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Institutional Investors Dismayed by House Passage of Financial CHOICE Act

Washington, D.C., June 8, 2017 — The Council of Institutional Investors (CII) is deeply disappointed by passage in the U.S. House of Representatives of the Financial CHOICE Act (H.R. 10). "The CHOICE Act would dismantle important shareholder rights, make investing in public companies riskier and undercut the ability of the Securities and Exchange Commission (SEC) to protect investors," said CII Executive Director Ken Bertsch.

"The CHOICE Act would threaten prudent safeguards for oversight of companies and markets that enhance long-term shareowner value. These include sensible, market-based mechanisms 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. It is akin to removing seatbelts from cars—it is just too risky."

CII objects to several provisions in the CHOICE Act, which unwinds important shareholder rights and reforms Congress approved over the past 15 years in response to corporate scandals at Enron and other companies and the 2008 financial crisis. CII's main concerns are outlined below:

1. The CHOICE Act would squelch shareholder proposals.

- The bill 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 threshold is $2,000 worth of stock for one year). That would put shareholder proposals beyond the reach of all but the most deep-pocketed investors. The ownership threshold to file a shareholder proposal at Apple, for example, would climb to $8 billion.

- Shareholder proposals have encouraged many companies to adopt enhanced governance policies that today are viewed widely as best practice. For example, electing directors by majority vote, a radical idea a decade ago when shareholders pressed for it in proposals, is now the norm at 90% of large-cap U.S. companies.

2. The CHOICE Act would roll back curbs on abusive pay practices.

- The bill would give shareholders an advisory vote on executive compensation (say-on-pay vote) only when there is an ill-defined "material" change in CEO pay; currently, most U.S. public companies offer investors say-on-pay votes annually.

- Say-on-pay votes have sparked improved communication between boards and shareholders, and greater understanding among investors about corporate strategy and how pay incentives drive the strategy.

- A 12-year global **study** found significant benefits from say on pay. The link between CEO pay and firm performance increased, especially at companies with poor pay practices and weak governance. Say on pay also coincided with reduced disparity between CEO compensation and the pay of other top executives, a factor associated with higher firm valuation.

3. The CHOICE Act would restrict the right of shareholders to vote for directors in contested elections for board seats.

- It would prohibit the SEC from finalizing a proposed “universal proxy” rule to allow shareowners to vote for the board candidates they favor in a contested election for board seats. The SEC's proposal for universal proxies would give shareholders voting by proxy (the vast majority of investors) the same voting options as shareholders who vote in person: freedom of choice to vote for the specific combination of director nominees they believe best serves their interests.

4. The CHOICE Act would create an intrusive new regulatory scheme for proxy advisors that provide shareholders with independent research they need to vote responsibly, driving up costs for investors and potentially driving some proxy advisors out of business.

- Proxy advisory firms play a vital role in assisting pension funds and other institutional investors in carrying out their fiduciary duty to vote proxies in the best interest of plan participants and clients.

- The proposed regulatory scheme is based on the false premise that proxy advisors “dictate” proxy voting results. There is no compelling evidence to support that assumption and academic studies suggest it is false.

5. The CHOICE Act would severely undercut the SEC’s ability to fulfill its mission to protect investors, police markets and foster capital formation.

- The bill would shackle the SEC with excessive cost-benefit analysis requirements**.** SEC staff and commissioners would spend virtually all of their time and resources on evaluating rules.

About the Council of Institutional Investors: CII is a nonpartisan, nonprofit association of pension funds, other employee benefit plans, foundations and endowments with combined assets under management exceeding $3 trillion. Our member funds include major long-term shareowners with a duty to protect the retirement savings of millions of workers and their families. Our associate members include a range of asset managers with more than $20 trillion in assets under management.

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