

Republicans alarmed over political spending plan

Wall Street Journal MarketWatch

Ronald D. Orol

May 16, 2013

GOP says agency should focus instead on JOBS act

WASHINGTON — Republican lawmakers on Thursday cited the recent Internal Revenue Service scandal as they urged the chief of the nation's securities watchdog not to require publicly-traded corporations disclose how all their money is spent on politics.

“It is most disturbing to many of us to realize that ... [the Securities and Exchange Commission] is devoting time and resources to a discretionary rulemaking and more specifically, a highly controversial discretionary rule to force public companies to report all perceived facets of political involvement,” said Rep. Jeb Hensarling, the top Republican on the House Financial Services Committee at a hearing on the agency's budget.

At issue is an SEC review of a petition filed by Harvard Law School Professor Lucian Bebchuk and other academics seeking mandatory disclosure of political spending. Bebchuk and a group of shareholder advocates and public pension funds are seeking to have the SEC adopt rules that would require public corporations to disclose information about their political spending.

Republicans on the panel argued that the agency should focus more energy on implementing rules based on the JOBS Act, which seeks to improve access to capital for small and mid-sized companies.

Republicans raised concerns that the SEC may be under political pressure by the White House and outside groups to write political disclosure rules for corporations.

SEC Chairman Mary Jo White testified before the committee that implementing the JOBS Act rules are a top priority for the agency. She added that the Bebchuk petition is being reviewed by agency's division of corporation finance and that no one at the commission is currently working on a proposed rule. She added that she was not aware of any interest in the issue from the White House's Office of Management and Budget.

The SEC, if it did decide to move forward, would need to propose a rule, which would be open for public comments. White's predecessor put the issue on the agency's long-term agenda.

Critics argue that such a rule would limit political opposition to unions and other groups by hurting the ability of companies to express themselves by spending on politics. Republicans tied their concerns about possible Obama administration pressures on further corporate political disclosures at the SEC to a growing scandal over the inappropriate treatment by [IRS employees](#) doled out to conservative groups.

“There appears to be a coordinated effort to use any and all methods possible to tamp down on political opposition and – in some cases – stifle some Americans' constitutional right of freedom of speech,” said Rep. Scott Garrett, Republican of New Jersey.

“This recent incident that has come to light with the IRS has only helped crystallize for many Americans exactly what this administration and its outside political supporters appear to be trying to do. Whether it is the tax code, the corporate political disclosure process, union rules, EPA guidelines.”

Advocates of more political disclosure point to the Supreme Court’s 2010 decision striking down federal restrictions on the ability of companies and unions to spend more on political campaigns as an impetus for more disclosure. They say the court’s ruling gives the SEC more legal authority to expand political disclosure rules. Talking to reporters after testifying, White said the staff is reviewing the petition’s arguments about how the Citizens United case impacts what the SEC could do in the area.

The SEC has received over 600,000 comments on the Bebchuk petition so far, the vast majority of which are form letters urging more disclosure. [Read about how the SEC may take a look at having companies disclose their political spending.](#)

According to a column by Bebchuk, companies can engage in political spending that is not publicly disclosed by channeling expenditures through lobbying groups such as the U.S. Chamber of Commerce. (Direct political spending by corporations does appear in public records.)