Congress of the United States
U.S. House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515–6315

MEMORANDUM

TO: Members of the Subcommittee on Oversight, Investigations, and Regulations

FROM: Committee Majority Staff

DATE: March 8, 2024

RE: Subcommittee Hearing Titled: "Navigating Regulations: Alternative Pathways to Investing in Small Businesses."

On **Tuesday**, **March 12, 2024, at 10:00 AM ET**, the Subcommittee on Oversight, Investigations, and Regulations will hold a hearing titled "**Navigating Regulations: Alternative Pathways to Investing in Small Businesses.**" The meeting will convene in room 2360 of the Rayburn House Office Building. The purpose of this hearing is to examine how American small businesses are navigating the regulatory burdens of accessing capital and the challenges they face when exploring alternative investment methods.

I. Witnesses

- **Mr. Parag Shah,** Co-Founder & Chief Technology Officer, Vemos
- **Ms. Mary Kennedy Thompson,** Chief Operating Officer, Neighborly
- **Mr. Jeremy Kress,** Assistant Professor of Business Law, University of Michigan, Stephen M. Ross School of Business

II. Background

Small business owners rely on capital to operate and expand their businesses. Yet, high interest rates and inflation continue to strain access to capital, creating significant barriers to the sustainability of small businesses. Additional burdens of federal regulations on small business owners are worsening the challenges they face in accessing capital—impacting their ability to grow, innovate, and thrive.

It is now more expensive than ever to do business, and small business owners are growing concerned that tighter access to capital will negatively impact their growth.[1] While regional and

[1] Small Businesses Continue to Face Capital Crunch, GOLDMAN SACHS 10,000 SMALL BUS. VOICES SURVEY (Oct. 20, 2023).

community banks have played a key role in lending to small businesses, concerns about inflation and newly proposed banking regulations like Basel III and the Dodd Frank Section 1071 have forced banks to tighten commercial lending standards across the board.[2] In fact, since March 2022, half of Americans who have submitted applications for a loan or financial product have been denied.[3] As a result, small business owners have started to think twice about taking on new loans or drawing upon lines of credit to start their businesses.[4]

To meet the needs of small businesses lacking access to traditional financing in recent years, especially post-pandemic, new financing options have emerged.[5] Historically, small businesses have been able to assess their options for capital through traditional loans from a bank or credit union, or even a Small Business Administration (SBA) government-guaranteed loan. Now, small businesses are looking toward other investment options without high interest rates or unfavorable loan terms—such as private equity and private credit.

Private equity, venture capital, and crowdfunding are becoming increasingly more popular investment options for small businesses that want to expand their operations, hire new employees, or develop new products and services. Unfortunately, regulations under the Biden Administration's Federal Trade Commission (FTC), Department of Justice (DOJ), and Securities and Exchange Commission (SEC) are threatening the opportunity for growth capital—directly saddling investors with extensive administrative paperwork and oversight.[6]

Onerous, compounding regulations from activist agencies make it difficult and expensive for small businesses to grow. Compliance costs and labor increases from paperwork hours are in addition to attorney fees necessary to ensure proper adherence to regulations. The weaponization of the administrative state is making it exceedingly difficult for small businesses to survive.

III. Conclusion

With each new rule proposed by a federal agency, an additional requirement contributes to a death by a thousand cuts. Incremental passage of regulations builds up over time, imposing increased compliance burdens on American businesses. Far too often, the federal government fails to consider the impacts that its regulatory agenda has on small businesses. Despite the Regulatory Flexibility Act's (RFA) requisite consideration of small businesses in federal rulemaking, agencies are more concerned with pushing through regulations than taking into account the burden put on small businesses by excessive, ever-changing regulations.

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[2] Jim Dobbs, *Resilient small businesses bolster community banks' credit quality,* AM. BANKER (Nov. 12, 2023).
[3] Sarah Foster, *Denied and distressed: Half of applicants have been turned down for a loan or financial product since the Fed began raising rates,* BANKRATE (Mar. 4, 2024).
[4] Jim Dobbs, *Community banks warn about rates, economy and capital rules*, AM. BANKER (Oct. 10, 2023).
[5] Barbara Weltman, *10 Years After the Financial Crisis: The Impact on Small Business*, INVESTOPEDIA (Feb. 27, 2023).
[6] Private Investment Works, *FTC and DOJ's Proposed Merger Guidelines Create Unnecessary Red Tape, Will Harm Small Businesses,* AM. INVESTMENT COUNCIL (Aug. 1, 2023).