AFL-CIO

LEGISLATIVE ALERT

June 5, 2017

Dear Representative:

On behalf of our 12.5 million members, the AFL-CIO urges you to oppose the Financial Create Hope and Opportunity for Investors, Consumers and Entrepreneurs (CHOICE) Act of 2017 (H.R.10) considered for floor action this week. If enacted, this bill will result in significant harm to working people who depend on the integrity of financial markets and to our nation's economy as a whole.

There is little doubt that decades of Wall Street deregulation—rationalized by an unquestionable faith in the ability of the financial sector to self-regulate—led to the 2008 financial crisis. Congress enacted the Wall Street Reform and Consumer Protection Act (Dodd-Frank) to strengthen the regulatory framework that had failed to prevent the 2008 crisis.

At its essence, H.R. 10 reflects a level of disregard for the welfare of consumers and individual investors that is difficult to comprehend. It not only guts many of the essential systemic risk reforms adopted after the 2008 financial crisis, it also eliminates many investor protections that have existed since the Great Depression.

Harm to the Economy

The 2008 financial crisis resulted in a broad consensus for legislative reforms to put an end to "too big to fail" financial institutions and prevent future taxpayer-funded bailouts, and Dodd-Frank included important provisions to make financial institutions more financially secure. Fundamentally, Dodd-Frank recognizes the dangers of systemic risk to our financial markets and promotes a regulatory regime that would manage those risks rather than simply react to future Wall Street panics.

The Financial CHOICE Act rests on the dangerous assumption that financial regulators need not address the possibility of systemic financial risk. It claims to promote accountability for Wall Street while undoing key safety and soundness provisions. It claims to promote accountability while eliminating the Office of Financial Research that provides valuable information to prudential regulators. Additionally, it undermines the independence of the Federal Reserve in setting monetary policy by proscribing how interest rates should be calculated.

Harm to Consumers

The Financial CHOICE Act also undermines key consumer protections. Overly aggressive and often predatory mortgage lending contributed to the 2008 financial crisis. In response, Dodd-Frank created the Consumer Financial Protection Bureau ("CFPB"). Since its inception, the CFPB has succeeded in bringing accountability and transparency to Wall Street, and returning billions of dollars to millions of consumers harmed by the financial sector.

If enacted, the Financial CHOICE Act will strip the CFPB of its authority to stop unfair, deceptive, and abusive practices by financial institutions. The bill will prevent the CFPB from regulating payday lenders, remove its ability to limit the use of forced arbitration clauses, and make secret the CFPB's consumer complaint database. The Act will also undermine the CFPB's independence as a financial regulator by eliminating its independent source of funding and providing the President with the authority to fire its director.

Harm to Investors

If enacted, the Financial CHOICE Act will roll back the clock on a variety of investor protections. The bill will exacerbate runaway executive pay by relaxing the requirements for advisory votes on executive compensation, repealing disclosure requirements for executives' hedging of company stock, and limiting the number of executives subject to compensation clawbacks. The bill also undermines the Securities and Exchange Commission's (SEC) authority to adopt universal proxy access, repeals SEC disclosure requirements regarding company Chairman and CEO structures, and imposes new burdensome and unnecessary regulations on proxy advisory firms.

H.R. 10 also will disenfranchise shareholders by making it virtually impossible to submit shareholder proposals under SEC Rule 14a-8. This longstanding SEC rule, dating back to the 1940s, facilitates shareholders' ability to address corporate governance and corporate responsibility issues through a "private ordering" process. Some of the advances in corporate governance, including annual director elections, auditor independence, and corporate sustainability, have been due to shareholder proposals.

Incredibly, the Financial CHOICE Act also removes SEC reporting requirements for private equity firms in spite of SEC examinations that found "what [it believed to be] violations of law or material weaknesses in controls over 50% of the time."[1] Additionally, the bill blocks the Department of Labor's long-overdue fiduciary rule requiring financial professionals to act in

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[1] Andrew J. Bowden, Director, SEC Office of Compliance Inspections and Examinations, "Spreading Sunshine in Private Equity," May 6, 2014.

their clients' best interests when advising on retirement accounts—putting some $17 billion a year back into retiree accounts.

By repealing major provisions of the Dodd-Frank law, H.R. 10 would leave the American economy vulnerable to a repeat of the 2008 financial meltdown. We urge you to oppose H.R. 10 and in the alternative support Representative Kaptur's amendment that would strike most of H.R 10 and insert the "Return to Prudent Banking Act of 2017." "The Return to Prudent Banking Act of 2017" would strengthen, not weaken, our financial system by reinstating the Glass-Steagall Act of 1933. The return of Glass-Steagall would limit the systemic risks posed by too big and too interconnected to fail financial institutions. "The Return to Prudent Banking of 2017" represents the appropriate focus for Congressional attention should it take action to address shortcomings in financial regulation, not the Financial CHOICE Act.

Sincerely,

William Samuel, Director
Government Affairs Department

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