Negative: Freedom Financing Act (Guns)

By “Coach Vance” Trefethen

***Resolved: The United States Federal Government should substantially reform its banking, finance, and/or monetary policy***

Summary: S.821 Freedom Financing Act is a bill pending in Congress that imposes sanctions on banks that discriminate against customers (refuse to do business with businesses or individuals) who are in compliance with the law, for any reason other than traditional creditworthiness and financial capability. The Act doesn’t mention guns, but that’s what the bill is really about: Some banks have declared a policy of refusing to accept gun dealers/manufacturers as customers due to the political beliefs of high levels of management of these banks. This makes 2nd Amendment advocates mad, so they want to punish such banks and motivate them to stop discriminating against legal gun owners/sellers/dealers. One of the best arguments against this is that the principle can be (has been) turned against similar beliefs. Example: Today banks could establish a policy against financing abortion clinics. Post-affirmative ballot, they could not refuse.

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Negative: Freedom Financing Act (Guns)

HARMS / SIGNIFICANCE

1. Switch to a different financial services provider

Gunsite Academy in Arizona owner says: Fine, we’ll just switch to a different provider

NEW YORK POST 2018. (journalist Lois Weiss) 11 June 2018 “Credit service shuts down payments on all gun purchases “ https://nypost.com/2018/06/11/gun-businesses-scrambling-after-credit-service-halts-payments/

At Gunsite Academy, a Paulden, Ariz., company that provides marksmanship training in addition to selling guns that ship to a licensed gun shop near the customer’s home, Ken Campbell was dinged by Intuit’s action. Campbell, a former Indiana sheriff, had just switched credit card processors this spring — to Intuit, the parent of TurboTax and Quicken software — when the trouble began, he said. Intuit told Campbell it mistakenly believed firearm sales were being made directly to the customers, which it requires for such items. Campbell explained the guns were shipped to a local dealer with a federal firearms license who ran the required background checks. Intuit was unmoved. Campbell said if he knew of Intuit’s stance, he would have simply moved back to his previous processor. “It’s fine, it’s capitalism, and if you don’t want to do business with us, we don’t want to do business with you,” he said.

Citi Bank will help gun dealers switch to a new provider if they want

Ed Skyler 2018 (Executive Vice President, Global Public Affairs, Citi Bank) 22 March 2018 “Announcing Our U.S. Commercial Firearms Policy” https://blog.citigroup.com/2018/03/announcing-our-us-commercial-firearms-policy/

We know our clients also care about these issues and we have begun to engage with them in the hope that they will adopt these best practices over the coming months. If they opt not to, we will respect their decision and work with them to transition their business away from Citi.

2. Citi Bank “gun ban” is exaggerated

“Best practices” with reasonable restrictions – not a ban

Ed Skyler 2018 (Executive Vice President, Global Public Affairs, Citi Bank) 22 March 2018 “Announcing Our U.S. Commercial Firearms Policy” https://blog.citigroup.com/2018/03/announcing-our-us-commercial-firearms-policy/

Under this new policy, we will require new retail sector clients or partners to adhere to these best practices: (1) they don’t sell firearms to someone who hasn’t passed a background check, (2) they restrict the sale of firearms for individuals under 21 years of age, and (3) they don’t sell bump stocks or high-capacity magazines. This policy will apply across the firm, including to small business, commercial and institutional clients, as well as credit card partners, whether co-brand or private label. It doesn't impact the ability of consumers to use their Citi cards at merchants of their choice.

Citi Bank doesn’t stop any individual from using their money or credit card to buy guns

Citi Bank CEO Mike Corbat 2018. “CNBC Exclusive: CNBC Transcript: Citigroup CEO Michael Corbat Speaks with CNBC’s “Closing Bell” Today” 16 July 2018 https://www.cnbc.com/2018/07/16/cnbc-exclusive-cnbc-transcript-citigroup-ceo-michael-corbat-speaks-w.html

FROST: MIKE, I WANTED TO ASK YOU A BIT ABOUT YOUR FIREARMS POLICY. YOU INTRODUCED A POLICY A FEW MONTHS BACK WHERE YOU WILL ALTER WHO YOU LEND TO BASED ON IF THEY MEET CERTAIN CRITERIA. IN THE PRESS RELEASE, WHEN THAT CAME OUT, YOU SAID QUOTE WE WANT TO DO OUR PART IN OUR COMPANY TO PREVENT FIREARMS FROM GETTING INTO THE WRONG HANDS. HOW DO YOU DRAW THE LINE AS A CEO OF A COMPANY TO DECIDE WHEN YOU DO HAVE TO START TO POLITICS BECAUSE THE POLITICIANS AREN’T DOING ENOUGH IN YOUR EYES AND WHEN YOU SHOULDN’T ACTUALLY GO AS FAR AS THAT?  
CORBAT: WELL, WE DON’T EVER TRY TO GET INVOLVED IN POLITICS, THAT’S NOT WHO WE ARE OR WHAT WE DO, BUT IN THIS CASE ONE IS WE DIDN’T HAVE A GUN POLICY THAT I COULD REALLY POINT TO ON THE INDIVIDUAL FIREARMS SIDE IN THE U.S. SECOND I SHOULD STEEP ALL OF THIS IN SAYING I AM A GUN OWNER. MY FAMILY USES HUNTING AND OTHER TYPES OF THINGS. SO THIS IS NOT ABOUT TAKING AWAY PEOPLE OR INDIVIDUAL’S RIGHTS TO USE FIREARMS, BUT IT’S CREATING A PRACTICAL POLICY. AND WHAT WE TALKED ABOUT IS REALLY THREE THINGS. IS ONE IS A BACKGROUND CHECK. YOU KNOW, WHEN YOU GET A DRIVER’S LICENSE OR DO OTHER THINGS WE DO BACKGROUND CHECKS. WE SAID THERE SHOULD BE A RESTRICTION TO THOSE UNDER THE AGE OF 21. NOT A PROHIBITION, BUT THERE’S GREAT THINGS OUT THERE I’VE BEEN THROUGH, MY FAMILY’S BEEN THROUGH IN TERMS OF HUNTER SAFETY.  
FROST: BUT SHOULDN’T THAT BE THE GOVERNMENT’S ROLE? THAT TYPICALLY WOULD BE THE GOVERNMENT’S ROLE? IF THEY DON’T GO FAR ENOUGH TO MAKE THAT PARTICULAR RULE, WHY DO YOU SEE IT AS AN AREA WHERE YOU HAVE TO MAKE THAT –  
CORBAT: WELL, AGAIN, WE’VE GOT TO TALK ABOUT WHAT WE REALLY DID. SO AS A CITI CREDIT CARD OR CITI DEPOSIT ACCOUNT YOU CAN TAKE THAT MONEY AND SPEND YOUR MONEY ANYWAY YOU WANT. WE’RE NOT TELLING YOU HOW TO DO THAT. WHAT WE’RE SAYING IS WITH OUR CORPORATE RESOURCES ONE OF THOSE THINGS WHERE WE’RE GOING TO PARTNER AND GET BEHIND. AND WE DIDN’T HAVE A POLICY. WE FELT THESE WERE PRUDENT STEPS TO TAKE AROUND THE ALLOCATION OF OUR RESOURCES. AND AGAIN OUR CARD HOLDERS, OUR DEPOSIT ACCOUNTS ARE FREE TO GO USE THEIR MONIES AS THEY CHOOSE.

Federal law already bans handgun sales to people under 21

Prof. Eugene Volokh 2018 (law professor) 22 March 2018 “Credit Card Company Requirements That Merchants Not Sell Guns to 18-to-20-Year-Olds” <https://reason.com/2018/03/22/credit-card-company-requirements-that-me/>

If a state bans rifle and shotgun sales to 18-to-20-year-olds, then of course stores would be required to discriminate against them. (Federal law already bans handgun sales by gun dealers to under-21-year-olds.)

3. Gun industry thriving

Gun sales and industry are growing. They should be declining if the banks are significantly blocking them

Jade Moldae 2019 (firearms industry journalist) “U.S. Firearms Industry 2019 The Industry’s Recovery Efforts Continue” https://shootingindustry.com/u-s-firearms-industry-2019/

Countering the prevailing sentiment today, recent reports reveal the industry has continued to grow — despite the slowdown from peak years. In April, NSSF published its 2019 Firearms and Ammunition Industry Economic Impact Report, showcasing the industry’s growth — incrementally rising to $52.1 billion in 2018 ($51.4 billion in 2017). Additionally, total jobs associated with the industry also climbed to nearly 312,000. Since 2008, the industry’s economic impact has risen by 171% ($19.1 billion to $52.1 billion). Southwick Associates’ 2018 Retail Market Size Report further bolsters this case. According to the report, spending in the overall hunting and shooting sports grew 11% in 2018 — totaling $21.3 billion in retail sales. Southwick officials attribute the increase to consumers high-grading their purchases, rather than a surge in volume. The report publicized the average sale increased 20% in 2018 over 2017. “The data shows what we suspected — the hunting and shooting markets are performing better than recent media coverage indicates,” said Rob Southwick, president of Southwick Associates. “Consumers are not as concerned about firearm restrictions and have shifted toward accessorizing previous years’ purchases and catching up on delayed equipment purchases. The overall market is still strong.”

SOLVENCY

1. Other means of discrimination

Banks who don’t want certain customers will find other ways to justify denial, even when it’s illegal

**After all, if a bank says “No, we didn’t deny Jimmy’s Gun Shop a loan because they’re a gun dealer. We denied it because we think he’s not going to pay us back” 🡪 How will you ever know whether that’s true or not?**

Prof. Helen F. Ladd 1998 (Professor of Public Policy Studies and Economics, Sanford Institute of Public Policy, Duke University) Evidence on Discrimination in Mortgage Lending https://www.csus.edu/indiv/c/chalmersk/econ251fa12/evidenceofdiscriminationinmortgagelending.pdf

Given that statistical discrimination is illegal, lenders cannot discriminate as a matter of explicit bank policy, as they did with women. One possibility is that lenders evaluate objective information differently for minorities than for whites. For example, in a follow-up analysis of data collected by the Boston Federal Reserve Bank, Carr and Megbolugbe (1993) found that the lender's subjective measure of an applicant's creditworthiness was highly correlated with the race of the applicant, even after controlling for three objective measures of borrower credit histories. Also, Bostic (1996) found evidence that lenders use rules of thumb to weight different components of a loan application differently by race. Another mechanism through which lenders might engage in statistical discrimination, referred to as the "thick file" phenomenon, emerged from the investigation of Decatur Federal in Atlanta. It seemed that loan officers at that institution often provided more assistance to white than to minority lenders, so that the files of the white borrowers were likely to end up thicker than those of minority borrowers, and because of that assistance, may have been more likely to be approved.

DISADVANTAGES

1. Dangerous moral consequences #1: Bankers’ ethics

Link: The Affirmative’s bill doesn’t specify guns. It applies to all legal businesses

Under the Affirmative’s policy, a bank could not stop doing business with ANY customer on ethical grounds, as long as their business is legal. The word “gun” is not in their bill, so it’s not restricted just to banks that object to gun dealers.

Link: Abortion clinics are legal and constitutionally protected, just like guns

Congressional Research Service 2019. (non-partisan research agency of Congress) Abortion: Judicial History and LegislativeResponse, last updated 9 Sept 2019 https://fas.org/sgp/crs/misc/RL33467.pdf

In 1973, the U.S. Supreme Court concluded in Roe v. Wadethat the U.S. Constitution protects a woman’s decision to terminate her pregnancy. In a companion decision, Doe v. Bolton, the Court found that a state may not unduly burden the exercise of that fundamental right with regulations that prohibit or substantially limit access to the procedure.

Link: In Status Quo, banks could refuse to serve abortion clinics if they objected to abortion… until the Affirmative plan is enacted. Then they would have no choice, they’d have to finance abortion clinics

**Rob Blackwell, an advocate for the Affirmative position, accidentally makes a really good argument for the Negative in 2018 when he writes:**

Rob Blackwell 2018 (editor-in-chief of American Banker) 20 Feb 2018 “Call for bank crackdown on gun sales is deeply misguided “ https://www.americanbanker.com/the-call-for-bank-crackdown-on-gun-sales-is-deeply-misguided

What if, for example, banks and credit card companies decided to stop processing payments for any retail purchase of cigarettes? After all, cigarettes are demonstrably bad for all consumers, and secondhand smoke can harm innocent people. Should banks step in to help protect society at large? Or what if banks decided to stop processing payments for abortion clinics because they believed the practice was immoral? Is it fair for financial institutions to make abortion effectively illegal?

Impact: Ethics over-ridden.

Bank owners are forced to violate their ethical views on abortion and lots of other ethical issues if we enact the Affirmative plan. If you were a bank owner and an abortion clinic came to you asking for a loan, what would you tell them? Today you could say “no.” If you vote Affirmative, you would have to say “yes.”

2. Dangerous Moral Consequences #2: Do federal subsidies justify federal ethical regulation?

Link: Affirmative justifies regulating banks’ ethical choices because they allegedly (some of them) receive federal money

They didn’t prove how much money, nor that “all” banks receive it – which is strange, since their plan applies to “all” banks. But that’s their justification for telling them their ethics are wrong and forcing them to change. If you get $1 in federal money, then the federal government can dictate your ethics.

Link: Millions of Americans receive subsidized federal money: Social Security and Medicare benefits exceed what they paid in taxes

Christopher Jacobs 2016 (CEO of Juniper Research Group; previously he was a senior health policy analyst for the Texas Public Policy Foundation, a senior policy analyst in The Heritage Foundation’s Center for Health Policy Studies, and a senior policy analyst with the Joint Economic Committee’s Senate Republican staff ) 7 Dec 2016 “No, Medicare Recipients Haven’t ‘Earned’ All Their Benefits” <https://thefederalist.com/2016/12/07/no-medicare-recipients-havent-earned-benefits/> (brackets added)

A similar CBO [Congressional Budget Office] analysis conducted earlier this year for the 2016 [long-term budget outlook](https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/51580-ltbo-2.pdf) likewise determined that Social Security benefits paid out will exceed taxes taken in for most seniors. (Unlike Medicare, Social Security is funded entirely by payroll taxes, so the gap between benefits and taxes is smaller, but still significant.) Both CBO reports echo research undertaken by the Urban Institute, whose most recent [analysis](http://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000378-Social-Security-and-Medicare-Lifetime-Benefits-and-Taxes.pdf) found that a couple earning average wages who retired last year will receive $1,038,000 in Medicare and Social Security benefits after paying in only $683,000 in payroll taxes.

Impact: Dangerous ethical implications

Every senior citizen in America could, under the Affirmative’s logic, receive a notice in the mail with their Social Security check telling them what Congress has voted their views should be on guns, abortion, or any other issue. Or else, they have to send their check back if they don’t agree. Because federal subsidies mean Congress gets to tell you what your ethical views are, right?