types of convictions, including specific facts and circumstances, equally. For example, the Committee should consider whether there should be additional scrutiny or restrictions for individuals convicted of securities fraud. We look forward to working with the Committee as it advances this legislation.

Thank you for considering our views on this legislation. We look forward to working with the House Financial Services Committee on removing regulatory barriers to second chance hiring.

Sincerely,

A handwritten signature in black ink, appearing to read 'TK' with a long horizontal flourish extending to the right.

Thomas Quadman
Executive Vice President
U.S. Chamber of Commerce
Center for Capital Markets Competitiveness