



March 16, 2017

Dear Senator,

On behalf of Americans for Financial Reform (AFR),¹ we are writing in opposition to five bills to be considered this week by the Senate Homeland Security and Governmental Affairs Committee.

AFR Opposes Procedures that would Delay and Thwart Sensible Financial Protections

The current rulemaking process provides ample opportunity for the regulated industries – including banks and other financial companies – to express their views and provide information to regulatory agencies. In addition, there are extensive substantive requirements provided by the case law under the Administrative Procedures Act and individual statutes. These requirements are enforced by the courts and require careful, deliberate decision making by regulatory agencies. Even under the current processes, on the sixth anniversary of the Dodd-Frank Act, more than one-fifth of the rules mandated by that bill had yet to be proposed.² Even so, the bills before the Committee would allow opponents of public protections to further delay the rulemaking process, and they would substantively tilt decision making against public protections.

AFR opposes S. 951, the Regulatory Accountability Act, which would break the rulemaking process by creating intractable procedural barriers to promulgating rules. Please see our separate letter, joined by 63 organizations, opposing S. 951.³

AFR opposes S. 579, Early Participation in Regulations Act of 2017.⁴ In practice, the additional procedural requirements proposed by this bill are duplicative of other agency processes. In particular, financial regulators already provide advance notice of proposed rulemaking when appropriate.⁵ The unnecessary, duplicative steps mandated under the bill would

¹ AFR is a 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 AFR member groups is available at <http://ourfinancialsecurity.org/about/our-coalition/>.

² Davis Polk & Wardell LLP, Dodd-Frank Progress Report (July 19, 2016), <https://www.davispolk.com/sites/default/files/2016-dodd-frank-six-year-anniversary-report.pdf>.

³ <http://ourfinancialsecurity.org/wp-content/uploads/2017/05/AFR-RAA-sign-on-letter-FINAL.pdf>.

⁴ For a more detailed discussion of AFR's opposition to this bill, see <http://sensiblesafeguards.org/wp-content/uploads/HSGAC-Mark-up-Sign-on-Letter.pdf>.

⁵ See, e.g., Board of Governors of the Federal Reserve System, Advance Notice of Proposed Rulemaking: Complementary Activities, Merchant Banking Activities, and Other Activities of Financial Holding Companies Related to Physical Commodities, 79 Fed. Reg. 3329 (Jan. 21, 2014); Consumer Financial Protection Bureau, Advance Notice of Proposed Rulemaking: Debt Collection (Regulation F), 78 Fed. Reg. 67847 (Nov. 12, 2013); Board of Governors of the Federal Reserve System, the Office of the

only make rulemaking more costly for agencies and commenters and further slow the rulemaking process.

AFR opposes S. 584, Small Business Regulatory Flexibility Improvements Act.⁶ This bill would require additional comment processes for even relatively minor changes and create unnecessary delays by adding unnecessary analytical requirements. Although the bill is promoted as a small business protection, its provisions apply to rules including those that primarily impact the largest Wall Street banks but have a minor impact on community banks and small businesses.

AFR Opposes Rigging the Legislative Process Against Financial Protections

The Congressional Review Act already provides fast-track procedures for Congress to overturn agency rules. AFR opposes efforts to further tilt the legislative process against public protections.

AFR opposes S. 21, Regulations from the Executive in Need of Scrutiny Act of 2017,⁷ which would require both Houses of Congress and the President to *approve* significant rules—even though the laws authorizing these rules have already been passed through the normal legislative process. This procedure would allow the de facto repeal of a statute by a single house of Congress, creating a far easier pathway for Wall Street firms to block critical financial protections and would severely undermine agency independence.

AFR opposes S. 34, Midnight Rules Relief Act of 2017,⁸ which would permit en bloc votes on Congressional Review Act resolutions to override rules promulgated in the final months of a Presidential administration. This mechanism would lead to cursory deliberation and horse trading across issues, undermining the reasoned decision making that both regular legislative order and administrative rulemaking procedures are designed to encourage.

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These bills would further complicate, confuse, and delay the regulatory process; further advantage regulated industries over the public interest; and make it impossible for regulators to act effectively against Wall Street recklessness and abuse of consumers. We therefore urge

Comptroller of the Currency, and the Federal Deposit Insurance Corporation, Joint Advance Notice of Proposed Rulemaking: Enhanced Cyber Risk Management Standards, 81 Fed. Reg. 74315 (Oct. 26, 2016); Securities & Exchange Commission, Advance notice of proposed rulemaking, Concept release, Request for comment: Transfer Agent Regulations, 80 Fed. Reg. 81947 (Dec. 31, 2015).

⁶ For a more detailed discussion of AFR's opposition to this bill, see <http://sensiblesafeguards.org/wp-content/uploads/2015/02/SBRFIA.pdf>.

⁷ For a more detailed discussion of AFR's opposition to this bill, see <http://ourfinancialsecurity.org/2017/01/letter-congress-afr-opposes-reins-act-hr-24/>.

⁸ For a more detailed discussion of AFR's opposition to this bill, see <http://sensiblesafeguards.org/wp-content/uploads/Sign-on-Letter-Midnight-Regs-Bill-H.R.-5982.pdf>.

opposition to these bills.

Sincerely,

Americans for Financial Reform