U.S. Chamber of Commerce

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Rule Summary

On January 7, 2025, the Consumer Financial Protection Bureau (CFPB) issued a final rule on "Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V)" ("Rule"). The Rule would prohibit lenders like banks and credit unions from considering information about medical debt included in a consumer credit report.

The Rule is based on the CFPB's flawed and unlawful premise that information about medical debt is "not predictive" of a borrower's creditworthiness, for example, because medical expenses are oftentimes not elective.

The CFPB refuses to acknowledge that medical debt, especially a large sum, would undoubtedly impact the ability of that person to pay another debt, such as a mortgage.

The Rule does not eliminate debt in any way; it only prohibits this information from being included in credit reports and lenders from using it.

Negative Effects on Growth & the Economy

Increased Defaults on Consumer Loans Lead to Higher Costs for All Consumers: Without accurate information on a borrower's ability to pay, lenders, like banks and credit unions, will be more likely to issue loans that consumers cannot afford due to their hidden medical debt. Lenders will need to charge higher rates to everyone to offset the defaults by borrowers who are issued loans they cannot afford.

Strain on Medical Providers: The knowledge that unpaid medical debt will not impact a consumer's access to other credit increases the likelihood that debt will go unpaid. This would directly impact the medical providers and increase their losses, putting even more strain on the healthcare system. One economist projected that the loss in the first year is estimated to be $24 billion. The estimated range for the losses over time ranges from $82 billion to $655 billion. According to another study, "68% of net revenues [of medical providers] are uncompensated for," and unless "hospitals and healthcare providers can recoup a larger portion of uncompensated revenues, their ability to invest in equipment, provide necessary services and maintain rural facilities may be severely impaired."

Precedent for Exclusion of Other Debt Risks Entire Credit System: The precedent that the CFPB can exclude actual debts owed by consumers from credit reports undermines the risk-based pricing system that has been demonstrated to expand access to credit for all borrowers and is based on a lender having access to information (such as existing debts, repayment history) that informs if a borrower is likely to repay a loan. A future CFPB could attempt to exclude other types of debt. The cumulative impact of these exclusions would be an unworkable risk-based pricing system.

Additional Background

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The rule also ignores the more common-sense steps already voluntarily taken by the three main credit bureaus to no longer include paid medical debts, unpaid medical debts less than a year old, and unpaid medical debt under $500 from credit reporting. These steps have helped ensure that consumers who have recently incurred medical debt are not unduly penalized while still preserving the overall risk-based approach of the credit system.

A legal challenge against the Rule *(Cornerstone Credit Union League, Consumer Data Industry Association v. Consumer Financial Protection Bureau)* argues that the CFPB "[exceeded] its statutory authority and FCRA's express preemption provisions" and the rule is "arbitrary and capricious on multiple levels." Significantly, the CFPB relies heavily on a study it conducted in 2014, allegedly showing that "medical debt information has relatively limited predictive value." However, the 2014 study is too old to justify the Rule and does not account for reporting changes implemented by consumer reporting agencies in recent years or numerous other recent studies showing that unpaid medical debt does have important predictive value.

Recommend CRA Disapproval

Overturning the Rule via CRA would not only preserve the risk-based credit system, it would help ensure lower credit costs for the average consumer, and support the financial viability of medical providers, especially small and rural providers.