AMERICANS
FOR FINANCIAL REFORM
ACCOUNTABILITY ⋆ FAIRNESS ⋆ SECURITY

Americans for Financial Reform
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Dear Representative:

On behalf of Americans for Financial Reform (AFR), we are writing to urge you to oppose HR 185, the "Regulatory Accountability Act of 2015".[1]

This legislation could instead be entitled the "End Wall Street Accountability Act of 2015", since this would be one of its major effects. This legislation would require the agencies charged with oversight of our largest banks and most critical financial markets to comply with a host of additional bureaucratic and procedural requirements designed to make effective action virtually impossible. By doing so it would tilt the playing field still further in the direction of powerful Wall Street banks, and against the public interest. It would paralyze the ability of regulators to protect consumers from financial exploitation and prevent another catastrophic financial crisis,

There is overwhelming agreement that the lack of adequate regulation of the financial markets was a fundamental cause of the financial crisis, costing the U.S. economy millions of jobs and trillions in lost wealth. While Wall Street profits have recovered, many Americans are still struggling. Support for this legislation is support for locking in the status quo that got us here.

Over the four and a half years since passage of the Dodd Frank Act, regulators have released dozens of economic analyses, reviewed thousands of public comments on rules proposals, and held multiple public roundtables to discuss the issues around these rules. Congress has also held numerous hearings questioning regulators on their rules. Even given all these efforts, many rules have not been implemented in a timely fashion. According to the David Polk law firm, 37 percent of statutory deadlines in Dodd-Frank have not been met, and almost a quarter of mandated Dodd-Frank rules have not even been proposed yet.

Yet in the face of this failure of regulators to act swiftly and forcefully, this legislation would further burden financial regulators with over 70 new procedural and analytical requirements that must be completed before they could take any action. The delay created by these additional requirements would effectively paralyze the rulemaking process completely. For example, the legislation requires agencies to identify and analyze any theoretical alternative to imposing a regulation, and analyze the costs and benefits of each alternative in detail. Since there are always

[1] Americans for Financial Reform is an unprecedented coalition of over 250 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, religious and business groups. A list of AFR coalition members is available at http://ourfinancialsecurity.org/about/our-coalition/ .

numerous possible alternatives to any course of action, this requirement alone could force agencies to complete dozens of additional analyses prior to proposing a regulation. The bill also includes an unprecedented mandate on agencies to determine all "indirect" costs stemming from their proposed regulation, with no guidance to agencies as what constitutes an "indirect" cost.

Should any of the mandated analyses be found to be inadequate by a court, the court could then overturn the regulation. Thus, even if an agency manages to satisfy the dozens of additional requirements imposed by this legislation and publish a final rule, industry would have numerous opportunities to second-guess and overturn the agency's decision in court.

In a step that could be even more devastating, even after all mandated analyses had been completed, any regulated company could force agencies to engage in a formal adversarial hearing process. This process would require agencies to formally demonstrate that their chosen rule had lower net costs than any alternative proposed by private industry. This demonstration would also be subject to judicial review, without any apparent requirement for the court to defer to the agency's professional judgment. This formal hearing process would amount to a de facto Wall Street veto of regulatory oversight. Any bank wishing to stall the regulatory process would simply have to propose that the agency analyze an additional regulatory option, which would send the agency 'back to the drawing board' and create yet another opportunity to overturn agency rules in court.

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. 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. Globally, economists have estimated that the total cost of the financial crisis could exceed $60 trillion.

In the face of the overwhelming costs of regulatory inaction, we cannot afford to hamstring our financial regulatory agencies. The needless litigation and delay that will result from enactment of this bill will serve only to halt critical safeguards for our economy and the public. According to recent polling data, 78 percent of Americans favor tougher rules and enforcement for big Wall Street banks.[2] This legislation would cripple the ability of regulators to institute any new oversight on our largest banks, and it must be rejected.

Sincerely,

Americans for Financial Reform

[2] See response to Question 2 in CRL/AFR Poll of 1000 Likely Voters, June 25-30, 2014, available at http://ourfinancialsecurity.org/blogs/wp-content/ourfinancialsecurity.org/uploads/2014/07/toplines.AFR_.public.071714.pdf.