farmers, ranchers, and end-users manage risks, to help keep consumer costs low, and for other purposes, had come to no resolution thereon.

SEC REGULATORY ACCOUNTABILITY ACT

GENERAL LEAVE

Mr. HENSARLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to submit extraneous material on H.R. 78, to improve the consideration by the Securities and Exchange Commission of the costs and benefits of its regulations and orders.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 40 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 78.

The Chair appoints the gentleman from California (Mr. MCCLINTOCK) to preside over the Committee of the Whole.

□ 1415

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 78) to improve the consideration by the Securities and Exchange Commission of the costs and benefits of its regulations and orders, with Mr. MCCLINTOCK in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Texas (Mr. HENSARLING) and the gentlewoman from California (Ms. MAXINE WATERS) each will control 30 minutes.

The Chair recognizes the gentleman from Texas.

Mr. HENSARLING. Mr. Chairman, I yield myself such time as I may consume.

I rise in support of H.R. 78, the SEC Regulatory Accountability Act.

I thank the gentlewoman from Missouri (Mrs. WAGNER) for leading this effort in the House.

This bill is technically about something called economic analysis or cost-benefit analysis. That may sound like Ph.D. economics, but it is really about kitchen table economics because, Mr. Chairman, it is truly about whether we are going to have a stronger economy—one that creates good-paying jobs so that parents can afford to raise their children today and these same children can have a brighter future tomorrow. It is about making sure we have an accountable government that expands personal opportunity, not government bureaucracy.

Mr. Chairman, I think we all know that small businesses are truly America's job engine. They create nearly two-thirds of all new jobs in our economy. Our economy works better for all when small businesses can focus on creating jobs and on serving their customers rather than navigating needless government red tape.

Unfortunately, for America's small businesses, bureaucratic red tape has no better friend than the Obama administration. It has issued more than 4,400 final regulations, with an astronomical cost to all of us of $1 trillion. Just since the election on November 8, the Obama administration had cynically issued 145 midnight regulations with a cost of more than $21 billion.

For anyone who believes that this doesn't hurt our small businesses, they need to listen to their constituents, because I certainly listen to mine. I heard from a small business owner named Chris, who is back in my district and who wrote me:

> We have seen wave after wave of Federal regulations affect our ability to grow. The costs associated with additional reporting, auditing, and compliance are massive. The money spent is significant and costs jobs and potential jobs.

Mr. Chairman, he is exactly right. The true cost of Washington red tape cannot just be measured in dollars. The true cost includes the jobs not created, the small businesses not started, and the dreams of our children not fulfilled. Ill-advised laws like the Dodd-Frank Act empower unelected, unaccountable bureaucrats to callously hand down crushing regulations without adequately considering what impact those regulations have on jobs.

As one former SEC Commissioner testified before the Financial Services Committee, which I have the honor of chairing, these Washington elites have forgotten the key to sensible regulation:

> The most appropriate regulatory solution should be the one that imposes the least burden on society while maximizing potential benefits even if that means choosing not to regulate at all.

Although the Securities and Exchange Commission is one of the few Washington agencies that engages in at least some base level of economic analysis, putting this requirement into law is definitely preferable to current agency procedures. After all, the SEC's recent interest in economic analysis came only on the heels of numerous Federal courts throwing out some of its regulations because the Commission failed to adequately take into account, again, the true costs and benefits of its rules.

Passing this bill will erase any doubt that the Securities and Exchange Commission must conduct sound economic analysis. It must consider the impact of their rules on our jobs and our family budgets. That is what cost-benefit analysis is all about.

Mr. Chairman, we may hear today from the usual suspects—the opponents of this bill—that somehow this is meant to hinder the rulemaking process and encourage litigation against the SEC. You will hear these same people say, once again, that this is somehow dangerous. Mr. Chairman, what is dangerous is being ignorant of the impact the proposed regulations will have on our economy and on the American people's wallets before they get implemented. That is what is dangerous.

What is interesting, Mr. Chairman, is that Presidents, frankly, of both parties seem to agree. Even Presidents Clinton and Obama directed independent agencies to engage in, essentially, exactly the same procedures that H.R. 78 would make into law. Such irony, Mr. Chairman, that some Democrats will come to the floor today and oppose codifying into law Clinton and Obama policy. Again, the irony of it all.

I urge all Members to join me in supporting this bill because we must hold Washington accountable to the American people. We must build a stronger, healthier economy so struggling Americans can get back to work and achieve financial independence.

Mr. Chairman, I reserve the balance of my time.

Ms. MAXINE WATERS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, just as I opposed the bill before us today in the previous three Congresses, I rise in opposition to it now. Republicans have crafted H.R. 78 to tie the hands of the Securities and Exchange Commission, the SEC, and to prevent it from issuing new rules to address market failures and protect investors. At the same time, the bill would enable the Trump administration to easily repeal important Dodd-Frank rules by tilting the SEC's decisions toward what is best for industry and, worse, what enriches the President-elect and his cronies.

Before I discuss H.R. 78, I think it is important to point out that 14 members of the Financial Services Committee, as well as the millions of Americans they represent, are being denied the opportunity to discuss this bill through hearings and markups. We are barely into the second week of this Congress and the Republican leadership is completely ignoring regular order—despite Speaker RYAN's declaration less than a week ago of a return to regular order—by skipping the committee process to bring this bill to the floor; but this is par for the course.

In the other Chamber, Senate Republican leadership is similarly jamming Donald Trump's conflicted nominees through the confirmation process even before the FBI has completed background checks. And with barely 10 days until his inauguration, Donald Trump has already given up on ''draining the swamp'' and has broken his promise to hold Wall Street accountable by nominating Wall Street insiders to nearly every key economic and regulatory post.

Let me turn back to the problems with H.R. 78.

During the past four Congresses, Republicans have sought to increase the cost-benefit requirements that are related to SEC rulemakings even though the Commission is already subject to stringent economic analysis for which it is held accountable. Current law requires the SEC to conduct the same economic analysis that is required of all agencies under the Paperwork Reduction Act, the Congressional Review Act, and the Regulatory Flexibility Act. Unlike other financial regulators, the SEC has additional statutory requirements to study how its rules affect market efficiency, competition, and capital formation.

Additionally, in 2012, the SEC voluntarily issued internal guidance on economic analysis for rulemakings that closely follow Executive Order No. 12866. Since adopting this guidance, the SEC has dramatically expanded its economic analysis capabilities, including by increasing the staff and the budget of its economics division by more than 300 percent over the last 5 years. In any other reality, the SEC would be held up as a model of effective economic analysis.

When asked by Republicans in Congress to review the SEC's analysis, the inspector general concluded:

> We determined that the SEC's use of its current guidance has been effective in incorporating economic analysis into the rulemaking process.

H.R. 78, however, goes much, much further in radically directing the SEC to no longer be concerned with the protection of investors. In fact, the only reference to investors anywhere in the bill is in a provision requiring the SEC to consider the impact these rules will have on ''investor choice.''

The American public knows full well that ''investor choice'' is a code for industry's wanting to offer a menu of predatory products, such as subprime—toxic—mortgages or retirement products that are designed to bankrupt low- and middle-income Americans and line the pockets of Wall Street executives. Further suggestions that the bill is only codifying the cost-benefit executive orders are false as the bill omits one key provision from those orders: the prohibition of private rights of action, which is simply the right to sue.

As a result, H.R. 78 provides industry with endless avenues to sue the SEC and, thereby, puts pressure on the regulator to adopt the rules it wants and to repeal everything else. What is worse, the bill is the first signal to Wall Street that the SEC is leaving the enforcement business. H.R. 78 provides no new funding for the SEC to address the substantial, analytic, and potential litigation responsibilities the bill would create even though the Congressional Budget Office estimates that the analytical workload alone would cost $27 million.

Let's not fool ourselves that Republicans are going to increase the SEC's funding. That is at the top of their agenda—kill the SEC by taking away the funding that they need to be the cops on the block.

Members of Congress just finished debating a bill that caps the SEC's sister agency, the Commodity Futures Trading Commission, at a woefully inadequate funding level for the next 5 years, denying the CFTC the hundreds of millions of dollars it needs to adequately police the swaps markets.

Further, Donald Trump has nominated a lifelong defender of Wall Street's to lead the SEC, which I can only assume means that Trump's SEC will equally pillage the Commission's overworked enforcement staff to help pay for the Republicans' planned repeal of Dodd-Frank.

□ 1430

As President-elect Trump takes office next week, beginning what is the most conflicted administration in U.S. history, I urge my colleagues to join me, investor and consumer advocates, public pension plans, civil rights groups, labor unions, and supporters of financial reform in opposing H.R. 78 to ensure that the actions of Trump's SEC are in the interest of America's economic stability and not in Russia's or Wall Street's interests.

I am amazed that the Republicans can be so blatant, so noncaring to come to us at this time with a bill that would basically take our cop on the block, the SEC, and literally obliterate it. I am absolutely amazed that they have the nerve and the gall to try this in face of everything that we already know about what they have done to strip it of its appropriate funding. But now with all of the debate and the concern about Trump and Russia and everything that is going on, they would come here with this bill today and try to pull this off.

I reserve the balance of my time.

Mr. HENSARLING. Mr. Chairman, I am very pleased now to yield 4 minutes to the gentlewoman from Missouri (Mrs. WAGNER), the author of the SEC Regulatory Accountability Act and the chairman of our Oversight and Investigations Subcommittee.

Mrs. WAGNER. Mr. Chair, I thank Chairman HENSARLING, the gentleman from Texas, for his leadership on this issue and on so many regulatory reform issues that we will be addressing this week and in the future.

Mr. Chair, I am proud to sponsor and bring to the floor H.R. 78, the SEC Regulatory Accountability Act. This legislation fits perfectly with the theme of the week here in the House to advance key regulatory reform ideas as a change of pace from the outgoing administration.

For the past 8 years, the amount of regulatory burden that has been placed on Americans and small businesses has been crushing. In 2015, Federal regulation cost almost $1.9 trillion. That is nearly $15,000 per household in a hidden compliance tax.

The Obama administration issued over 600 economically significant rules, which are those that have an economic impact of over $100 million. As a result of this wave of regulations, we have been part of the slowest economic recovery in our lifetimes.

We now have an opportunity to enact policy that ensures smart regulation going forward so that we are doing things in the best and most efficient way. The people have spoken, Mr. Chair. Business as usual in Washington is over and it is time to do things differently. There is, indeed, a better way.

This legislation is really about what everyday Americans do when they are making major life decisions in weighing the costs and the benefits, the pros and the cons. Whether it is buying a car, buying a home, deciding whether to take out a loan to go to school, everyone must consider the core economic factors when making important life decisions.

The SEC Regulatory Accountability Act places statutory requirements on the SEC when issuing rulemaking that ensures that, first, they identify the problem that regulation is trying to address; second, they weigh the cost and benefits to ensure that the benefits justify costs of compliance; and thirdly, they identify and assess whether there are any available alternatives to rulemaking.

Additionally, this bill contains a provision that requires the SEC to review its existing regulations every 5 years, at the minimum, to determine whether any such regulations are outdated, ineffective, or excessively burdensome, as well as requiring the SEC to modify, streamline, repeal, or even to expand regulations based on that review.

As a regulator of our capital markets, the SEC has an immeasurable influence on our economy and the ability of small business and entrepreneurs to be able to access capital in order to innovate, grow, and most of all, create jobs.

I strongly believe that this legislation is nonpartisan and common sense and what our government regulators should have been doing in the first place. The American people deserve a break from the irresponsible regulation they have grown accustom to over the past 8 years. There is a better way.

I ask my colleagues to support this commonsense piece of legislation and urge passage of it through the House.

Ms. MAXINE WATERS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. GONZALEZ), a new member of the Financial Services Committee.

Mr. GONZALEZ of Texas. Mr. Chairman, I support the regular review of regulations to ensure that they are still relevant to our ever-changing economy.

Unfortunately, the retrospective review requirement in H.R. 78 is counterproductive and places heavy administrative burdens on the Securities and Exchange Commission, an already overburdened and underfunded regulator.

Specifically, it required the Commission to review all of its rules within 1 year of an enactment, and to constantly review its rules every 5 years thereafter, regardless of whether there is any cause for concern with a particular regulation. I find this appalling.

That means the Commission will have to go back to 1934 and review every single rule, even ones industry likes and rules that have made our capital markets the envy of the world.

Today the SEC has a number of formal and informal processes for intelligently identifying rules for review. For example, the Regulatory Flexibility Act requires the SEC to conduct a 10-year retrospective rule review, and the Paperwork Reduction Act requires periodic reviews of information collection burdens.

Under the Regulatory Flexibility Act, the SEC publishes a plan to look at rules that have a significant economic impact on smaller businesses, inviting public comment on the rules, including how it could be amended to reduce the impact of many small businesses within my district and certainly around the country.

In addition, the SEC has been conducting several broad-based reviews of rules on its own accord related to issuer disclosure, equity market structure, and even the definition of what an accredited investor is.

As an already cash-strapped agency, the SEC, tasked with such an onerous retrospective rule review required by H.R. 78, would be forced to divert already scarce resources from other important tasks, including policing the markets for fraud and stopping bad actors before they can drain the life savings of investors and many retirees in my district and around the country. This is our seniors we are talking about.

Looking at the bill as a whole, it appears that this is the point of the legislation: rather than have the SEC focus on its mission to protect investors and support many small businesses, H.R. 78 focuses on the burdens of the financial industry and repealing those rules.

I oppose this bill.

Mr. HENSARLING. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. HUIZENGA), the chairman of our Subcommittee on Capital Markets and Government Sponsored Enterprises.

Mr. HUIZENGA. Mr. Chair, I rise today in support of H.R. 78, the SEC Regulatory Accountability Act, which would improve and strengthen the SEC's rulemaking process by requiring more rigorous economic analysis.

What exactly does that mean?

Well, an economic analysis is quite simple, frankly. It is a systemic approach to determine the optimum use of scarce resources involving comparison of two or more alternatives to achieve a specific objective under the given assumptions and constraints. That is a whole lot of words and jumbo. But what we need to do is make a comparison, what is going to be the benefit.

Economic analysis takes into account the opportunity costs of resources employed and attempts to measure, in monetary terms, the private and social costs and benefits of a project to a community, an economy, or to an individual.

In its simplest terms, the SEC would have to determine the costs and benefits of proposed regulations, as well as potential alternatives to determine a best direction forward, basically ensuring that the SEC is thoroughly assessing both the need for the regulation and adequately evaluating the potential consequences, both intended and unintended, and is there a benefit.

Mr. Chairman, requiring economic analysis by Federal regulators is not a partisan issue. In fact, both President Clinton and President Obama issued executive orders requiring regulators to ensure that their rules were maximizing and achieving a net benefit.

H.R. 78, the SEC Regulatory Accountability Act, would ensure consistent and effective application of the SEC's economic analysis guidance by building on the bipartisan effort to strengthen economic analysis requirements, as well as require a retrospective review of existing regulations for independent agencies like the SEC.

Specifically, the bill would enhance the SEC's existing economic analysis requirements by requiring the Commission to first clearly identify the nature of the problem that would be addressed before issuing a new regulation—too often, we are just shooting at a target that we don't even know is actually a target—and to prohibit the SEC from issuing a rule when it cannot make ''a reasoned determination that the benefits of the intended regulation justify the costs of the regulation.''

Additionally, H.R. 78 would require the SEC to assess the costs and the benefits of available regulatory alternatives, including the alternative of not issuing a regulation, and choose the approach that would maximize the net benefit. The SEC must also evaluate whether a proposed regulation is inconsistent or incompatible or duplicative of other Federal regulations.

In testimony before the Subcommittee on Capital Markets and Government Sponsored Enterprises last year, former SEC Commissioner Dan Gallagher noted that the SEC Regulatory Accountability Act would ''promote and improve economic analysis at the SEC and make the agency even more accountable to the investing public.'' He further testified that this bill ''will help ensure the economic analysis conducted by economists is firmly entrenched in every rulemaking the SEC conducts under the Federal securities laws.''

The Acting CHAIR (Mr. COLLINS of New York). The time of the gentleman has expired.

Mr. HENSARLING. Mr. Chair, I yield an additional 30 seconds to the gentleman from Michigan.

Mr. HUIZENGA. Mr. Chair, I commend the gentlewoman from Missouri (Mrs. WAGNER) for introducing this important piece of legislation, which will equip the SEC with the necessary tools to ensure that all future SEC regulations will meet these standards with the ultimate goal of achieving the SEC's statutory mission of protecting investors and facilitating capital formation.

I urge my colleagues on both sides of the aisle to support this important bill.

Ms. MAXINE WATERS of California. Mr. Chairman, I yield myself such time as I may consume.

Let me point out how H.R. 78 tilts their decisionmaking process toward Wall Street. First, let's go back and review everything the President-elect said about Wall Street, and then we can understand exactly what is being done here.

In August 2015, President-elect Trump told CBS: ''The hedge fund guys didn't build this country. These are guys that shift paper around and they get lucky. They make a fortune. They pay no tax. It's ridiculous, okay?''

In January 2016, Trump told Iowans: ''I'm not going to let Wall Street get away with murder. Wall Street has caused tremendous problems for us.''

I repeat, he said: ''Wall Street has caused tremendous problems for us.''

In February of 2016, Trump said: ''I know the guys at Goldman Sachs, they have total control over Hillary Clinton.''

In July of 2016, Trump tweeted: ''Hillary will never reform Wall Street. She is owned by Wall Street.''

He also told Iowans: ''I don't care about the Wall Street guys. I'm not taking any of their money.''

Now, Trump has totally betrayed his promise to drain the swamp. He has appointed Goldman Sachs bankers to the Treasury and the National Economic Council, and his pick to head the Securities and Exchange Commission is a lawyer whose career has been based upon defending Wall Street, including Goldman Sachs. This legislation today is part and parcel to that betrayal.

This is how you do it: cost-benefit analysis, you can attach this to any and all monetary and financial services legislation. You can attach it wherever you would like and, thus, cause the delays, cause the undermining of legislation, put the SEC in the position where it has to defend in court, costing them more money that they don't have because they have denied them adequate funding.

□ 1445

This is what this is all about. How do we get our Wall Street friends and cronies back into the business, because Dodd-Frank began to deal with them and to reverse some of what had been happening for far too long. Now they come with this attack and they talk about cost-benefit analysis. Mr. Chairman, this is what they are going to use to ride their way back into making

sure that they give the protection and the advantages to all of their friends on Wall Street.

Mr. Trump was not about draining the swamp. He is about making sure that there is a swamp, digging it deeper and wider.

I reserve the balance of my time.

Mr. HUIZENGA. Mr. Chairman, despite the personal attacks happening on the floor here, I am glad to see that we are making real progress. Apparently, we are making an impact here.

With that, I yield 1½ minutes to the gentleman from New York (Mr. KING).

Mr. KING of New York. Mr. Chairman, I rise in support of H.R. 78, the SEC Regulatory Accountability Act. If passed, the SEC would be required to follow President Obama's executive order that requires a thorough cost-benefit analysis of new rules and a comprehensive review of existing regulations. Under current law, the SEC must consider the effect of its rules on ''efficiency, competition, and capital formation,'' and weighing costs and benefits is necessary to meet this requirement.

Cost-benefit analysis is not a new idea. Agencies have done this kind of analysis for over 30 years. In fact, it is a bipartisan idea. In 1981, President Reagan issued an executive order requiring Cabinet-level agencies to engage in cost-benefit analysis, which President Clinton expanded with another executive order in 1993.

Unfortunately, independent agencies are not subject to executive orders and those regulated by the SEC have suffered as a result. From 2005 to 2012, SEC regulations were overturned consistently by the courts for inadequate economic analysis and unjustified costs. While the SEC has taken steps to improve its rulemaking process, H.R. 78 will ensure that future rules maximize economic benefit and companies do not face unnecessary hurdles when they access our capital markets. Democrats and Republicans often do not agree on policy, but I hope we can agree on the need for a fair, transparent, and informed process.

I thank my distinguished colleague for introducing this vital legislation.

Ms. MAXINE WATERS of California. Mr. Chairman, I yield the balance of my time to the gentlewoman from New York (Mrs. CAROLYN B. MALONEY).

Mrs. CAROLYN B. MALONEY of New York. Mr. Chairman, I thank the gentlewoman for yielding me the time.

Mr. Chairman, I rise in strong opposition to H.R. 78, the SEC Regulatory Accountability Act. This bill would require the SEC to do an absurd amount of time-consuming, duplicative cost-benefit analysis before they can even propose a rule. This is the fourth time, Mr. Chairman, that we are voting on this partisan bill because the previous three times the bill has been rejected by the Senate and President Obama has strongly opposed it.

But let's be clear about what this bill is not about. It is not about ensuring that the SEC conducts a cost-benefit analysis on the rules. If that were the case, then no legislation would be necessary. The SEC is already required to conduct a cost-benefit analysis and has already adopted internal guidance on economic analysis that mirrors the exact requirements of this bill before us today. So the problem is not that the SEC doesn't currently conduct cost-benefit analyses or that it does it poorly; the real goal of this bill is simply to give the industry more chances to sue the SEC on cost-benefit grounds when it issues rules the industry does not like. That is essentially the only thing that would change if this bill were signed into law.

The SEC's cost-benefit analysis would be the same, but the industry would have more opportunities to sue the SEC over alleged flaws in the cost-benefit analysis. And the threat of a lawsuit would force the SEC to divert even more of its scarce resources to cost-benefit analysis, which would delay the key reforms and undermine the SEC's ability to protect investors—their core mission.

So I urge my colleagues to oppose this bill, as they have in three previous votes before this body.

I reserve the balance of my time.

Mr. HUIZENGA. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. HILL), the whip of our Financial Services Committee.

Mr. HILL. Mr. Chairman, I thank the gentleman from Michigan for yielding me the time.

Today I rise in support of H.R. 78, the SEC Regulatory Accountability Act.

One can cut the hyperbole on the other side of the aisle with a knife today because we are not here talking about gutting enforcement. We are not here talking about exceptionally benefiting Wall Street operators. What we are talking about is enhancing the SEC's cost-benefit process.

The Commission has made many positive strides toward its economic analysis in the past few years. This bill will enhance their efforts at ranking and providing resources to the rules that will in fact provide investor protection and provide efficient, competitive U.S. markets. Too many of their resources have been deviated on wild goose hunts related to the Dodd-Frank mandates.

During this same time, we have experienced a sharp decline in initial public offerings and public companies generally. Largely, in my view, that is as a result of the regulatory burden and the costs associated with being a public company. This should be a concern to every Member of this body.

This bill would make the SEC's rulemaking process more accountable by enhancing its cost-benefit analysis requirements and would require the Commission to revisit its rules after implementation to ensure they are actually achieving their intended purposes.

This bill does away with the notion that congressional mandates are exempt from cost-benefit analysis and requires the Commission to evaluate these rules as well—a good thing; Congress doesn't always get it right—in addition to identifying alternatives which might even include no rule at all, in short, using common sense.

Requiring this sort of more robust economic analysis will also help the SEC set priorities. Chair White testified before our committee in the past Congress that they have 50 front burners. They can't decide what their most important agenda item is. Let's fix it, Mr. Chairman, by passing this bill.

The Acting CHAIR. The time of the gentleman has expired.

Mr. HUIZENGA. I yield the gentleman an additional 30 seconds.

Mr. HILL. This bill will focus attention where attention is needed to benefit investors, our capital markets, and the economy the most. H.R. 78, along with the HALOS Act that we passed in the House on Tuesday, will help ensure that the SEC regulations do not unnecessarily impede consumer and business access to capital.

I thank the chairman for the time. I appreciate Mrs. WAGNER for her work on this bill.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chairman, I enter into the RECORD the following letters of opposition to H.R. 78 signed by the Consumer Federation of America, Americans for Financial Reform, the California State Teachers' Retirement System, and the Council of Institutional Investors. These institutions represent various groups such as investors, consumers, public pension plans, labor unions, and communities of color.

CONSUMER FEDERATION
OF AMERICA,
January 10, 2017.

VOTE NO ON H.R. 78, THE ''SEC REGULATORY ACCOUNTABILITY ACT''—BILL WOULD PARALYZE THE AGENCY'S ABILITY TO PROTECT INVESTORS AND PROMOTE MARKET INTEGRITY

DEAR REPRESENTATIVE: This week the House is expected to vote on H.R. 78, the ''SEC Regulatory Accountability Act.'' The bill imposes burdensome new rulemaking requirements that would prevent the agency from responding in a timely manner either to emerging threats in the marketplace or to industry requests for guidance or legal interpretations. As such, it threatens to undermine the stability and integrity essential to healthy capital markets, with harmful consequences for investors, capital formation, and the overall economy. I am writing on behalf of the Consumer Federation of America to urge you to vote no when the bill is brought to the floor for a vote.

The bill is being promoted as a measure to enhance cost-benefit analysis at the Securities and Exchange Commission (SEC). And, in that regard, certain of the bill's requirements are relatively benign, such as the requirements that the agency discuss the nature and scope of the problem it is intending to solve when it engages in rulemaking, carefully analyze available alternatives, and consider the costs of the various alternatives as well as their relative effectiveness in determining on a course of action. But these are things the SEC already does, having learned the painful lesson that failure to do so can result in its rules' being overturned in court. Indeed, both the Government Accountability Office and the SEC's Office of

the Inspector General have in recent years praised the agency for the extent and quality of its cost-benefit analysis.

Other of the bill's provisions are far more harmful. The following are among the most serious problems with this legislation:

It requires the agency to adopt, not the most cost-effective regulatory approach, but the least burdensome approach. As such, it prioritizes minimizing regulatory costs over promoting regulatory effectiveness.

The bill requires the agency to consider a number of specific factors in assessing regulations, including their effect on efficiency, competition, and capital formation as well as investor choice, market liquidity, and small business. Not included are any specific requirement to assess their impact on investor protection or market integrity, stability, and transparency.

If the Conunission fails to address concerns raised by ''industry groups'' related to costs and benefits, it must explain its reasons. There is no comparable requirement to explain any decision not to address investor concerns.

It imposes these burdensome new requirements, not just on regulations, but also on agency orders, interpretations, and other statements of general applicability ''that the agency intends to have the force and effect of law.'' Firms seeking a timely response from the agency staff on issues important to their business are likely to face significant delays if the legislation is enacted.

It requires the agency to engage in a constant retrospective review of all its regulations every five years, regardless of whether there is any cause for concern with a particular regulation. Since the bill doesn't include any new funding authorization to provide for this review, and Congress has been highly reluctant to provide funding increases commensurate with the agency's workload, the inevitable result is that the agency will be forced to take resources away from other more important regulatory priorities to fund this generally meaningless exercise.

While a reasonable and balanced analysis of costs and benefits can promote effective rulemaking, this legislation goes far beyond what is reasonable or balanced. It would tie the SEC in procedural knots, keep its focus on an endless review of existing rules rather than emerging issues, provide endless grounds for legal challenge, causing a serious drain on agency resources, and undermine the agency's focus on its central mission of protecting investors and promoting market integrity and stability. Indeed, the bill would exacerbate rather than ameliorate the most serious short-comings in the agency's current regulatory process—its inability to complete rulemakings regarding pressing issues in a timely manner.

For these reasons, we urge you to vote ''No'' when H.R. 78, the ''SEC Regulatory Accountability Act,'' is brought to the floor for a vote. The only ''accountability'' this legislation promotes, is the SEC's accountability to the firms it is supposed to regulate rather than the investors it is supposed to protect.

Respectfully submitted,

BARBARA ROPER,
Director of Investor Protection.

AFR AMERICANS FOR
FINANCIAL REFORM,
Washington, DC, January 12, 2017.

DEAR REPRESENTATIVE: On behalf of Americans for Financial Reform, we are writing to express our opposition to HR 78, the ''SEC Regulatory Accountability Act''t6espite the fact that the Securities and Exchange Commission (SEC) is already subject to more stringent economic analysis requirements than any other Federal financial regulator, and has greatly increased its investment in economic analysis in recent years, this legislation would impose a host of unworkable bureaucratic and administrative requirements on the agency. While they are justified using the rhetoric of ''cost benefit analysis'', these requirements appear designed not to improve SEC economic analysis but instead to make create major new barriers to effective agency action.

The most prominent new requirement would mandate that the SEC identify every ''available alternative'' to a proposed regulation or agency action and quantitatively measure the costs and benefits of each such alternative prior to taking action. Since there are always numerous possible alternatives to any course of action, this requirement alone could force the agency to complete dozens of additional analyses before passing a rule or guidance. Placing this mandate in statute will also provide near-infinite opportunities for Wall Street lawsuits aimed at halting or reversing SEC actions, and would be a gift to litigators who work on such anti-government lawsuits. No matter how much effort the SEC devotes to justifying its actions, the question of whether the agency has identified all possible alternatives to a chosen action, and has properly measured the costs and benefits of each such alternative, will always remain open to debate.

Like other agencies, the SEC is already required to conduct economic analyses under the Paperwork Reduction Act, the Congressional Review Act, and the Regulatory Flexibility Act. Unlike all other financial regulators, the SEC also has additional statutory requirements to examine how each rules affect market efficiency, competition, and capital formation. The SEC has also issued binding internal guidance on economic analysis for rulemakings that closely follows Executive Order 12866 and OMB Circular A–4, and has more than tripled its spending on economic and risk analysis since 2012.

Despite these already existing commitments to economic analysis, this proposal would load the agency with a crushing burden of additional administrative burdens under the rubric of ''cost-benefit analysis''. In addition to the enormous task of identifying and analyzing every available alternative to a course of action, the agency would be required to perform half a dozen new analyses in addition to its current requirements concerning market efficiency, competition, and capital formation. These new requirements include analyses of effects on small business, market liquidity, state and local government, investor choice, and ''market participants''. Notably, no new requirements concerning the protection of investors or preventing another financial crash are included.

This legislation also requires the SEC to review every single regulation in effect within one year after the passage of this Act, and again every five years thereafter, with an eye to weakening or eliminating such regulations. This will be an enormous drain on SEC resources and a distraction from addressing emerging issues in our ever more complex financial markets.

This legislation is transparently an effort to paralyze the SEC and to empower Wall Street lawyers to overturn its decisions, not to improve its analysis or decision making. We urge you to reject it.

Thank you for your consideration. For more information please contact AFR's Policy Director, Marcus Stanley.

Sincerely,

AMERICANS FOR FINANCIAL REFORM.

CALIFORNIA STATE TEACHERS'
RETIREMENT SYSTEM,
January 10, 2017.

Re H.R. 78—SEC Regulatory Accountability Act.

Hon. JEB HENSARLING,
Chairman, House Committee on Financial Services, Washington, DC.

Hon. MAXINE WATERS,
Ranking Member, House Committee on Financial Services, Washington, DC.

DEAR CHAIRMAN HENSARLING AND RANKING MEMBER WATERS: I am writing on behalf of the California State Teachers' Retirement System (CalSTRS) to express our concerns regarding the SEC Regulatory Accountability Act—H.R. 78.

CalSTRS' mission is to secure the financial future and sustain the trust of California's educators. We serve the investment and retirement interests of more than 914,000 plan participants. CalSTRS is the largest educator only pension fund in the world, with a global investment portfolio valued at approximately $193 billion as of November 30, 2016. We have a vested interest in ensuring shareholder protections are safeguarded within the U.S. Securities and Exchange Commission's (SEC) rules and regulations, and thereby are keenly interested in the rules and regulations that govern the securities market. CalSTRS fully supports the mission of the SEC, which is to protect investors, maintain fair, orderly and efficient markets, promote competition and facilitate capital formation.

As a long-term shareholder, and fiduciary to California's teachers, we believe it is vital to avoid unnecessary regulatory costs that could obstruct the efficiency of the capital markets and the economy. CalSTRS relies heavily on the SEC shareholder protections in allocating capital on behalf of California teachers. However, CalSTRS is unclear on how the provisions of H.R. 78 would improve the cost-effectiveness of the SEC rulemaking process with the addition of these cumbersome, unnecessary and seemingly duplicative steps. As you know the Office of Inspector General, Office of Audits (OIG) issued a report, Use of the Current Guidance on Economic Analysis in SEC Rulemakings, which provided six recommendations to strengthen the SEC's economic analysis process. The report by the OIG found in its sample review that the SEC ''followed the spirit and intent of the Current Guidance as well as . . . justification for the rule, considered alternatives and integrated the economic analysis into the rulemaking process.'' The proposed ''SEC Regulatory Accountability Act'' requires the SEC to address any industry's or consumer group's concerns on the potential costs or benefits in its final rule, including an explanation of any changes that were made in response to these concerns and if not incorporated, reasons why.

Since this report, the Division of Economic and Risk Analysis (DERA) at the SEC has devoted considerable resources to integrate the six recommendations, having already addressed what is being proposed in the ''SEC Regulatory Accountability Act.'' We fully endorse the SEC's current process, which ensures a robust cost benefit analysis in rulemakings. The SEC, DERA and Office of the General Counsel are highly committed to a cost effective rulemaking process as evidenced by the current diligent economic analysis in the SEC proposed and final rulemakings.

The proposed amendments to Section 23 of the Securities Exchange Act of 1934 through H.R. 78 are unnecessary as DERA currently fulfills the actions outlined in this bill. We believe H.R. 78 is redundant and unneeded

with the steps already taken by the SEC in their economic analysis processes. Also alarming is that H.R. 78 is being brought directly to the House Floor for action without any consideration or vetting by the Committee on Financial Services. CalSTRS does not support circumventing the vetting process with an immediate vote, bypassing comprehensive safeguards. If this this bill is pushed through an immediate vote, we are concerned important rulemakings to enhance investor protection will cease at the SEC, thereby impacting shareholder protections and the mission of the SEC.

We respectfully ask that our views be entered into the record. We would be happy to discuss our perspective on this issue with you or your staff at your convenience. Thank you for your consideration.

Sincerely,

JACK EHNES,
Chief Executive Officer.

COUNCIL OF INSTITUTIONAL INVESTORS,
January 11, 2017.

Hon. PAUL D. RYAN,
House of Representatives,
Washington, DC.
Hon. NANCY PELOSI,
House of Representatives,
Washington, DC.

DEAR MR. SPEAKER AND MINORITY LEADER PELOSI: I am writing on behalf of the Council of Institutional Investors (CII). CII is a nonprofit, nonpartisan association of public, corporate and union employee benefit funds, and other employee benefit plans, foundations and endowments with combined assets under management exceeding $3 trillion. Our member funds include major long-term shareowners with a duty to protect the retirement savings of millions of workers and their families. Our associate members include a range of asset managers with more than $20 trillion in assets under management.

The purpose of this letter is to express our opposition to H.R. 78, which we understand is likely to be considered on the floor of the U.S. House of Representatives (House).

As an association of long-term shareowners interested in maximizing long-term share value, CII believes it is ''vital to avoid unnecessary regulatory costs.'' However, it is not clear to us how the provisions of H.R. 78 would improve the cost-effectiveness of the U.S. Securities and Exchange Commission's (SEC or Commission) existing thorough rulemaking process or somehow benefit long-term investors, the capital markets or the overall economy.

SEC'S EXISTING ECONOMIC ANALYSIS IS EXTENSIVE

The Commission's rulemaking process is already governed by a number of legal requirements, including those under the federal securities laws, the Administrative Procedure Act, the Paperwork Reduction Act of 1980, the Small Business Regulatory Enforcement Fairness Act of 1996 and the Regulatory Flexibility Act. Moreover, under the federal securities laws, the SEC is generally required to consider whether its rulemakings are in the public interest and will protect investors and promote efficiency, competition and capital formation.

Since the 1980s, the Commission has conducted, to the extent possible, an analysis of the costs and benefits of its proposed rules. The SEC has further enhanced the economic analysis of its rulemaking process in recent years. That process is far more extensive than that of any other federal financial regulator.

H.R. 78 WOULD UNNECESSARILY IMPEDE THE SEC FROM PROTECTING INVESTORS

The provisions of H.R. 78 create a false and misleading expectation that the SEC can reasonably measure, combine and compare the balance of all costs and benefits of its proposals consistent with its mandate to protect investors. As explained by Professor Craig M. Lewis, former chief economist and director of the SEC's Division of Economic and Risk Analysis: ''[W]ith regard to investor protection, the Commission is often unable to reasonably quantify the related benefits or costs.''

H.R. 78, if adopted, would impose upon the SEC a costly, time consuming and incomplete analysis in which the Commission would be hard pressed to determine that the benefits of a proposal or rule ''justify the costs of the regulation.'' As a result, we believe the provisions of H.R. 78 would unnecessarily impede the ability of the SEC to issue proposals in furtherance of its mission to protect investors—the element of its mission that, in our view, is most critical to maintaining and enhancing a fair and efficient capital market system consistent with economic growth.

H.R. 78 SHOULD BE SUBJECT TO A PUBLIC HEARING

Finally, as indicated, it is not clear to us how the provisions of H.R. 78 would improve the cost-effectiveness of SEC rulemaking or benefit long-term investors, the capital markets or the overall economy. Moreover, we believe it is unlikely that the House could demonstrate that the benefits to investors of H.R. 78 justify the costs of implementing the bill. In that regard, perhaps before the House votes on H.R. 78, the committee of jurisdiction; the House Committee on Financial Services (including its fourteen new members) should conduct a public hearing on the bill. The hearing might include testimony from the SEC, investors, and other knowledgeable market participants about, among other issues, the potential costs and benefits of the proposed legislation.

We would respectfully request that you oppose the passage of H.R. 78.

Thank you for consideration of our views. If we can answer any questions or provide additional information on this important matter, please do not hesitate to contact me.

Sincerely,

JEFF MAHONEY,
General Counsel.

BETTER MARKETS

FACT SHEET ON H.R. 78, THE SEC REGULATORY ACCOUNTABILITY ACT

H.R. 78 amends the Securities Exchange Act of 1934 and requires the Securities and Exchange Commission (SEC) to follow burdensome new procedures before it issues any new rules.

The SEC is the federal agency responsible for protecting investors and markets by regulating securities professionals and much of the financial industry, including most of the activities on Wall Street. H.R. 78 would impose significant new and onerous requirements on the SEC, which would make it much more difficult to effectively regulate Wall Street and protect investors and our markets.

Specifically, H.R. 78 requires the SEC to undertake extensive cost-benefit analyses of every proposed rule, and requires the SEC, before even proposing a new regulation, to first identify every ''available alternative''—an impossible standard to meet—and to then explain why each of those alternatives was insufficient. Not only would this bog down the agency with endless analysis of all possibilities, but it would also result in endless litigation as industry participants sue to overturn rules they don't like; industry would only have to assert that the SEC hadn't considered some alleged ''available alternative'' for the rule to be thrown out. This would effectively paralyze the SEC from issuing any new rules, leaving investors, customers and our markets unprotected.

Not just new regulations would be impacted; long-established, decades-old rules that have kept the markets operating effectively for years would also be in jeopardy. H.R. 78 requires the SEC to review every regulation on its books within one year, and repeat the exercise every five years. Because H.R. 78 does not provide additional funding for the SEC, it is inevitable that these requirements would overwhelm the agency, which would have to divert its already limited resources away from policing Wall Street to endlessly reviewing rules.

Although H.R. 78 requires the SEC to consider a rule's impact on the financial industry, there is no such requirement for the SEC to consider its benefits to the public. H.R. 78 does not explain why the SEC should weigh a rule's costs to the industry more than it weighs its benefits to the American taxpayer.

Importantly, the SEC already does extensive economic analyses of its rules. Former SEC Chairman Mary Schapiro testified before Congress that ''The SEC's substantive rule releases include more extensive economic analysis than those of any other federal financial regulator.'' Independent reviews by the Government Accountability Office and the SEC's Inspector General concluded the SEC's economic analyses were of a high standard and appropriately ''reflected statutory requirements to consider certain types of benefits and costs.''

As noted by the Council of Institutional Investors, requiring SEC to do cost-benefit analyses like those proposed in H.R. 78 would ''undermine effective investor safeguards'' and ''paralyze the [SEC's] regulatory activities.'' Former SEC Chairman Arthur Levitt said these efforts were attempts by Congress to ''emasculate'' independent agencies like the SEC ''under the false guise of modernization.'' In an article entitled ''The Trojan Horse of Cost Benefit Analysis,'' John Kemp, a market analyst at Reuters, said bills like H.R. 78 ''are not really about cost benefit analysis at all. . . . The standard they seek to enforce would be impossible to meet.''

115th Congress —January 2017

Mrs. CAROLYN B. MALONEY of New York. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Texas (Mr. AL GREEN), a member of the Financial Services Committee.

Mr. Al GREEN of Texas. Mr. Chairman, I thank the gentlewoman for yielding.

I am absolutely amazed this legislation has progressed to this point. This is not a panacea. This is not legislation that will prevent some harm being done to mom-and-pops. This is about Wall Street. This is about multimillion-dollar corporations. It is not unusual here for those who would benefit from the use of those who live on Main Street, they would benefit from it by saying that the bill is for Main Street when in fact it is for Wall Street.

This bill should properly be labeled the bill that the SEC rulings would come under stagnation, litigation, and decimation as a result of, because the way the bill is worded, there will be much litigation, and that litigation will tie the SEC up in court for many years. That will create the stagnation

which will cause the SEC to be ineffective; and, as a result, the SEC, in terms of its rulemaking, will be decimated.

Let's talk for a moment about a cost-benefit analysis. That is a very simple formula that can be used if you want to refinance your home and you want to get a different interest rate over a different period of time. All of the numbers associated with it are quantifiable. But if you want to do cost-benefit analysis in terms of fraud prevention, the prevention of fraud is not quantifiable; it is not knowable.

Bernie Madoff made off with approximately $64 billion, and in so doing, he perpetrated one of the biggest frauds ever perpetrated on the United States of America, the American people. If we had a regulation in place to prevent that fraud that Bernie Madoff perpetrated, there would be no way of knowing that he would have perpetrated the $64 billion fraud. You can't quantify legislation that prevents the fraud.

If we had legislation in place to prevent the downturn in 2008, that would have prevented the 327s, the 228s, the teaser rates that coincided with prepayment penalties, the no-doc loans. If we had regulations in place to prevent it, then we would never have known the harm it would have caused the economy.

That is what this bill will do. It will put the SEC in a position such that it cannot produce the rules to prevent the fraud that we can never measure. It is not knowable how much fraud will be prevented by the rules that the SEC promotes and produces.

This legislation also does not allow the SEC to move at the speed of innovation. Innovation moves quickly. The SEC has to be able to produce rules to match the speed of innovation. This is why it was difficult to do something about what was happening to the economy leading up to 2008. We didn't have the speed necessary, and now we are going to put a further burden on the SEC such that the SEC won't be able to respond to these new products that are coming on the market. And make no mistake, they will come on the market.

The stock market crash of 1929 was something that rules and regulations could have prevented. They were not there. They put them in place. Glass-Steagall was one of them. It took 66 years, but they got Glass-Steagall. I don't know how long it is going to take them, but they intend to get Dodd-Frank. This is the first step in the direction of making Dodd-Frank impotent.

Mr. HUIZENGA. Mr. Chairman, at this time I yield 3 minutes to the gentleman from Illinois (Mr. HULTGREN), the vice chairman of the Capital Markets Subcommittee.

□ 1500

Mr. HULTGREN. Mr. Chairman, I rise today to speak in support of the SEC Regulatory Accountability Act. I thank the gentlewoman from Missouri (Mrs. WAGNER) for championing this important legislation.

Those of us who were in Congress last year will remember the leadership of Scott Garrett in ensuring our financial regulators, especially the SEC, make use of robust cost-benefit analysis while imposing rules on businesses and the American people.

That is why this bill was reported from the Financial Services Committee with bipartisan support in the 114th Congress and has consistently received votes from both sides of the aisle in the past.

Policymaking can be tough. There are always dozens of pros and cons that need to be considered. Every good idea, even those with the best of intentions, likely have minor drawbacks. However, the idea of ensuring benefits exceed the costs should not be a partisan one. We are simply saying that our government's policies should do more good than harm.

You might be surprised to hear that the SEC's Inspector General has issued a report expressing several concerns about the quality of the SEC's economic analysis. It found none of the rulemaking it examined attempted to quantify either benefits or costs other than information collection costs. However, our job creators and investors know the scope of the potential cost is far broader than this.

That is exactly what the SEC Regulatory Accountability Act does. It strengthens the cost-benefit analysis at a key regulator overseeing our financial markets.

While the SEC has some existing cost-benefit-related policies put forth by its staff, this bill would strengthen those requirements and ensure that they are codified so that we can be certain that future generations benefit from prudent rulemaking.

It would also subject the SEC to Executive Orders 12866 and 13563 issued by Presidents Clinton and Obama.

Oddly enough, some have even made the argument that rules promulgated by the SEC should not be subject to cost-benefit analysis if they were mandated by Congress. I don't know where they got this idea, but it is a chilling reminder that Congress must do more to ensure that the SEC avoids politically motivated rulemaking that disregards the foundations of sound policy.

In testimony before the committee last year, Dan Gallagher, a former Republican SEC Commissioner, noted the CEO pay ratio disclosure rule as a prime example of agency lawyers taking advantage of loopholes in the cost-benefit analysis rules and imposing significant burdens on public companies. This could become a slippery slope if not stopped by Congress.

We have an opportunity today to protect our capital markets, investors, and job creators by ensuring that the SEC is doing less harm than good. I would urge all of my colleagues to vote in favor of sound policymaking criteria and support Mrs. WAGNER's important legislation.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chairman, I yield myself such time as I may consume.

I would like to share with my colleagues and the American public how American organizations that work day in and day out to fight to protect investors, consumers, minorities, workers, and pension plans view this bill.

The director of investor protection of the Consumer Federation of America states: ''This legislation goes far beyond what is reasonable or balanced and, indeed, the bill would exacerbate, rather than end the most serious shortcomings in the agency's current regulatory process, its inability to complete rulemaking regarding pressing issues in a timely manner.''

The general counsel of Council of Institutional Investors stated: ''We believe the provisions of H.R. 78 would unnecessarily impede the ability of the SEC to issue proposals in furtherance of its mission, its mission to protect investors.''

Finally, the Americans for Financial Reform stated: ''This legislation is transparently an effort to paralyze the SEC and to empower Wall Street lawyers to overturn its decisions and sue and not to improve its analysis or decisionmaking process.''

I urge my colleagues to heed these warnings and to really hear what these representatives of the public are saying; and I urge them to vote ''no'' on the underlying bill.

Mr. Chairman, I reserve the balance of my time.

Mr. HUIZENGA. Mr. Chairman, may I inquire as to what is the balance of the time remaining on each side?

The Acting CHAIR. The gentleman from Michigan has 10¼ minutes remaining. The gentlewoman from New York has 6½ minutes remaining.

Mr. HUIZENGA. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. ROSS).

Mr. ROSS. Mr. Chairman, I thank my good friend from Michigan (Mr. HUIZENGA).

I rise today in support of my good friend from Missouri (Mrs. WAGNER's) legislation, H.R. 78, the SEC Regulatory Accountability Act.

The American people have grown tired of unaccountable and unelected Washington bureaucrats bringing forward burdensome regulations without fully considering the effect on families in our districts.

This simple and straightforward legislation would enact a statutory requirement for the SEC to outline enhanced economic analysis requirements for any new regulations before they can be enacted. It also requires a review of existing regulations to determine if they are unduly burdensome or duplicative.

Accountability. The impact of burdensome regulations that lack a thorough vetting by the SEC can have an

untold effect across our entire economy.

Court cases, Government Accountability Office reports, and the SEC's own Office of Inspector General have raised important questions and recommended improvements to various components of the SEC's economic analysis in its rulemaking.

This legislation would go further by prohibiting the SEC from issuing a rule when it cannot make a reasoned determination that the benefits of the intended regulation justify the cost of the regulation. Logic and reason.

In closing, I support this good-government, commonsense legislation introduced by Chair WAGNER. The SEC Regulatory Accountability Act will take an important step in preventing the SEC from implementing a regulation before understanding its full impact on our economy and on the families in our congressional districts and across the country.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chairman, I yield myself such time as I may consume.

My Republican colleagues, regrettably, want to impose cost-benefit analysis that tilts towards industry costs because they know something that they don't want the American people to know. An impartial cost-benefit analysis of Wall Street reform rules would inevitably demonstrate how wildly beneficial such rules are to the U.S. economy and to the lives of everyday Americans.

Earlier this week, the bipartisan think tank, Third Way, found that Dodd-Frank's bank capital rules will add $351 billion—as in B, billion—to the U.S. economy over the next 10 years. This report presents a cost-benefit analysis that shows that, while lending becomes slightly more expensive when banks are required to maintain higher capital levels, the benefits of mitigating another financial crisis greatly exceed any costs. This report is one of many which Republicans intentionally ignore.

Reducing the likelihood of another financial crisis does not come without cost, but the costs are worth it. Let us not forget the widespread human suffering that has been felt across this Nation because of the financial crisis. The 2008 financial crisis destroyed 8.7 million American jobs, wiped out $2.8 trillion in retirement savings of ordinary Americans, and led to the foreclosure, the loss—15 million Americans lost their homes due to financial mismanagement in this country.

If those aren't significant costs for policymakers to consider, then what else is?

Mr. Chairman, I reserve the balance of my time.

Mr. HUIZENGA. Mr. Chairman, I yield 1½ minutes to the gentleman from California (Mr. ROYCE), the chairman of the House Foreign Affairs Committee.

Mr. ROYCE of California. Mr. Chairman, this has been an issue in Europe. It has been an issue in the United States. I would like to make the point that, with respect to looking at economic analysis and making certain that it is bipartisan, I think there is a way to make certain it is objective.

As I look at the underlying text and then look at the amendment that we are accepting, we should reflect on this. We are going to have the SEC here look at both the protection of investors and the effects to ensure competition and efficiency. So I would explain to the Members that adding that into what I already thought was pretty exacting rules here in terms of an objective analysis should really succeed in our attempt here.

And what is the attempt in this Regulatory Accountability Act?

It is to make sure that the U.S. capital markets are unmatched in terms of their size, their depth, their resiliency, and transparency. And this Regulatory Accountability Act gives the Commission the opportunity to ensure that its rules and regulations, past and present, each of those are worth pursuing when measured against their economic costs.

Growing access to capital, protecting investors, preserving the world's strongest capital markets are not mutually exclusive objectives here.

The Acting CHAIR. The time of the gentleman has expired.

Mr. HUIZENGA. I yield the gentleman an additional 15 seconds.

Mr. ROYCE of California. And here is what I would like to point out. The European Union clearly recognizes this conundrum right now. They are launching a call for evidence to investigate the unintended consequences created by their regulatory framework because they are searching for balance in this, too, to make sure that they have retrospective examination.

It is prudent. Frankly, as the effectiveness of regulation is measured by outcomes rather than volume in a situation like this, it drives us toward efficiency in the market.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chairman, I yield myself such time as I may consume.

I want to point out that with Dodd-Frank and the reforms that the Democrats put in place, our economy bounded back faster and stronger than all of Europe. And I must say that one of the areas that we need to work on, where we are falling behind in our economy, is exports. We need to support exports.

Despite all the talk that we hear from Republicans about enacting policies that support jobs and job creation, and the slew of tweets from the President-elect discouraging American companies from moving U.S. jobs overseas—and I support his efforts to stop our companies from going overseas—one proven job creator has remained on the sidelines, and that is the U.S. Export-Import Bank. This Bank has played a critical role in opening up international markets to U.S. exporters, which, in turn, helps create and preserve jobs here in America.

The export-import banks of our competitors are supported by those countries five times more than what we do here in America. In fact, the ability of the Export-Import Bank to even operate, even though it makes money and has succeeded in building up American exports, has been hamstrung by the leadership of my good friends and colleagues on the other side of the aisle.

In recognition of the Bank's success and supporting U.S. jobs over the past 80 years, in December of 2015 the House and the Senate voted with overwhelming majorities to reauthorize the Export-Import Bank. Despite this broad support, the Bank has remained hamstrung because, with three empty seats on its five-member board, the Bank lacks the quorum it needs in order to approve transactions over $10 million.

Although President Obama nominated two individuals to serve on the Ex-Im's bipartisan board, the Senate Republican leadership refused to consider them, and Ex-Im's board remains without a quorum. They can not approve these exports. I think it is a national scandal.

Indeed, it has been more than 18 months since the Export-Import Bank's board was last able to consider transactions, which has limited its ability to ensure U.S. workers and businesses of all sizes are able to compete around the world for contracts, as well as support jobs for the many small businesses that contribute to the supply chains for these high-value exports.

□ 1515

In fact, the bank currently has 50 transactions in its pipeline valued at nearly $40 billion, which, if approved, would support more than 100,000 American high-skill and high-wage jobs. I intend to bring this to the attention of the President-elect.

So, as we talk today about how these Republican bills will create American jobs, I think it is important that we look at the GOP's full record on job creation or, might I say in this case, job prevention. As their record shows, Republican leaders have been all too willing to let U.S. jobs slip away to our foreign competitors.

Until Congress restores Ex-Im to full functionality, U.S. companies selling expensive capital goods such as aircraft, locomotives, nuclear reactors, and turbines will remain at a unique competitive disadvantage because their foreign competitors all enjoy ample financing from their home-country export credit agencies—enough to easily knock U.S. companies out of the competition. This is unfair.

We cannot compete and win in the global economy unless we support our businesses. We will lose global market share in key sectors such as the satellite industry, aerospace, and telecommunications. We will lose tens of thousands of jobs as some of the biggest U.S. exports suffer declining overseas sales, and, eventually, some of

these companies would be forced to move jobs to where export credit is still available. We have seen this reported in the news daily where they are moving to our competitors.

So, in short, we need to support the Export-Import Bank. We need to not hamstring the SEC by requiring it to have unnecessary, time-consuming, duplicative rules that are already in place and that allow people to sue them more easily.

Mr. Chairman, I urge my colleagues on both sides of the aisle who care, as President-elect Trump does, about job creation to be opposed to this bill.

Mr. Chair, I yield back the balance of my time.

Mr. HUIZENGA. Mr. Chairman, may I inquire as to the balance of the time remaining?

The Acting CHAIR. The gentleman from Michigan has 7 minutes remaining. The gentlewoman from New York's time has expired.

Mr. HUIZENGA. Mr. Chairman, at this time, I do not intend to yield to the gentlewoman from New York, even though I struggle to understand how the Export-Import Bank had anything to do with what we are talking about here today.

Mr. Chairman, I yield 2 minutes to the gentleman from Colorado (Mr. TIPTON), a member of the Financial Services Committee.

Mr. TIPTON. Mr. Chairman, the SEC Regulatory Accountability Act subjects the SEC to enhanced cost-benefit analysis requirements and requires a review of existing regulations.

By promoting economic analysis requirements during the regulatory process, this bill ensures that regulation writing is data driven and not done on an ad hoc basis with little thought to the true impact the expanding regulatory net has on businesses and the economy.

It is a mistake for regulators overseeing our financial system and the capital markets, including the SEC, to promulgate regulations without fully considering the costs and benefits, as well as all of the available regulatory alternatives.

This bill also takes the commonsense approach of requiring the SEC to evaluate whether a proposed regulation is inconsistent with, or duplicative of, other Federal regulations. When our businesses are being overwhelmed by compliance obligations that demand more and more time and resources, it is crucial that our regulators do everything in their power to ensure that regulations are effective, streamlined, and nonduplicative to minimize impact.

It is important to note that this legislation does not limit the SEC's rulemaking authority in any capacity. The bill appropriately strengthens the SEC's existing cost-benefit-related requirements to ensure that the true impact of regulations can be calculated.

To advocate for the status quo and against this legislation shows a fundamental misunderstanding of the financial system and the regulatory process. This legislation is a vote of confidence that, with the appropriate tools and a data-driven approach, our regulatory agencies can create a framework of safety and soundness that does not unduly burden our economy.

I am happy to lend my support to this bill and encourage my colleagues to support this commonsense measure. I, again, thank the gentlewoman from Missouri for her efforts on this legislation.

Mr. HUIZENGA. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. LOUDERMILK).

Mr. LOUDERMILK. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, Americans have heard time and time again over the last 8 years that our economy is in the slowest recovery since World War II. Why? It is because unelected bureaucrats bypass this body of Congress and continually push out hundreds of burdensome regulations onto American families who are struggling just to get by.

The onslaught of regulations by this administration has proven to kill jobs, shut down businesses, and stifle our economic growth. But now it is time to make good on our promise to make a brighter future for Americans and begin to turn this Nation around.

Just as the American people expect us to know what it is in a bill before we vote on it, it is equally important to know what is in a regulation.

Most Federal agencies are required to conduct a thorough cost-benefit analysis of each regulation before finalizing it. But this isn't always the case for the Securities and Exchange Commission. While the SEC is subject to some cost-benefit requirements when a new regulation could have an overbearing impact on our marketplaces, they are exempt from having to identify alternative policies.

I rise today in support of the SEC Regulatory Accountability Act because it will require the SEC to follow its own core principle of disclosure that it, in itself, enforces on the securities industry in this Nation. This bill would require the SEC to disclose all the costs and benefits of each proposed regulation to the public.

We must not allow regulatory agencies to be a roadblock to job creation by failing to consider the impact proposed rules would have on our securities market. Additionally, this bill requires the SEC to clearly identify the nature of the issue before establishing a new regulation.

Mr. Chairman, our economy cannot flourish without healthy capital markets. We must hold regulatory agencies to strict standards, just as they do the businesses they regulate across this Nation. This bill takes meaningful steps toward achieving these goals, and I urge my colleagues to vote ''yes.''

Mr. HUIZENGA. Mr. Chairman, I yield 1½ minutes to the gentleman from North Carolina (Mr. BUDD), a new member of the Financial Services Committee.

Mr. BUDD. Mr. Chairman, the debate over financial regulation is not just about more versus less. It is also about the idea that financial liberty and personal liberty are connected, and they have been for most of history.

This goes back to the Middle Ages, when widespread use of a bill of exchange—basically, a check—made it much more difficult for government to wrongly take people's wealth. That development was one of the first building blocks of limited government.

Now, today, we see a similar principle at work in global capital. Like the bill of exchange placing gold or silver out of the reach of government, the connected global economy allows capital to flow away from harsh regulation. Countries that get it right are the ones that win.

There are a number of statistics that suggest that we are getting the short end of the stick in this arena. We are losing our financial competitiveness. For example, nearly 10 percent of foreign companies left the New York Stock Exchange this year, almost double the historic average. Finally, from 2010 to 2016, the United States slipped from 6th to 11th in the Index of Economic Freedom.

While this problem has a number of causes, the Securities and Exchange Commission Regulatory Accountability Act will help improve our economic competitiveness by requiring that the SEC put its regulations through a strong cost-benefit analysis and review regulations that are just plain outdated.

I urge a ''yes'' vote.

Mr. HUIZENGA. Mr. Chairman, I yield myself the balance of my time.

I would just like to point out to those watching on TV the earlier Democrat-sponsored hot air portion of the bill today.

You heard about the Export-Import Bank. You heard about Bernie Madoff. You heard about the Dodd-Frank Act being the only answer to an economic crisis that was caused by a housing crisis which, by the way, the Dodd-Frank Act did nothing about. By the way, on the Bernie Madoff situation, the SEC ignored a whistleblower for 10 years.

This bill has nothing to do with fraud, and it is not about a trial of the effectiveness or lack thereof of the SEC today. This is about a commonsense notion that we ought to actually identify the target that these rules are trying to hit and then find out if it is the right target and analyze that.

What you see on the other side of the aisle is the philosophy that more is better: the more regulation that the SEC has, the more paperwork, a bigger budget with more employees. We are not sure what their effectiveness is, and we are not sure what exactly they are trying to achieve here, but all we can tell you is that more is better. Damn the costs; it doesn't matter.

That is, obviously, not the intent that we have on this side of the aisle. We are trying to make sure that the

proper protection of the investors is there. We are trying to make sure that the three parts of the SEC's mandate, of which one of those is capital formation and creating a robust atmosphere, are actually happening.

I urge passage of the bill.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule and shall be considered as read.

The text of the bill is as follows:

H.R. 78

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''SEC Regulatory Accountability Act''.

SEC. 2. CONSIDERATION BY THE SECURITIES AND EXCHANGE COMMISSION OF THE COSTS AND BENEFITS OF ITS REGULATIONS AND CERTAIN OTHER AGENCY ACTIONS.

Section 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78w) is amended by adding at the end the following:

''(e) CONSIDERATION OF COSTS AND BENEFITS.—

''(1) IN GENERAL.—Before issuing a regulation under the securities laws, as defined in section 3(a), the Commission shall—

''(A) clearly identify the nature and source of the problem that the proposed regulation is designed to address, as well as assess the significance of that problem, to enable assessment of whether any new regulation is warranted;

''(B) utilize the Chief Economist to assess the costs and benefits, both qualitative and quantitative, of the intended regulation and propose or adopt a regulation only on a reasoned determination that the benefits of the intended regulation justify the costs of the regulation;

''(C) identify and assess available alternatives to the regulation that were considered, including modification of an existing regulation, together with an explanation of why the regulation meets the regulatory objectives more effectively than the alternatives; and

''(D) ensure that any regulation is accessible, consistent, written in plain language, and easy to understand and shall measure, and seek to improve, the actual results of regulatory requirements.

''(2) CONSIDERATIONS AND ACTIONS.—

''(A) REQUIRED ACTIONS.—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. Specifically, the Commission shall—

''(i) consistent with the requirements of section 3(f) (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)), consider whether the rulemaking will promote efficiency, competition, and capital formation;

''(ii) evaluate whether, consistent with obtaining regulatory objectives, the regulation is tailored to impose the least burden on society, including market participants, individuals, businesses of differing sizes, and other entities (including State and local governmental entities), taking into account, to the extent practicable, the cumulative costs of regulations; and

''(iii) evaluate whether the regulation is inconsistent, incompatible, or duplicative of other Federal regulations.

''(B) ADDITIONAL CONSIDERATIONS.—In addition, in making a reasoned determination of the costs and benefits of a potential regulation, the Commission shall, to the extent that each is relevant to the particular proposed regulation, take into consideration the impact of the regulation on—

''(i) investor choice;

''(ii) market liquidity in the securities markets; and

''(iii) small businesses.

''(3) EXPLANATION AND COMMENTS.—The Commission shall explain in its final rule the nature of comments that it received, including those from the industry or consumer groups concerning the potential costs or benefits of the proposed rule or proposed rule change, and shall provide a response to those comments in its final rule, including an explanation of any changes that were made in response to those comments and the reasons that the Commission did not incorporate those industry group concerns related to the potential costs or benefits in the final rule.

''(4) REVIEW OF EXISTING REGULATIONS.—Not later than 1 year after the date of enactment of the SEC Regulatory Accountability Act, and every 5 years thereafter, the Commission shall review its regulations to determine whether any such regulations are outmoded, ineffective, insufficient, or excessively burdensome, and shall modify, streamline, expand, or repeal them in accordance with such review. In reviewing any regulation (including, notwithstanding paragraph (6), a regulation issued in accordance with formal rulemaking provisions) that subjects issuers with a public float of $250,000,000 or less to the attestation and reporting requirements of section 404(b) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262(b)), the Commission shall specifically take into account the large burden of such regulation when compared to the benefit of such regulation.

''(5) POST-ADOPTION IMPACT ASSESSMENT.—

''(A) IN GENERAL.—Whenever the Commission adopts or amends a regulation designated as a 'major rule' within the meaning of section 804(2) of title 5, United States Code, it shall state, in its adopting release, the following:

''(i) The purposes and intended consequences of the regulation.

''(ii) Appropriate post-implementation quantitative and qualitative metrics to measure the economic impact of the regulation and to measure the extent to which the regulation has accomplished the stated purposes.

''(iii) The assessment plan that will be used, consistent with the requirements of subparagraph (B) and under the supervision of the Chief Economist of the Commission, to assess whether the regulation has achieved the stated purposes.

''(iv) Any unintended or negative consequences that the Commission foresees may result from the regulation.

''(B) REQUIREMENTS OF ASSESSMENT PLAN AND REPORT.—

''(i) REQUIREMENTS OF PLAN.—The assessment plan required under this paragraph shall consider the costs, benefits, and intended and unintended consequences of the regulation. The plan shall specify the data to be collected, the methods for collection and analysis of the data and a date for completion of the assessment. 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.

''(ii) SUBMISSION AND PUBLICATION OF REPORT.—The Chief Economist shall submit the completed assessment report to the Commission no later than 2 years after the publication of the adopting release, unless the Commission, at the request of the Chief Economist, has published at least 90 days before such date a notice in the Federal Register extending the date and providing specific reasons why an extension is necessary. Within 7 days after submission to the Commission of the final assessment report, it shall be published in the Federal Register for notice and comment. Any material modification of the plan, as necessary to assess unforeseen aspects or consequences of the regulation, shall be promptly published in the Federal Register for notice and comment.

''(iii) DATA COLLECTION NOT SUBJECT TO NOTICE AND COMMENT REQUIREMENTS.—If the Commission has published its assessment plan for notice and comment, specifying the data to be collected and method of collection, at least 30 days prior to adoption of a final regulation or amendment, such collection of data shall not be subject to the notice and comment requirements in section 3506(c) of title 44, United States Code (commonly referred to as the Paperwork Reduction Act). Any material modifications of the plan that require collection of data not previously published for notice and comment shall also be exempt from such requirements if the Commission has published notice for comment in the Federal Register of the additional data to be collected, at least 30 days prior to initiation of data collection.

''(iv) FINAL ACTION.—Not later than 180 days after publication of the assessment report in the Federal Register, the Commission shall issue for notice and comment a proposal to amend or rescind the regulation, or publish a notice that the Commission has determined that no action will be taken on the regulation. Such a notice will be deemed a final agency action.

''(6) COVERED REGULATIONS AND OTHER AGENCY ACTIONS.—Solely as used in this subsection, the term 'regulation'—

''(A) means an agency statement of general applicability and future effect that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency, including rules, orders of general applicability, interpretive releases, and other statements of general applicability that the agency intends to have the force and effect of law; and

''(B) does not include—

''(i) a regulation issued in accordance with the formal rulemaking provisions of section 556 or 557 of title 5, United States Code;

''(ii) a regulation that is limited to agency organization, management, or personnel matters;

''(iii) a regulation promulgated pursuant to statutory authority that expressly prohibits compliance with this provision; and

''(iv) a regulation that is certified by the agency to be an emergency action, if such certification is published in the Federal Register.''.

SEC. 3. SENSE OF CONGRESS RELATING TO OTHER REGULATORY ENTITIES.

It is the sense of the Congress that the Public Company Accounting Oversight Board should also follow the requirements of section 23(e) of such Act, as added by this title.

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 determines 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).

The Acting CHAIR. No amendment to the bill shall be in order except those printed in part A of House Report 115–3. Each such amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the 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.

AMENDMENT NO. 1 OFFERED BY MR. AL GREEN OF TEXAS

The Acting CHAIR. It is now in order to consider amendment No. 1 printed in part A of House Report 115–3.

Mr. AL GREEN of Texas. Mr. Chairman, I have an amendment at the desk as the designee of the gentlewoman from California (Ms. MAXINE WATERS).

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 3, line 3, strike ''and''.

Page 3, line 8, strike the period and insert ''; and''.

Page 3, after line 8, insert the following:

''(E) in consultation with the Office of Ethics Counsel of the Commission, identify any former nongovernmental employer of a Commissioner, Director, Deputy Director, Associate Director, or Assistant Director that would receive direct or indirect benefit from a rule or regulation, analyze the benefits to such employer, and whether the regulation should be amended to address any potential conflict of interest or appearance of a conflict of interest.''.

Page 6, after line 5, insert the following:

''(5) CONFLICTS OF INTEREST.—The Commission shall identify the employers of any Commissioners, Directors, Deputy Directors, Associate Directors, and Assistant Directors who have left the Commission within five years of the scheduled adoption of the final rule, and whether such employers receive direct or indirect benefits, and whether the Commission should amend the rule to address the identified conflict of interest.''.

Page 7, line 19, insert after the period the following: ''The assessment plan shall also include an analysis of whether and how any former nongovernmental employer of a Commissioner, Director, Deputy Director, Associate Director, or Assistant Director, or the current employer of a former Commissioner, Director, Deputy Director, Associate Director, or Assistant Director who departed the Commission within five years of the scheduled adoption of the regulation, directly and indirectly benefits from the regulation, and a recommendation as to whether such regulation should be amended to address the identified conflict of interest.''.

The Acting CHAIR. Pursuant to House Resolution 40, the gentleman from Texas (Mr. AL GREEN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. AL GREEN of Texas. Mr. Chairman, I think it appropriate to point out what the style of this bill is, what the words on the actual bill say. There seems to be some confusion with my colleagues on the other side as to whether or not this is a mom-and-pop bill.

The bill itself says, ''A bill to improve the consideration by the Securities and Exchange Commission of the cost and benefits of its regulations and orders.''

The Securities and Exchange Commission deals with Wall Street, deals with megabusinesses. This is not about a mom-and-pop store. This is not about the small business in the neighborhood. This is about megabusinesses desiring to have access to markets without the regulations necessary to protect investors.

This bill, if it passes, will place the SEC in a mission impossible position because it will be impossible for the SEC to do what it needs to do to promote regulations that will prevent fraud. Either litigation will stop them or they won't be able to define and quantify the benefits associated with regulation that can prevent fraud.

A good example has been presented, but some things bear repeating. If we had produced regulations that would have prevented Bernie Madoff from robbing the country of $64 billion, we wouldn't have known it, we couldn't quantify it, because it wasn't knowable.

This bill puts the SEC in a position of having to do that which is not knowable because it would prevent fraud.

□ 1530

Now, having said this, the Waters amendment will at least allow us to curtail some of the conflicts of interest that can take place by persons who will come from some entity that works with persons on Wall Street or when they leave, go to an entity that works with Wall Street. Our regulators ought not be able to take their rules and regulations to companies and businesses that will impact Wall Street after they leave or impact their businesses once they are on Wall Street.

This amendment that the Honorable MAXINE WATERS has presented would cause the SEC to identify, analyze, and address potential conflicts of interest in its proposed rules, and it would go on to make sure that persons who work for the SEC do not create conflicts of interest.

We live in a world where it is not enough for things to be right; they must also look right. It doesn't look right for these Wall Street types, the persons from Goldman Sachs and related industries who will come to Wall Street, take jobs, and promote rules that benefit their former employers, nor does it look right for them to produce rules that will benefit employers that they will go to when they leave Wall Street.

That is what this amendment will prevent. It is simple. It is not complicated, and it deals with conflicts of interest. I think this amendment ought to be supported.

Mr. Chairman, I reserve the balance of my time.

Mr. HUIZENGA. Mr. Chairman, I claim the time in opposition to this amendment.

The Acting CHAIR (Mr. PALMER). The gentleman from Michigan is recognized for 5 minutes.

Mr. HUIZENGA. Mr. Chairman, I feel compelled to point out to my colleagues that we are not paid by the word that is put into the Federal Register. I think, once again, you are hearing this example of more is better. It doesn't matter what the words say, just let's have more of them.

We already have the SEC Chairman and the Commissioners covered by both governmentwide ethics laws and regulations as well as SEC supplemental ethics regulations which apply to all SEC employees. For example, they cannot participate personally and substantially in any matter that would have direct or predictable effect on his or her financial interests or imputed financial interests in the future, as required under the code.

Also, unless they are specifically authorized by the SEC's ethics counsel, they should recuse from any matter in which he or she has a ''covered relationship.'' Well, what is a covered relationship? Well, a covered relationship includes former employees, clients, and even a spouse's employer. Further, the SEC employees must report their financial holdings to the SEC's ethics counsel; and this requirement goes beyond, frankly, the governmentwide reporting requirement.

Finally, the SEC Chairman or a Commissioner must not engage in any other business, employment, or vocation while in office; nor may he or she ever use the power of their office to influence their name to promote the business interests of others, as required by law.

As such, I ask my colleagues to join me in opposing this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. AL GREEN of Texas. Mr. Chairman, how much time do I have remaining?

The Acting CHAIR. The gentleman from Texas has 1 minute remaining.

Mr. AL GREEN of Texas. Mr. Chairman, let me say this in my 1 minute. It appears that the other side believes that nothing is better because that is what this bill would cause the SEC to produce—nothing. It would stagnate the SEC. It would place the SEC in litigation. It would literally decimate the SEC because you cannot quantify bills or regulations that will prevent fraud. You can't quantify it. I have given you the example.

I know the public is listening. You need to weigh in on this, members of the public, because this is not about mom-and-pops. It is about megacorporations. This piece of legislation that Ms. WATERS offers at least

will deal with conflicts of interest beyond the person who happens to work with the SEC, which is what has been addressed. It will deal with conflicts of interest as they relate to the businesses that they will go to or the businesses that they have left.

Mr. Chairman, I yield back the balance of my time.

Mr. HUIZENGA. Mr. Chairman, I will wrap up here by simply saying that the bill before us today is intending to clarify—or have the SEC, I should say, clarify what the goal and objective is of their proposed rule. Let's find out what they are trying to do, and then, more importantly, find out if it is actually effective.

There might be a rule in place already somewhere else. The other side is trying to strike that provision. They are trying to say: No. No. It doesn't matter what the other hand of government is saying. We are going to just add more and more regulation added on.

We need to have a clear understanding of what the objective is, what the target is, and whether it is an effective rule to get to that point. I just would encourage my colleagues to oppose the Waters-Green amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. AL GREEN).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. AL GREEN of Texas. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

AMENDMENT NO. 2 OFFERED BY MS. VELÁZQUEZ

The Acting CHAIR. It is now in order to consider amendment No. 2 printed in part A of House Report 115–3.

Ms. VELÁZQUEZ. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 4, line 1, insert after ''making'' the following: '', in addition to being in the interest of protecting investors,''.

Page 5, line 21, insert after the period the following: ''Whenever pursuant to this paragraph the Commission is engaged in a review, it shall consider whether an action is necessary or appropriate in the public interest, the protection of investors, and whether the action will promote efficiency, competition, and capital formation.''.

The Acting CHAIR. Pursuant to House Resolution 40, the gentlewoman from New York (Ms. VELÁZQUEZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York.

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is simple and straightforward. It will help ensure the SEC fulfills one of its core mission functions—protecting investors.

As Members of Congress, we must never forget the lessons of the financial crisis and the Great Recession. Americans lost $14 trillion, suffering sharp declines in retirement savings, pension funds, and overall wealth. This was due, in part, to being pushed into abstract and sophisticated financial products and securities that they knew little or nothing about.

I was here in 2008, Mr. Chairman. I listened to the people. I heard their stories. Unfortunately, for many of them, the financial crisis and the Great Recession caused deep and lasting harm. Many may never recover.

I proudly supported the Dodd-Frank Act and believe the SEC has implemented many regulations that will guard against another financial crisis and help preserve the financial future of American families for generations to come. For these reasons, I am concerned the regulatory reviews required by the underlying bill do not properly account for investor protection.

To that end, my amendment ensures the SEC does more than just consider how a proposed regulation will impact businesses. It expressly instructs the SEC to weigh the safeguards of investors when changing a rule or regulation. My amendment instructs the SEC to continue focusing on investor protection not only when drafting new rules but also when reviewing existing regulations. Let me be clear: it is vitally important that this language be included to ensure investors' needs do not take a backseat to industry concerns.

We must never go back to the days leading up to the crisis, Mr. Chairman. By simply instructing the SEC to take into account investor protections when reviewing and considering new or existing regulations, my amendment helps ensure the safeguards we put in place under the Dodd-Frank Act are preserved. This will mean retirement savings and household wealth are more secure, and we are not once again risking deep and lasting harm to our economy and financial markets. For these reasons, I urge the adoption of my amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. HUIZENGA. Mr. Chairman, I ask unanimous consent to claim the time in opposition to this amendment, though I am not opposed.

The Acting CHAIR. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Acting CHAIR. The gentleman from Michigan is recognized for 5 minutes.

Mr. HUIZENGA. Mr. Chairman, I am prepared to accept the amendment and support its immediate passage. I want to thank the sponsor for working with us to draft the language that is consistent with the SEC's tripartite mission to: number one, protect investors; number two, maintain fair, orderly, and efficient markets; and, number three, facilitate capital formation.

I would like to ask my colleagues to join me in supporting the amendment and the underlying bill.

Mr. Chairman, I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself such time as I may consume.

I want to thank the gentleman and Chairman HENSARLING for working with me on this important amendment. I urge Members to vote ''yes,'' which is a vote to protect average, ordinary American investors.

Mr. Chairman, I yield back the balance of my time.

Mr. HUIZENGA. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. AL GREEN OF TEXAS

The Acting CHAIR. It is now in order to consider amendment No. 3 printed in part A of House Report 115–3.

Mr. AL GREEN of Texas. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 10, line 16, strike ''and''.

Page 10, line 20, strike the first period and all that follows and insert ''; and''.

Page 10, after line 20, insert the following: ''(iv) a regulation promulgated to maintain or support U.S. financial stability or prevent or reduce systemic risk.''.

The Acting CHAIR. Pursuant to House Resolution 40, the gentleman from Texas (Mr. AL GREEN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. AL GREEN of Texas. Mr. Chair, this amendment would exclude from this bill regulations that would promote financial stability and prevent or reduce systemic risk. I have indicated previously that we are concerned about the bill's unintended consequence—I don't think that my colleagues are doing this with malice aforethought—the unintended consequence of stagnating the SEC to the point that it cannot produce regulations that will prevent fraud. Nowhere in the bill does it exempt regulation that will prevent fraud.

I believe that this will help us because the bill needs to allow the SEC the ability to move at the speed of innovation. These products are coming on the market. The best way for the SEC to be able to react to them efficaciously would be for the SEC to have rulemaking authority at the same speed of the innovation.

I hope that we won't allow the SEC to be bogged down with a cost-benefit

analysis that is impossible to produce and that, when produced, will produce litigation. Again, I think this is a reasoned, thoughtful amendment. I trust that it will be adopted.

Mr. Chair, I reserve the balance of my time

Mr. HUIZENGA. Mr. Chairman, I claim the time in opposition to this amendment.

The Acting CHAIR. The gentleman from Michigan is recognized for 5 minutes.

Mr. HUIZENGA. Mr. Chairman, I just find it a bit ironic that the other side is not interested in doing this cost-benefit analysis which is in the underlying bill here because it is too burdensome. But what do they want to do? They want to add more paperwork and more burden in their amendments.

Despite what you have heard, the SEC is not a systemic risk regulator; and even the former chairman of the Committee on Financial Services, Barney Frank, noted at the time when the FSOC was reviewing asset managers for systemic designations, he recognized that these are not entities that pose a systemic risk to the financial system. And while the SEC does not regulate systemic risk, I am afraid that this amendment could be potentially politically misinterpreted and applied to a number of capital market participants and activities which they, frankly, have no business regulating. So it would lead to the same fire, aim, ready kind of situation rulemaking that we have seen from the current administration that hinders growth and that capital market formation that we have just talked about in the last amendment.

The bill before us will ensure that future SEC rulemakings are prudently proposed and adopted to achieve the maximum net benefit, and that is what we are really talking about here today. While I support the underlying bill, I will have to oppose this amendment.

Mr. Chairman, I reserve the balance of my time.

□ 1545

Mr. AL GREEN of Texas. Mr. Chairman, I would remind my friend across the aisle that the Volcker rule does deal with systemic risk. I would remind him that the SEC does play a role in regulating systemic risk.

Having said that, let's just talk again. And I would engage in a colloquy with you and use my time. Explain to me how you would quantify a regulation designed to prevent fraud such as the fraud perpetrated by Madoff.

How would you quantify it in dollars and cents? Because that is what you are all about, dollars and cents. How do you quantify that?

Mr. HUIZENGA. Will the gentleman yield?

Mr. AL GREEN of Texas. I yield to the gentleman from Michigan.

Mr. HUIZENGA. This has nothing to do with Bernie Madoff since the whistleblower approached the SEC and the SEC, using its dollars, was not able to stop him.

Mr. AL GREEN of Texas. Reclaiming my time, Mr. Chairman, it does have to do—you are trying to divert us from the actual problem, which is regulations that can prevent fraud.

How do you propose to quantify in dollars and cents regulations that will prevent fraud when the fraud that can be perpetrated is not knowable?

I yield to the gentleman from Michigan.

Mr. HUIZENGA. I appreciate the gentleman yielding. Working together on the Financial Services Committee, we know that there are actuarial tables and analyze risk all the time. You are able to analyze fraud.

Mr. AL GREEN of Texas. Reclaiming my time, there is no way for anyone to have known.

Mr. HUIZENGA. You are able to analyze that risk.

Mr. AL GREEN of Texas. I reclaim my time. There is no way for anyone to have known what Bernie Madoff was going to do. It was not knowable. You are imposing a mission impossible upon the SEC.

There is a real question that has to be answered today, Mr. Chair, or at some point in the future: Does Congress regulate Wall Street or does Wall Street regulate Congress?

Now, this is a serious question because that is what this kind of regulation gives us the image of being a part of.

Wall Street wants this. This benefits Wall Street. It doesn't benefit mom and pops. It doesn't benefit Main Street. It benefits megacorporations. And you can couch the language in any clever way that you want.

In the final analysis, this is all about megacorporations being able to do things that would prevent—that would not be in the best interest of investors. Investors who are listening to this. You ought to be concerned. This impacts you. If this legislation passes, your opportunity to participate in Wall Street with regulations that are going to prevent fraud from being perpetrated upon you—similar to what Madoff perpetrated—will not be possible.

Mr. Chairman, I reserve the balance of my time.

The Acting CHAIR. Members are reminded to address their remarks to the Chair.

The gentleman from Michigan is recognized.

Mr. HUIZENGA. Mr. Chairman, may I inquire as to the remaining balance of the time.

The Acting CHAIR. The gentleman from Michigan has 3½ minutes remaining, and the gentleman from Texas has 30 seconds remaining.

Mr. HUIZENGA. At this point I am ready to close and I reserve the balance of my time.

Mr. AL GREEN of Texas. Mr. Chairman, in closing, let me simply say this: People who are viewing this at home should become very much concerned about the direction that we are headed in. This is a new Congress and here we are currently trying to emasculate the SEC by putting it in a position such that it cannot produce rules to protecting investors; by requiring it to know the unknowable; to know that a rule that you are putting in place to prevent fraud has a quantifiable dollar amount that you can produce so that you can measure that against the cost of producing the rule.

Mr. Chairman, this amendment that I propose would benefit the SEC and investors.

Mr. Chair, I yield back the balance of my time.

Mr. HUIZENGA. Mr. Chairman, I would just like to point out to all of my colleagues and to the American people that currently the SEC is under a court order to clarify how exactly they are doing their rulemaking. And there is a staff-level rule letter.

With this underlying bill, we are trying to codify that. We are trying to make sure, not just with a letter, but by law, that they do what they are being ordered to do. And I will remind all of my colleagues and those of you out watching us, the Securities and Exchange Commission has a mission that has three parts.

The first part is to protect investors. Nothing in this bill weakens there. Nothing in this bill takes anything away from that. We, in fact, underscore that.

The second mission that it has is to maintain fair, orderly, and efficient markets. Emphasis again, fair, orderly, and efficient markets. What we are seeing is inefficiency that is being built into the marketplace right now, and we are here to clarify that. Let's find out, as the SEC is preparing a rule, what the goal and objective is and what is going to be the impact on it. Yes, cost is part of that, and we are able to look at that.

The third thing the SEC intended to do is to facilitate capital formation.

Why is that important and what exactly does that mean?

It means making sure that there is enough money around so that companies, big, medium, and small, are able to go in there and get the cash and the credit that they need to go and expand and do the job that they are trying to do, which is, by the way, employ all of us in America.

We have talked a lot about the underlying bill and not so much about the particular amendment that we have before us, but I do continue to oppose the amendment and encourage the passage of the underlying bill.

Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. AL GREEN).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. AL GREEN of Texas. Mr. Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

The Acting CHAIR. The Committee will rise informally.

The Speaker pro tempore (Mrs. WALORSKI) assumed the chair.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 84. An act to provide for an exception to a limitation against appointment of persons as Secretary of Defense within seven years of relief from active duty as a regular commissioned officer of the Armed Forces.

The SPEAKER pro tempore. The Committee will resume its sitting.

SEC REGULATORY ACCOUNTABILITY ACT

The Committee resumed its sitting.

AMENDMENT NO. 4 OFFERED BY MR. DESAULNIER

The Acting CHAIR (Mr. PALMER). It is now in order to consider amendment No. 4 printed in part A of House Report 115–3.

Mr. DESAULNIER. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of the bill, add the following new section:

SEC. 5. DIVESTITURE REQUIREMENT.

The amendment made by section 2 shall not take effect until the Chairman of the Securities and Exchange Commission, and all immediate family members of the Chairman, divests all securities owned by the Chairman and such immediate family members of the Chairman from any financial institution regulated by the Securities and Exchange Commission to ensure that proper and fair rulemaking is administered in accordance with this Act.

The Acting CHAIR. Pursuant to House Resolution 40, the gentleman from California (Mr. DESAULNIER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. DESAULNIER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of this amendment to the SEC Regulatory Accountability Act in a spirit of cooperation. It is most important for the integrity of the SEC, for the investor community, for the entire U.S. population, and indeed for the economic benefit of the United States that integrity and transparency are paramount. So this amendment strengthens the bill, I believe, on behalf of the American investor as well as industry by reaffirming transparency as a core principle of efficient markets and places public service ahead of personal gain.

By requiring the head of the SEC and his immediate family members to divest themselves of all securities connected to the financial institutions regulated by the agency, we reinforce investor confidence that agency decisions are driven by market forces, not the portfolio of the Chair.

Mr. Chairman, the power and stability of U.S. markets rely on the fundamental belief that the system is transparent and fair. Anything that causes investors to question the integrity of the U.S. markets, including lack of information or opaqueness of information, will necessarily hurt our markets and make capital formation more difficult.

The SEC plays a critical role in promoting adequate transparency. Requiring the SEC Chairperson to cut financial ties with institutions that the SEC oversees is a commonsense protection of the agency's credibility and improvement to the underlying bill in my belief.

I hope my Republican colleagues agree and will support this amendment that puts public service ahead of potential personal gain.

Mr. Chairman, I reserve the balance of my time.

Mr. HUIZENGA. Mr. Chairman, I rise in opposition to this amendment.

The Acting CHAIR. The gentleman from Michigan is recognized for 5 minutes.

Mr. HUIZENGA. Mr. Chairman, again, I think we are stumbling over the fact that my colleagues on the other side of the aisle believe that we are somehow paid by the words put into the Federal Registry here.

The SEC is already covered by both governmentwide ethics laws and regulations as well as SEC supplemental ethics regulations which apply to all SEC employees, including the Chair.

Perhaps the sponsor of the amendment is not aware that under existing Federal law, the SEC Chairman cannot participate personally in any matter that would have a direct and predictable effect on her financial interests or imputed financial interest, and I would invite the sponsor to review the code at this point.

Additionally, SEC supplemental regulations prohibit SEC employees, including the Chair, from holding any security in a directly regulated entity, and they must also preclear all purchases and sales of securities.

Further, the Chairman or Commissioner must not engage in any other business, employment, or vocation while in office, nor may she ever use the power of her office or the influence of her name to promote the business interests of others.

Finally, the amendment does not seem to address what I believe Congressman DESAULNIER's description is intending to address as it is the Federal Reserve, not the Securities and Exchange Commission, that regulates the too-big-to-fail banks or, as the amendment states, financial institutions.

The SEC does not regulate financial institutions. The code defines the term ''financial institution,'' and the definition includes ''a bank, a foreign bank, and a savings association.''

Since the SEC does not regulate any of these entities, the amendment would require the SEC Chair to divest of exactly zero entities. So notwithstanding that important discrepancy here, I ask my colleagues to join me in opposing the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. DESAULNIER. Mr. Chairman, I honestly respect the tutorial, but, with all due respect, I do think that this amendment complements the existing rules and protects the investors.

Mr. Chairman, I yield such time as she may consume to the gentlewoman from Wisconsin (Ms. MOORE).

Ms. MOORE. I thank the chairman. I really appreciate the gentleman, Mr. DESAULNIER, for bringing forth this amendment.

Disclosures of and divestment in conflicts are becoming increasingly important in this administration coming up. The conflicts that we know about and the conflicts that we suspect exist with President-elect Trump and his nominees have become a tremendous source of concern as not only do they undermine the faith and fairness of U.S. financial markets, as has been pointed out, but, quite frankly, they have become a matter of national security concern.

The amendments that were rejected by Ranking Member WATERS and this amendment by Representative DESAULNIER together restore confidence that the U.S. financial system is not being manipulated for the gain of a few government officials.

Mr. Chairman, I urge all of my colleagues to support this amendment.

Mr. HUIZENGA. Mr. Chairman, at this time I am prepared to close, and I reserve the balance of my time.

Mr. DESAULNIER. Mr. Chairman, with all due respect, I really think this is, as intended, a commonsense amendment. I do think it complements rather than adds on to the existing requirements to protect investors. And I really think this House, with all due respect, would want to see the markets work efficiently. We also want to ensure that the integrity of those markets and the investors are also strengthened. So I think transparency in this case with the acknowledgment that there are other already existing regulations and the belief that this amendment complements those, I would ask for the House's support.

Mr. Chairman, I yield back the balance of my time.

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Mr. HUIZENGA. Mr. Chairman, I would just point out again that this