115TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
115–588

TAKING ACCOUNT OF INSTITUTIONS WITH LOW OPERATION RISK ACT OF 2017

MARCH 6, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 1116]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 1116) to require the Federal financial institutions regulatory agencies to take risk profiles and business models of institutions into account when taking regulatory actions, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

On February 16, 2017, Representative Scott Tipton introduced H.R. 1116, the "Taking Account of Institutions with Low Operation Risk Act of 2017" or "TAILOR Act of 2017", which directs the federal financial institutions regulatory agencies (the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Federal Reserve), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Bureau of Consumer Financial Protection (CFPB)) to tailor their rulemakings in consideration of the risk profiles and business models of the financial institutions that are subject to such rules. The TAILOR Act also directs these agencies to annually report to Congress and testify before the Committee on Financial Services and the Committee on Banking, Housing, and

Urban Affairs regarding the specific actions taken to tailor their regulatory actions.

BACKGROUND AND NEED FOR LEGISLATION

The goal of H.R. 1116 is to have federal financial regulatory agencies that regulate financial institutions move away from a static or one-size-fits all approach when the agency implements regulations and instead engage in dynamic oversight of financial institutions and consider additional factors such of an institution such as its risk profile, unintended potential impact of implementation of such regulations, and underlying policy objectives of the statutory scheme which led to the regulation.

The growing weight and complexity of regulation for community financial institutions affects their ability to provide the products and services necessary to allow small businesses to grow and consumers to access credit to realize their financial and personal goals. The regulatory burden falls into three major categories: (1) additional operational costs associated with compliance; (2) restrictions on fees, interest rates, or other revenue; and (3) unintentional barriers to offering a service due to regulatory complexity. Smaller institutions are disproportionately affected by increased regulation because they are less able to absorb additional costs. Compliance with new regulations is expensive. After a regulation has been finalized, an institution must hire lawyers to review its procedures and forms to ensure that it complies with the regulation; coordinate its compliance activities and design internal audit programs; train its employees; buy additional information technology; design, print, and mail or electronically deliver new forms and other disclosures; monitor its employees' compliance with new rules; and make records and employees available for regulatory examinations.

Although the intent of the Dodd-Frank Wall Street Reform and Consumer Act's reforms was to reach large, global, interconnected and complex U.S. financial institutions, the Dodd-Frank Act and the resulting regulatory regime have had a demonstrable—and highly adverse—impact on small, community-based financial institutions. For example, community bankers report a "trickle-down effect, where regulation originally meant for big institutions is being applied to smaller banks," often in the form of bank examiners identifying those regulations as "best practices" that should be followed by institutions regardless of their size.

Some federal financial regulators have acknowledged the need to tailor the regulatory regime to institutions. For example, in September 28, 2016, testimony before the Committee, former Federal Reserve Chair Janet Yellen stated: "[W]hen it comes to bank regulation and supervision, one size does not fit all. To effectively promote safety and soundness and to ensure that institutions comply with applicable consumer protection laws without creating undue regulatory burden, rules and supervisory approaches should be tailored to different types of institutions such as community banks." And, in an April 30, 2015, speech, former Federal Reserve Board Governor Daniel Tarullo noted "the importance of differentiating prudential regulation and supervision based on the varying nature of the risks posed by different groups of banks . . . . At an analytic level, we need to be clear that prudential aims vary with the risks posed by diverse groups of banks."

A 2015 study from researchers at Harvard University's Kennedy School of Government entitled "The State and Fate of Community Banking," noted the "increasingly complex and uncoordinated regulatory system [embodied by Dodd-Frank] has created an uneven regulatory playing field that is accelerating consolidation [among community financial institutions] for the wrong reasons." The study described a post-financial crisis competitive landscape characterized by "community banks' declining market share in several key lending markets, their decline in small business lending volume, and the disproportionate losses being realized by particularly small community banks." An April 2015 study by economists at Goldman Sachs reached a similar conclusion about the "pass-through" effects of post-crisis banking regulations on small businesses that rely heavily on the community banking sector for their funding:

The weight and burden from increased bank regulation falls disproportionately bank customers, such as smaller businesses that have few alternative sources of finance. The muted recovery in bank lending to small businesses cannot be overemphasized. Outstanding commercial and industrial (C&I) loans for less than $1 million are still well below the peak 2008 level and are only 10% above the trough seen in 2012. In contrast, larger C&I loans outstanding (above $1 million) are more than 25% higher than the peak in 2008. Moreover, the cost of the smallest C&I loans has risen by at least 10% from the pre-crisis average. The evidence suggests that smaller firms continue to borrow from banks—when they can get credit—because they lack effective alternative sources of finance. It also suggests that they are paying notably more for credit today; this weighs on their ability to compete with larger firms and to create new jobs.

The current Presidential administration supports regulatory tailoring. In President Trump's February 2017 Executive Order entitled "Core Principles for Regulating the United States Financial System" one of the seven principles was to "make regulation efficient, effective, and appropriately tailored." In June 2017, the Department of the Treasury released its first report in response to the President's Executive Order to inform the Administration's perspective to regulate the financial system. The report entitled, "A Financial System That Creates Economic Opportunities-Banks and Credit Unions" found that "[b]anks and credit unions are confronted with a vast array of regulatory requirements, putting a substantial burden on financial and human capital. Most critically, regulatory burdens must be appropriately tailored based on the size and complexity of a financial organization's business model and take into account risk and impact."

H.R. 1116 requires the federal financial institution regulatory agencies (the OCC, Federal Reserve, FDIC, NCUA, and CFPB) to tailor any regulatory action that occurs after the legislation's enactment to appropriately apply to banks and credit unions. The agencies would be required to consider the risk profile and business model of the institutions and determine the necessity, appropriateness, and impact of applying such regulatory action to those institutions. Not only will the TAILOR Act ensure appropriately tailored compliance obligations for banks and credit unions of various risk profiles, but the legislation will also save valuable time and resources for bank and credit union examiners. It is important to foster a regulatory environment where banks and credit unions can focus their time and assets in their surrounding communities and make long-term investments, rather than devote their limited financial and human resources to comply with an ever-increasing and overly burdensome regulatory regime that reportedly was never supposed to impact smaller banks and credit unions.

By allowing the federal regulators to weigh the compliance impact, cost, and liability risk, together with the unintended consequences of regulations in the aggregate, consumers will directly benefit. Tailored adjustments to appraisal and escrow provisions, for example, would encourage banks to make loans they currently cannot afford to make. Small business customers would see more efficient and expedited loan procedures, ultimately stimulating the local economy. Regulators would also have the flexibility to deem loans in portfolio as compliant with "Qualified Mortgage" and "Ability to Repay" rules, allowing loans not otherwise made to be accessed by low-income, rural, retiree, or the recently employed segments of the consumer lending market. H.R. 1116 is the embodiment of smart regulation, which will promote small financial institution competition and foster consumer choice and competitive lending.

HEARINGS

The Committee on Financial Services held a hearing examining matters relating to H.R. 1116 on April 26, 2017, and April 28, 2017.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on October 11, 2017, October 12, 2017, and ordered H.R. 1116 to be reported favorably to the without amendment by a recorded vote of 39 yeas to 21 nays (Record vote no. FC–74), a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole recorded vote was on a motion by Chairman Hensarling to report the bill favorably to the House without amendment. The motion was agreed to by a recorded vote of 39 yeas to 21 nays (Record vote no. FC–74), a quorum being present.

Record vote no. FC-74

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X	......	....	Ms. Maxine Waters (CA)	......	X	....
Mr. McHenry	X	......	....	Mrs. Carolyn B. Maloney (NY)	......	X	....
Mr. King	X	......	....	Ms. Velázquez	......	X	....
Mr. Royce (CA)	X	......	....	Mr. Sherman	......	X	....
Mr. Lucas	X	......	....	Mr. Meeks	......	X	....
Mr. Pearce	X	......	....	Mr. Capuano	......	X	....
Mr. Posey	X	......	....	Mr. Clay	......	X	....
Mr. Luetkemeyer	X	......	....	Mr. Lynch	......	X	....
Mr. Huizenga	X	......	....	Mr. David Scott (GA)	X	......	....
Mr. Duffy	X	......	....	Mr. Al Green (TX)	......	X	....
Mr. Stivers	X	......	....	Mr. Cleaver	......	X	....
Mr. Hultgren	X	......	....	Ms. Moore	......	X	....
Mr. Ross	X	......	....	Mr. Ellison	......	X	....
Mr. Pittenger	X	......	....	Mr. Perlmutter	X	......	....
Mrs. Wagner	X	......	....	Mr. Himes	......	X	....
Mr. Barr	X	......	....	Mr. Foster	......	X	....
Mr. Rothfus	X	......	....	Mr. Kildee	......	X	....
Mr. Messer	X	......	....	Mr. Delaney	......	X	....
Mr. Tipton	X	......	....	Ms. Sinema	......	X	....
Mr. Williams	X	......	....	Mrs. Beatty	......	X	....
Mr. Poliquin	X	......	....	Mr. Heck	X		....
Mrs. Love	X	......	....	Mr. Vargas	......	X	....
Mr. Hill	X	......	....	Mr. Gottheimer	X	......	....
Mr. Emmer	X	......	....	Mr. Gonzalez (TX)	X	......	....
Mr. Zeldin	X	......	....	Mr. Crist	......	X	....
Mr. Trott	X	......	....	Mr. Kihuen	......	X	....
Mr. Loudermilk	X	......	....				
Mr. Mooney (WV)	X	......	....				
Mr. MacArthur	X	......	....				
Mr. Davidson	X	......	....				
Mr. Budd	X	......	....				
Mr. Kustoff (TN)	X	......	....				
Ms. Tenney	X	......	....				
Mr. Hollingsworth	X	......	....				

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 1116 will require federal financial institutions regulatory agencies tailor their regulatory actions as to take into consideration factors such as risk profile, unintended potential impact of implementation of such regulations, and underlying policy objectives.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 12, 2017.

Hon. JEB HENSARLING,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1116, the TAILOR Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Sarah Puro and Stephen Rabent (for federal costs) and Nathaniel Frentz (for revenues).

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 1116—TAILOR Act of 2017

Summary: H.R. 1116 would require the federal banking regulators—the Federal Deposit Insurance Commission (FDIC), the Office of the Comptroller of the Currency (OCC), the National Credit Union Administration (NCUA), the Consumer Financial Protection

Bureau (CFPB), and the Federal Reserve—to adapt their regulatory actions to the specific risk profiles and business models of financial institutions that are subject to regulation. That requirement would apply to any new regulatory action. The bill also would require the federal banking regulators to review and revise regulatory actions from the past seven years, including those written under the Dodd Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

CBO estimates that enacting the legislation would increase the deficit by $80 million over the 2018–2027 period. That amount comprises an increase in direct spending of $56 million and a reduction in revenues of $24 million. Because enacting the bill would affect direct spending and revenues, pay-as-you-go procedures apply. CBO also estimates that reviewing rules issued by the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) would cost $3 million over the 2018–2022 period; such spending would be subject to the availability of appropriated funds.

CBO estimates that enacting H.R. 1116 would not increase net direct spending or on-budget deficits by more than $2.5 billion in any of the four consecutive 10-year periods beginning in 2028.

H.R. 1116 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). Additional fees imposed by the OCC, the NCUA, and the SEC increase the cost of the existing mandate on private entities that are required to pay those assessments. However, CBO estimates that the incremental cost of the mandate would fall well below the annual threshold established in UMRA for private-sector mandates ($156 million in 2017, adjusted for inflation).

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 1116 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce).

	By fiscal year, in millions of dollars—											
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2018–2022	2018–2027
INCREASES IN DIRECT SPENDING												
Estimated Budget Authority	5	10	10	8	3	4	4	4	4	4	36	56
Estimated Outlays	5	10	10	8	3	4	4	4	4	4	36	56
DECREASES IN REVENUES												
Estimated Revenues	−2	−3	−4	−3	−2	−2	−2	−2	−2	−2	−13	−24
NET INCREASE IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES												
Effect on the Deficit	7	13	14	11	5	6	6	6	6	6	49	80
INCREASES IN SPENDING SUBJECT TO APPROPRIATION												
Estimated Authorization Level	1	1	1	0	0	0	0	0	0	0	3	3
Estimated Outlays	1	1	1	*	0	0	0	0	0	0	3	3

Components may not sum to totals because of rounding; * = between zero and $500,000.

Basis of estimate: H.R. 1116 would require the federal banking regulators to consider the risk profiles and business models of financial institutions when determining which institutions are subject to regulatory action and to adapt regulations to the characteristics of individual financial institutions. The agencies would be required to review and analyze all regulations adopted during the prior seven years, in accordance with the requirements in H.R.

1116, and to revise those regulations, if necessary, to comply with the bill.

Costs incurred by the FDIC, the NCUA, and the OCC are recorded in the budget as increases in direct spending. Those agencies are authorized to collect premiums and fees from insured depository institutions to fully cover such administrative expenses, although CBO expects that only a portion of the costs incurred by the FDIC would be recouped by 2027.

The CFPB is permanently authorized to spend amounts transferred from the Federal Reserve. Because that activity is not subject to appropriation, the CFPB's expenditures are recorded in the budget as direct spending. Costs to the Federal Reserve System reduce remittances to the Treasury; they are recorded in the budget as revenues.

To develop this estimate, CBO consulted with the federal financial regulators about the number of people needed to review and revise regulations and about the regulations adopted over the past seven years.

Direct spending and revenues

The financial regulators have completed more than 200 rules over the past seven years, many of them associated with the Dodd-Frank Act.[1] The bill would require the financial regulators to review and possibly revise those rulemakings. In addition, CBO expects that H.R. 1116 could increase the amount of litigation that those regulators are subject to under the Administrative Procedures Act because regulated institutions would have additional grounds to challenge the application of financial regulations.

The cost to implement the bill has two components. First, CBO expects that the financial regulators would have to hire additional staff over the 2018–2021 period to complete the required review and revision of previous rulemakings. Subsequently, the regulators would require additional staff to support new rulemaking and to defend agency actions from additional litigation.

CBO expects that over the 2018–2021 period each of the financial regulators would need to increase its legal staff by 5 percent to 10 percent and certain other staff by less than 1 percent to complete the analysis of the regulations promulgated over the past seven years. Currently, the agencies have a total of about 6,000 employees, including 600 attorneys, on staff in their Washington, D.C., offices. CBO expects that overall staffing would increase by 60 employees over the 2018–2021 period.

After 2020, CBO expects that the regulators would no longer need all of the additional staff that they needed to complete the review of existing regulations, however, spending by the financial regulators to carry out new rulemakings and to defend agency actions from new litigation would increase. Over the 2020–2027 period CBO expects that implementing the bill would require roughly 25 additional employees across the federal financial regulators. The OCC and the NCUA likely would recover any implementation costs over the next ten years by increasing assessments on the institu-

[1] See DavisPolk, *Dodd-Frank Progress Report: Six-Year Anniversary Report* (July 2016), *http://tinyurl.com/ycovbwpx* (PDF, 1.2 MB).

tions they regulate, and the FDIC would recover most of its costs after 2027.

In total, CBO estimates that enacting the bill would increase deficits by $80 million over the 2018–2027 period. That amount includes an increase in net direct spending of $56 million and a decrease in revenues of $24 million because the Federal Reserve would reduce its remittances to the Treasury.

Spending subject to appropriation

Implementing H.R. 1116 would probably require the CFTC and the SEC to review regulations adopted under the Dodd-Frank Act. Using information from the affected agencies, CBO estimates that they would require four additional employees over the 2018–2021 period. Because the SEC is authorized under current law to collect fees sufficient to offset its annual appropriation, we estimate that the net costs to the SEC would be negligible, assuming appropriation actions consistent with that authority. CBO expects that costs to the CFTC would total $3 million over the 2018–2022 period; such spending would be subject to the availability of appropriated funds.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 1116, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON FINANCIAL SERVICES ON OCTOBER 12, 2017

	By fiscal year, in millions of dollars—											
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2018–2022	2018–2027
NET INCREASE IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	7	13	14	11	5	6	6	6	6	6	49	80
Memorandum:												
Changes in Outlays	5	10	10	8	3	4	4	4	4	4	36	56
Changes in Revenues	−2	−3	−4	−3	−2	−2	−2	−2	−2	−2	−13	−24

Increase in long-term direct spending and deficits: CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits by more than $2.5 billion in any of the four consecutive 10-year periods beginning in 2028.

Mandates: H.R. 1116 contains no intergovernmental mandates as defined in UMRA.

CBO expects that the financial regulators would increase premiums or fees to offset the costs of implementing the additional regulatory activities required by the bill. Any increase in premiums or fees would increase the cost of the existing mandate on entities required to pay those assessments. Using information from the federal banking regulators and the SEC, CBO estimates that the incremental cost to comply with the mandate would fall well below the annual threshold established in UMRA for private-sector mandates ($156 million in 2017, adjusted for inflation).

Estimate prepared by: Federal costs: Sarah Puro and Stephen Rabent; Revenues: Nathaniel Frentz; Mandates: Logan Smith.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995.

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, (115th Congress), the following statement is made concerning directed rulemakings: The Committee estimates that the bill requires no directed rulemakings within the meaning of such section.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section cites H.R. 1116 as the "Taking Account of Institutions with Low Operation Risk Act of 2017"

Section 2. Regulations appropriate to business models

This section states the directives that the federal financial institutions regulatory agencies (Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Fed), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Consumer Financial Protection Bureau (CFPB) must consider when imposing regulations on institutions.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 1116 does not repeal or amend any section of a statute. Therefore, the Office of Legislative Counsel did not prepare the report contemplated by clause 3(e)(1)(B) of rule XIII of the House of Representatives.

MINORITY VIEWS

H.R. 1116, the "Taking Account of Institutions with Low Operation Risk (TAILOR) Act," would take a major step backwards on the progress made since the 2008 Financial Crisis to ensure our financial markets are stronger, more resilient, and more protective of consumers.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) establishes a tiered and tailored regulatory framework for financial institutions. Instead of imposing a one-size-fits-all approach for regulating all firms, the Dodd-Frank Act focuses the toughest rules on the largest and most complex financial firms that, as evidenced in the 2007–2009 financial crisis, can destabilize the financial system and inflict long-lasting damage to the economy and the constituents we serve.

Congress has carefully monitored the implementation of the Dodd-Frank Act and, when warranted, has passed targeted legislation or encouraged regulators to further tailor rules to reduce unnecessary compliance requirements on community financial institutions while maintaining robust standards and appropriate protections that are in the public interest.

If enacted, H.R. 1116 would undo these efforts by providing every financial institution overseen by agencies like the Federal Deposit Insurance Corporation (FDIC) or the Consumer Financial Protection Bureau with new opportunities to challenge rulemakings in court if they felt a regulation was not uniquely tailored to their individual firm. Moreover, the bill would not require regulators to consider the benefits of certain rulemakings, including the promotion of financial stability or the protection of consumers.

H.R. 1116 would ignore the mandates and requirements of all other laws passed by Congress and would override decades of well-established administrative law requirements by subjecting all new financial rules to a vague, if not an impossible standard, to meet. This would include the determination of an undefined standard of "appropriateness"' for each rule and how it would apply to every single institution. The bill would also require each regulatory action to be analyzed "both by itself and in conjunction with the aggregate effect of other regulations"' for its impact on how each and every firm can "serve evolving and diverse customer needs."

Additionally, we are concerned that the level of institution-specific tailoring under the bill could result in a severe weakening of the nation's anti-money laundering and Bank Secrecy Act rules. By requiring that compliance costs and liability risk be considered a higher priority than protecting the integrity of the financial system, the bill could create a class of institutions with lowered compliance standards that might become an ideal target for drug cartel money laundering or terrorist financing.

Finally, the TAILOR Act would ignore the substantial amount of work that agencies have done to ensure that rules are adopted in a way that considers the needs of smaller financial institutions. For example, the federal prudential banking agencies have worked to minimize supervision and compliance burdens for smaller sized institutions. After completing an extensive review that is required every 10 years, the federal prudential banking agencies recently issued a sweeping report under the Economic Growth and Regulatory Paperwork Reduction Act and are making further modifications to better tailor rules for smaller, less risky firms.

We share the belief that regulators must take into account, and tailor rules, for smaller sized institutions when appropriate. Unfortunately, the TAILOR Act would only serve to put consumers and the financial system at risk by subjecting important regulations to endless litigation.

For the foregoing reasons, we oppose H.R. 1116.

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