

113TH CONGRESS  
1ST SESSION

# H. R. 1062

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

---

## IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2013

Mr. GARRETT (for himself, Mr. HURT, Mr. GRIMM, Mr. NEUGEBAUER, Mrs. BACHMANN, Mr. HUIZENGA of Michigan, Mr. MCHENRY, Mr. FINCHER, Mr. ROSS, Mr. CAMPBELL, Mrs. WAGNER, Mr. MULVANEY, Mr. HULTGREN, Mr. PITTENGER, Mr. GARY G. MILLER of California, and Mr. CONAWAY) introduced the following bill; which was referred to the Committee on Financial Services

---

## A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This title may be cited as the “SEC Regulatory Ac-  
5 countability Act”.

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

5 Section 23 of the Securities Exchange Act of 1934  
6 (15 U.S.C. 78w) is amended by adding at the end the fol-  
7 lowing:

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

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

12 “(A) clearly identify the nature and source  
13 of the problem that the proposed regulation is  
14 designed to address, as well as assess the sig-  
15 nificance of that problem, to enable assessment  
16 of whether any new regulation is warranted;

17 “(B) utilize the Chief Economist to assess  
18 the costs and benefits, both qualitative and  
19 quantitative, of the intended regulation and  
20 propose or adopt a regulation only on a rea-  
21 soned determination that the benefits of the in-  
22 tended regulation justify the costs of the regula-  
23 tion;

24 “(C) identify and assess available alter-  
25 natives to the regulation that were considered,  
26 including modification of an existing regulation,

1 together with an explanation of why the regula-  
2 tion meets the regulatory objectives more effec-  
3 tively than the alternatives; and

4 “(D) ensure that any regulation is acces-  
5 sible, consistent, written in plain language, and  
6 easy to understand and shall measure, and seek  
7 to improve, the actual results of regulatory re-  
8 quirements.

9 “(2) CONSIDERATIONS AND ACTIONS.—

10 “(A) REQUIRED ACTIONS.—In deciding  
11 whether and how to regulate, the Commission  
12 shall assess the costs and benefits of available  
13 regulatory alternatives, including the alternative  
14 of not regulating, and choose the approach that  
15 maximizes net benefits. Specifically, the Com-  
16 mission shall—

17 “(i) consistent with the requirements  
18 of section 3(f) (15 U.S.C. 78c(f)), section  
19 2(b) of the Securities Act of 1933 (15  
20 U.S.C. 77b(b)), section 202(c) of the In-  
21 vestment Advisers Act of 1940 (15 U.S.C.  
22 80b-2(c)), and section 2(c) of the Invest-  
23 ment Company Act of 1940 (15 U.S.C.  
24 80a-2(c)), consider whether the rule-

1 making will promote efficiency, competi-  
2 tion, and capital formation;

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

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

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

22 “(i) investor choice;

23 “(ii) market liquidity in the securities  
24 markets; and

25 “(iii) small businesses.

1           “(3) EXPLANATION AND COMMENTS.—The  
2 Commission shall explain in its final rule the nature  
3 of comments that it received, including those from  
4 the industry or consumer groups concerning the po-  
5 tential costs or benefits of the proposed rule or pro-  
6 posed rule change, and shall provide a response to  
7 those comments in its final rule, including an expla-  
8 nation of any changes that were made in response  
9 to those comments and the reasons that the Com-  
10 mission did not incorporate those industry group  
11 concerns related to the potential costs or benefits in  
12 the final rule.

13           “(4) REVIEW OF EXISTING REGULATIONS.—Not  
14 later than 1 year after the date of enactment of the  
15 SEC Regulatory Accountability Act, and every 5  
16 years thereafter, the Commission shall review its  
17 regulations to determine whether any such regula-  
18 tions are outmoded, ineffective, insufficient, or ex-  
19 cessively burdensome, and shall modify, streamline,  
20 expand, or repeal them in accordance with such re-  
21 view. In reviewing any regulation (including, not-  
22 withstanding paragraph (6), a regulation issued in  
23 accordance with formal rulemaking provisions) that  
24 subjects issuers with a public float of \$250,000,000  
25 or less to the attestation and reporting requirements

1 of section 404(b) of the Sarbanes-Oxley Act of 2002  
2 (15 U.S.C. 7262(b)), the Commission shall specifi-  
3 cally take into account the large burden of such regu-  
4 lation when compared to the benefit of such regula-  
5 tion.

6 “(5) POST-ADOPTION IMPACT ASSESSMENT.—

7 “(A) IN GENERAL.—Whenever the Com-  
8 mission adopts or amends a regulation des-  
9 igned as a ‘major rule’ within the meaning of  
10 section 804(2) of title 5, United States Code, it  
11 shall state, in its adopting release, the fol-  
12 lowing:

13 “(i) The purposes and intended con-  
14 sequences of the regulation.

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

21 “(iii) The assessment plan that will be  
22 used, consistent with the requirements of  
23 subparagraph (B) and under the super-  
24 vision of the Chief Economist of the Com-

1 mission, to assess whether the regulation  
2 has achieved the stated purposes.

3 “(iv) Any unintended or negative con-  
4 sequences that the Commission foresees  
5 may result from the regulation.

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

8 “(i) REQUIREMENTS OF PLAN.—The  
9 assessment plan required under this para-  
10 graph shall consider the costs, benefits,  
11 and intended and unintended consequences  
12 of the regulation. The plan shall specify  
13 the data to be collected, the methods for  
14 collection and analysis of the data and a  
15 date for completion of the assessment.

16 “(ii) SUBMISSION AND PUBLICATION  
17 OF REPORT.—The Chief Economist shall  
18 submit the completed assessment report to  
19 the Commission no later than 2 years after  
20 the publication of the adopting release, un-  
21 less the Commission, at the request of the  
22 Chief Economist, has published at least 90  
23 days before such date a notice in the Fed-  
24 eral Register extending the date and pro-  
25 viding specific reasons why an extension is

1 necessary. Within 7 days after submission  
2 to the Commission of the final assessment  
3 report, it shall be published in the Federal  
4 Register for notice and comment. Any ma-  
5 terial modification of the plan, as nec-  
6 essary to assess unforeseen aspects or con-  
7 sequences of the regulation, shall be  
8 promptly published in the Federal Register  
9 for notice and comment.

10 “(iii) DATA COLLECTION NOT SUB-  
11 JECT TO NOTICE AND COMMENT REQUIRE-  
12 MENTS.—If the Commission has published  
13 its assessment plan for notice and com-  
14 ment, specifying the data to be collected  
15 and method of collection, at least 30 days  
16 prior to adoption of a final regulation or  
17 amendment, such collection of data shall  
18 not be subject to the notice and comment  
19 requirements in section 3506(c) of title 44,  
20 United States Code (commonly referred to  
21 as the Paperwork Reduction Act). Any ma-  
22 terial modifications of the plan that require  
23 collection of data not previously published  
24 for notice and comment shall also be ex-  
25 empt from such requirements if the Com-

1 mission has published notice for comment  
2 in the Federal Register of the additional  
3 data to be collected, at least 30 days prior  
4 to initiation of data collection.

5 “(iv) FINAL ACTION.—Not later than  
6 180 days after publication of the assess-  
7 ment report in the Federal Register, the  
8 Commission shall issue for notice and com-  
9 ment a proposal to amend or rescind the  
10 regulation, or publish a notice that the  
11 Commission has determined that no action  
12 will be taken on the regulation. Such a no-  
13 tice will be deemed a final agency action.

14 “(6) COVERED REGULATIONS AND OTHER  
15 AGENCY ACTIONS.—Solely as used in this subsection,  
16 the term ‘regulation’—

17 “(A) means an agency statement of gen-  
18 eral applicability and future effect that is de-  
19 signed to implement, interpret, or prescribe law  
20 or policy or to describe the procedure or prac-  
21 tice requirements of an agency, including rules,  
22 orders of general applicability, interpretive re-  
23 leases, and other statements of general applica-  
24 bility that the agency intends to have the force  
25 and effect of law; and

1 “(B) does not include—

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

6 “(ii) a regulation that is limited to  
7 agency organization, management, or per-  
8 sonnel matters;

9 “(iii) a regulation promulgated pursu-  
10 ant to statutory authority that expressly  
11 prohibits compliance with this provision;  
12 and

13 “(iv) a regulation that is certified by  
14 the agency to be an emergency action, if  
15 such certification is published in the Fed-  
16 eral Register.”.

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

19 It is the sense of the Congress that other regulatory  
20 entities, including the Public Company Accounting Over-  
21 sight Board, the Municipal Securities Rulemaking Board,  
22 and any national securities association registered under  
23 section 15A of the Securities Exchange Act of 1934 (15

1 U.S.C. 78o-3) should also follow the requirements of sec-  
2 tion 23(e) of such Act, as added by this title.

○