

## CONGRESSIONAL INTENT IN SPECIFIC PROVISIONS

In (e)(1)(A) of this bill, Congress mandated that the SEC consider the “nature and source of the problem that the proposed regulation is designed to address, as well as assess the significance of that problem” before issuing a regulation. Congress believes, consistent with systemic risk exceptions for open bank assistance, that the SEC may issue regulations to reduce systemic risk, and that such a rationale for a regulation is sufficient for a consideration of the nature and source of a problem, as well as determining its significance. Congress, consistent with the 1934 Act’s reasoning around the prevention of National Emergencies, intended for the SEC to consider the maximum possible loss to investors and maximum possible decline in capital formation should a regulation not be promulgated. This maximum cost should include considering the possibility of another systemically risky event similar to the financial crisis of 2008, with its implied cost of \$22 trillion (according to the Government Accountability Office).

See also, e.g., *Better Markets, the cost of the Wall Street Collapse and Ongoing Economic Crisis Is More Than \$12.8 Trillion* (Sept. 15, 2012), available at <http://bettermarkets.com/sites/default/files/Cost%20of%20The%20Crisis.pdf>. It is Congress’s intent that when promulgating rules, the SEC must consider whether a rule will help prevent such an economic catastrophe from happening again.

In (e)(1)(B) of this bill, Congress intended the Chief Economist to make a determination of the implied cost to society of not issuing a regulation, and the burden to society implied by current business practices. In requiring the Chief Economist to assess “both qualitative and quantitative” costs and benefits, Congress intended the Chief Economist to take into account costs and benefits that are not easily quantified, and to give such unquantifiable benefits of financial regulation the same consideration as the quantifiable benefits. These unquantifiable benefits include, but are not limited to, the avoidance of investor losses, heightened transparency, greater systemic stability, the benefits of increased investor confidence in the integrity of the financial system and the overall economic system, and, above all, any risk of a collapse of the global financial system and prevention of another crippling financial crisis. As some commentators have observed, it is imperative that rule-making be conducted in a holistic way, one that accounts for the huge benefits that accrue when a collection of rules helps prevent financial crises or other widespread abuses. See *Better Markets, Setting the Record Straight on Cost-Benefit Analysis and Financial Reform at the SEC* (July 30, 2012), available at <http://bettermarkets.com/sites/default/files/CBA%20Report.pdf>.

In Sections (e)(1)(B) and (e)(2)(A) of this bill, Congress recognized that when members of the regulated industry do not provide data on the costs of regulation to the SEC, and when cost data is not otherwise available, the SEC has no obligation to develop its own studies or generate its own data. 6Congress agrees with the assessment of the courts, which have long held that no agency has to go to such lengths when assessing costs, and this bill does not alter this important limit on an agency’s duty.

In (e)(1)(C) of this bill, Congress intended that a determination that a regulation is in-

tended to reduce systemic risk is a sufficient “explanation of why the regulation meets the regulatory objectives more effectively than the alternatives.” In this subsection, Congress intended the SEC to report on alternatives that it considered so as to provide a complete picture of the justification for the regulation; Congress did not intend to create a requirement that the SEC consider any minimum number of alternatives, or any alternatives at all.

In subsection (e)(1)(D) of the text added by this bill, Congress intended that any regulation should be easy to understand to the extent allowed by the subject matter of the regulation; Congress did not intend that regulations should be substantively simplified solely for ease of communication, or that a regulation might be invalid because of its complexity.

In (e)(2)(A) of this bill, Congress noted that, “in deciding whether and how to regulate, the Commission shall assess the costs and benefits of available regulatory alternatives, including the alternative of not regulating, and choose the approach that maximizes net benefits.” Congress believes that the avoidance of systemic risk and the attendant \$22 trillion cost of National Emergencies needs to be considered for any proposed regulation that the SEC determines is intended to reduce systemic risk.

In subsection (e)(2)(A)(ii) of the text added by this bill, Congress intended that the SEC, in identifying the regulation that imposes the “least burden on society,” should consider both the costs and benefits of the regulation itself, and should evaluate those burdens on society created by the regulation and those burdens on society that exist in the absence of regulation and would be mitigated by the proposed regulation. Congress intended the SEC to take into account not only the “cumulative costs of regulation,” but also the cumulative benefits of regulation.

Further, in subsection (e)(2)(A)(iii) of this bill, Congress intended that to “evaluate whether the regulation is consistent, incompatible, or duplicative of other Federal regulations” means to publish the regulation for comment in the Federal Register.

In (e)(3) of this bill, Congress intended that that phrase “industry group concerns” referenced in the second part of the paragraph also apply to the “consumer groups” referenced earlier in the same paragraph. Congress intended that Commission explain any changes resulting from comments by industry or consumer groups, and similarly requires them to give specific reasons if changes suggested by industry or consumer groups were not implemented. Congress intended “consumer groups” to mean groups that act in the public interest and provide a perspective that is generally a counterweight to industry financial interests and facilitating an appropriately diverse marketplace of ideas within the process of making and evaluating regulations. In addition, the SEC may explain a decision not to incorporate an industry group concern by citing an opposing concern raised by another commenter or by the SEC itself.

In (e)(4) of this bill, Congress intended for the Commission not only to take into account the “large burden of such regulation when compared to the benefit of such regulation,” but to also consider whether a regulation imposes only a relatively small burden when compared with its benefit, which could possibly warrant expansion, as is further indicated

by references in same subsection that the Commission should determine whether regulations are “ineffective [or] insufficient” and should be “expand[ed].” In other words, Congress’s intent for Section (e)(4) of this bill was that when the SEC is reviewing its regulations, it will devote the same attention to strengthening and expanding rules that have become weak over time as it does to streamlining or repealing ineffective rules.

In the same paragraph, in determining whether any regulations are “outmoded, ineffective, insufficient, or excessively burdensome,” Congress intended that the Commission should be particularly attentive to the rapid pace of change in the financial industry and the securities markets and the new risks that are created in those markets, including risks to the financial system as a whole, to corporations that rely on those markets, and to investors in those markets. Congress intends that the Commission, in using this periodic review process to “modify, streamline, expand, or repeal” regulations, should proactively protect against new threats to the financial system and close loopholes that are opened up by financial innovation aimed primarily at evading regulation.

In (e)(5)(A)(ii) of this bill, Congress intends that the “quantitative and qualitative metrics” should include, where relevant, the prevention of financial crises and severe recessions caused by those crises, as well as the maintenance of individual investor confidence in the securities markets.

In (e)(5)(B) of this bill, Congress intends that the mandated assessment plan may be in whatever form the Commission deems appropriate for the regulation at issue, subject to the requirements of subsection (e)(5)(B)(i). In particular, some or all of the costs or benefits of the regulation may be qualitative and not reducible to quantitative figures, and the Commission may determine that no action will be taken on the regulation on the basis of qualitative factors included in the assessment.

## A TRIBUTE TO THOMAS GRIFFIN

## HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 23, 2013*

Mr. LATHAM. Mr. Speaker, I rise today to recognize the achievements of Thomas Griffin of Ankeny, Iowa for receiving a coveted 2013 James Madison Fellowship from the James Madison Memorial Fellowship Foundation.

The James Madison Fellowship is offered to current and prospective teachers of American history and social studies to support study of the history and principles enshrined in the U.S. Constitution, at the graduate level. These fellowships provide a valuable service to our Nation by both fostering the aspirations of the Nation’s most promising and distinguished teachers while continually improving the quality of teaching in our Nation’s schools.

Mr. Griffin, a teacher at Johnston High School, represents one of just 56 fellowships that were awarded Nationwide in 2013. His selection for this honor will include up to \$24,000 toward a master’s degree in his field of study.

Mr. Speaker, it is a profound honor to represent leaders like Mr. Griffin from the great

State of Iowa in the United States Congress. I know my colleagues in the United States House will join me in congratulating him for receiving this recognition, and I wish him the best of luck in his studies and continuing career in education.

#### RECOGNIZING NATIONAL EMERGENCY MEDICAL SERVICES WEEK

##### HON. TOM REED

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 23, 2013*

Mr. REED. Mr. Speaker, I rise today to recognize May 19–25 as National Emergency Medical Services Week. The goal of this important week is to encourage safety and to honor the dedication of those who provide day-to-day lifesaving services. Though this honorary title may only last a week, the highlighted message should be recognized throughout the entire year.

This year's theme is "EMS: One Mission. One Team." This powerful theme serves as a reminder that emergency providers work selflessly each and every day to aid those in need whenever the call may be heard. Though the titles may differ—paramedics, first responders, firefighters—they all strive to improve the communities in which we live and work.

One does not have to look past the recent tragedy in Boston to fully understand just how important emergency medical services are in our daily lives. The heroes on that dark day were ordinary citizens who rose up in the face of tragedy to treat the dozens of wounded runners and innocent bystanders.

It is my hope that everyone takes a moment to thank those around them who perform these life-saving services. They are America's true everyday heroes.

#### CONGRATULATING THE BOROUGH OF NEW BRIGHTON ON ITS 175TH ANNIVERSARY

##### HON. KEITH J. ROTHFUS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 23, 2013*

Mr. ROTHFUS. Mr. Speaker, I rise today to congratulate the Borough of New Brighton on the 175th anniversary of its founding in 1838. The Borough of New Brighton is located on the east bank of the Beaver River, about two miles from its junction with the Ohio River.

The present site of New Brighton was first settled by United States Army Colonel Josiah Harmer, who built a blockhouse with the help of troops from nearby Fort McIntosh in 1788. William and David Constable surveyed and laid out the site of the new town, which they named Brighton, after their old home in England. Residents soon popularized the name to New Brighton, and the new town was incorporated as such by an Act of Assembly in 1838.

New Brighton's early settlers were skilled tradesmen drawn by good factory sites, water power, and the demand for their specialized skills. Others sought religious freedom and economic opportunity. Today, New Brighton's residents take pride in their community, which

balances suburban living with a walkable downtown area. New Brighton is one of Beaver County's Rivertowns, and it offers a variety of recreation and cultural attractions including Big Rock Park, the New Brighton Fishing Park, and the Merrick Art Gallery.

Mr. Speaker, fellow Members, please join me in congratulating the Borough of New Brighton on the 175th anniversary of its founding.

#### HONORING STEVE PATERNOSTER

##### HON. MICHELLE LUJAN GRISHAM

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 23, 2013*

Ms. MICHELLE LUJAN GRISHAM of New Mexico. Mr. Speaker, I rise to honor Steve Paternoster, who was recently selected as the National Restaurant Association's 2013 Cornerstone Humanitarian of the Year for his extraordinary contributions to his community and for his philanthropic service to others. Steve has selflessly dedicated his life to improving the lives of countless New Mexicans. An alumnus of New Mexico Military Institute, Steve now serves as CEO of the YMCA of Central New Mexico and is the owner of a successful restaurant. From donating about \$200,000 annually through his business to serving on local non-profit boards, he focuses on organizations that support chronic disease, the less fortunate, young adults at risk and the arts.

In 2009, Steve and his daughter Haley founded the Special Programs Youth Assistance Foundation to help troubled and disadvantaged youth in New Mexico, including those in Children's Drug Court and those suffering from domestic abuse. After losing Haley to a heroin overdose in 2010, Steve has made it his life's mission to help others overcome obstacles similar to those Haley and the Paternoster family faced. Steve also hosts an annual holiday dinner at his restaurant for troubled teenagers, their families, Court staff and their families.

Steve works closely with many other causes including Isshin Ryu, a non-profit organization designed to provide education, recreation and enrichment activities to disadvantaged youth. He also works with the Heart Gallery of New Mexico Foundation, which helps hard-to-place children in foster homes. Additionally, Steve is involved with New Mexico AIDS Services, the American Heart Association, the American Stroke Association, the Heart Hospital of New Mexico Foundation and Dismas House, which provides support for people with chronic illnesses.

I congratulate Steve on receiving this prestigious award and thank him for his hard work and for the many contributions he has made and will continue to make to New Mexico.

#### NORTHERN ROUTE APPROVAL ACT

SPEECH OF

##### HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 22, 2013*

The House in Committee of the Whole House on the state of the Union had under

consideration the bill (H.R. 3) to approve the construction, operation, and maintenance of the Keystone XL pipeline, and for other purposes:

Mr. VAN HOLLEN. Mr. Chair, I rise in strong opposition to this legislation, which is a transparent attempt to skirt federal law so that the majority can impose its own preferred outcome on the State Department's ongoing regulatory review of the Keystone XL pipeline.

Although my colleagues on the other side of the aisle make much of their professed commitment to regular order and distaste for earmarks, recent developments—including today's legislation—make clear that commitment is only as deep as it is convenient.

Regular order? We are now 37 days past due on delivering an FY 2014 Budget, and the majority still refuses to go to conference.

Earmarks? This legislation—which carves out numerous special exceptions for a single pipeline project benefitting one company—is clearly an earmark.

Mr. Chair, the decision as to whether to build the northern route of the Keystone XL pipeline should be made based on a complete and thorough evaluation of its impacts on our climate, energy security, water supply, job creation, air quality, balance of trade, human health and other relevant factors—not some hastily thrown together, ill-considered and politically driven exercise.

I urge a no vote.

#### TRIBUTE TO DEBORAH OSAKUE

##### HON. PETE OLSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 23, 2013*

Mr. OLSON. Mr. Speaker, I am privileged to interact with some of the brightest students in the 22nd Congressional District who serve on my Congressional Youth Advisory Council. I have gained much by listening to the high school students who are the future of this great nation. They provide important insight into the concerns of our younger constituents and hopefully get a better sense of the importance of being an active participant in the political process. Many of the students have written short essays on a variety of topics and I am pleased to share these with my House colleagues.

Deborah Osakue is a senior at Hightowner High School in Fort Bend County, Texas. Her essay topic is: In your opinion, why is it important to be involved in the political process?

Our constitution was framed according to the Lockean social contract that government should have the "consent of the governed". As an African American female, I know that people have died and have spent their lives fighting to give me an opportunity to participate in the American political process. If I abstain from the political process, these people would have fought and died in vain. I owe the likes of Susan B. Anthony, Sojourner Truth, and Martin Luther King the respect of my participation in a democracy they toiled to create. The American system of government gives its citizens one crucial responsibility: to vote. Men and women have died on foreign and domestic soil all so that I can be free. To abstain from the democratic process is to spill their blood in contempt. It is undeniable that the practice of gerrymandering has been used to oppress minority voices. I know our political