AN ACT

To improve the consideration by the Securities and Exchange Commission of the costs and benefits of its regulations and orders.

1. Be it enacted by the Senate and House of Representa-
2. tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “SEC Regulatory Accountability Act”.

SEC. 2. CONSIDERATION BY THE SECURITIES AND EXCHANGE COMMISSION OF THE COSTS AND BENEFITS OF ITS REGULATIONS AND CERTAIN OTHER AGENCY ACTIONS.

Section 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78w) is amended by adding at the end the following:

“(e) CONSIDERATION OF COSTS AND BENEFITS.—

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

“(A) clearly identify the nature and source of the problem that the proposed regulation is designed to address, as well as assess the significance of that problem, to enable assessment of whether any new regulation is warranted;

“(B) utilize the Chief Economist to assess the costs and benefits, both qualitative and quantitative, of the intended regulation and propose or adopt a regulation only on a reasoned determination that the benefits of the intended regulation justify the costs of the regulation;
“(C) identify and assess available alternatives to the regulation that were considered, including modification of an existing regulation, together with an explanation of why the regulation meets the regulatory objectives more effectively than the alternatives; and

“(D) ensure that any regulation is accessible, consistent, written in plain language, and easy to understand and shall measure, and seek to improve, the actual results of regulatory requirements.

“(2) CONSIDERATIONS AND ACTIONS.—

“(A) REQUIRED ACTIONS.—In deciding whether and how to regulate, the Commission shall assess the costs and benefits of available regulatory alternatives, including the alternative of not regulating, and choose the approach that maximizes net benefits. Specifically, the Commission shall—

“(i) consistent with the requirements of section 3(f) (15 U.S.C. 78c(f)), section 2(b) of the Securities Act of 1933 (15 U.S.C. 77b(b)), section 202(c) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(c)), and section 2(e) of the Invest-
ment Company Act of 1940 (15 U.S.C. 80a–2(e)), consider whether the rule-
making, in addition to being in the interest of protecting investors, will promote effi-
ciency, competition, and capital formation;

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

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

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

“(i) investor choice;
“(ii) market liquidity in the securities markets; and

“(iii) small businesses.

“(3) EXPLANATION AND COMMENTS.—The Commission shall explain in its final rule the nature of comments that it received, including those from the industry or consumer groups concerning the potential costs or benefits of the proposed rule or proposed rule change, and shall provide a response to those comments in its final rule, including an explanation of any changes that were made in response to those comments and the reasons that the Commission did not incorporate those industry group concerns related to the potential costs or benefits in the final rule.

“(4) REVIEW OF EXISTING REGULATIONS.—Not later than 1 year after the date of enactment of the SEC Regulatory Accountability Act, and every 5 years thereafter, the Commission shall review its regulations to determine whether any such regulations are outmoded, ineffective, insufficient, or excessively burdensome, and shall modify, streamline, expand, or repeal them in accordance with such review. Whenever pursuant to this paragraph the Commission is engaged in a review, it shall consider
whether an action is necessary or appropriate in the public interest, the protection of investors, and whether the action will promote efficiency, competition, and capital formation. In reviewing any regulation (including, notwithstanding paragraph (6), a regulation issued in accordance with formal rule-making provisions) that subjects issuers with a public float of $250,000,000 or less to the attestation and reporting requirements of section 404(b) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262(b)), the Commission shall specifically take into account the large burden of such regulation when compared to the benefit of such regulation.

“(5) POST-ADOPTION IMPACT ASSESSMENT.—

“(A) IN GENERAL.—Whenever the Commission adopts or amends a regulation designated as a ‘major rule’ within the meaning of section 804(2) of title 5, United States Code, it shall state, in its adopting release, the following:

“(i) The purposes and intended consequences of the regulation.

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

“(iii) The assessment plan that will be used, consistent with the requirements of subparagraph (B) and under the supervision of the Chief Economist of the Commission, to assess whether the regulation has achieved the stated purposes.

“(iv) Any unintended or negative consequences that the Commission foresees may result from the regulation.

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

“(i) REQUIREMENTS OF PLAN.—The assessment plan required under this paragraph shall consider the costs, benefits, and intended and unintended consequences of the regulation. The plan shall specify the data to be collected, the methods for collection and analysis of the data and a date for completion of the assessment. The assessment plan shall include an analysis of any jobs added or lost as a result of the
regulation, differentiating between public
and private sector jobs.

“(ii) Submission and publication
of report.—The Chief Economist shall
submit the completed assessment report to
the Commission no later than 2 years after
the publication of the adopting release, un-
less the Commission, at the request of the
Chief Economist, has published at least 90
days before such date a notice in the Fed-
eral Register extending the date and pro-
viding specific reasons why an extension is
necessary. Within 7 days after submission
to the Commission of the final assessment
report, it shall be published in the Federal
Register for notice and comment. Any ma-
terial modification of the plan, as nec-
cessary to assess unforeseen aspects or con-
sequences of the regulation, shall be
promptly published in the Federal Register
for notice and comment.

“(iii) Data collection not sub-
ject to notice and comment requirements.—If the Commission has published
its assessment plan for notice and com-
ment, specifying the data to be collected and method of collection, at least 30 days prior to adoption of a final regulation or amendment, such collection of data shall not be subject to the notice and comment requirements in section 3506(c) of title 44, United States Code (commonly referred to as the Paperwork Reduction Act). Any material modifications of the plan that require collection of data not previously published for notice and comment shall also be exempt from such requirements if the Commission has published notice for comment in the Federal Register of the additional data to be collected, at least 30 days prior to initiation of data collection.

“(iv) FINAL ACTION.—Not later than 180 days after publication of the assessment report in the Federal Register, the Commission shall issue for notice and comment a proposal to amend or rescind the regulation, or publish a notice that the Commission has determined that no action will be taken on the regulation. Such a notice will be deemed a final agency action.
“(6) COVERED REGULATIONS AND OTHER AGENCY ACTIONS.—Solely as used in this subsection, the term ‘regulation’—

“(A) means an agency statement of general applicability and future effect that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency, including rules, orders of general applicability, interpretive releases, and other statements of general applicability that the agency intends to have the force and effect of law; and

“(B) does not include—

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

“(ii) a regulation that is limited to agency organization, management, or personnel matters;

“(iii) a regulation promulgated pursuant to statutory authority that expressly prohibits compliance with this provision; and
“(iv) a regulation that is certified by
the agency to be an emergency action, if
such certification is published in the Fed-
eral Register.’’.

SEC. 3. SENSE OF CONGRESS RELATING TO OTHER REGU-
LATORY ENTITIES.

It is the sense of the Congress that the Public Com-
pany Accounting Oversight Board should also follow the
requirements of section 23(e) of such Act, as added by
this title.

SEC. 4. ACCOUNTABILITY PROVISION RELATING TO OTHER
REGULATORY ENTITIES.

A rule adopted by the Municipal Securities Rule-
making Board or any national securities association reg-
istered under section 15A of the Securities Exchange Act
of 1934 (15 U.S.C. 78o–3) shall not take effect unless
the Securities and Exchange Commission determines that,
in adopting such rule, the Board or association has com-
plied with the requirements of section 23(e) of such Act,
as added by section 2, in the same manner as is required by the Commission under such section 23(e).

Passed the House of Representatives January 12, 2017.

Attest:

Clerk.
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AN ACT

H. R. 78