



Consumer Federation of America

RE: Oppose the Midnight Rules Relief Act of 2017 (S. 34) that will Undermine Crucial Consumer Protections

March 14, 2017

Dear Senator:

The Consumer Federation of America (CFA)¹ writes to express our strong opposition to a bill that will undermine important consumer protections and that will be voted on this week. The Midnight Rules Relief Act of 2017 (MRRA) would undercut the ability of federal agencies to protect consumers from unsafe food, predatory financial products and schemes, and dangerous consumer products. The federal rulemaking process is already lengthy and difficult. This bill will make it even more difficult and burdensome for federal agencies to implement consumer protection measures. The end result will be harm to American consumers.

The MRRA would amend the Congressional Review Act to allow disapproval of a number of regulations, all at once, finalized near the end of presidential terms.

This bill seeks to solve a problem that does not actually exist: that rules finalized at the end of an administration are hurried and not appropriately evaluated. According to both the Administrative Conference of the United States (ACUS) and Public Citizen, however, this is not the case. ACUS found, in a 2012 study,² that regulations that were finalized during the end of presidential terms were “relatively routine matters not implicating new policy initiatives by incumbent administrations” and that “the majority of the rules appear to be the result of finishing tasks that were initiated before the Presidential transition period or the result of deadlines outside the agency’s control (such as year-end statutory or court-ordered deadlines.” In a July 2016 study, Public Citizen released a report³ that found that rules issued during the end of a Presidential term took an average of 3.6 years to complete compared to 2.8 years for other rules.

¹ CFA is an association of more than 250 non-profit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy and education. Member organizations include local, state, and national consumer advocacy groups, senior citizen associations, consumer cooperatives, trade unions and food safety organizations.

² Administrative Conference Recommendation 2012-2, Midnight Rules, Adopted June 14, 2012, pp. 1-2, at <http://www.acus.gov/wp-content/uploads/downloads/2012/06/Final-Recommendation-2012-2-Midnight-Rules.pdf>.

³ PUBLIC CITIZEN, SHINING A LIGHT ON THE “MIDNIGHT RULE” BOOGYMAN: AN ANALYSIS OF ECONOMICALLY SIGNIFICANT RULES REVIEWED BY OIRA, (July, 2016), <http://citizen.org/documents/Midnight-Regs-Myth.pdf>.

Thus, these studies found that these “midnight rules” are not rushed nor the result of a non-deliberative rulemaking process.

The MRRA seeks to bundle numerous Congressional Review Act disapprovals in one resolution. In one sweeping measure, Congress could usurp the expertise, knowledge, and deliberative process of many agencies to entirely stop sensible safeguards that Americans expect and depend upon to keep their families safe and secure, their privacy protected, and their financial services fair and transparent. Ironically, this bill would enable Congress to use a rushed, non-deliberative process to upend critical necessary protections.

Congress already has numerous methods for holding agencies accountable for their actions. The Midnight Rules Relief Act of 2017 (S. 34) would further thwart the rulemaking process, waste federal resources, minimize the ability of federal agencies to do their jobs to protect the public and ultimately harm American consumers.

We strongly urge you to oppose this harmful bill.

Sincerely,

A handwritten signature in black ink that reads "Rachel Weintraub". The signature is written in a cursive, flowing style with a long horizontal line extending from the end of the name.

Rachel Weintraub
Legislative Director and General Counsel