The Proposed CFPA Will Disproportionately Harm Small Businesses

"Everyone wants to protect the consumer, there's no argument there, but if it becomes more difficult for small business owners to get credit lines, get money, and none of them can right now, they can't hire, they can't grow, they can't expand."

- Mark Ryan, Littleton, CO

"If... the enforcement is handled so that bad actors are taken out of the game, as opposed to increasing regulation for all companies, it will be better for the economy all around."

- Fran Fisher, Fairfax, VA

"Small business owners already face the tightest credit environment many have ever seen. A further tightening of credit, or more expensive pricing of credit when it is available, as a result of CFPA, unfairly punishes small business owners when their participation in the economy is crucial to recovery. We can't allow this to happen."

- Jeff Walters, Billings, MT

The CFPA Would Restrict Access to Credit for Small Businesses and Consumers at Exactly the Wrong Time.

Small businesses are critical engines of economic growth and job creation. As noted in a study on the impact of the CFPA on small business written by Thomas Durkin, a former official who spent more than 20 years at the Federal Reserve, start-up businesses with fewer than 20 employees account for 86.7% of net job creation[1]. At the same time, these small firms face significant hurdles in accessing the capital they need to get off the ground or to maintain their operations. In most cases, small businesses either cannot borrow any money, cannot borrow as much as they need at reasonable rates, or they can only borrow at high rates.

In these tough economic times, the government should find ways to enhance small business access to credit, rather than further reduce the availability and affordability of credit through overreaching and duplicative government regulation. Unfortunately – this is exactly what the CFPA will do. As stated in the Durkin study:

"….it would have a significantly adverse effect on small businesses by restricting their access to credit. Some would lose access to credit altogether. The businesses that would be most adversely affected would be the new businesses that for which consumer loan products are a principal source of funding. As a result, the CFPA Act would inflict the greatest harm on those small businesses that account for a significant portion of the economy's net job growth."

The CFPA creates significant disincentives and makes it much more expensive for financial institutions, particularly smaller institutions, to lend. This will result in reduced access to credit, and bring a higher price to the credit products that are available. In addition, the CFPA would have the authority to prohibit certain products, require only "safe" products, and ultimately limit small business owners', and their customers', options and choice among financial products.

The bill takes a one-size-fits-all approach that fails to recognize the differences between small business owners and consumers.

Particularly in tight credit markets, small business owners may supplement inadequate commercial credit through consumer credit products, such as personal credit cards, home equity lines of credit, and even title loans. Through its broad regulatory authority, the CFPA could ban or restrict access to certain financial products deemed "too risky" for

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[1] The Impact of the Consumer Financial Protection Agency on Small Businesses Available (Hereinafter "Durkin Study") at www.uschamber.com/ccmc.

consumers, denying informed and sophisticated small business owners access to the products they rely on for short term capital needs.

As Durkin cites in his study:

"The CFPA adopts a "one-size-fits-all approach to consumer protection that ignores the fact that small businesses use consumer financial products in different ways than the average consumer. Rules that are designed to protect ordinary consumers are likely to impose collateral damages on informed and sophisticated small business owners who depend on consumer loan products."

The CFPA would regulate nonfinancial businesses that had nothing to do with the financial crisis or the consumers that were harmed.

Ill-defined terms in the legislation, vague regulatory standards and an unprecedented regulatory overreach leave many small businesses subject to CFPA regulation. These are businesses that don't offer financial products to consumers, but could be subject to CFPA regulation because they provide goods and services to financial firms, or because of the way they manage their billing process. This includes everything from technology providers, utilities, lawyers, software providers, and even educational institutions. These include small businesses that are already suffering under the consequences of the financial crisis; they shouldn't have to pay for it twice through an overreaching government response that will subject them to new and onerous regulations.

The CFPA would subject businesses to a complex and confusing maze of state and federal regulations and liability.

The bill would expose small business owners to a vast and confusing new regulatory maze. Rather than a uniform national standard, the CFPA sets the floor, not the ceiling for consumer protection mandates. This means the CFPA and each state regulator could adopt their own sets of rules – and businesses would have to comply with all of them. Also, each state regulator could adopt its own interpretation of the CFPA. Companies and their customers would be lost in a maze of overlapping and conflicting mandates.

Taken together, these elements of the CFPA will have a devastating impact on small businesses already struggling through tough economic times to get this country on its feet again.

As Durkin aptly concludes:

"A new regulatory regime that adversely affects this important economic sector with higher costs and new financial difficulties through unavailable products while that sector is struggling to overcome the aftermath of a significant recession is simply the wrong remedy at the wrong time."

The Chamber stands ready to work with the Congress to advance more effective reforms that will protect investors and strengthen our capital markets without adding new layers of bureaucracy on top of the current system. If we can answer any questions, please don't hesitate to contact us at 202-463-3162 or ccmc@uschamber.com.