



May 16, 2017

Dear Senator,

On behalf of the undersigned 63 organizations, we are writing to express our strong opposition to S. 951, the “Regulatory Accountability Act”, and to urge you to oppose this bill. The Regulatory Accountability Act (RAA) would have a crippling effect on regulation across the Federal Government, including environmental, health, and safety regulation of all kinds. However, the particular concern addressed in this letter is the devastating impact this legislation would have on oversight of Wall Street and our financial system.

The RAA would require regulatory agencies to comply with a host of additional bureaucratic and procedural requirements that would make effective action virtually impossible. In the case of financial regulatory agencies, this would tilt the playing field still further in the direction of powerful Wall Street banks, and against the public interest.

There is overwhelming agreement that the lack of adequate regulation of the financial markets has cost the U.S. economy millions of jobs and many trillions of dollars in lost wealth. While Wall Street profits have recovered, many Americans are still struggling. Support for this legislation is support for eliminating the ability of regulators to protect consumers and prevent the next financial crisis.

Like other federal agencies, the financial regulatory agencies already undertake extensive analysis prior to rulemaking, give major weight to cost-benefit considerations in their decisions, and provide extensive opportunity for public comment. Current procedural requirements are so extensive that almost seven years after the passage of the Dodd-Frank Act, significant rules mandated by that legislation have not been finalized or in some cases even proposed.

The RAA would bring this already slow process to a standstill by adding dozens of new statutory requirements and mandated analyses to the current procedures that regulatory agencies must follow before issuing a rule or guidance to protect the public. Regulated companies could block rules in court on the claim that any one of these requirements was not satisfied. Thus, even if an agency manages to satisfy the numerous additional requirements imposed by this legislation and publish a final rule, well-funded Wall Street financial interests would have effectively unlimited opportunities to second-guess and overturn the agency’s decision.

The legislation also gives regulated companies the ability to freeze the rulemaking process by forcing agencies to engage in trial-like adversarial hearings. The RAA-mandated hearing process would require agencies to litigate any factual claim made in their proposal against industry

counterclaims in a formal proceeding under cross-examination, with the burden of proof on the agency. This process offers near-limitless opportunities to cripple and delay the regulatory process by sending the agency back to the drawing board. When most Federal Trade Commission rulemakings were put under a similar procedure, it virtually ended that agency's promulgation of rules.¹

The RAA would also transform cost-benefit analysis by replacing the standard of maximizing net benefits for society to a poorly defined "cost-effectiveness" standard. This standard appears to prioritize costs to industry over benefits to the public. The bill would also extend cost-benefit procedures to any significant interpretive guidance issued by an agency, which would greatly increase the difficulty of ordinary agency operations.

Finally, the RAA takes an unprecedented step by effectively ending the independence of financial regulatory agencies and giving jurisdiction over numerous key steps in the rulemaking process to the White House Office of Management and Budget (OMB) Office of Information and Regulatory Affairs (OIRA). Banking and financial regulatory agencies have traditionally been independent and permitted to use their internal expertise to evaluate proposed rules. This legislation would put the White House and OIRA in the driver's seat, giving them effective veto power in determining if a new rule or agency guidance could be issued or amended.

The misguided premise of this legislation is that regulations are inevitably costly to the economy, while regulatory inaction is not. Yet analyses have shown that basic health, safety, and environmental regulations typically bring far greater economic benefits than costs.² It is clear that the costs of failing to provide adequate oversight of Wall Street are enormous. The financial crisis of 2008 cost the U.S. economy trillions of dollars and millions of jobs, and led to millions of families losing their homes. Nonpartisan experts have estimated the costs of the crisis to the U.S. as \$6 to \$14 trillion in lost economic output alone.³

In the face of the overwhelming costs of regulatory inaction, it would be a devastating mistake to hamstring our financial regulatory agencies in this way. S. 951 would cripple the ability of regulators to institute any new, significant, and enforceable oversight over financial institutions, ranging from predatory lenders to giant too-big-to-fail banks. It must be rejected.

Sincerely,

¹ Jeffrey S. Lubbers, *It's Time to Remove the "Mossified" Procedures for FTC Rulemaking*, 83 GEORGE WASHINGTON L. REV. 1979 (Nov. 2015), <http://www.gwlr.org/wp-content/uploads/2016/01/83-Geo-Wash-L-Rev-1979.pdf>.

² Shapiro, Isaac, *A Quick Guide to EPI's Research On The Costs and Benefits of Regulation*, Economic Policy Institute, November 22, 2011. Available at <http://www.epi.org/publication/quick-guide-epi-research-regulation/>.

³ The costs of the 2008 financial crisis are analyzed in an AFR briefing paper available at <http://ourfinancialsecurity.org/wp-content/uploads/2012/09/Costs-of-The-Financial-Crisis-September-20142.pdf>.

Signatory Organizations

Alliance for Justice
Allied Progress
American Association for Justice
American Family Voices
American Federation of Teachers
Americans for Financial Reform
Arkansans Against Abusive Payday Lending
Baltimore Neighborhoods, Inc
California Reinvestment Coalition
Center for Economic Integrity
Center for Economic Justice
Center for NYC Neighborhoods
Center for Popular Democracy
Center for Public Interest Law
Center for Responsible Lending
CFED
Communications Workers of America (CWA)
Connecticut Association for Human Services
Connecticut Fair Housing Center
Connecticut Legal Services, Inc.
Consumer Action
Consumer Federation of America
Consumers for Auto Reliability and Safety
Consumers Union
Daily Kos
Demand Progress
Economic Policy Institute Policy Center
Empire Justice Center
Florida Alliance for Consumer Protection
Georgia Watch
Homeowners Against Deficient Dwellings
Housing and Economic Rights Advocates (HERA)
Institute for Agriculture and Trade Policy
Interfaith Center on Corporate Responsibility
Main Street Alliance
Maryland CASH Campaign
Maryland Consumer Rights Coalition
NAACP
National Association of Consumer Advocates
National Center for Law and Economic Justice
National Consumer Law Center, on behalf of its low-income clients
National Consumers League
National Employment Law Project
National Fair Housing Alliance

NETWORK Lobby for Catholic Social Justice
New Haven Legal Assistance Association
People's Action
Progressive Congress Action Fund
Public Counsel
Public Good Law Center
Public Justice Center
Public Knowledge
Reinvestment Partners
Tennessee Citizen Action
Texas Appleseed
The Impact Fund
The Midas Collaborative
U.S. PIRG
UAW
West Virginia Center on Budget and Policy
Woodstock Institute
World Privacy Forum
WV Citizen Action Group