

August 6, 2024

The Honorable Rohit Chopra
Director
U.S. Consumer Financial Protection Bureau
1700 G St NW
Washington, DC 20552

Re: Notice of Proposed Rulemaking, Consumer Financial Protection Bureau, Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V); Docket No. CFPB-2024-0023 RIN 3170-AA54 (6/18/2024)

Dear Director Chopra:

As a leading representative and advocate on behalf of America's more than 33 million small businesses, Small Business Majority writes to provide feedback on the Consumer Financial Protection Bureau's (CFPB) proposed rule to remove medical debt from consideration when determining consumer credit reporting information. Small Business Majority applauds CFPB for its proposal as it will expand access to capital for entrepreneurs nationwide that often rely on personal credit products to finance their business needs.

Small Business Majority is a national small business organization that empowers America's diverse entrepreneurs to build a thriving and equitable economy. From our nine offices across the country, we engage our network of more than 85,000 small businesses and 1,500 business and community organizations to deliver resources to entrepreneurs and advocate for public policy solutions that promote inclusive small business growth. Our work is bolstered by extensive research and deep connections with the small business community that enable us to educate stakeholders about key issues impacting America's entrepreneurs, with a special focus on the smallest businesses and those facing systemic inequities.

As small businesses struggle to gain access to affordable healthcare coverage, their likelihood of incurring medical debt may skyrocket

While small businesses face numerous barriers in their paths toward development and growth, a recent Small Business Majority national poll found that increasing healthcare costs for small business owners and their employees are hurting their bottom lines and limiting their potential more often than any other challenges. The vast majority of small business owners (95%) have healthcare coverage for themselves through either group plans offered by their business, their spouse or partner's health insurance, individually purchased healthcare plans, Medicare, or Medicaid. Small businesses that offer healthcare coverage to their employees report that the cost of insurance premiums (78%), deductibles (57%), copays (60%), prescription drug copays (60%), and hospital visits (59%) have increased. This has led many business owners to make unfavorable decisions regarding their healthcare plans, including increasing employee contributions to health plans (51%), moving to an insurance plan offering more limited coverage (47%) and cutting other employee benefits (29%).¹

The increasing cost of healthcare for small business owners and their employees nationwide not only impacts a small business' ability to compete with their larger competitors for a qualified workforce, but it

¹ "Opinion poll: Small businesses struggling with rising healthcare costs, support bipartisan policy solutions," Small Business Majority, February 2024, <https://smallbusinessmajority.org/sites/default/files/research-reports/poll-small-businesses-struggling-with-healthcare-costs.pdf>

also leaves small business owners and entrepreneurs more vulnerable to the financial burdens of medical debt and the restrictions it can impose to their ability to access capital.

Removing medical debt from credit reports would expand access to capital for small businesses

Small Business Majority research has found that 75% of small business owners face challenges obtaining capital.² For small businesses and entrepreneurs who are just starting out, or for those who lack a strong credit history, obtaining financing to start a business is even more difficult. Due to this, entrepreneurs often must rely on personal credit scores to obtain the capital to finance their businesses. In fact, data from the 2019 Small Business Credit Survey found that 86% of small employer firms and 94% of non-employer firms reported the use of personal credit scores to obtain financing.³ Additionally, a 2022 study by Mastercard found that only 53% of small businesses used both business and personal credit cards to help finance their business.⁴

Given the strong reliance on personal credit for the majority of small employer and non-employer firms, unpaid medical bills may significantly impact a small business' ability to obtain financing. While unpaid medical debt may be reflected poorly on a borrower's credit report, a 2014 CFPB report found that medical debt is not a good predictor of an individual's ability to repay a loan.⁵ Therefore, the practice of factoring medical debt into individual credit reporting can not only prevent small businesses from starting or expanding their business but may also have additional unforeseen consequences in a business' financing journey overall. When medical debt poses barriers for obtaining responsible financing, entrepreneurs with lower credit scores due to non-predictive factors like medical debt may become more susceptible to working with predatory lenders that often target vulnerable borrowers.

Small Business Majority applauds the CFPB for its proposal to remove unpaid medical bills from most credit reports and to prevent lenders from making lending decisions based on medical debt when examining credit history. Over 15 million Americans owe a collective \$49 billion in outstanding medical bills, which up until now, was reflected directly on their credit reports.⁶ Removing this factor when determining credit will inevitably reduce barriers for new and existing entrepreneurs to fill their credit needs.

CFPB must prioritize interagency and stakeholder collaboration to ensure entrepreneurs understand the impacts of the proposed rule

To ensure a successful implementation of this rule, the CFPB must prioritize interagency and stakeholder collaboration to understand the broader impact on credit agencies, financial institutions and small businesses nationwide.

Given the critical role the Small Business Administration (SBA) plays in the small business lending industry, through its suite of SBA-backed loan programs, Small Business Majority urges CFPB to work alongside the SBA to build awareness about the new credit reporting structure for entrepreneurs. Both agencies should implement education and outreach campaigns to connect entrepreneurs with the technical assistance needed to re-apply for loans that may have been denied due to strict credit reporting

² "Survey: Small businesses optimistic about the future, despite concerns about inflation and barriers to capital," Small Business Majority & Start Small Think Big, October 2022, <https://smallbusinessmajority.org/sites/default/files/research-reports/2022-SSTB-SBM-Network-Poll-Report.pdf>

³ "How Much Do Small Businesses Rely on Personal Credit?" Julia Fonseca & Jialan Wang, November 2022, https://files.consumerfinance.gov/f/documents/cfpb_2022-research-conference_session-6_fonseca-wang_paper.pdf

⁴ "A not so small portfolio optimization opportunity: How advanced analytics can help banks better engage with small businesses," Mastercard, December 2022, <https://www.mastercardservices.com/en/advisors/consumer-engagement-loyalty-consulting/insights/not-so-small-portfolio-optimization>

⁵ "Consumer credit reports: A study of medical and non-medical collections," Consumer Financial Protection Bureau, December 2014, https://files.consumerfinance.gov/f/201412_cfpb_reports_consumer-credit-medical-and-non-medical-collections.pdf

⁶ "CFPB Finds 15 Million Americans Have Medical Bills on Their Credit Reports," Consumer Financial Protection Bureau, April 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finds-15-million-americans-have-medical-bills-on-their-credit-reports/>

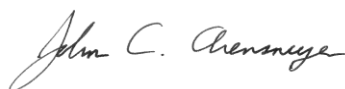
requirements. SBA's collaboration is incredibly important as the administration recently announced plans to reduce the use of medical debt in the underwriting process for its 7(a) loan program.⁷

Following the implementation of the rule, we recommend that CFPB publish a report to Congress on the impact of the rule on the small business lending community and include any additional recommendations for loosening repercussions for unpaid medical debt when accessing loans for business financing purposes. Improved data transparency and reporting surrounding the impact of medical debt on credit scores and small business lending activities will improve our understanding of the issue and will encourage financial institutions to revisit their loan approval processes. In fact, following the CFPB's 2022 report estimating that medical bills make up \$88 billion of reported debts on credit reports, three of the largest credit agencies in the U.S. (TransUnion, Equifax, and Experian) announced they would remove many of those bills from credit reports. Since that announcement, the percentage of Americans with unpaid medical bills on their credit reports fell from 14% to roughly 5%.⁸

This proposed rule comes at a critical time in which numerous states are also acting to remove the burden of medical debt on consumers and entrepreneurs. In the last two years, Colorado, New York, Connecticut and Virginia have all passed laws that prohibit both the reporting of medical debt on consumer credit reports and healthcare providers from reporting medical debt to credit agencies. Small Business Majority urges the CFPB to collaborate with these states to ensure the Bureau is taking all best practices into consideration as it finalizes and implements this proposed rule. We encourage CFPB to develop comprehensive guidelines for consumers to understand how they can check if medical debt has been removed from their credit report and how they can properly dispute mistakes made on their credit report, including the failure to exclude medical debt. Furthermore, CFPB should also work closely with small business advocacy organizations, like Small Business Majority and the Responsible Business Lending Coalition (RBLC), to ensure that lenders and businesses are communicating about the change and re-seeking capital where relevant.

While we applaud the CFPB for its proposal and for addressing the impact of medical debt to a borrower's creditworthiness, it is imperative to ensure that credit agencies are held accountable for removing these often inaccurate and non-predictive collections from credit reports. If communicated effectively to the small business lending community, this rule will undoubtedly further expand and protect access to capital for small business owners and entrepreneurs nationwide who rely on personal credit to finance and grow their business. Thank you for the opportunity to provide feedback to the proposed rule. Should you have any questions or would like to discuss our comments further, please contact our Government Affairs Director, Alexis D'Amato at adamato@smallbusinessmajority.org or (202) 967-0995.

Sincerely,



John Arensmeyer
Founder & CEO
Small Business Majority

⁷ FACT SHEET: Vice President Harris Announces Proposal to Prohibit Medical Bills from Being Included on Credit Reports and Calls on States and Localities to Take Further Actions to Reduce Medical Debt," The White House, June 2024, <https://www.whitehouse.gov/briefing-room/statements-releases/2024/06/11/fact-sheet-vice-president-harris-announces-proposal-to-prohibit-medical-bills-from-being-included-on-credit-reports-and-calls-on-states-and-localities-to-take-further-actions-to-reduce-medical-debt/>

⁸ "CFPB Finds 15 Million Americans Have Medical Bills on Their Credit Reports," Consumer Financial Protection Bureau, April 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finds-15-million-americans-have-medical-bills-on-their-credit-reports/>