



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:

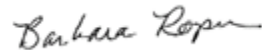
- It requires the agency to adopt, not the most cost-effective regulatory approach, but the least burdensome approach. As such, it prioritizes minimizing regulatory costs over promoting regulatory effectiveness.
- The bill requires the agency to consider a number of specific factors in assessing regulations, 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 Commission 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