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Dear Representative,

On behalf of NFIB, the nation's leading small business advocacy organization, I write in strong opposition to the H. Res. 965, the Rule for H.R. 6395, the *William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021*. This Rule allows consideration of amendment 499, which includes the text of H.R. 2513, the *Corporate Transparency Act of 2019*. H.R. 2513 was referred exclusively to the House Committee on Financial Services and is not germane to the Department of Defense or H.R. 6395. This non-germane amendment, which is likely to be voted on with minimal debate, would burden small business owners with yet another onerous regulation at a time when Main Street is just trying to survive the COVID-19 crisis. **NFIB will consider a NO vote on H. Res. 965, the Rule to H.R. 6395, as a Key Vote for the 116th Congress, consistent with our previous position in opposition to the *Corporate Transparency Act of 2019*.**

This amendment would saddle America's smallest businesses with 131.7 million new paperwork hours at a cost of \$5.7 billion, and treats small business owners as criminals by threatening them with jail time and oppressive fines for paperwork violations.¹ The amendment also puts the personal information of small business owners at serious risk.

The *Corporate Transparency Act of 2019* requires small businesses with 20 or fewer employees to file new reports with the Treasury Department's Financial Crimes Enforcement Network (FinCEN) containing the personally identifiable information of businesses' beneficial owners and update that information every year. The legislation imposes its reporting mandates only on America's small businesses, those least equipped to handle new paperwork requirements. Moreover, the legislation makes it a federal crime to fail to provide completed and updated reports, with civil penalties of up to \$10,000, criminal penalties of up to 3 years in prison, or both.

The nonpartisan Congressional Budget Office (CBO) agrees that this legislation would impose a significant new regulatory burden on small businesses. The CBO wrote, "Because of the high volume of businesses that must meet the new reporting requirements and the additional administrative burden to file a new report, CBO estimates that the total costs to comply with the

¹ NFIB Research Center, *Economic Costs to Small Businesses Due to the Corporate Transparency Act*, Sept. 18, 2019, https://www.nfib.com/assets/NFIB_Corporate_Transparency_Act.pdf.

mandate would be substantial.” The *Corporate Transparency Act of 2019* would generate between 25 million to 30 million new reports annually.²

NFIB members report that the burden of federal paperwork ranks in the top 20% of the problems they encounter as small business owners.³ While large businesses and financial institutions may have access to teams of lawyers, accountants, and compliance experts to gather beneficial ownership information and report it to the government, small business owners do not. Small business owners have difficulty affording accounting and legal experts to help them understand and comply with federal reporting requirements. And small business owners lack the time to track and gather information to fill out yet more forms for the government.

When NFIB surveyed membership concerning beneficial ownership reporting, 80% opposed the idea of Congress requiring small business owners to file paperwork with the Treasury Department each time they form or change ownership of a business.⁴

The *Corporate Transparency Act of 2019* raises serious privacy concerns for small businesses. This bill would allow federal, state, tribal, local, and even foreign law enforcement access to business owners’ personally identifiable information, via the FinCEN database, without a subpoena or warrant. Currently, small business owners’ information is protected by a subpoena, so this bill lessens privacy protections. The potential for improper disclosure or misuse of private information increases as the number of people with access to the information increases.

The *Corporate Transparency Act of 2019* establishes a first of its kind federal registry of small business owners. While this registry will not be publicly available initially, NFIB has serious concerns that this legislation would be an initial step towards establishing a publicly accessible federal registry, which can be used to name and shame small business owners.

NFIB strongly opposes H. Res. 965, the Rule to H.R. 6395, the *William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021* and will consider a NO vote as an NFIB Key Vote for the 116th Congress.

Sincerely,



Kevin Kuhlman
Vice President, Federal Government Relations
NFIB

² *Cost Estimate of H.R. 2513, Corporate Transparency Act of 2019*, Congressional Budget Office, September 12, 2019, <https://www.cbo.gov/system/files/2019-09/hr-2513.pdf>.

³ NFIB Research Center, *Small Business Problems and Priorities*, Table I, p. 12 (problem ranked 12 out of 75), August 2016, <http://www.nfib.com/assets/NFIB-Problems-and-Priorities-2016.pdf>.

⁴ When asked, “Should Congress require small business owners to file paperwork with the Financial Crimes Enforcement Network each time they form or change ownership of a business?,” a mere 11% said “yes” and a resounding 80% said “no,” with 9% undecided. NFIB Member Ballot, August 2018.