MAXINE WATERS, CA
CHAIRWOMAN

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

PATRICK MCHENRY, NC
RANKING MEMBER

December 5, 2019

Memorandum

To: Members of the Committee on Financial Services

From: FSC Majority Staff

Subject: December 10, 2019 Full Committee Markup

The Committee on Financial Services will meet to mark up the following measures, in an order to be determined by the Chairwoman, at 10:00 a.m. on Tuesday, December 10, 2019, and subsequent days if necessary, in room 2128 of the Rayburn House Office Building:

<u>Amendment in the Nature of a Substitute to H.R. 1731, Cybersecurity Disclosure Act of 2019 (Himes)</u>

Summary: The Amendment in the Nature of a Substitute to H.R. 1731 would require the SEC to issue rules to require companies in their annual reports to the SEC or in their annual proxy statements to disclose whether any member of their board of directors, or similar governing body, has expertise or experience in cybersecurity and the nature of such expertise or experience. If there are no members of a company's governing body that have experience or expertise in cybersecurity, the bill would require the company to describe what other cybersecurity aspects were taken into account by persons responsible for identifying and evaluating nominees for the company's governing body.

Background: According to Deloitte's latest global risk management survey of financial institutions, "[s]ixty-seven percent of respondents named cybersecurity as one of the three risks that would increase the most in importance for their business over the next two years, far more than for any other risk."[1] However, "only about one-half of the respondents felt their institutions were extremely effective or very effective in managing this risk." Moreover, the Identity Theft Resource Center, breaches that exposed consumers' personally identifiable records rose 126%, from 2017 to 2018.[2] H.R. 1731 helps to address cybersecurity risks by informing consumers and investors about whether and to what extent companies' boards have cybersecurity expertise.

In response to a question for the record by Representative Himes following a July hearing before the Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets, Degas Wright, CEO of Decatur Capital Management, stated that the disclosure in H.R. 1731 "would prioritize

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[1] Deloitte, Global risk management survey, 11th edition, Jan. 2019,
[2] Identity Theft Resource Center, 2018 End-of-Year Data Breach Report,

cybersecurity, a material item for listed firms as identified by the Securities and Exchange Commission (SEC)." He also noted that, "[b]ased on our research, we have found cybersecurity to [a] material item in making investment decisions."

The bill is supported by consumer advocates, investors, and securities law experts, including the North American Securities Administrators Association; the Council of Institutional Investors; the National Association of State Treasurers; the California Public Employees' Retirement System; the Bipartisan Policy Center; Massachusetts Institute of Technology Professor Simon Johnson; Harvard Law Professor John Coates; Columbia Law Professor Jack Coffee; K&L Gates LLP; and the Consumer Federation of America. This bill is similar to a bipartisan bill in the Senate, S. 592, which is sponsored by Senators Reed, Collins, and Kennedy

Amendment in the Nature of a Substitute (ANS) to H.R. 2445, the "Self-Employed Mortgage Access Act of 2019" (Emmer/Foster)

Summary: H.R. 2445 would require the Consumer Financial Protection Bureau (CFPB) to amend its Ability-to-Repay/Qualified Mortgage (ATR/QM) regulations with regard to verifying a consumer's income and debt such that lenders could either continue to utilize the standards in Appendix Q, or utilize standards put forth by the Federal Housing Administration (FHA), the Department of Veterans Affairs (VA), or the Department of Agriculture's (USDA) Rural Housing Service. Lenders would also have the option to utilize the standards put forth by Fannie Mae, Freddie Mac, or a Federal Home Loan Bank (FHLB), subject to the approval of the Federal Housing Finance Agency (FHFA). The ANS adds language that requires the CFPB to consult with the relevant entity that issues such standards when issuing its own clarifications on the application of a particular guide or handbook for purposes of a creditor satisfying CFPB's ATR/QM rule.

Background: The Dodd-Frank Wall Street Reform and Consumer Protection Act amended the Truth in Lending Act (TILA) to require lenders to determine that mortgage borrowers have a reasonable ability to repay the mortgages they receive. "Qualified mortgages" (QM) that meet certain requirements are presumed to meet such ability-to-repay requirements through either a safe harbor or, for certain higher-priced mortgages, a rebuttable presumption, meaning that if a creditor is challenged in court, the plaintiff would have to prove that one or more of the QM requirements was not met. Lenders have shown a preference for originating QM loans in order to obtain this presumption of compliance. CFPB regulations implement the statutory provisions governing QM loans, including Appendix Q, which provides standards for verifying monthly debt and income. Loans eligible for sale to Fannie Mae, Freddie Mac, or insurance from FHA, VA, or USDA are currently considered QM through what is known as the "QM Patch."[3]

This bill responds to concerns that borrowers with non-traditional sources of income face barriers to homeownership under the current Appendix Q standards, including those who are self-employed, work in the gig economy, have rental income, or retiree income. Fannie Mae, Freddie

[3] According to CFPB regulations implementing the ATR/QM rule, the QM patch will expire in January 2021. The CFPB issued an Advance Notice of Proposed Rulemaking in July 2019 seeking feedback on the expiration of the QM patch and potential reforms, including with respect to Appendix Q. *See* CFPB, "Consumer Financial Protection Bureau Releases Qualified Mortgage ANPR," (Jul. 25, 2019), available at: https://www.consumerfinance.gov/about-us/newsroom/bureau-releases-qualified-mortgage-anpr/.

Mac, FHA and other federal agencies have established more flexible standards to verify these nontraditional sources of income. For example, Appendix Q requires documentation of individual retirement account (IRA) income to be confirmed via tax return, requiring borrowers to wait until they can claim such income in their next tax return; by contrast, Fannie Mae and Freddie Mac allow such income to be verified by a former employer, copies of a retirement award letter, W2s, 1099s, or proof of current receipt. By allowing lenders to use these alternative methods to verify income, this bill is intended to provide flexibility to verify nontraditional sources of income in a way that leverages existing standards already in use that is authorized by other federal government agencies.

This bill is supported by the National Consumer Law Center and the Mortgage Bankers Association.

Amendment in the Nature of a Substitute to H.R. 4545, Private Loan Disability Discharge Act of 2019 (Dean)

Summary: The ANS to H.R. 4545 would amend TILA to include a required discharge of private student loans in the case of permanent disability of the borrower. Cosigners will be discharged of their obligation in the case of the borrower's permanent disability, which is defined as the same standard set by the discharge provision of federal student loans.

Background: Current law does not require that a private student loan lender discharge the student debt of a borrower or their cosigner in the case of permanent disability of the borrower. The Truth in Lending Act (TILA) does currently require the discharge of a student loan for the borrower and cosigner in the case of death of the borrower. Beyond this requirement, private student lenders are free to make any policy on discharge of debt in their promissory notes. During the hearing on the student debt crisis that this Committee convened in September 2019, one witness noted that critically, there is no standard system for disability cancellations for private loans, which can lead to private loan servicers denying borrowers a full discharge due to a permanent disability.[4]

Federal student loans, on the other hand, provide greater protections. Any loan that is issued by the federal government can be discharged in the event of permanent total disability of the borrower or in the event of death. Federal student loans generally do not have cosigners, so there are no provisions related to cosigners being discharged.

The ANS to H.R. 4545 would bring private student loans in line with federal student loans by amending the Truth in Lending Act (TILA) to include a required discharge of private student loans in the case of permanent and total disability of the borrower. Additionally, the ANS would allow cosigners to be discharged in the case of the borrower's permanent disability, and it would require private lenders who are notified that the federal government has discharged the federal student loans of a borrower to discharge the private student loans of that same borrower. Furthermore, this ANS would permanently exempt any tax liability accrued from the discharge, which currently only runs until January 1, 2026. Finally, this ANS would authorize the CFPB to issue rules to implement these changes.

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[4] *See* before the U.S. House of Representatives Committee on Financial Services regarding "A $1.5 Trillion Crisis: Protecting Student Borrowers and Holding Student Loan Servicers Accountable," at 16, Sep. 10, 2019.

This bill uses the same definition for total and permanent disability as the standard for discharging federal student loans, which can occur in two ways. Firstly, a disabled borrower would be eligible when the individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that could be expected to result in death; has lasted for a continuous period of 60 months or more; or, can be expected to last for 60 months or more. Secondly, a disabled borrower would be eligible when the individual has been determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected disability.

Amendment in the Nature of a Substitute to H.R. 5287, Fair Student Loan Debt Collection Practices Act (Lawson)

Summary: The ANS to H.R. 4287 would amend the Fair Debt Collection Practices Act and certain other provisions of U.S. law relating to claims to prohibit debt collectors from collecting on certain Federal student loan debt when the borrower would not be required to make payments under an income-driven repayment plan.

Background: Approximately 9 million borrowers are presently in default of their federal student loans, and those who default suffer substantial, long term, financially crippling consequences.[5] Last year alone, more than one million borrowers defaulted on a student loan.[6] When a student borrower defaults, they can be subject to: wage, federal financial benefit, and tax refund garnishment; disqualification for additional federal aid (including education grants), which deny access to education for the borrower; collection fees, which can be upwards of 25% of the defaulted balance; and a negative credit report record.[7]

Additionally, when a student loan borrower defaults, the entire balance of the loan can become immediately due, and the borrower loses the ability to enter into deferment or forbearance, without the option of changing repayment plans. Furthermore, the loan holder has standing to sue the borrower in court, and court costs, attorneys' fees, and other collection process costs can be charged to the borrower. Finally, the borrower's academic transcript may be withheld until the defaulted loan is satisfied.

Since July 2009, nearly all student loan borrowers with federal student loans have had a right under the Higher Education Act to make zero dollar "payments" under a repayment arrangement that reflects their income, known as income-driven repayment or IDR, if they earn less than 150% of the federal poverty guidelines. Despite this protection, the debt collection industry, including contractors employed by the Department of Education, routinely garnish wages, seize tax refunds,

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[5] In Seth Frotman's written testimony before the Committee on September 10, 2019 at , Mr. Frotman noted: "There is no definitive source of information that identifies the number of unique borrowers in default. As of the second quarter of 2019, 5.3 million Direct Loan borrowers were in default on one or more loans and 3.9 million FFELP loan borrowers were in default on one or more loans. There is no equivalent data identifying borrowers in default on private student loans. Readers should note that the estimate is based on limited public data available and may double count borrowers with both FFELP and Direct Loans."
[6] See U.S. Dep't of Educ., Fed. Student Aid Data Ctr., (last accessed Dec. 5, 2019) (between 2018 Q1 and 2018 Q4, 1,080,300 borrowers defaulted on a Direct Loan).
[7] Joanna Darcus, , National Consumer Law Center (Aug 2,2019).

offset social security and other benefits, and otherwise collect against borrowers who are eligible for total payment relief under IDR. During the hearing on the student debt crisis that this Committee convened in September 2019, one witness testified that debt collectors and collection lawyers are “manipulating the court system in order to garnish borrowers’ wages and destroy consumers’ credit.”[8]

This ANS expressly bars all attempts to collect against any borrower who meets the income guidelines for a zero dollar “payment” under IDR and restricts attempts to collect amounts above the amount a borrower would owe under IDR. The ANS also requires debt collectors to certify that a borrower is not eligible for debt cancellation or loan forgiveness under the Higher Education Act before accepting payment from a borrower in default. The ANS amends the 1996 Debt Collection Improvements Act to instruct the Treasury Secretary to coordinate with the Education Secretary to ensure federal debt collection contractors meet these new standards. This ANS also instructs the Secretary of the Treasury to halt the Department of Education from using its authority to garnish wages for any amount greater than what a borrower would owe under the income guidelines for IDR and prohibits the use of wage garnishment where a borrower is eligible for debt cancellation or loan forgiveness under HEA.

Amendment in the Nature of a Substitute to H.R. 5294, Student Borrower Protections Act (Adams)

Summary: The ANS to H.R. 5294 would amend the Truth in Lending Act (TILA) to require student loan servicers to provide accurate repayment options and resources, set minimum industry standards for all student loan transactions, prohibit servicers from omitting or misrepresenting loan servicing information, and revise disclosures to borrowers when their loan is sold or transferred or if the borrower is identified as at-risk of default. Section 3 of the ANS would amend the Fair Credit Reporting Act (FCRA) to require the CFPB, in consultation with the Department of Education, to establish standards for reporting credit information about borrowers’ student loans and provides consumers with tools to enforce these rights. Section 4 of the ANS would amend TILA to require schools to counsel students before they sign on to private education loan debt and inform students of any unused federal student aid eligibility. It would also require the prospective borrower’s school to confirm the student’s enrollment status, cost of attendance, and estimated federal financial aid assistance before a private student loan can be originated.

Background: The Department of Education Office of Inspector General, U.S. Government Accountability Office, Consumer Financial Protection Bureau, and consumer groups have documented widespread student loan servicing failures. A 2017 Annual Report from the Consumer Bureau Student Loan Ombudsman found that 71% of the approximately 12,900 federal student loan complaints handled by the Consumer Bureau between August 2016 and September 2017 were issues related to dealing with the lender or servicer.[9]

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[8] See for hearing entitled “A $1.5 Trillion Crisis: Protecting Student Borrowers and Holding Student Loan Servicers Accountable,” page 5 (Sep. 10, 2019).
[9] CFPB, (Oct, 16, 2017).

In September 2019, this Committee held a hearing on the student loan crisis examining a wide range of issues, including how loan forgiveness programs have been poorly administered.[10] Borrowers attempting to enroll in alternative repayment plans such as IDR or programs such as PSLF have complained about lengthy delays, and inaccurate or not timely information on eligibility and recertification requirements leading to improper denials. As of March 31, 2019, the Department of Education had approved only 845 of the 90,962 borrowers who applied for PSLF and discharged only approximately $52 million in student loans. Private student loan borrowers have additional challenges. Private student loan borrowers and their co-signers have fewer legal protections than federal student loan borrowers. Private loan cancellations are not required by law and private loan borrowers do not have the same range of cancellation options as federal student loans, including for those borrowers with a permanent disability.

Furthermore, student loan servicers have harmed borrowers by providing inaccurate information with respect to credit reporting. For example, in Seth Frotman's written testimony before the Committee on March 7, 2019, Mr. Frotman highlighted one company that made false promises that rehabilitation would remove all adverse information from a borrower's credit report.[11] In addition, even if students successfully complete a loan forgiveness program, some servicers still report the account as delinquent, harming the borrower's credit score.[12]

To address these issues, this ANS would provide student loan borrowers with additional consumer protections, require that credit reports are accurate for student borrowers, and provide additional rights to private student loan borrowers. Furthermore, the ANS clarifies that

Amendment in the Nature of a Substitute to H.R. 5315, Expanding Opportunities for Minority Depository Institutions (MDIs) Act (Beatty)

Summary: The ANS to H.R.5315 would codify the U.S. Department of Treasury's mentor-protégé program to encourage collaboration between MDIs and large financial institutions who serve as financial agents to the Treasury Department.

Background: There are several U.S. Department of the Treasury programs that are designed to support MDIs. The Minority Bank Deposit Program (MBDP) is a voluntary program which encourages minority-owned banks, women-owned banks, and credit unions that serve low-income communities to become depositaries and financial agents. The MBDP was created in 1969 in response to Executive Order 11458,[13] which established a national program supporting minority business enterprise. It was expanded under Executive Orders 11625[14] and 12138.[15] The Competitive Equality Banking Act of 1987[16] and the Financial Institutions Reform, Recovery and

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[10] FSC, "," Full Committee Hearing , Sep 10, 2019.
[11] In Seth Frotman's written testimony before the Committee on March 7, 2019 at , Mr. Frotman noted: "Complaint at 45, CFPB v. Navient Corp., No. 3:17-cv-00101-RDM (M.D. Pa. 2017) ("Pioneer's false promises that rehabilitation would remove all adverse information regarding the borrowers' loans from their credit reports.").
[12] Ron Lieber, "A Teacher's Student Loans Were Forgiven. Then FedLoan Wrecked His Credit," Feb. 22, 2019, .
[13] https://www.mbda.gov/page/executive-order-11458
[14] Signed October 13, 1971. *See* https://www.archives.gov/federal-register/codification/executive-order/11625.html
[15] Signed May 18, 1979. *See* https://www.archives.gov/federal-register/codification/executive-order/12138.html
[16] P.L. 100-86

Enforcement Act of 1989[17] include provisions supporting the intent of the MBDP. In testimony before the Committee in April 2019, Doyle Mitchell, President and CEO of Industrial Bank, stated that, "Historically, Treasury's Minority Bank Deposit Program has been a reliable source of deposits for NBA member banks, but the federal government's utilization of the program has decreased dramatically in recent years…. [we] urge the relevant oversight subcommittees for this program to identify the particular causes of the program's decline and the affirmative steps Treasury will be taking to increase participation in the program."[18]

In addition, Treasury runs a Mentor-Protégé Program, which is designed to motivate and encourage firms to assist small businesses in enhancing their capabilities. The program is also designed to perform Department of the Treasury contracts and subcontracts, foster the establishment of long-term business relationships between these entities and Treasury prime contractors, and increase the overall number of these entities that receive Treasury contract and subcontract awards.[19] Some industry stakeholders have suggested institutions that serve as Treasury's financial agents be required to participate in the Mentor-Protégé Program and partner with small MDIs as part of the program.[20]

Amendment in the Nature of a Substitute to H.R. 5322, Ensuring Diversity in Community Banking Act of 2019 (Meeks)

Summary: The ANS to H.R.5322 would among other things, establish or modify requirements relating to minority depository institutions (MDIs), community development financial institutions (CDFIs), and "impact banks" (banks with less than $10 billion in assets that make a majority of their loans to low-income borrowers), including the following:

- Encouraging Federal Government-held deposits in MDIs;
- Amends the definition of MDIs in the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) to include women-owned banks;
- Requiring diversity reports and best practices from each prudential regulator's Office of Minority and Women Inclusion (OMWI) on their bank examiner corps;
- Modifying the Bank Holding Company Act to encourage investments in small MDIs;
- Requiring participation in Treasury's mentor-protégé program for large banks that are a financial agent of the Treasury Department;
- Promote information sharing between the CDFI Fund and the FDIC for purposes of granting CDFI certification, and approving *de novo* bank applications;
- Creating a Small Business Administration task force focused on MDIs and CDFIs; and,
- Sense of Congress to encourage the funding of the CDFI Fund's Loan-Loss Reserve Fund for small-dollar loans.

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[17] P.L. 101-73

[18] https://financialservices.house.gov/uploadedfiles/hhrg-116-ba15-wstate-mitchelljrb-20190409.pdf

[19] https://www.treasury.gov/resource-center/sb-programs/Pages/dcfo-osdbu-mentor-protege-01-scope.aspx

[20] Testimony of Jeff Smith President and CEO, Unity National Bank, and representing the National Bankers Association before the House Financial Services Oversight and Investigations Subcommittee hearing, "Examining Discrimination and Other Barriers to Consumer Credit, Homeownership, and Financial Inclusion in Texas," September 4, 2019, https://financialservices.house.gov/uploadedfiles/hhrg-116-ba09-wstate-smithj-20190904.pdf.

Background: Section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) establishes goals that banking regulators: preserve the present number of minority depository institutions; preserve the minority character in cases of merger or acquisition; provide technical assistance to prevent insolvency of institutions not now insolvent; promote and encourage creation of new minority depository institutions; and, provide for training, technical assistance, and educational programs.[21]

The FDIC Policy Statement defines MDIs as "any Federally insured depository institution where 51 percent or more of the voting stock is owned by minority individuals" or any such institution where "a majority of the Board of Directors is minority and the community that the institution serves is predominantly minority".[22] The term "minority" means any "Black American, Asian American, Hispanic American, or Native American".[23] The composition of MDIs has changed over the past two decades, with a notable near-disappearance of black MDIs over this period.

Today, MDIs represent 2.8% of FDIC insured banking charters, 1.3% of assets, and 1.7% of banking offices.[24] By comparison, MDI credit unions represent a 10% of all federally insured credit unions, although they tend to be smaller than their peers, with 87% of MDI credit unions reporting total assets of $100 million or less.[25] According to the National Credit Union Administration (NCUA), MDI credit unions "underperformed in all growth categories – including assets, membership, shares, loans, and net worth – compared to low-income credit unions, small credit unions, and federally insured credit unions overall."[26]

The Community Development Financial Institutions (CDFI) Fund is an agency of the U.S. Treasury Department, and was established by the Riegle Community Development and Regulatory Improvement Act of 1994.[27] The mission of the CDFI Fund is "to expand economic opportunity for underserved people and communities by supporting the growth and capacity of a national network of community development lenders, investors, and financial service providers."[28] A CDFI is a "specialized financial institution serving low-income communities,"[29] and a Community Development Entity (CDE) is "a domestic corporation or partnership that is an intermediary vehicle for the provision of loans, investments, or financial counseling in low-income communities."[30] The CDFI Fund certifies CDFIs and CDEs.[31]

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[21] FDIC, Policy Statement Regarding Minority Depository Institutions, available at https://www.fdic.gov/regulations/laws/rules/5000-2600.html#fdic5000policyso
[22] FDIC, "2019 Minority Depository Institutions: Structure, Performance, and Social Impact", 2019, available at https://www.fdic.gov/regulations/resources/minority/2019-mdi-study/full.pdf
[23] *Id*
[24] *Id*
[25] NCUA, "2018 Minority Depository Institutions Annual Report to Congress" available at https://www.ncua.gov/files/publications/2018-mdi-congressional-report.pdf
[26] *Id*
[27] PL 103-325
[28] CDFI Fund website, available at https://www.cdfifund.gov/about/Pages/default.aspx
[29] *Id*
[30] *Id*
[31] See Figure 3 in the appendix for types of certified CDFIs. Also see Figure 9 in the appendix, which shows for the decade preceding the financial crisis, CDFIs, followed closely by MDIs, were more likely to locate and provide mortgages to low-income communities as compared to all other banks.

As the Committee heard in two separate subcommittees hearings[32] on the importance of MDIs in October and November 2019, MDIs face several challenges, including the ability to raise capital despite overall strong financial performance, and challenges experienced as a result of serving communities that are often the first and hardest hit in economic downcycles.[33] This decline is contributing to growing banking deserts in minority communities.[34] Despite regulators having a shared mission to preserve and promote MDIs, these firms have shrunk in numbers, which peaked in 2008 at 215 institutions to 148 as of second quarter 2019.[35]

Amendment in the Nature of a Substitute to H.R. 5330, Consumer Protections for Medical Debt Collections Act (Tlaib)

Summary: The ANS to H.R. 5330 would bar entities from collecting medical debt or reporting it to a consumer reporting agency without giving a consumer notice about their rights under Fair Debt Collection Practices Act (FDCPA) and Fair Credit Reporting Act (FCRA) related to that debt, including a minimum one-year delay before adverse information is reported to a consumer reporting agency. This legislation outright bans the reporting of medical debt arising from medically necessary procedures.

Background: Debt collectors increasingly contact individuals for their medical bills than other forms of debt. Fifty-nine percent of consumers received calls and letters related to collections of medical debt.[36] The costs of treating illnesses and other medical conditions can cause consumers to avoid healthcare services and rely on over-the-counter drugs rather than seeing a medical provider.[37] Medical bills can be expensive for households, and the delinquency of payments has led to individuals falling into bankruptcy and hurting their credit report. The American Journal of

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[32] See "An Examination of the Decline of Minority Depository Institutions and the Impact on Underserved Communities," FSC Subcommittee on Consumer Protection and Financial Institutions hearing on Oct. 22, 2019. See also "An Examination of Regulators' Efforts to Preserve and Promote Minority Depository Institutions" FSC Subcommittee on Consumer Protection and Financial Institutions hearing on Nov. 20, 2019.

[33] James Barth, Aron Betru, Christopher Lee, and Matthew Brigida, "Minority-Owned Depository Institutions – A Market Overview," Milken Institute (July 15, 2019), http://milkeninstitute.org/reports/minority-owned-depository-institutions-market-overview; Carolyn Karo Schulman, "Partnership for Lending in Underserved Markets – Phase II Summary: Lessons Learned for Advancing Minority Small Business Capital Access," (May 1, 2018), https://milkeninstitute.org/reports/plum-phase-ii-summary-lessons-learned-advancing-minority-small-business-capital-access; and House Financial Services Oversight and Investigations Subcommittee hearing, "Examining Examining Discrimination and Other Barriers to Consumer Credit, Homeownership, and Financial Inclusion in Texas," (Sep. 4, 2019), https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=404229.

[34] *Id.*

[35] Of the 148 MDI banks as of the second quarter of 2019, there were 19 African American-owned banks, 26 Hispanic American-owned banks, 62 Asian/Pacific Islander American-owned banks, 19 Native American/Alaskan Native American-owned banks, 3 MDIs with a minority board that serve African-American communities, 9 MDIs with a minority board that serve Hispanic communities, and 10 MDIs with a minority board that serve Asian/Pacific Islander communities. See https://www.fdic.gov/regulations/resources/minority/mdi.html

[36] Consumer Financial Protection Bureau, "Consumer Experiences with Debt Collection," (2017) at 21, available at https://files.consumerfinance.gov/f/documents/201701_cfpb_Debt-Collection-Survey-Report.pdf#page=[5].21.

[37] National Consumer Law Center, Medical Debt Collection, *available at* https://www.nclc.org/images/Medical-Debt-Collection.pdf.

Public Health conducted a survey of 2013-2016 bankruptcy filers and found that 59% of respondents agreed that medical debt played a role in their bankruptcy.[38]

The Consumer Financial Protection Bureau has also found that the medical pricing, billing, and reimbursement process lacks transparency and is prone to consumer confusion, which can result in consumers delaying or withholding payments until they have adequate time to clarify or resolve disputes with their insurance companies or medical service providers about what they actually owe.[39]

Amendment in the Nature of a Substitute to H.R. 5332, Protecting your Credit Score Act of 2019 (Gottheimer)

Summary: The ANS to H.R. 5332 would direct the nationwide consumer reporting agencies (CRAs) to create a single online portal landing page for consumers to access free credit reports, credit scores, dispute errors and place or lift security freezes. This landing page would also contain information on consumer rights and clearly written language as to handle report disputes. The bill also codifies the Consumer Financial Protection Bureau's (CFPB or Consumer Bureau) supervision of the nationwide CRAs and clarifies that the Consumer Bureau has authority, under Gramm-Leach-Bliley Act, to prescribe and enforce data security safeguards for the nationwide CRAs. The bill provides for injunctive relief to allow a court to compel a CRA to fix an error or remove inaccurate information from a consumer report. The ANS creates an Ombudsman at the Consumer Bureau tasked with resolving persistent errors on reports that are not addressed in a timely fashion and allowing the Ombudsman to make referrals to the Offices of Supervision and Enforcement for corrective action in response to violations of applicable law by a CRA. Finally, the ANS requires the Government Accountability Office (GAO) to conduct a study on the feasibility and means the CRAs can replace the use of Social Security numbers as identifiers.

Background: According to the Consumer Bureau, many consumers believe consumer reports are "hard to get and hard to understand."[40] Unlike a consumer's Federal right to obtain a free annual consumer report from each of the nationwide CRAs and nationwide specialty CRAs, in most cases, consumers have no legal right to their credit score.[41] Unlike other businesses where dissatisfied and unhappy consumers can decide to stop doing business with a company, consumers have almost no control over whether furnishers provide information about them to CRAs that is compiled and maintained in the CRAs' databases. Consumers' concerns about credit reporting errors and their

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[38] *Id.*

[39] Consumer Financial Protection Bureau, Consumer credit reports: A study of medical and non-medical collections (2014), *available at* https://files.consumerfinance.gov/f/201412_cfpb_reports_consumer-credit-medical-and-non-medical-collections.pdf.

[40] CFPB, "Consumer Voices on Credit Reports and Scores," Feb. 2015, at 19, available at: https://files.consumerfinance.gov/f/201502_cfpb_report_consumer-voices-on-credit-reports-and-scores.pdf.

[41] The Dodd-Frank Act, amended the FCRA, to require "adverse action notices" (which are disclosures sent to consumers by creditors when a person has applied, but been denied, credit by a company to identify for the consumer, the CRA that the company obtained a report from to help make this decision) and "risk-based pricing notices" (which are disclosures sent to consumers by creditors informing a consumer that their request for new credit has been granted to them but, on materially less favorable terms and conditions, than the creditor has provided to other consumers to identify the CRA that the creditor obtained a report from to help make this decision) to include credit score disclosures.

fears about stolen credit information and identity theft have also increased consumers' purchases of credit monitoring services and other products from the nationwide CRAs, which have allowed these companies to profit, in part, from their own deficient practices.[42]

The Consumer Bureau has found that there is significant consumer confusion about the differences between the credit scores available to consumers and those that are sold to, and used by, creditors or lenders. This confusion can lead to consumers forming inaccurate perceptions of their ability to access credit on affordable terms. In addition, CRAs frequently market consumer reporting products and services as "free" when they are actually paid-subscription services that automatically convert after a trial period.

In addition, following the Equifax data breach, which compromised at least 145.5 million consumers' data, GAO found that consumers have little control over what information credit reporting agencies have, and that Federal oversight could be improved, including by enhancing the Consumer Bureau's oversight of CRAs and strengthening Federal enforcement of data safeguards.[43]

Resolution Electing Majority Members to the Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets

The Committee will also consider a resolution electing Representative Sherman as the new chair of the Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets along with adding Representative Maloney as its most senior member. For purposes of clarity, it will appoint the Chair and all members of the subcommittee.

Resolutions Extending Two Committee Task Forces

The Committee will consider a resolution establishing the House Committee on Financial Services Task Force on Financial Technology for six months effective January 7, 2020. The Task Force on Financial Technology has the same scope that it had during the six months ending in December. The Chair of the Task Force will continue to be Representative Lynch, and the Ranking Member will be Representative Emmer.

The second resolution establishing the House Committee on Financial Services Task Force on Artificial Intelligence for six months effective January 7, 2020. The Task Force on Artificial Intelligence has the same scope that it had during the six months ending in December. The Chair of the Task Force will continue to be Representative Foster and the Ranking Member will be Representative Loudermilk.

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[42] Consumer Voices on Credit Reports and Scores, *supra* note 1, at 13.
[43] Government Accountability Office, Consumer Data Protection: Actions Needed to Strengthen Oversight of Consumer Reporting Agencies 31 (2019), *available at* https://www.gao.gov/products/GAO-19-196.