

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2308
OFFERED BY MR. GARRETT**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “SEC Regulatory Ac-
3 countability Act”.

**4 SEC. 2. CONSIDERATION BY THE SECURITIES AND EX-
5 CHANGE COMMISSION OF THE COSTS AND
6 BENEFITS OF ITS REGULATIONS AND CER-
7 TAIN OTHER AGENCY ACTIONS.**

8 Section 23 of the Securities Exchange Act of 1934
9 (15 U.S.C. 78w) is amended by adding at the end the fol-
10 lowing:

11 “(e) CONSIDERATION OF COSTS AND BENEFITS.—

12 “(1) IN GENERAL.—Before issuing a regulation
13 under the securities laws, as defined in section 3(a),
14 the Commission shall—

15 “(A) clearly identify the nature of the
16 problem that the proposed regulation is de-
17 signed to address, as well as assess the signifi-

1 cance of that problem, to enable assessment of
2 whether any new regulation is warranted;

3 “(B) utilize the Office of the Chief Econo-
4 mist to assess the costs and benefits, both qual-
5 itative and quantitative, of the intended regula-
6 tion and propose or adopt a regulation only on
7 a reasoned determination that the benefits of
8 the intended regulation justify the costs of the
9 regulation;

10 “(C) identify and assess available alter-
11 natives to the regulation that were considered,
12 including modification of an existing regulation,
13 together with an explanation of why the regula-
14 tion meets the regulatory objectives more effec-
15 tively than the alternatives; and

16 “(D) ensure that any regulation is acces-
17 sible, consistent, written in plain language, and
18 easy to understand and shall measure, and seek
19 to improve, the actual results of regulatory re-
20 quirements.

21 “(2) CONSIDERATIONS AND ACTIONS.—

22 “(A) REQUIRED ACTIONS.—In deciding
23 whether and how to regulate, the Commission
24 shall assess the costs and benefits of available
25 regulatory alternatives, including the alternative

1 of not regulating, and choose the approach that
2 maximizes net benefits. Specifically, the Com-
3 mission shall—

4 “(i) consistent with the requirements
5 of section 3(f) (15 U.S.C. 78c(f)), section
6 2(b) of the Securities Act of 1933 (15
7 U.S.C. 77b(b)), section 202(c) of the In-
8 vestment Advisers Act of 1940 (15 U.S.C.
9 80b-2(c)), and section 2(c) of the Invest-
10 ment Company Act of 1940 (15 U.S.C.
11 80a-2(c)), consider whether the rule-
12 making will promote efficiency, competi-
13 tion, and capital formation;

14 “(ii) evaluate whether, consistent with
15 obtaining regulatory objectives, the regula-
16 tion is tailored to impose the least burden
17 on society, including market participants,
18 individuals, businesses of differing sizes,
19 and other entities (including State and
20 local governmental entities), taking into ac-
21 count, to the extent practicable, the cumu-
22 lative costs of regulations; and

23 “(iii) evaluate whether the regulation
24 is inconsistent, incompatible, or duplicative
25 of other Federal regulations.

1 “(B) ADDITIONAL CONSIDERATIONS.—In
2 addition, in making a reasoned determination of
3 the costs and benefits of a potential regulation,
4 the Commission shall, to the extent that each is
5 relevant to the particular proposed regulation,
6 take into consideration the impact of the regu-
7 lation on—

8 “(i) investor choice; and

9 “(ii) market liquidity in the securities
10 markets.

11 “(3) REVIEW OF EXISTING REGULATIONS.—Not
12 later than 1 year after the date of enactment of the
13 SEC Regulatory Accountability Act, and every 5
14 years thereafter, the Commission shall review its
15 regulations to determine whether any such regula-
16 tions are outmoded, ineffective, insufficient, or ex-
17 cessively burdensome, and shall modify, streamline,
18 expand, or repeal them in accordance with such re-
19 view.

20 “(4) POST-ADOPTION IMPACT ASSESSMENT.—

21 “(A) IN GENERAL.—Whenever the Com-
22 mission adopts or amends a regulation des-
23 ignated as a ‘major rule’ within the meaning of
24 section 804(2) of title 5, United States Code, it

1 shall state, in its adopting release, the fol-
2 lowing:

3 “(i) The purposes and intended con-
4 sequences of the regulation

5 “(ii) Appropriate post-implementation
6 quantitative and qualitative metrics to
7 measure the economic impact of the regu-
8 lation and to measure the extent to which
9 the regulation has accomplished the stated
10 purposes.

11 “(iii) The assessment plan that will be
12 used, consistent with the requirements of
13 subparagraph (B) and under the super-
14 vision of the Chief Economist of the Com-
15 mission, to assess whether the regulation
16 has achieved the stated purposes.

17 “(B) REQUIREMENTS OF ASSESSMENT
18 PLAN AND REPORT.—

19 “(i) REQUIREMENTS OF PLAN.—The
20 assessment plan required under this para-
21 graph shall consider the costs, benefits,
22 and intended and unintended consequences
23 of the regulation. The plan shall specify
24 the data to be collected, the methods for

1 collection and analysis of the data and a
2 date for completion of the assessment.

3 “(ii) SUBMISSION AND PUBLICATION
4 OF REPORT.—The Chief Economist shall
5 submit the completed assessment report to
6 the Commission no later than the date
7 specified in the adopting release, unless the
8 Commission, at the request of the Chief
9 Economist, has published at least 90 days
10 before such date a notice in the Federal
11 Register extending the date and providing
12 specific reasons why an extension is nec-
13 essary. Within 7 days after submission to
14 the Commission of the final assessment re-
15 port, it shall be published in the Federal
16 Register for notice and comment. Any ma-
17 terial modification of the plan, as nec-
18 essary to assess unforeseen aspects or con-
19 sequences of the regulation, shall be
20 promptly published in the Federal Register
21 for notice and comment.

22 “(iii) DATA COLLECTION NOT SUB-
23 JECT TO NOTICE AND COMMENT REQUIRE-
24 MENTS.—If the Commission has published
25 its assessment plan for notice and com-

1 ment, specifying the data to be collected
2 and method of collection, at least 30 days
3 prior to adoption of a final regulation or
4 amendment, such collection of data shall
5 not be subject to the notice and comment
6 requirements in section 3506(c) of title 44,
7 United States Code (commonly referred to
8 as the Paperwork Reduction Act). Any ma-
9 terial modifications of the plan that require
10 collection of data not previously published
11 for notice and comment shall also be ex-
12 empt from such requirements if the Com-
13 mission has published notice for comment
14 in the Federal Register of the additional
15 data to be collected, at least 30 days prior
16 to initiation of data collection.

17 “(iv) FINAL ACTION.—Not later than
18 180 days after publication of the assess-
19 ment report in the Federal Register, the
20 Commission shall issue for notice and com-
21 ment a proposal to amend or rescind the
22 regulation, or publish a notice that the
23 Commission has determined that no action
24 will be taken on the regulation. Such a no-
25 tice will be deemed a final agency action.

1 “(5) COVERED REGULATIONS AND OTHER
2 AGENCY ACTIONS.—Solely as used in this subsection,
3 the term ‘regulation’—

4 “(A) means an agency statement of gen-
5 eral applicability and future effect that is de-
6 signed to implement, interpret, or prescribe law
7 or policy or to describe the procedure or prac-
8 tice requirements of an agency, including rules,
9 orders of general applicability, interpretive re-
10 leases, and other statements of general applica-
11 bility that the agency intends to have the force
12 and effect of law; and

13 “(B) does not include—

14 “(i) a regulation issued in accordance
15 with the formal rulemaking provisions of
16 section 556 or 557 of title 5, United States
17 Code;

18 “(ii) a regulation that is limited to
19 agency organization, management, or per-
20 sonnel matters;

21 “(iii) a regulation promulgated pursu-
22 ant to statutory authority that expressly
23 prohibits compliance with this provision;
24 and

1 “(iv) a regulation that is certified by
2 the agency to be an emergency action, if
3 such certification is published in the Fed-
4 eral Register.”.

5 **SEC. 3. SUBMISSION OF PLAN FOR SUBJECTING OTHER**
6 **REGULATORY ENTITIES TO COST AND BEN-**
7 **EFIT REQUIREMENTS.**

8 Not later than 1 year after the date of enactment
9 of this Act, the Securities and Exchange Commission shall
10 provide to the Committee on Financial Services of the
11 House of Representatives and the Committee on Banking,
12 Housing, and Urban Affairs of the Senate a report setting
13 forth a plan for subjecting the Public Company Account-
14 ing Oversight Board, the Municipal Securities Rulemaking
15 Board, and any national securities association registered
16 under section 15A of the Securities Exchange Act of 1934
17 (15 U.S.C. 78o-4(a)) to the requirements subsection (e)
18 of section 23 of such Act, as added by this Act.

