

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 1062) TO IMPROVE
THE CONSIDERATION BY THE SECURITIES AND EXCHANGE COMMIS-
SION OF THE COSTS AND BENEFITS OF ITS REGULATIONS AND ORDERS

MAY 15, 2013.—Referred to the House Calendar and ordered to be printed

Mr. SESSIONS, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 216]

The Committee on Rules, having had under consideration House Resolution 216, by a record vote of 8 to 2, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 1062, the SEC Regulatory Accountability Act, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for purpose of amendment an amendment in the nature of a substitute consisting of the text of Rules Committee Print 113-10 and provides that it shall be considered as read. The resolution waives all points of order against the amendment in the nature of a substitute. The resolution makes in order only those further amendments printed in this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in this report. The resolution provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the bill includes a waiver of section 3(j)(2) of H. Res. 5 (113th Congress).

While the Committee on Financial Services statement in its report does not include the required specific references to reports from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance, the Committee has determined that the bill does not establish or reauthorize a duplicative federal program consistent with the intent of the standing order.

Although the resolution waives all points of order against the amendment in the nature of a substitute made in order as original text, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments printed in this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 32

Motion by Ms. Slaughter to make in order and provide the appropriate waivers for amendment #4, offered by Rep. Slaughter (NY), which delays implementation of the bill until the enactment of a law that requires the political intelligence industry to comply with the Lobbying Disclosure Act registration requirements and the Ethics in Government Act “revolving door” restrictions. Defeated: 2–8.

Majority Members	Vote	Minority Members	Vote
Ms. Foxx	Nay	Ms. Slaughter	Yea
Mr. Bishop of Utah	Nay	Mr. McGovern	
Mr. Cole	Nay	Mr. Hastings of Florida	
Mr. Woodall	Nay	Mr. Polis	Yea
Mr. Nugent	Nay		
Mr. Webster	Nay		
Ms. Ros-Lehtinen			
Mr. Burgess	Nay		
Mr. Sessions, Chairman	Nay		

Rules Committee record vote No. 33

Motion by Ms. Slaughter to strike all waivers of points of order in the rule. Defeated: 2–8.

Majority Members	Vote	Minority Members	Vote
Ms. Foxx	Nay	Ms. Slaughter	Yea
Mr. Bishop of Utah	Nay	Mr. McGovern	
Mr. Cole	Nay	Mr. Hastings of Florida	
Mr. Woodall	Nay	Mr. Polis	Yea
Mr. Nugent	Nay		
Mr. Webster	Nay		
Ms. Ros-Lehtinen			
Mr. Burgess	Nay		
Mr. Sessions, Chairman	Nay		

Rules Committee record vote No. 34

Motion by Ms. Foxx to report the rule. Adopted: 8–2.

Majority Members	Vote	Minority Members	Vote
Ms. Foxx	Yea	Ms. Slaughter	Nay
Mr. Bishop of Utah	Yea	Mr. McGovern	
Mr. Cole	Yea	Mr. Hastings of Florida	
Mr. Woodall	Yea	Mr. Polis	Nay
Mr. Nugent	Yea		
Mr. Webster	Yea		
Ms. Ros-Lehtinen			
Mr. Burgess	Yea		
Mr. Sessions, Chairman	Yea		

SUMMARY OF THE AMENDMENTS MADE IN ORDER

1. Sessions (TX): Mandates that assessment plans required under this Act include analysis of any jobs added or lost as a result of the regulation, differentiating between public and private sector jobs. (10 minutes)

2. Hurt (VA): Expresses the sense of Congress that rules adopted by the Public Company Accounting Oversight Board (PCAOB) comply with the same standards required of the SEC. Requires the SEC to ensure that any rules adopted by the Municipal Securities Rulemaking Board (MSRB), and other national securities associations comply with the standards set forth in the bill. (10 minutes)

3. Maloney, Carolyn B. (NY): Strikes all after the enacting clause and inserts findings and a sense of Congress that the SEC is required to conduct economic analysis as part of its rulemaking. (10 minutes)

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SESSIONS OF TEXAS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 6, line 25, add at the end the following: “The assessment plan shall include an analysis of any jobs added or lost as a result of the regulation, differentiating between public and private sector jobs.”

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HURT OF VIRGINIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 10, beginning on line 7, strike “other regulatory entities, including”.

Page 10, beginning on line 8, strike “, the Municipal Securities Rulemaking Board, and any national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3)”.

Page 10, after line 13, insert the following:

SEC. 4. ACCOUNTABILITY PROVISION RELATING TO OTHER REGULATORY ENTITIES.

A rule adopted by the Municipal Securities Rulemaking Board or any national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) shall not take effect unless the Securities and Exchange Commission deter-

mines that, in adopting such rule, the Board or association has complied with the requirements of section 23(e) of such Act, as added by section 2, in the same manner as is required by the Commission under such section 23(e).

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CAROLYN B. MALONEY OF NEW YORK OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Strike all after the enacting clause and insert the following:

SECTION 1. SENSE OF CONGRESS RELATING TO EXISTING REQUIREMENTS FOR ECONOMIC ANALYSES.

(a) FINDINGS.—Congress finds the following:

(1) As with other agencies, current law requires the Securities and Exchange Commission to conduct economic analyses pursuant to the Paperwork Reduction Act, the Congressional Review Act and the Regulatory Flexibility Act.

(2) In addition to the analyses required of all regulatory agencies, the Securities and Exchange Commission is also required to perform additional economic analyses pursuant to section 3(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(f)), section 2(b) of the Securities Act of 1933 (15 U.S.C. 77b(b)), section 202(c) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(c)), and section 2(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(c)), which provide that, where the Commission is engaged in rulemaking and is required to consider whether the rule is necessary or appropriate in the public interest, the Commission must also consider whether the rule will promote efficiency, competition, and capital formation.

(3) In the July 22, 2011 decision in *Business Roundtable v. SEC* (647 F.3d 1144), the United States Court of Appeals for the D.C. Circuit vacated the Commission’s recently adopted proxy access rule, which would have provided a company shareholder or group of shareholders meeting certain minimum ownership thresholds and other requirements the ability to include in the company’s proxy materials the shareholder(s)’ nominee(s) for the company’s board of directors. The court found that, because the Commission had not adequately addressed the likely economic consequences of the rule, its adoption of the rule was arbitrary and capricious.

(4) In March of 2012, the Securities and Exchange Commission revised and clarified its guidance on cost benefit analysis. In December of 2012 the Government Accountability Office issued a review of agencies’ analysis and coordination of rules. The GAO found, “SEC’s guidance defines the basic elements of good regulatory economic analysis in a manner that closely parallels the elements listed in Circular A–4: (1) a statement of the need for the proposed action; (2) the definition of a baseline against which to measure the likely economic consequences of the proposed regulation; (3) the identification of alternative regulatory approaches; and (4) an evaluation of the benefits and costs—both quantitative and qualitative—of the proposed action and the main alternatives.”

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Securities and Exchange Commission is required pursuant to law to conduct economic analyses as part of its rulemakings. Further, the D.C. Circuit Court's recent decision in the Business Roundtable case makes clear that the economic analyses the Commission undertakes in connection with its rules are subject to meaningful judicial scrutiny.

