



December 18, 2017

Dear Representative:

On behalf of Americans for Financial Reform (AFR), we are writing to urge you to vote against HR 4015, the “Corporate Governance Reform and Transparency Act of 2017”, which will be considered on the House floor this week.<sup>1</sup> By placing an excessive and unnecessary regulatory burden on proxy advisory firms, this bill would unfairly disadvantage shareholders as compared to firm management, and raise serious First Amendment concerns as well. AFR joins major representatives of shareholders such as the Council of Institutional Investors (CII) and the California Public Employee Retirement System (CALPERS) in opposing this bill.

HR 4015 would establish a new Federal regulatory scheme for proxy advisory firms. These firms provide institutional investors, including pension funds, with the research and information they need in order to exercise their voting rights as shareholders. The regulations proposed in HR 4015 would require proxy advisory firms to provide the management of public companies with detailed voting recommendations relevant to their firms before these recommendations were shown to shareholders who paid for proxy advisory services. Advisory firms would also be required to resolve any complaints from firm management, and employ an ombudsman to ensure that such complaints were addressed. If complaints were not resolved to the satisfaction of firm management, then the full text of complaints from companies would be included next to voting recommendations in proxy advisory reports. Regulations would also mandate extensive disclosure requirements for the details of proxy advisory methodologies, reducing incentives to invest in developing such methodologies. The costs of this regulatory regime would be passed on to investors and pension funds that use proxy advisory services.

The regulatory scheme is a transparent attempt to weaken if not eliminate the independence of proxy advisory firms from firm management by placing sharp restrictions on their expression of opinions which differ from those of firm management. Besides raising First Amendment issues, this improperly restricts the ability of shareholders to obtain independent views on how they should exercise their voting rights.

This legislation cannot be justified, as some have attempted to do, by any analogy to the regulation of credit rating agencies. Proxy advisory services do not face a fundamental conflict of interest in their business model because they are not paid by securities issuers while providing certification of securities quality to securities investors. They also have not been implicated in massive fraudulent behavior that contributed directly to a global financial crisis. Further, proxy

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<sup>1</sup> 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/>.

advisory services are clearly recognized as providing opinions regarding voting decisions, in a context where many other such opinions are available, rather than being entities that certify the quality of securities.

Any concerns about the independence of proxy advisory services can be addressed by simply requiring such services to register as investment advisors under the Investment Advisors Act. The radical regulatory scheme laid out in HR 4015 goes far beyond anything even mentioned in the recent Treasury Department report on capital markets, which examined the issue of proxy advisory firms and recommended only that regulators engage in “further study and evaluation of proxy advisory firms, including regulatory responses to promote free market principles if appropriate.”<sup>2</sup> The regulatory scheme in HR 4015, besides being misguided in other ways, certainly does not promote free market principles.

The effort in HR 4015 to eliminate the independent voice of proxy advisory services should be rejected. We urge you to vote against it.

For more information please contact AFR’s Policy Director, Marcus Stanley, at [marcus@ourfinancialsecurity.org](mailto:marcus@ourfinancialsecurity.org) or 202-466-3672.

Sincerely,

Americans for Financial Reform

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<sup>2</sup> <https://www.treasury.gov/press-center/press-releases/Documents/A-Financial-System-Capital-Markets-FINAL-FINAL.pdf>