



May 8, 2017

VIA E-MAIL

The Honorable Ken Buck
United States House of Representatives
Washington, DC 20515

Re: The Financial CHOICE Act of 2017

Dear Representative Buck:

I am writing on behalf of the Colorado Public Employees' Retirement Association ("Colorado PERA"). Colorado PERA is the 21st largest public pension plan in the United States with approximately \$44 billion in assets and a duty to protect the retirement security of over 550,000 plan participants and beneficiaries. The purpose of this letter is to express our opposition to the Financial CHOICE Act of 2017, which we understand is currently being considered by the Committee on Financial Services. In that regard, we fully endorse the views of the Council of Institutional Investors in its April 24, 2017, letter to Committee Chairman Hensarling and Ranking Member Waters.

The current bill would threaten prudent safeguards for oversight of companies and markets, including sensible reforms that investors need to hold management and boards of public companies accountable, and that foster trust in the integrity of the U.S. capital markets.

We particularly oppose the following provisions of the Financial CHOICE Act of 2017:

- Section 482 would establish an additional federal regulatory superstructure for proxy advisory firms that provide shareholders with independent research they need to vote responsibly. We believe this new regulatory superstructure is overly burdensome, unnecessarily driving up costs, and gives corporations the ability to hinder and delay the independent proxy analysis process. Proxy advisory firms play a vital and necessary role in assisting many pension funds and other institutional investors in carrying out their fiduciary duty to vote proxies. By law, pension fund fiduciaries have a duty to ensure that our proxies are voted in the best long-term interests of plan participants and beneficiaries. We contract with proxy advisory firms to obtain and review their research. But we vote according to own guidelines and policies. This would drive up the costs and could drive some proxy advisors out of business.
- Sections 441 and 847 of the Act would further expand the existing exemptions for public corporations from having an external, independent auditor attest to, and report on, management's assessment of internal controls over financial reporting as generally required by Section 404(b) of the Sarbanes-Oxley Act. Section 404(b) continues to be important as it provides investors with reasonable assurance from the independent auditor that a company maintained effective internal control over financial reporting. This assurance is an important driver of confidence in the integrity of financial statements and in the fairness of our capital markets.

- Section 844 of the Act would drastically increase the regulatory hurdles for shareholder proposals. It would require a shareholder wishing to put a proposal on a company's annual meeting ballot to own at least 1% of the stock for three years. The current requirement is \$2,000 worth of stock for one year. That would raise the ownership threshold to file a shareholder proposal to \$7.5 billion at Apple, \$3.4 billion at Exxon Mobil and \$2.6 billion at Wells Fargo, for example.
- Section 843 of the Act would reduce the required frequency of shareholder advisory votes on executive compensation, commonly called say-on-pay. An annual say-on-pay vote is critical to investors, in part, because it provides shareowners with the ability to communicate their views on the most recent payouts stemming from the policies used to administer executive compensation practices.
- Section 845 of the Act would restrict the right of shareholders to vote for directors in contested elections for board seats. Section 845 appears to bar the SEC from issuing a final rule that would allow the use of "universal proxy" cards in contested elections. The "universal proxy card" would give investors freedom of choice to vote for the specific combination of director nominees they believe best serves their interests in a contested election.
- Section 857(a)(34) of the Act repeals an existing market-based accounting support fee for the Government Accounting Standards Board (GASB). The GASB funding mechanism currently in place provides the GASB with an independent, conflict-free source of funds in order to carry out its important mission of establishing accounting and financial reporting standards for U.S. state and local governments that follow Generally Accepted Accounting Principles (GAAP).
- Sections 311 and 334 of the Act would shackle the SEC with excessive cost-benefit analysis requirements. This would severely undercut the SEC's ability to fulfill its mission to protect investors, police markets and foster capital formation. We advocate amending Sections 311 and 334 of the Act to remove the SEC from the cost-benefit analysis and Congressional review provisions of Title III, Subtitles A and B of the Act, respectively. This would unnecessarily constrain the ability of the SEC to issue any substantive proposals in furtherance of its mission to protect investors.

We are also concerned about other elements of the act, including: repeal of requirements that companies disclose whether their employees and directors can hedge their equity compensation; repeal of disclosure about the company's board leadership structure; repeal of requirements to improve incentive compensation at financial institutions; and the exemption of private equity fund advisors from registration and reporting.

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Thank you for considering our views on this important matter. We would be very happy to discuss our perspectives with you or your staff at your convenience. I am available at gsmith@copera.org or by telephone at (303) 837-6222.

Sincerely,

A handwritten signature in black ink, appearing to read "G. W. Smith". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Gregory W. Smith
Executive Director

CC: The Honorable Jeb Hensarling, Chairman, Committee on Financial Services, United States House of Representatives
The Honorable Maxine Waters, Ranking Member, Committee on Financial Services, United States House of Representatives