Minority Views on H.R. 10
The "Wrong Choice Act"

H.R. 10, the "Financial CHOICE Act" (herein called the "Wrong Choice Act"), will eliminate several of the most important aspects of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Wall Street Reform").

Wall Street Reform effectively addressed failures in the fragmented Federal regulatory scheme that contributed to the worst financial crisis in our country since the Great Depression, which resulted in a loss of about 8 million jobs and reduced the overall wealth of American families by 28.5 percent. Because the law restored responsibility and accountability to our country's financial system, it boosted confidence among American consumers and helped to stabilize our economy.

Despite the reform law's successes, Congressional Republicans and President Trump are eager to, in the words of the President, do "a big number" on Wall Street Reform. The Wrong Choice Act is that "big number" to help out large financial institutions on Wall Street at the expense of consumers, investors, and small businesses located on Main Street. If H.R. 10 becomes law, shoddy financial actors will be free once again to employ unfair, abusive, and deceptive acts and practices that harm vulnerable consumers and engage in excessive risk-taking activities that jeopardize our economy.

Fortunately, Democratic Members do not suffer from the same economic amnesia as their Republican colleagues. Democratic Members still remember the causes that triggered, and the devastating effects of, the 2008 financial crisis and the incalculable stories of human suffering—that the unemployment rate skyrocketed to 10 percent; that many young people were unable to secure jobs; and that at least 11 million people lost their homes through foreclosures.

Despite Republican Members' attempts to use "alternative facts" to confuse the American public about the benefits of Wall Street Reform, the numbers tell the true story. Since enactment of the law, our economy has had a record 85 consecutive months of private-sector job growth, creating more than 16 million jobs. The labor market continues to improve with the unemployment rate now at 4.5 percent and wages on the rise. Business lending by banks has increased by 75 percent, and the banking industry set an all-time record for profits of $171.3 billion in 2016. Community banks' loan growth has been even faster than at bigger banks, which have supported more residential, commercial, industrial, and small business loans.

In the face of this evidence that Wall Street Reform is working for consumers, investors, businesses, and the economy, Republican Members are hastily pushing the Wrong Choice Act to advance Trump's agenda. The Committee, under Chairman Hensarling's leadership, only intended to hold a single hearing to review his nearly 600-page bill, before rushing to schedule a markup of it. In contrast, the Committee, Democrats convened 41 hearings relating to regulatory reform matters before Wall Street Reform was considered.

Democratic Members could not let this brazen Republican attempt to jam a bad bill through Congress go unchallenged. Accordingly, Democratic Members exercised their right to compel a second hearing, known as a "Minority Day hearing," to ensure the American public had an opportunity to hear from those who are not carrying Trump's water. At this hearing, 11 experts and community advocates, along with Senator Elizabeth Warren, testified for several hours about the dangers of the bill. Notably absent from this hearing was Chairman Hensarling and virtually all of the Republican Members who largely boycotted it, willfully choosing to ignore the many concerns raised by these witnesses, and countless letters of opposition from Americans across the country.

Democrats have named the bill the Wrong Choice Act for several reasons. First, it effectively guts the Consumer Financial Protection Bureau ("Consumer Bureau"). It does this by ending the Consumer Bureau's authority to protect consumers from the unfair, deceptive, or abusive acts or practices of shoddy financial actors, which to date, has helped 29 million consumers receive nearly $12 billion in relief. It eliminates the Consumer Bureau's supervisory and enforcement authority to oversee the largest financial firms, thereby thwarting the Consumer Bureau's ability to provide redress to those harmed by Wells Fargo's fake account scandal. It changes the Consumer Bureau's independent funding mechanism and instead subjects it to the broken Congressional appropriations process that Republicans have recklessly abused for partisan purposes. It obscures the public's access to the Consumer Bureau's nationwide consumer complaint database, even though 97 percent of complaints submitted to companies have received timely responses. It allows the President to fire the head of the Consumer Bureau without reason. The effect of these provisions is clear. Republican Members want to undermine the Consumer Bureau's ability to serve as a strong, independent consumer "cop on the beat."

Second, the Wrong Choice Act re-creates the problem of regulatory arbitrage by repealing Wall Street Reform safeguards. It creates "off-ramps" for mega-banks to avoid enhanced capital, liquidity, and risk management standards, in exchange for an insufficient leverage requirement of 10 percent, which would encourage large banks to take the same kinds of risks that crashed the economy in 2008. In addition, the Wrong Choice Act repeals the "Volcker Rule," which stops banks from gambling with taxpayer money. Even President Trump's Treasury Secretary, Steven Mnuchin, supports the Volcker Rule.

Third, the Wrong Choice Act repeals the emergency, back-up authority of our financial regulators to ensure that very large, complex, and interconnected companies can fail without triggering a global economic financial crisis. This authority, known as the Orderly Liquidation Authority ("OLA"), is replaced in the Wrong Choice Act with superficial changes to the Bankruptcy Code that fail to address the shortcomings exposed by Lehman Brothers' chaotic collapse.

Fourth, the Wrong Choice Act makes it harder for our regulators to identify and oversee new risks to our financial system, including risks posed by non-bank entities. Specifically, it repeals the ability of the Financial Stability Oversight Council ("FSOC") to designate non-bank financial firms, like AIG, as systemically important financial institutions ("SIFIs") for enhanced supervision and regulation. The Wrong Choice Act also abolishes the Office of Financial Research ("OFR"), which collects data and provides valuable research and analysis to help the FSOC identify and combat activities that could risk our country's economic stability.

Fifth, as discussed above with the Wrong Choice Act's changes to the funding mechanism of the Consumer Bureau, it hamstrings all of our Federal financial services regulators by imprudently subjecting them to the politicized, annual Congressional appropriations process. It also requires each of these agencies to conduct time-consuming, onerous analysis of their rules, guidance, and statements in an effort to slow or outright block the issuance of any new protections for consumers, investors, and vulnerable populations. The Wrong Choice Act also provides a two-year window for Trump-appointed regulators to rollback guardrails before creating a heightened litigation standard that makes it easier for industry to block any future effort by regulators to restore or strengthen existing consumer and investor protections.

Sixth, the Wrong Choice Act puts millions of American jobs at risk by curtailing the Federal Reserve's discretion to consider a wide range of dynamic economic data to determine interest rates and makes monetary policy decisions vulnerable to short-term political pressure. The bill would also establish a partisan Commission with twice as many Republicans as Democrats which would open the door to eliminating the full employment aspect of the Fed's mandate, and curtailing the Federal Reserve's ability to support the economy.

Seventh, the Wrong Choice Act hurts investors by silencing shareholders and repealing their fundamental rights as owners of the company, encouraging corporate executives to engage in excessive risk-taking for big bonuses, and letting Wall Street fraudsters of the hook. For example, the Wrong Choice Act makes it harder for the Securities and Exchange Commission ("SEC") to initiate enforcement actions and eliminates its authority to ban officers and directors from the industry.

Eighth, the Wrong Choice Act hurts seniors and workers saving for retirement by repealing the requirement that financial advisers act in the best interests of their clients. This change bolsters the Trump Administration's efforts to rollback the Department of Labor's fiduciary rule, to the benefit of unscrupulous financial advisers but to the detriment of senior savers.

Finally, the Wrong Choice Act undermines the bipartisan compromises Republican and Democratic Members achieved in bills and laws from the past three congressional terms, thereby removing important investor protections and creating potential loopholes in securities laws.

The Wrong Choice Act is the vehicle to enable President Trump to repeal Wall Street Reform, and it must be defeated at all costs.

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