NATIONAL TAXPAYERS UNION

To: Chair Tom Cole, Ranking Member Jim McGovern, and Members of the House Rules Committee
From: National Taxpayers Union
Date: November 6th, 2023
Subject: NTU Supported Amendments to be Made In Order to H.R. 4664, the Financial Services and General Government Appropriations Act, 2024

I. Introduction and Key Taxpayer Considerations

As the House Rules Committee meets later today, we are writing to express our support for the following amendments to H.R. 4664, the Financial Services and General Government Appropriations Act of 2024. These amendments would reduce wasteful and excessive spending by the Biden administration and prevent several harmful rulemakings from proceeding. They would also rein in the out-of-control Federal Trade Commission (FTC) and prevent further attacks on a teetering American domestic economy.

Amendment No. 6 by Rep. Self (R-TX) would prevent the Securities and Exchange Commission (SEC) from promulgating harmful rulemakings that would create requirements to disclose ESG-related information for annual and quarterly reports for public companies. This rule would increase compliance burdens and potentially damage long-term planning by introducing extraneous requirements onto companies whose chief goal should be to maximize shareholder value, thereby securing many Americans' retirement futures.

Amendment No. 39 by Rep. Fitzgerald (R-WI) would prevent the FTC from issuing further rulemakings like the incredibly expansive non-compete rule. The FTC broke precedent by creating a sweeping rulemaking authority that could potentially sweep up most businesses under a new ideological bent. Non-compete clauses in employment agreements are important for ensuring potential theft of clients and/or intellectual property are covered by a contract rather than litigated in court. Without cutting off this novel interpretation of unfair methods of competition rulemaking, more sweeping rules are likely from the FTC, particularly on artificial intelligence or other areas the FTC deems noncompliant with their ideological bent.

Amendment No. 40 by Rep. Fitzgerald (R-WI) would prevent the FTC from promulgating harmful changes to the Hart-Scott-Rodino pre-merger notification rules that NTU commented on earlier this year. As we noted, many of these proposed changes would have a detrimental impact on numerous aspects of the economy. Mergers and acquisitions are not inherently anticompetitive - and this rule, as proposed, would certainly lead to further chilling of normal market activity. In particular, small startups will indeed suffer if the serial acquisitions portion is finalized. Creating a major disincentive for larger companies to take the risk of acquiring smaller companies would lead to capital lock ups for entrepreneurs and a less robust ecosystem for innovation. This rider would prevent these anti-growth changes from taking place.

Amendment No. 42 by Rep. Fitzgerald (R-WI) which NTU supported in a slightly different form earlier this year, would prevent the promulgation of other rulemakings like the noncompetition agreement ban from taking place. While the current appropriations language includes a rider with a similar goal, this one would get to the heart of the issue by preventing such rules from being devised by restricting the FTC's authority to issue standalone rulemakings. The current language within the bill could be sidestepped by the FTC generating a new withdrawal of their policy statement on Section 5 rulemaking or by using other authority in conjunction with Section 5 authority. This rider would prevent this by creating a tighter boundary on the lawful use of this authority.

Amendment No. 48 by Reps. Mooney (R-WV), Nunn (R-IA), Barr (R-KY), Meuser (R-PA), Hill (R-AR), and Donalds (R-FL) would block the SEC's Private Fund Adviser Rule, which would introduce unnecessary regulatory costs on investors and make it more difficult for Americans to save for retirement.

Amendment No. 69 by Rep. McCormick (R-GA) would prevent the enforcement of the 1099-K rule which NTU has long warned Congress about. This requirement will force online seller platforms and taxpayers to remit a form to the Internal Revenue Service if their transactions on a platform exceed $600. This rider makes the commonsense fix to bring that requirement back up to $20,000, which would prevent Americans making small personal transactions from being lumped in with sellers who use online marketplaces for professional purposes.

Amendment No. 87 by Rep. Cammack (R-FL) would have similar effects as the House-passed REINS Act, which NTU has long supported. This would prevent executive branch bureaucrats from reshaping the economy using the rulemaking process - which has generated numerous controversial decisions under the Biden administration, such as the tailpipe rule, the Clean Power Plan 2.0 rule, the non-compete rule, and many others, which collectively cost the economy hundreds of billions of dollars in lost growth.

Amendment No. 97 by Rep. Donalds (R-FL) and Rep. Davidson (R-OH) would prohibit funds from being used to implement the "Beneficial Ownership" rule, which would place onerous reporting requirements on small businesses. While it is important to crack down on financial crimes and money laundering, it is also imperative to make reasonable accommodations for law-abiding small businesses that cannot afford enormous regulatory costs.

Amendments Nos. 124 and 125 by Rep. Duncan (R-SC) and **Amendment No. 184** by Rep. Fitzgerald (R-WI) would all achieve goals that NTU supported earlier this year. Congressional scrutiny of FTC officials' use of taxpayer resources to travel to Europe is heightening - and for good reason. American companies and consumers are suffering due to collusion across the Atlantic, and American taxpayers are footing the bill for expensive forays into Brussels and other locations. The European Union (EU) already launched regulatory salvos against American companies with the Digital Markets Act and the Digital Services Act. These regulations effectively wall off European markets by subjecting certain American companies to taxes and requirements that most European companies do not.

Offshoring poor regulatory decisions to the EU to fulfill personal policy agendas should be off the table for the FTC. If FTC regulatory actions are unable to withstand the courts and body of law within the United States, then their response should not be collaborating with competitor nations to hamstring businesses. This rider would prevent this from happening in the future.

Amendment No. 147 by Rep. Perry (R-PA) would cut FTC funding to FY 2019 levels. This would be an important message to the unelected bureaucrats at the FTC that Congress is closely watching their expansive war on the American economy, and that their wasteful enforcement actions brought by radical legal theories will no longer be tolerated.

Amendment No. 182 by Rep. Higgins (R-LA) would prevent the IRS from using AI for enforcement purposes. As NTU has warned, the IRS has, without Congressional authorization, started implementing a new AI-based system of tax enforcement. This should raise alarm bells for Congress since this could potentially infringe on the principles of right to due process and presumption of innocence. The IRS has demonstrated that they should not be fully trusted with taxpayer data and with selective enforcement in the past, and if the IRS can demonstrate its ability to ethically execute its current enforcement duties using current technology, then Congress may in the future authorize such forays. At its current state, this is a dangerous development that should be paused until further guidelines can come from elected representatives.

Amendment No. 212 by Reps. Williams (R-TX), Alford (R-MO), Luetkemeyer (R-MO), Ellzey (R-TX), and Stauber (R-MN), would prevent the Small Business Administration from proceeding to create new lending programs that could potentially circumvent the restrictions placed on it in the past by Congress. Some of its proposed new programs could lead to taxpayer bailouts due to relaxation of lending standards.

The above amendments will reduce taxpayers' financial burden by cutting excessive and wasteful spending, putting the FTC, IRS, and other agencies on notice for their unprecedented and damaging activities, and promoting fiscal discipline and oversight in agency policy.

We respectfully request that you make these amendments in order for consideration on the House floor. We appreciate your attention to this matter and your leadership on the Rules Committee.

II. Contact Information

Thank you for your consideration. Should you have any questions about the content in this memo, please do not hesitate to reach out to Nicholas Johns at NJohns@ntu.org