February 20, 2025

Dear Member of Congress,

We are writing to express our concerns regarding the Consumer Financial Protection Bureau's finalized rule on eliminating medical debt records from consideration in major credit reports. We believe that this rule will harm consumers and impede lenders from meeting consumer demand due to incomplete and inaccurate assessments of borrower worthiness.

Under the Fair Credit Reporting Act of 1970, privacy protections were enacted to protect sensitive medical information for consumers. In 2005, federal regulators issued a regulatory exemption that allowed creditors to take medical debt into consideration to assess the creditworthiness of potential borrowers under certain conditions.

The CFPB recently finalized a rule that would arbitrarily amend Regulation V of the Fair Credit Reporting Act (FCRA) by (1) removing a longstanding exception—promulgated in 2005—allowing lenders to use medical debt information to make risk determinations on allocating credit, and (2) banning credit reports from including medical debt. Whitewashing credit data distorts the allocation of credit to individuals and businesses across the U.S. The FCRA was crafted to allow consideration of medical debt in credit reports. Eliminating medical debt will have a domino effect where additional consumer data points could be incrementally removed from credit reports. Removing this information from consideration will reduce the accuracy of credit assessments and distort the true credit worthiness of borrowers. This will in turn lead to deserving borrowers losing access to credit and reducing economic activity.

The CFPB reasons that medical debt is often unexpected and plagued with billing errors and inaccuracies. This reason is irrelevant and should not be dealt with through blanket rules which will produce more problems than solve. The CFPB overlooks the disastrous consequences of deliberately withholding medical debt information, which will fail to capture all debts a borrower currently owes to creditors.

Misrepresenting the true creditworthiness of a borrower will result in consumers over-leveraging themselves with debt levels beyond what they can reasonably afford. This rule would generate moral hazard akin to the subprime mortgage crisis, where reckless lending created severe financial instability and triggered mass defaults.

It also remains uncertain whether the CFPB's interpretation of its authority under the FCRA and CFPA can be justified. The Administrative Procedure Act requires agencies to administer rulemaking proposals in line with the intent of Congressional legislation. To date, no legislation has targeted the elimination of medical debt from credit assessments, raising doubts over whether the CFPB possesses the statutory authority to issue such a rule. Additionally, the Supreme Court's Decision in ***West Virginia v. EPA*** sets forth principles limiting the power of agencies to promulgate rules which have outsized economic consequences.

Removing consideration of medical debt also will have detrimental effects on the U.S. healthcare industry. Small healthcare practices could see a sharp reduction in cash flow, which could lead to

rising healthcare costs. The knock-on effects could impact insurance companies and lead to a rise in healthcare premiums.

The CFPB is attempting to interfere in how creditors choose to assess the reliability and creditworthiness of future borrowers. This is a flagrant contravention of free-market principles.

It is clear the CFPB is attempting to extend its rulemaking powers beyond the limits of its own statutory authority. Lawmakers should continue to safeguard the existence of a well-functioning, transparent credit market by rejecting proposals that threaten to derail the integrity of credit assessments and increase lending risks. **For these reasons, we urge you to nullify this rule through a joint resolution of disapproval under the *Congressional Review Act.***

We appreciate the opportunity to discuss our concerns regarding the CFPB medical debt rule and are happy to serve as a resource as the 119th Congress assembles its policy priorities for 2025.

Sincerely,

Grover Norquist
President
Americans for Tax Reform

Steve Pociask
Chief Executive Officer
American Consumer Institute

Paul Gessing
President
Rio Grande Foundation

James Erwin
Interim Director
Shareholder Advocacy Forum

Chuck Muth
President
Citizen Outreach

David Williams
President
Taxpayer Protection Alliance

Karen Kerrigan
Policy President & CEO
Small Business & Entrepreneurship Council

Ryan Ellis
President
Center for a Free Economy

Brent Gardner
Chief Government Affairs Officer
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