



H.R. 78 – SEC Regulatory Accountability Act (Rep. Wagner, R-MO)

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FLOOR SCHEDULE:

Expected to be considered on January 12, 2017 under a structured [rule](#).

TOPLINE SUMMARY:

[H.R. 78](#) would require the Securities and Exchange Commission to comply with [Executive Order 13579](#), which provides for enhanced cost-benefit analyses, and a review of existing regulations.

COST:

A Congressional Budget Office (CBO) estimate is not yet available.

CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

The enactment of Dodd-Frank brought with it a number of new authorities for the SEC to issue rules that govern capital markets. According to a past [committee report](#), by nature of its mission, many of the rules issued by the SEC constitute significant rules, or those that have an annual economic impact of over \$100 million, result in a large increase in cost or prices, or cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of American enterprises to compete against enterprises abroad.

In issuing Executive Order 13579, the administration asserted that regulatory agencies should establish a regulatory system that protects “public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation.” It also provides that the adoption of regulations must hinge on the premises that: the benefits must justify the costs; regulations should be tailored to be as un-burdensome as possible and represent approaches that maximize net benefits; specify performance objectives; and, identify and assess alternative choices. The order requires a retrospective analysis of existing rules as well. A clear cost-benefit analysis objective, however, does not yet represent a core basis for SEC rule promulgation. H.R 78 would require the SEC to perform a qualitative and quantitative analysis, and would require a review of existing regulations. A regulation could be adopted if the benefits outweigh the costs. The SEC would also be required to explore other alternatives.

This legislation includes a sense of congress, that the Public Company Accounting Oversight Board should also undertake similar cost-benefit analysis requirements. It would also require the SEC to conduct cost-benefit analyses on rules adopted by the Municipal Securities Rule-making Board, or any other national securities association before a rule goes into effect.

AMENDMENTS:

1. [Rep. Waters](#) (D-CA) – This amendment would require the SEC to identify and address potential conflicts of interest or appearance thereof arising from either the former private employment of SEC staff and officials or from the current private employment of previously employed staff and officials, and to consider revising rules to avoid conflicts or the appearance of conflict.
2. [Rep. Velazquez](#) (D-NY) – This amendment would require the SEC to consider protecting investors and efficiency when conducting a review. It would also instruct the SEC to consider investor protection and public interest when reviewing existing regulations.
3. [Rep. Green](#) (D-TX) – This amendment would exempt from this legislation, regulations promulgated to support U.S. financial stability, or to reduce systemic risk.
4. [Rep. DeSaulnier](#) (D-CA) – This amendment would require the chairman of the SEC and immediate family to completely divest from financial institutions regulated by the SEC before the provisions of the underlying bill could take effect.
5. [Rep. Raskin](#) (D-MD) – This amendment would require the chairman of the SEC to be trained in ethical standards and codes of conduct to eliminate conflicts of interest, most notably pertaining to prior relationships with financial institutions.

COMMITTEE ACTION:

H.R. 78 was introduced on January 3, 2017, and referred to the House Committee on Financial Services.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not yet available.

CONSTITUTIONAL AUTHORITY:

Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clauses 1 ("The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States"), 3 ("To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes"), and 18 ("To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof").

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