Improving Access to Capital for Minority-Owned Businesses

December 15, 2021

Introduction

The U.S. Chamber of Commerce is committed to addressing systemic racism in America and removing barriers that make it more difficult to move up the economic ladder. All Americans should have the opportunity to earn their success, rise on their merit, and live their own American Dream.

Entrepreneurship can be a catalyst for economic mobility. However, Black Americans hold only one-tenth the wealth of white Americans and often hold higher levels of debt. This inhibits access to capital, leaving 70.6% of Black entrepreneurs to rely on personal and family savings for financing. A recent study found that if the number of people-of-color-owned firms were proportional to their labor force participation, the U.S. would add more than 1.1 million businesses, supporting an estimated 9 million additional jobs and adding nearly $300 billion in workers' income.

However, in a recent small business credit study, Black-owned non-employer firms were less than half as likely to get financing as their white-owned competitors. With more often limited personal and family savings, Black business owners are also more likely to rely on credit cards, putting them at a disadvantage because of the higher cost of debt.

This report outlines current proposals that have been or could be introduced in policymaking channels that would help drive economic equality and create solutions that could serve as building blocks of success through improved access to capital for entrepreneurs of color.

Policy Recommendations for Improving Minority Access to Capital

Encourage Use of Alternative Data for Underwriting

Description/Impact

The use of data is essential for underwriting financial products. It is true for consumer financial products, such as insurance policies and loans, but the principle is equally applicable to assessing the creditworthiness of a business. Data helps increase the degree of confidence for lenders that a borrower can repay a loan. Expanding the kinds of indicators made available to financial institutions to make lending decisions will help expand their borrower bases and promote inclusion in the financial system.

S. 2417, Credit Access and Inclusion Act of 2021

Bill Summary

This bipartisan legislation will allow property owners, energy utilities, and telecom providers to report on-time payments. If the bill is enacted, it will help more Americans increase their creditworthiness.

Sponsor: Sen. Scott (R-SC)

Cosponsors:

- Manchin (D-WV),
- Tester (D- MT),
- Rounds (R – SD),
- King (I – ME),
- Cotton (R- AR),
- Lummis (R-WY),
- Hagerty (R-TN)

Expand and Support Minority Depository Institutions

Description/Impact

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 established criteria for minority depository institutions ("MDIs"). The law defines "minority" as any Black American, Asian American, Hispanic American, or Native American, and the Federal Deposit Insurance Corporation (FDIC) defines an "MDI" as any federally insured depository institution where minority individuals own 51% or more of the voting stock. Designation as an MDI includes important benefits from the FDIC: the agency provides technical assistance to MDIs to assist them in meeting their regulatory compliance requirements; provides training opportunities to MDIs; and takes steps to preserve the minority status of an MDI by working with other MDIs in acquisition in the event of an insolvency. A 2019 FDIC report on MDIs finds that minority-owned banks issue a greater volume of mortgages and Small Business Administration 7(a) loans to low-to-moderate incomes than other banking institutions.

H.R. 5315 (116th) The Expanding Opportunity for Minority Depository Institutions Act

Bill Summary

This bill, previously passed by the House of Representatives in the 116th Congress. This legislation would establish the Financial Agent Mentor-Protégé Program within the Department of the Treasury. The program will help mentor minority deposit institutions and small financial institutions, which will help them become a financial agent for the U.S. Treasury Department.

Sponsor: Beatty (D-OH-13)

Cosponsors:
- Meeks (D-NY-5)
- Heck (D-WA-10)
- Green (D-TX-9)
- Cleaver (D-MO-5)
- Scott (D-GA-13)

Recommendation: Develop Recommendations for How to Help Minority-Owned Businesses Raise Capital

Description/Impact

A lack of financial capital is three times more likely to negatively impact Black entrepreneurs' business growth and profitability than their white counterparts. Congress should initiate a formal process through the Securities and Exchange Commission to develop recommendations for changes in existing law and regulations to improve access to capital for minority-owned businesses.

This process could be conducted through the SEC's Office of the Advocate for Small Business Capital Formation by prioritizing outreach to minority-owned businesses to understand their financial needs and working with financial companies to understand what public policy barriers stand in the way of capital access.

Helping Minority Small Businesses to Recover from the Coronavirus Pandemic

Description/Impact

Since the pandemic started, small businesses have had to fight a continuous battle to survive. A recent poll by the U.S. Chamber of Commerce found that two in three (sixty-six percent) small minority businesses are concerned about permanently closing their business. In contrast, fifty-seven percent of non-minority-owned businesses share the same concern. The legislation will support lending to small businesses recovering from the coronavirus pandemic. It would provide expanded relief measures to the Small Business Administration (SBA) 7(a) loan program for one year to help businesses cope with challenges posed by the pandemic. The 7(a) program is critical in providing flexible working capital to small businesses in need through low-interest loans.

S. 174, Small Business Access to Recovery Capital Act of 2021

Bill Summary

This bill temporarily modifies the 7(a) Loan Guaranty Program of the Small Business Administration by waiving borrower and lender feeds, increasing government guarantee to 95%, and increasing the maximum loan value to $10 million. The SBA must issue temporary COVID-19 guidance that reflectsa these changes.

Sponsor: Rubio (R-FL)

Cosponsors:
- Risch (R-ID)
- Collins (R-ME)

Expand and Strengthen Community Development Financial Institutions

Description/Impact

The U.S. Treasury Department has the authority to designate organizations as Community Development Financial Institutions ("CDFIs"). These institutions meet a set of criteria and commit to serving low-income and distressed communities. These organizations are eligible for certain benefits that support their commitment to developing underserved communities. The designation is available for regulated entities, such as a development bank or credit union, or nonregulated entities, such as a venture capital or loan fund. The CDFI Fund was established in 1994 to assist CDFIs in providing support to markets that traditional financial institutions may underserve. The CDFI Fund may provide financial assistance to support lending, investing, and other financings. The CDFI fund may also provide technical assistance to help an organization build capacity to serve the community by purchasing equipment or training staff.

H.R. 2561, Promoting Access to Capital in Underbanked Communities Act of 2021

Bill Summary

This legislation will increase access to capital for underserved communities. The bill eliminates certain barriers to entry in applying to be a CDFI, specifically for: new financial institutions; certain rural community banks; and federal savings associations. The bill would also reduce the community bank leverage ratio, particularly for newly-chartered rural community banks.

Sponsor: Barr (R-KY-6)

Cosponsors:
- Donalds (R-FL-19)
- Kustoff (R-TN-8)
- Rose (R-TN-6)
- Perlmutter (D-CO-7)

Recommendation: Complete Small Business Data Collection (Section 1071) Rulemaking

Description/Impact

Section 1071 of the Dodd-Frank Act directs the Consumer Financial Protection Bureau (CFPB) to collect data on lending to small businesses, with the goal of better understanding the credit availability landscape for those owned and operated by women and minorities. The purpose is to facilitate compliance with fair lending laws and enable communities, governmental entities, and creditors to identify the needs and opportunities of minority-owned and women-owned small businesses. However, if compliance costs for lending to businesses are overly burdensome, the costs may pressure lenders to limit the amount of credit they extend. The CFPB noted in a September 2020 report that it "expects that much of the variable cost component of ongoing costs would be passed onto small business borrowers in the form of higher interest rates or fees."

There are commonsense steps that can be taken to limit the burdens imposed on creditors and borrowers while also fulfilling the intent of the law. The CFPB should use cost-benefit analysis, develop a clear definition of "small business" that is narrowly tailored, collect only data points mandated by the statute, and protect the privacy of borrowers.

Recent Action:

The CFPB proposed a new rule to implement section 1071 of the Dodd-Frank Act that is well-intended but would benefit from important changes to avoid limiting credit to the small businesses it is intended to help.

Expanding Access to Capital for Rural Job Creators

Description/Impact

A 2016 report from the Economic Innovation Group found that half of all post-recession business creation in the U.S. occurred across only 20 counties and that many rural areas have not experienced economic growth since the 2008 financial crisis. According to USDA, racial and ethnic minorities make up about 22% of America's rural population.

H.R. 5128, Expanding Access to Capital for Rural Job Creators Act

Bill Summary

The legislation would expand the focus of the Office of the Advocate for Small Business Capital Formation at the SEC to include ways to increase capital access for rural small businesses. The legislation would help ensure that rural areas receive due consideration during future SEC rulemaking processes.

Sponsor: Axne (D-IA-3)

Cosponsors:
- Bustos (D-IL-17)
- Pappas (D-NH-1)
- Mooney (R-WV-2)
- Lawson (D-FL-5)
- Kuster (D-NH-2)

Simplifying Small Business Mergers, Acquisitions, Sales, and Brokerages

Description/Impact

Successful small businesses need not close when their principal reaches retirement. Entrepreneurs that have built successful enterprises often look to sell their privately owned small businesses to a new generation of entrepreneurs. It is important that they are able to do so in an efficient and cost-effective manner. This legislation would level the playing field for small business owners, including retirees, by reducing the costs of their merger and acquisition transactions, allowing a new generation to take over more smoothly. By lowering regulatory costs, this legislation would help entrepreneurs of color take up the mantle for less money, meaning less capital is required to acquire a business and that available capital goes further.

H.R. 935, Small Business Mergers, Acquisitions, Sales, and Brokerage Simplification Act of 2021,

Bill Summary

This legislation, which has passed the House twice unanimously, would lower regulatory costs for selling and acquiring small businesses by exempting certain merger-and-acquisition brokers that assist in transferring ownership of companies under a specific revenue threshold from certain requirements.

Sponsor: Huizenga (R-MI-2)

Cosponsors:

- Maloney (D-NY-12)
- Posey (R-FL-8)
- Higgins (D-NY-26)

Increasing Access to Venture Capital

Description/Impact

Access to capital is the lifeblood of every small business. A small business or start-up might not receive capital through traditional means because of a lack of credit history or assets to receive funds. Venture capital firms can provide a new way for small businesses to obtain capital that will allow the business to grow.

H.R. 3842, Microcap Small Business Investing Act of 2021,

Bill Summary

This legislation would allow small business owners in low-income and distressed communities access to venture capital firms. In addition, the legislation would create Small Business Investment Companies ("SBIC") that would give capital to small businesses, minority-owned businesses and distressed communities.

Sponsor: Neguse (D-CO-2)

Cosponsor: Kim (R-CA-39)

Related Bills:

S.1759 Microcap Small Business Investing Act of 2021 (Sen. Hickenlooper [D-CO])

Improving Corporate Governance Through Diversity

Description/Impact

According to PwC’s 2019 Annual Corporate Directors survey, 94% of board directors surveyed indicated that a diverse board brings unique perspectives, 87% responded that diversity enhances performance, and 84% responded that it improves relationships with investors. In addition, 76% of directors agree that board diversity enhances company performance.

The “Improving Corporate Governance through Diversity Act of 2021” bill would require companies to disclose their race, gender, ethnicity, and veteran status. The bill would also give the SEC the authority to create a Diversity Advisory Group to report on board diversity.

H.R. 1277, Improving Corporate Governance Through Diversity Act of 2021

Bill Summary

This legislation would require companies to disclose their gender, ethnic, and racial composition of their company boards. The bill also directs the SEC create a Diversity Advisory Group to monitor and develop strategies to increase diversity.

Sponsor: Meeks (D-NY-5)

Cosponsors:
- Maloney (D-NY-12)
- Adams (D-NC-12)
- Castro (D-TX-20)
- Gottheimer (D-NJ-5)
- Lee (D-NV-3)
- McBath (D-GA-6)
- Williams (D-GA-5)
- Houlahan (D-PA-6)
- Sherman (D-CA-30)
- Huffman (D-CA-2)
- Delgado (D-NY-19)
- Sherrill (D-NJ-11)

Related Bills:

S.374 Improving Corporate Governance Through Diversity Act of 2021 (Sen. Menendez [D-NJ])

Expanding Second Chance Hiring

Description/Impact

There are roughly 77 million people who have criminal records in the United States. Disclosure of past criminal convictions on job applications has been a barrier to entry for otherwise qualified candidates in the banking industry.

H.R. 5911, the Fair Hiring in Banking Act

Bill Summary

This bill would expand employment opportunities at banks and credit unions by reducing barriers to employment based on past minor criminal offenses. The bill specifically reduces the look back at criminal charges from an indeterminate timeline to those over 7 years if a person has been released from incarceration for 5 years or more and provides a clear definition for the term, "criminal offense involving dishonesty." The bill also makes it clear that criminal offenses that have been expunged, sealed, or dismissed are not included in the FDIC or NCUA review of eligibility to work for an insured bank or credit union.

Sponsor: Beatty (D-OH-3)

Cosponsor: Auchincloss (D-MA-4)