

March 12, 2018

Dear Representative,

On behalf of Americans for Financial Reform, we are writing to urge you to vote in opposition to H.R. 1116, which is being considered on the House floor this week.¹ This unnecessary and dangerous legislation would significantly reduce the capacity of Federal financial regulatory agencies, including the Consumer Financial Protection Bureau, to effectively protect consumers and financial stability.

The “Taking Account of Institutions with Low Operation Risk (TAILOR) Act of 2017,” purports to assure that Federal banking regulators “tailor” regulations to the risk profile and business model of regulated institutions. However, it goes far beyond this seemingly innocent goal. The bill explicitly requires that regulations be tailored “in a manner that limits the regulatory compliance impact, cost, liability risk, and other burdens” to regulated institutions.

This sweeping mandate would force regulators to prioritize the costs of regulations to financial institutions over the offsetting benefits to consumers and the general public. The mandate implies that regulators would be unable to act to protect the public if such action led to any significant costs to Wall Street banks. Any regulated entity, including the largest banks, could use this TAILOR Act language as the basis for a lawsuit to overturn a rule, simply by claiming a regulation had a significant impact or cost for them. Regulators would be required to apply this deregulatory mandate retroactively to numerous previously passed Dodd-Frank rules, and in the future to any new rules.

While the bill does contain a section on “other considerations” that instructs regulators to “consider” the policy objectives of the regulation and its statutory scheme, this consideration is clearly given lower priority than limiting the costs and impact of regulation to regulated business. The TAILOR Act thus inverts the institutional structure of financial regulation by prioritizing firms’ compliance costs over the well-being of consumers and the financial and macroeconomic stability of the U.S.

This requirement is not only dangerous but unnecessary. It ignores the fact that regulators are already scaling rules to the size and business model of financial institutions. The Dodd-Frank Act specifically instructs regulators to calibrate regulations according to a firm’s size and systemic importance.² Agencies like the CFPB, the Federal Reserve, and other banking agencies

¹ Americans for Financial Reform is an unprecedented coalition of more than 200 national, state and local groups who have come together to reform the financial industry. Members of our coalition include consumer, civil rights, investor, retiree, community, labor, faith based and business groups. A list of coalition members is available at <http://ourfinancialsecurity.org/about/our-coalition/>

² Daniel K. Tarullo, “Departing Thoughts,” Remarks by Former Governor Tarullo at The Woodrow Wilson School, April 4, 2017. Available at: <http://bit.ly/2GlaF3g>.

regularly review and recalibrate their rules and regulations, and have put in place numerous regulatory exemptions for smaller institutions.³

Instead, the major impact of the bureaucratic procedures mandated in this legislation would be to serve as a barrier to regulatory action even in cases where it was clearly needed, and to provide yet another path for regulated entities to overturn rules in court. In order to maintain effective regulatory oversight of our financial system, H.R. 1116 must be rejected.

Thank you for your attention to this matter. For more information please contact AFR's Policy Director, Marcus Stanley, at marcus@ourfinancialsecurity.org or 202-466-3672.

Sincerely,

Americans for Financial Reform

³ For some examples, see Novotne, Wendy and Richard Adreano, "CFPB Issues Final Rule Expanding Definition of Small Creditor and Rural Areas Under TILA", Consumer Finance Monitor, September 24, 2015. <http://bit.ly/2IpEcJI>. Federal Reserve Board, "Federal Reserve Announces Finalized Stress Test Rules Removing Non-Complex Banks from Qualitative Aspect of CCAR", Press Release, January 30, 2017. <http://bit.ly/2GITZIG>