

# AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS



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## LEGISLATIVE ALERT

June 19, 2013

The Honorable Jeb Hensarling, Chairman  
House Financial Services Committee  
2129 Rayburn House Office Building  
Washington, DC 20515

The Honorable Maxine Waters, Ranking Minority Member  
House Financial Services Committee  
B301 C Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Hensarling and Ranking Minority Member Waters:

The AFL-CIO, a labor federation of 57 unions representing 12 million working men and women with over \$4 trillion in assets in benefit plans, opposes the Small Business Capital Access and Job Preservation Act (H.R. 1105); the Burdensome Data Collection Relief Act (H.R. 1135); the Audit Integrity and Job Protection Act (H.R. 1564); and the Retail Investor Protection Act (H.R. 2374) scheduled for markup in committee this week. The AFL-CIO testified in May before this Committee in opposition to these bills and we reiterate, in brief, below our continued opposition. This package of bills is a clear indication that some in Congress have every intention to take us down the road of deregulation, yet again.

Since 1980, the United States has gone through several cycles of financial deregulation. The first of these episodes led to the savings and loan fiasco of the early 1990's, the second to the tech bubble collapse in 2000 and the wave of corporate scandals and bankruptcies that began with Enron in 2001. And the third, and by far the most devastating, was the residential real estate bubble driven by a deregulated banking sector through the use of mortgage backed securities, and the subsequent collapse of that bubble starting in 2007. Surely members of the Committee don't want to be associated with arguably the next and fourth devastating round of deregulation.

"The Small Business Capital Access and Job Preservation Act." (H.R. 1105)

Despite its title, H.R. 1105 has nothing to do with small business and everything to do with ensuring some of the richest and most powerful, and most tax subsidized, Wall Street firms

are allowed to continue to operate, and build up system-wide leverage, in secret. Specifically, H.R. 1105 would exempt all private equity fund advisers from the registration and reporting requirements in the Dodd-Frank Act, unless each fund has outstanding borrowings that exceed two times the fund's invested capital commitments.

The impact of H.R. 1105 would be to prevent the SEC from collecting the information necessary to monitor a significant source of systemic risk. Section 404 of the Dodd-Frank Act gave the Securities and Exchange Commission (SEC) authority to establish recordkeeping and reporting requirements "as necessary and appropriate in the public interest and for the protection of investors, or for the assessment of systemic risk by the Financial Stability Oversight Council." H.R. 1105 would exempt private equity funds from this recordkeeping and reporting framework and direct the SEC to replace it with one that omits consideration of potential systemic risks and is exclusively for use by the SEC. The AFL-CIO continues to oppose any bill that weakens investor protections and increases systemic risk.

#### "The Burdensome Data Collection Relief Act" (H.R. 1135)

H.R. 1135 seeks to keep secret the relationship between CEO pay and the median pay of other employees at public companies, by repealing section 953(b) of the Dodd-Frank Act, which requires such disclosure. It is a bill designed to hide material information from investors and boards which ultimately becomes detrimental in efforts to fight income inequality.

Investors have long had multiple concerns about CEO pay—starting with the raw numbers that come out of investors' pockets. Top executives at large public companies now keep for themselves an average of 10% of their companies' net profits, approximately double the rate in the early 1990s. The disclosure requirements of 953(b) would help reveal the true nature of disparities between CEO's and their employees enabling investors and boards to also consider and take action accordingly. As such, the AFL-CIO strongly opposes H.R. 1135 and the repeal of 953 (b) disclosure requirements.

#### "The Auditor Integrity and Job Protection Act," (H.R. 1564)

H.R. 1564 seeks to prevent the Public Company Accounting Oversight Board (PCAOB) from placing limits on the length of time a public company can use the same audit firm, referred to as auditor rotation. H.R. 1564 amends Sarbanes-Oxley by adding a limitation on PCAOB authority which states, "The Board shall have no authority under this title to require that audits conducted for a particular issuer in accordance with the standards set forth under this section be conducted by specific auditors, or that such audits be conducted for an issuer by different auditors on a rotating basis."

H.R. 1564 both substantively weakens the ability of the PCAOB to play its role in protecting our economy against systemic risk, and it weakens the independence of auditor regulation. Both results are contrary to the public interest, and consequently the AFL-CIO opposes this bill.

“The Retail Investor Protection Act” (H.R. 2374)

H.R. 2374 would require the SEC to identify whether the different standards of conduct that apply to broker-dealers and investment advisers result in harm to retail investors. In addition, the bill requires the SEC’s Chief Economist to conduct a cost benefit analysis of such a change, make a formal finding that the rule would reduce investor confusion, and coordinate with other federal regulators. Finally, the bill would prohibit the SEC from proposing rules applicable to broker-dealers’ standard of conduct without simultaneously proposing rules that would “address any harm to retail customers resulting from differences in the registration, supervision, and examination requirements applicable to brokers, dealers, and investment advisers.”

H.R. 2374 suggests these changes despite the fact that the SEC is currently collecting data to support an economic analysis before any rulemaking is undertaken. The bill would significantly delay and perhaps derail these long overdue efforts of the SEC to raise the standard of conduct that applies to brokers when they give advice to retail investors and accordingly the AFL-CIO opposes H.R. 2374.

For the above reasons we urge you to vote against this cluster of bills that seek to undo much needed reforms enacted in the Dodd-Frank Act.

Sincerely,

A handwritten signature in black ink, appearing to read "William Samuel", written in a cursive style.

William Samuel, Director  
Government Affairs Department