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June 27, 2024

The Honorable Jim Jordan
House Judiciary Committee
United States House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Jerry Nadler
House Judiciary Committee
United States House of Representatives
2142 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Jordan and Ranking Member Nadler,

On behalf of NFIB, the nation's leading small business advocacy organization, I am writing in support of H.R. 358, the *Small Business Regulatory Flexibility Improvements Act (SBRFIA)*. This legislation will ensure that federal agencies fully consider the impact of regulations on small businesses.

The Administration has imposed a tsunami of new regulatory burdens on the private sector. According to one estimate, the Administration has enacted more than \$1.6 trillion in new regulatory costs and almost 300 million new paperwork hours.¹ These new regulatory burdens fall disproportionately on smaller businesses that do not have lawyers and compliance officers.

This burdensome regulatory environment is not what Congress and President Carter envisioned in 1980 with the enactment of the Regulatory Flexibility Act (RFA). Congress and President Carter recognized that federal regulations disproportionately impacted small businesses. The RFA sought to minimize the burdens on small businesses. However, in the 40-plus years since the RFA became law, agencies have found ways to disregard or bypass many of the requirements. In 2023, NFIB analyzed the Small Business Administration (SBA) Office of Advocacy's comment letters to federal agencies from January 2021 to January 2023 and found significant noncompliance with the RFA.² In these letters, Advocacy highlighted 28 instances where agencies failed to adequately examine the economic costs of regulations.³ Advocacy noted that agencies often improperly certify that rules will not have a

¹ Dan Goldbeck, *A June Swoon*, American Action Forum, June 24, 2024, <https://www.americanactionforum.org/week-in-regulation/a-june-swoon/>.

² Rob Smith, *The Regulatory Flexibility Act: Turning a Paper Tiger Into a Legitimate Constraint on One-Size-Fits-All Agency Rulemaking*, National Federation of Independent Business Small Business Legal Center, May 2023, <https://strgnfibcom.blob.core.windows.net/nfibcom/NFIB-RFA-White-paper.pdf>.

³ *Id.*

significant economic impact on a substantial number of small entities.⁴ By doing so, agencies disregard the intent of the law, leaving small businesses subject to the one-size-fits-all regulatory environment the RFA sought to correct.

H.R. 358 seeks to eliminate the loopholes in the RFA and ensure the intent of the law is fulfilled. The legislation would require government regulators to include the indirect impact of a proposed regulation in their assessment of a regulation's impact on small businesses. H.R. 358 also expands the small business advocacy review panel process, strengthens the requirements for agencies to review regulations, and gives the U.S. Small Business Administration's Office of Advocacy increased input into agency compliance with the RFA.

The *Small Business Regulatory Flexibility Improvements Act* is important legislation to ensure a smarter rulemaking process for small businesses. NFIB thanks you for your leadership in providing regulatory relief for small businesses and looks forward to working with you to advance H.R. 358 this Congress.

Sincerely,

A handwritten signature in black ink, appearing to read "JMcLeod", written in a cursive style.

Josh McLeod
Director, Federal Government Relations
NFIB

⁴ *Id.*