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114TH CONGRESS
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HOUSE OF REPRESENTATIVES
REPORT
114–504

BURDENSOME DATA COLLECTION RELIEF ACT

APRIL 19, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services, submitted the following

R E P O R T

[To accompany H.R. 414]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 414) to amend the Dodd-Frank Wall Street Reform and Consumer Protection Act to repeal certain additional disclosure requirements, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

Introduced by Representative Huizenga on January 20, 2015, H.R. 414, the Burdensome Data Collection Relief Act, repeals Section 953(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203), which requires all publicly traded companies to calculate and disclose in their annual proxy statements with the Securities and Exchange Commission (SEC) the median annual total compensation of all employees of the company excluding the Chief Executive Officer (CEO), disclose the annual total compensation of the CEO, and calculate and disclose a ratio comparing those two numbers. H.R. 414 alleviates the enormous burden and complexity Section 953(b) poses to publicly traded companies, with very little, if any, corresponding benefit to investors.

BACKGROUND AND NEED FOR LEGISLATION

The disclosure requirements imposed by Section 953(b) of the Dodd-Frank Act originated in the Senate, and were neither discussed nor debated during the Conference Committee's delibera-

tions on the legislation. The legislative history and the Dodd-Frank Act itself are both silent with respect to the purported purpose of the pay ratio rule. This silence is not surprising as Congress did not hold any hearings on Section 953(b) prior to its inclusion in the Dodd-Frank Act.

Following enactment of Dodd-Frank, both Republican and Democratic Members of Congress began to question the costs of complying with Section 953(b), the utility of the information required to be disclosed, and the feasibility of its implementation. Specifically, Section 953(b) requires all publicly traded companies to calculate and disclose in annual filings with the SEC the median annual total compensation of all employees excluding the CEO, disclose the annual total compensation of the CEO, and calculate and disclose a ratio comparing those two numbers.

Proponents of Dodd-Frank's pay ratio disclosure requirement cited statistics suggesting that the ratio of CEO salaries to the pay of the average worker at large U.S. firms has increased from 20 to 1 in 1965 to 300 to 1 today. Critics of the provision pointed out that it does little, if anything, to promote the SEC's investor protection mission, and that addressing income inequality is not the SEC's statutory role.

On August 5, 2015, by a partisan vote of 3–2, the SEC finalized the pay ratio rule, with Commissioners Dan Gallagher and Michael Piwowar dissenting. In dissenting from the SEC's initial proposal to implement Section 953(b), Commissioner Gallagher noted that the proposal "continues a trend of politically motivated new disclosure requirements that impose unnecessary compliance costs on U.S. issuers, reducing their international competitiveness while providing no benefits to investors and political benefits to special interest groups." Commissioner Gallagher has also described the pay ratio rule as "social policy masquerading as disclosure requirements," which has the effect of encouraging companies to remain private. Commissioner Gallagher's dissent of the final rule appropriately observed that "addressing perceived income inequality is not the province of the securities laws or the Commission." SEC Chair Mary Jo White has expressed similar concerns; in an October 3, 2013 speech about Dodd-Frank entitled "The Importance of Independence," she noted that several of the Act's provisions appear "more directed at exerting societal pressure on companies to change behavior, rather than to disclose financial information that primarily informs investment decisions." Commissioner Piwowar's dissent noted that the adoption of the final rule to implement Section 953(b) is, "nothing more than a sad example of surrendering the Commission's agenda to politically-connected special interests and acquiescing to the bullying tactics of their political allies."

The SEC expended considerable resources to implement Section 953. In response to an inquiry from Financial Services Committee Chairman Hensarling and Representatives Garrett and Huizenga, the SEC disclosed on December 11, 2014, that since 2011, SEC staff have spent 7,196 hours—at a cost of $1.1 million—writing the pay ratio rule, fueling concerns that the entire exercise has been a major distraction from the SEC's mission to protect investors, promote fair, orderly, and efficient markets, and facilitate capital formation.

The SEC estimates the pay ratio compliance costs to be $1.3 billion on an upfront basis, and $526 million on an ongoing annual basis. It is difficult to believe that the vague, potential benefits posited by the final rule outweigh the estimated compliance costs, especially considering the rule's economic analysis, which cites the SEC's "inability to quantify the benefits." Furthermore, the SEC further observed in the final rule that the pay ratio disclosure may warrant additional disclosures from a public company as the company seeks to explain other compensation data points. Because the costs of complying with Section 953(b) are high relative to the minimal, if any, benefits that investors receive from the disclosures, H.R. 414 repeals Section 953(b) to ensure that resources that would have been allocated to complying with this provision can be devoted to more productive economic activities.

HEARINGS

Matters relating to Section 953(b) were discussed at a March 24, 2015 hearing of the Committee on Financial Services entitled "Examining the SEC's Agenda, Operations, and FY 2016 Budget Request," at which SEC Chair Mary Jo White testified, and at a July 28, 2015 Committee hearing entitled "Dodd-Frank Act Five Years Later: Are We Prosperous?"

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on September 30, 2015 and ordered H.R. 414 favorably reported to the House without amendment by a record vote of 32 yeas and 25 nays (record vote No. FC–59).

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. On September 30, 2015, the Committee on Financial Services met in open session and ordered H.R. 414 favorably reported to the House without amendment by a record vote of 32 yeas and 25 nays (record vote No. FC–59)

Record vote no. FC-59

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Waters (CA)		X	
Mr. King (NY)	X			Mrs. Maloney (NY)		X	
Mr. Royce	X			Ms. Velázquez		X	
Mr. Lucas	X			Mr. Sherman		X	
Mr. Garrett	X			Mr. Meeks		X	
Mr. Neugebauer	X			Mr. Capuano		X	
Mr. McHenry	X			Mr. Hinojosa		X	
Mr. Pearce	X			Mr. Clay		X	
Mr. Posey	X			Mr. Lynch		X	
Mr. Fitzpatrick	X			Mr. David Scott (GA)		X	
Mr. Westmoreland				Mr. Al Green (TX)		X	
Mr. Luetkemeyer	X			Mr. Cleaver		X	
Mr. Huizenga (MI)	X			Ms. Moore		X	
Mr. Duffy	X			Mr. Ellison			
Mr. Hurt (VA)	X			Mr. Perlmutter		X	
Mr. Stivers	X			Mr. Himes		X	
Mr. Fincher	X			Mr. Carney		X	
Mr. Stutzman	X			Ms. Sewell (AL)		X	
Mr. Mulvaney	X			Mr. Foster		X	
Mr. Hultgren	X			Mr. Kildee		X	
Mr. Ross	X			Mr. Murphy (FL)		X	
Mr. Pittenger	X			Mr. Delaney		X	
Mrs. Wagner	X			Ms. Sinema		X	
Mr. Barr	X			Mrs. Beatty		X	
Mr. Rothfus	X			Mr. Heck (WA)		X	
Mr. Messer	X			Mr. Vargas		X	
Mr. Schweikert	X						
Mr. Guinta	X						
Mr. Tipton	X						
Mr. Williams	X						
Mr. Poliquin							
Mrs. Love	X						
Mr. Hill	X						
Mr. Emmer	X						

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 414 will provide for the allocation of capital to more productive uses by repealing the disclosure requirement imposed by Section 953(b) of the Dodd-Frank Act, which yields little if any benefit to investors while posing significant compliance costs on publicly traded companies.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 20, 2015.

Hon. JEB HENSARLING,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 414, the Burdensome Data Collection Relief Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 414—Burdensome Data Collection Relief Act

H.R. 414 would repeal a provision of current law that requires a public company to disclose the ratio of the median of the annual compensation of its employees (not including the chief executive officer) to the annual compensation of its chief executive officer (or equivalent position). The bill also would nullify the rule released by the Securities and Exchange Commission (SEC) to implement that requirement.

Based on information from the SEC, CBO expects that nullifying the rule would not require any significant action by the agency; thus, CBO estimates that implementing H.R. 414 would not have a significant effect on the agency's costs. Under current law, the SEC is authorized to collect fees to offset its annual appropriation; therefore, assuming appropriation action consistent with that authority, CBO estimates that implementing the bill would have a negligible effect on net discretionary spending. Enacting H.R. 414 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 414 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2026.

H.R. 414 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Susan Willie. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 414 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee states that no provision of H.R. 414 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in

any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, 114th Cong. (2015), the Committee states that H.R. 414 does not require any directed rulemakings.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section cites H.R. 414 as the "Burdensome Data Collection Relief Act."

Section 2. Repeal of Additional Disclosure Requirements

Section 953(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 781 note) is repealed and any regulations issued pursuant to such subsection shall have no force or effect.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets and existing law in which no change is proposed is shown in roman):

DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

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TITLE IX—INVESTOR PROTECTIONS AND IMPROVEMENTS TO THE REGULATION OF SECURITIES

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Subtitle E—Accountability and Executive Compensation

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SEC. 953. EXECUTIVE COMPENSATION DISCLOSURES.

(a) DISCLOSURE OF PAY VERSUS PERFORMANCE.—Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n), as amended by this title, is amended by adding at the end the following:

"(i) DISCLOSURE OF PAY VERSUS PERFORMANCE.—The Commission shall, by rule, require each issuer to disclose in any proxy or consent solicitation material for an annual meeting of the shareholders of the issuer a clear description of any compensation re-

quired to be disclosed by the issuer under section 229.402 of title 17, Code of Federal Regulations (or any successor thereto), including information that shows the relationship between executive compensation actually paid and the financial performance of the issuer, taking into account any change in the value of the shares of stock and dividends of the issuer and any distributions. The disclosure under this subsection may include a graphic representation of the information required to be disclosed.".

[(b) ADDITIONAL DISCLOSURE REQUIREMENTS.—

[(1) IN GENERAL.—The Commission shall amend section 229.402 of title 17, Code of Federal Regulations, to require each issuer, other than an emerging growth company, as that term is defined in section 3(a) of the Securities Exchange Act of 1934, to disclose in any filing of the issuer described in section 229.10(a) of title 17, Code of Federal Regulations (or any successor thereto)—

[(A) the median of the annual total compensation of all employees of the issuer, except the chief executive officer (or any equivalent position) of the issuer;

[(B) the annual total compensation of the chief executive officer (or any equivalent position) of the issuer; and

[(C) the ratio of the amount described in subparagraph (A) to the amount described in subparagraph (B).

[(2) TOTAL COMPENSATION.—For purposes of this subsection, the total compensation of an employee of an issuer shall be determined in accordance with section 229.402(c)(2)(x) of title 17, Code of Federal Regulations, as in effect on the day before the date of enactment of this Act.]

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