January 13, 2015

Dear Representative:

As a nonprofit, nonpartisan organization that promotes the public interest in the financial markets, we write to identify serious flaws in **H.R. 185**, which would deprive Americans of many critically important protections. H.R. 185, the misleadingly labeled "**Regulatory Accountability Act of 2015**," would subject our financial protection agencies to innumerable needless procedural hurdles and barriers that would prevent them from implementing key Wall Street reforms, protecting America's families from future crises, and stopping future taxpayer funded bailouts.

Don't be fooled. H.R. 185 is nothing more than a disguised pro-Wall Street deregulation bill. It is as if people – in just a few short years – forgot the crisis of 2008, which was the worst financial crash since 1929 and caused the worst economy since the Great Depression of the 1930s. H.R. 185 also ignores the fact that the crash, which is going to cost the U.S. more than $12.8 **trillion** plus untold human suffering by tens of millions of Americans who lost their jobs, savings, homes, retirements, and so much more, was largely caused by **lack of regulation** and de-regulation, not by too much regulation or bad regulation.

A key example of a dangerous provision in H.R. 185 is the requirement that would force financial protection agencies to undertake an exhaustive and quantitative so-called "cost-benefit analysis" for every major rulemaking. Don't be misled by the labeling. As has been repeatedly shown over the years, such so-called **"cost benefit analysis" is little more than "<u>industry cost only analysis</u>" that prioritizes Wall Street's interests over the public interest**. As Better Markets detailed in an extensive report, the type of "industry cost only analysis" required by H.R. 185 would effectively kill financial reform, take down key rules that protect Main Street from Wall Street, and possibly lead to another devastating financial crash.

In effect, H.R. 185 would hand a lethal club to Wall Street, the very industry that crashed the financial system – and cost tens of millions of Americans their jobs, savings, homes, retirements, and economic security. Armed with this bill, Wall Street can beat back rules by arguing that the costs imposed on **them** to prevent **them** from crashing the financial system again should be more important than the benefit to the public of preventing such a crash. This shamelessly turns the world upside down, effectively re-victimizing the American people who have suffered and continue to suffer from the last crisis.

The extensive, burdensome, and lengthy "industry cost only analysis" in H.R. 185 prioritizes Wall Street's costs while neglecting the benefits to the public of avoiding another financial crash and the economic wreckage it will cause. In particular, in such a one-sided process it is impossible to quantify all the benefits to the public of curbing Wall Street's abuses, its high risk gambling activities, and the illegal if not criminal conduct that – in 2008 – crashed the

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global financial system and almost caused a second Great Depression (as demonstrated in another Better Markets report). As stark and clear evidence of the one-sided, misguided, and pro-Wall Street nature of this bill, almost none of the $12.8 trillion in costs to the U.S. would be considered in an "industry cost only analysis" of the type required by H.R. 185.

H.R. 185 also has the effect of overruling the policy decisions of Congress and the President when they pass and enact laws. For example, the Dodd-Frank Wall Street Reform and Consumer Protection Act enacted a broad range of substantive provisions to respond to the worst financial and economic calamity since the Great Depression. That law also directed the financial protection agencies to undertake dozens of rulemakings to implement the intent of that law. Many of those provisions, including outright prohibitions on some of Wall Street's highest risk activities, are going to impose very significant costs on the industry. Those were decisions made by Congress and the President, who decided that such costs were necessary and appropriate to protect the American people. To now require those same financial protection agencies to conduct such an "industry cost only analysis" would put them in the "impossible" position of having to overrule those decisions (as one appellate court has already found).

Moreover, whether it is called "cost benefit analysis" or "industry cost only analysis," it is conducted on a rule-by-rule basis, effectively ignoring the overall law. Thus, even if it were possible to quantify all the benefits of an individual rule – which cannot be done in any case – the analysis would still fail to properly measure the public interest because the benefit of each individual financial reform rule can only be fully understood – and properly judged – by evaluating the totality of the law and the entire framework it established. Financial reform is an interconnected, holistic law designed to protect the American people by comprehensively addressing Wall Street's recklessness and the systemic risks that it creates. Imposing "industry cost only analysis" like that in H.R. 185 is passing a law that will inevitably benefit Wall Street and harm Main Street.

This is not a hypothetical concern. Wall Street and its allies have repeatedly sued the financial protection agencies over their rulemakings, claiming among other things that they failed to properly conduct cost benefit analysis. While such lawsuits have been meritless (as Better Markets has detailed in numerous court filings), it is revealing that Wall Street's attacks have been rule-by-rule, ignoring the law as a whole and, shamelessly, ignoring the financial crash and economic crisis that gave rise to the law in the first place.

That's bad enough, but that's not everything that H.R. 185 puts in the way of the financial protection agencies and their mission to protect the American people. It also imposes many complex requirements, including (again) "industry cost only analysis," on agencies even when they are just issuing informal "guidance." Guidance is frequently issued in response to requests from market participants for clarification about a regulator's interpretation of the law, and it therefore provides market participants with signals about regulators' priorities, helping to facilitate both compliance and innovation. Unfortunately, H.R. 185 would limit the ability of regulators to provide this type of information to the industry and the public, creating uncertainty about how to apply the rules. Moreover, forcing agencies to devote enormous resources even to the issuance of *guidance* would effectively paralyze them and bring the rulemaking process to a halt – precisely the outcome that Wall Street and its allies are really seeking to achieve with this bill.

Similarly, the legislation would impose further burdens on financial protection agencies that are designed to thwart the rulemaking process. For instance, H.R. 185 would require regulatory agencies to conduct exhaustive analysis of all *alternatives* to each proposed rule prior to promulgating a proposed rule. In addition to creating an unending and unachievable quest to ascertain all alternatives for all rules, this massive undertaking would be exorbitantly costly and time consuming. But, the agencies are already grossly underfunded (in large part due to Wall Street lobbying) and will never have enough funding to undertake such a monumental task. This will inevitably delay all rulemaking and in many cases prevent important protections from ever seeing the light of day – not on the merits, but by imposing impossible requirements and starving the agencies of adequate funding.

Finally, independent financial protection agencies (like the SEC and CFTC) are creatures of Congress and are meant to be independent of the Executive Branch (hence the name). They are also supposed to be staffed by experts in their field and given discretion to exercise that expertise to implement the laws, subject to the general oversight from the Presidential nomination and Senate confirmation process. H.R. 185 would dramatically undermine the independence of our financial protection agencies, and largely negate the expertise they provide, by requiring all of them to submit their proposed rules to the Office of Information and Regulatory Affairs (OIRA), a political agency in the Office of Management and Budget.

As a result of H.R. 185, these independent agencies will need to obtain Executive Branch approval for every major rule and will no longer be allowed to use their professional, independent, and non-political judgment to carry out their Congressionally mandated missions. Thus, these agencies will no longer be independent of the Executive Branch. That would represent one of the most significant and damaging voluntary transfers of power from Congress to the Executive Branch in U.S. history.

For all of these reasons, H.R. 185 will make it difficult, if not impossible, for our financial protection agencies to implement financial reform and protect the American people from another financial crash and Great Depression.

Sincerely,

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